

2016: Base premium holds steady, REPCO reduced

Insurance program enters third decade on strong, positive footing

Quick summary:

- base premium for 2016: \$3,350 (unchanged since 2011)
- Real Estate Practice Coverage Option (REPCO) \$100 for 2016 (down from \$250)
- Run-off coverage now stands behind mentoring efforts of exempt lawyers
- LAWPRO coverage for paralegal shareholders in combined licensee (incorporated) firms

Base premium stable

The base premium for 2016 will be \$3,350 – unchanged since 2011.

While LAWPRO anticipates growing pressure on premiums from continued high claims costs and regulatory changes, those pressures do not yet warrant an increase to the base premium. Claims management and cost containment efforts are expected to support our efforts, in 2016, to handle projected claims without increasing premiums.

REPCO premium reduced to \$100

For the third time since the coverage was introduced in 2008, LAWPRO has reduced the premium for the Real Estate Practice Coverage Option. REPCO will cost \$100 in 2016, down from \$250 in 2015.

REPCO was introduced in 2008 to support changes to the procedures for the registration of interests in land in Ontario. As the risk “picture”

for the new land registration regime has come into focus, and as the pool of premium reserved to manage those risks has grown, LAWPRO analysts have adjusted the premium downward twice to date: once in 2010 (from \$500 to \$400) and again in 2012 (from \$400 to \$250). Results of the most recent round of analysis have given us confidence that a further reduction, for the 2016 policy year, is warranted; this time from \$250 down to \$100. For further



20 years of the primary program: a great beginning

The year 2015 is the 20th anniversary of LAWPRO's delivery of the primary insurance program prescribed by the Law Society of Upper Canada. As many will remember, LAWPRO was established during a period of considerable strategic and financial uncertainty. But the fund deficit discovered in 1994 was successfully overcome, and LAWPRO has achieved impressive financial stability and a reputation as one of the world's most innovative and sophisticated legal professional indemnity insurers.

details of the REPCO program and the 2016 reduction, see the article “REPCO reduction reflects commitment to risk-rating” below.

Run-off protection now available for mentoring activities by exempt lawyers

In recognition of the role that lawyers who are exempt from the payment of premium levies can play as mentors, as of 2016, qualifying mentoring activities* by exempt lawyers will generally be covered under the run-off policy applicable to those lawyers, subject to availability.

There would be no coverage for the exempt lawyer under the program policy in its pre-2016 form, since the run-off coverage afforded to exempt lawyers generally precludes coverage for claims arising out of professional services provided by the lawyer while exempt from the requirement to pay insurance premium levies. As

of 2016, however, mentoring services provided by lawyers while exempt will be deemed to be professional services provided by the lawyer while still a practising lawyer insured under the program, for the purposes of run-off coverage.

LAWPRO coverage for paralegal shareholders in law corporations

In recent years, licensed paralegals have begun, in some instances, practising in partnership with lawyers. To harmonize coverage as between lawyer and paralegal partners in those arrangements, LAWPRO introduced coverage for paralegal partners in 2014. Beginning with the 2016 policy year, that coverage will also be required for paralegal shareholders in “combined licensee” (lawyer and paralegal) professional law corporations. Paralegal shareholders in these combined licensee firms (CLFs) can continue with their existing professional indemnity coverage until the date it expires in 2016, moving to LAWPRO coverage when it comes time to renew. ■

* To qualify for coverage under the policy, mentoring activities must comply with LAWPRO requirements designed to protect both mentor and mentee. Read about these requirements in our online FAQs, available at lawpro.ca/faqs

REPCO reduction reflects commitment to risk-rating

Real estate and civil litigation continue to be the areas of practice with the highest claims, both in terms of count and cost. However, real estate claims based on the registration of fraudulent instruments under the *Land Titles Act* where the claim would otherwise be excluded from coverage due to the dishonesty of the insured lawyer – the risk targeted by the Real Estate Practice Coverage Option (REPCO) – have turned out to be rare.

When the Ontario bar opted, in 1995, to address the insurance crisis of that era by having LAWPRO as an independent, regulated insurance company provide the primary professional liability program, it became clear that success depended on developing a program in which premiums were generally matched to risk (risk-rating).

The essence of REPCO coverage is to compensate for a specified type of fraud by the insured lawyer. REPCO coverage is a special protection to support the introduction of changes in the procedures for the registration of interests in land. Since the introduction of REPCO in

2008, LAWPRO has paid one claim. However, these types of claims often take several years to develop, and the fund created by the program must maintain enough in reserve for the payment of future claims not yet discovered. As the claims picture with respect to lawyer electronic registration fraud has unfolded, LAWPRO has responded with two reductions in the premium: from \$500 down to \$400 in 2010, and from \$400 to \$250 in 2012. The latest review of claims trends in this area has made it clear that a third reduction is possible. As of the 2016 policy year, the premium for REPCO coverage – a pre-requisite for practising real estate law in Ontario – will decrease by \$150: from \$250 down to \$100. This savings will be available to approximately 7,800 real estate practitioners.

Of course, updated risk-rating or a change in coverage terms could result in the REPCO premium being increased in a future year. Real estate lawyers provide a vitally important service. LAWPRO is proud to support the work of the real estate bar with this REPCO premium reduction. ■