

Planning to do real estate work?

A primer on title insurance and the TitlePLUS[®] program

If you're planning to do real estate work when you go into practice, you'll soon hear about a resource used by many real estate practitioners – title insurance. It's a type of insurance coverage that helps protect homeowners and mortgage lenders against some typical problems that might crop up after closing: problems that, in the past, might have led to the client filing a malpractice claim against the lawyer.

Several companies offer title insurance – including LAWPRO, through its TitlePLUS¹ title insurance program. This article provides a basic overview of the what and why of title insurance, how our TitlePLUS program is different, and where you can find more information.

What is title insurance?

As its name suggests, title insurance is an insurance policy for purchasers, mortgage lenders and existing owners of real property that provides compensation for losses suffered because of problems with title, surveys, zoning and other issues with the property – even if they are not discovered until years after the sale is completed.

Some of these issues are unpredictable or undetectable – such as forgery, fraud, missing heirs, and unregistered easements. Other problems that can affect a property covered under a title insurance policy include issues resulting from renovations done without building permits, construction liens, access rights and conflicting interests in a property.

When the lawyer in the transaction has secured a title insurance policy for the owner or mortgage lender, it is the title insurer –

and not the lawyer or client – who assumes the risk for matters covered under the policy and, if there are losses, pays compensation.

It is important to understand that title insurance does not replace the work of the lawyer in the transaction. The role of the lawyer remains just as important to ensure the client's interests are properly protected. In fact, depending on the issues, a client may prefer that the lawyer do a search to determine the status of a matter rather than depend on title insurance and the right to be able to make a claim to an insurer at a later date.

What's different about the TitlePLUS title insurance program?

LAWPRO's TitlePLUS program is different from other title insurance in several ways:

- 1. Title + legal services coverage:** With TitlePLUS coverage, the legal services that you provide are also covered by the policy² (this is not the case with most competitors' products). So, if as part of your legal services you make an error or overlook something (e.g., fail to register a document, remove an encumbrance, or incorrectly adjust items on closing), the TitlePLUS policyholder – your client – can seek compensation directly from us. In other words, the error will not result in a claim under your errors and omissions policy³ if you obtained a TitlePLUS policy for your client.
- 2. Online software that makes closings easy:** We make real estate transactions simpler by providing access to an online system that walks lawyers through a closing. That software lets you easily order a TitlePLUS policy for your clients,

Don't be duped – avoid becoming a victim of fraud with the help of LAWPRO's Fraud Fact Sheet



Learn to identify the common red flags for bad cheque and real estate frauds, how to avoid being duped by a would-be fraudster (including insiders – associates, clerks, or other staff), and what to do if you're suspicious about the legitimacy of a legal matter. Go to practicepro.ca/FraudFactSheet for a copy.

as well as providing access to a variety of sample forms, letters and reports.

- 3. It's all-Canadian:** In fact, TitlePLUS title insurance is the only all-Canadian title insurance program on the market today.
- 4. We advocate for the real estate bar:** Each year, under the TitlePLUS banner, LAWPRO undertakes an extensive consumer public awareness/education campaign about how a lawyer protects the interests of the public in various scenarios – from buying a home or cottage to drawing up a power of attorney to the perils of running a home-based business. In the past few years, this effort to put lawyers at the forefront has reached millions of consumers across Canada.

How can you find out more?

Go to titleplus.ca for information on the TitlePLUS program.

See titleplus.ca/rsreg for more information on some of the tools and resources for consumers available through the TitlePLUS program.

Go to practicepro.ca/Outreach for more on the advocacy efforts we've undertaken for the bar. ■

¹ Title insurance policies may vary. Refer to the policy for full details, including actual terms and conditions.

² Excluding OwnerEXPRESS policies and Quebec policies.

³ Please consult the requirements of your individual errors and omissions policy.