

LAWPRO

magazine

SEPTEMBER 2018 VOL 17.3

INSURANCE ISSUE

Your 2019 program: Stable premiums, reliable insurance

Quick summary:

- Base premium unchanged for 2019: \$2,950
- No change to transaction levies
- Default period reduced to 60 days
- Reinstatement fee increased to \$300
- Use of Designated Agencies discount expanded to consider proposed Civil Society Organizations

How to renew your insurance

You need to renew your insurance for the 2019 year. It will not happen automatically.

Visit my.lawpro.ca to e-file your insurance renewal or download a pre-populated paper renewal form.

If your firm files a firm-wide insurance renewal, you should not also file an individual insurance renewal. Check with your firm's administrator before filing an individual renewal.

Important Dates

Policy renewals available **October 1, 2018**
Online insurance renewal applications for 2019 will be available on October 1.

Quarterly transaction levies and forms due **October 31, 2018**
Real estate and civil litigation transaction levies and forms are due for the quarter ended September 30, 2018.

E-filing deadline **November 1, 2018**
Renewal applications filed online on or before November 1, 2018 qualify for a \$25 per lawyer e-filing discount applied to the 2019 insurance premium.

Renewal application filing deadline **November 8, 2018**
2019 renewal applications filed after this date will be subject to a surcharge equal to 30 per cent of the base premium.

Quarterly transaction levies and forms due **January 31, 2019**
Real estate and civil litigation transaction levies and forms are due for the quarter ended December 31, 2018.

Base premium stable

LAWPRO is pleased to report that the base premium for 2019 will remain unchanged at \$2,950.

As in previous years, there is no need to change the premium as our claims management and cost containment efforts, together with investment income, are expected to cover projected claims costs.

No change to transaction levies

To better align the cost of insurance with its associated risk, LAWPRO will continue to apply the same levies to real estate and civil litigation (non-family) transactions. These levies will remain \$100 for civil litigation transactions and \$65 for real estate transactions.

Since the rate and cost of civil litigation (non-family) and real estate claims remain high compared to the base premiums received from practitioners in these areas, the relationship between these costs and premium revenues collected from lawyers primarily practising in these areas will continue to be monitored to determine whether any further action should be taken on these categories in future years.

Default period reduced to 60 days

To better meet lawyers' expectations and achieve greater consistency, LAWPRO works to align its administrative practises with those of the Law Society of Ontario. Recently, the Law Society of Ontario reduced its default period for failure to complete filings and pay fees and levies to 60 days. Accordingly, for LAWPRO matters, the default period will be reduced to match those set by the Law Society.

Beginning on January 1, 2019, the period of default for failure to pay an insurance premium levy and to file and pay civil litigation and transaction levies, plus applicable taxes, will be 60 days after the day on which payment or filing is due.

Lawyers who fail to make the requisite filings and payments to either LAWPRO or the Law Society of Ontario are subject to summary suspension.

Following a missed due date, lawyers are reminded in writing that they are in default of their administrative obligations and provided with notice prior to referral for formal suspension following the default period. Both the Law Society and LAWPRO conduct various types of follow-up prior to suspension being pursued, and ultimately names are submitted to a designated benchler to authorize the suspensions.

Increase of reinstatement fee following suspension

To achieve greater consistency with Law Society administrative practices, the reinstatement fee that is owing by lawyers who are administratively suspended for failure to pay LAWPRO levies will also be increased to \$300 from \$150, plus applicable taxes effective January 1, 2019.

Further, administrative suspensions resulting from the failure to pay deductibles will, as of January 1, 2019, result in the application of the reinstatement fee. Currently, no such fee applies with respect to suspension for failure to pay deductibles under the program.

No reinstatement fee will apply in respect of suspension just for failure to file outstanding LAWPRO real estate and/or civil litigation transaction reports.

Designated Agencies discount expanded to consider proposed Civil Society Organizations

LAWPRO is supportive of efforts by the Ontario bar to encourage access to justice and address human rights concerns pertaining to the provision of legal services to members of the public who might otherwise not be able to afford legal representation.

One way in which LAWPRO supports these efforts is through the provision of discounted insurance to lawyers employed by qualifying entities, referred to as "Designated Agencies." Following a detailed underwriting assessment of the insurance risks associated with applicant agencies, a determination is made regarding qualification as a Designated Agency. If a lawyer only engages in the practice of law for and on behalf of a Designated Agency employer, the lawyer qualifies for a discount equal to 75 per cent of the base premium, as well as being exempt from payment of any civil litigation transaction levies.

The Law Society of Ontario is currently considering a recommendation to allow licensees to provide legal services through non-law firm entities that provide free legal advice and services, referred to as "Civil Society Organizations."

If the proposed Civil Society Organizations (or such other non-profit service providers as the Law Society may provide for that act for no-fee and which promote access to justice and the interests of human rights for low-income Ontarians) are approved by the Law Society to provide legal services directly to the public, LAWPRO will expand the use of its Designated Agencies discount and accept applications for possible premium discounts for employee lawyers in respect of such organizations. ■

Frequently asked questions regarding renewing your coverage



Q. How do I renew my insurance coverage?

- A. Filing your renewal application online is quick and easy:
- 1) Go to lawpro.ca and click on the yellow “LOGIN” box on the right hand side of the page
 - 2) Log in with your Law Society number and confidential online password. If you cannot remember that password or need to set up a new one, follow the online instructions or contact Customer Service for assistance at 416-598-5899 or at 1-800-410-1013
 - 3) Select “Renew My Professional Liability Insurance for 2019” from the list of options
 - 4) Complete the application in full, click “Review” at the bottom of the form, and then “Submit”
 - 5) Record your confirmation number (starting with “P”) for your added security

Q. I filed my renewal application online. It was fast and easy. Although I received a confirmation number that started with the letter “R”, I have received another email reminder to file my renewal application. What gives?

- A. Successful online filing of your renewal application will result in a confirmation number beginning with the letter “P”. The confirmation number starting with the letter “R” means that you have only updated your contact information. You will need to go back online to complete your renewal application. The deadline to renew is November 8, 2018.

Q. Although the deadline to renew my insurance for 2019 is November 8, 2018, I will be practising at a new firm effective January 1, 2019. What should I do?

- A. You can renew your insurance by providing either your current employment status, or your practice at the new firm effective January 1, 2019.

If your insurance renewal is completed to reflect your current employment status, you will need to subsequently send an email to service@lawpro.ca with the details of your new employment circumstances, including effective date, contact information, and name of the firm.

If your insurance renewal is completed to reflect your practice at the new firm, make sure your current firm does not also remit a filing on your behalf. If they do, your renewal will be processed pursuant to your current firm’s filing.

Q. I will be leaving my current firm on December 31, 2018 to begin my own sole practice. How do I show this change in my renewal filing?

- A. You should call Customer Service at 416-598-5899 or 1-800-410-1013 to obtain a new firm number prior to renewing your insurance for 2019 and then e-file your renewal application online. (For instructions on e-filing, see the first question.)

Q. I will be retiring from the practice of law as of December 31, 2018. Do I need to file a renewal application for my insurance by the November 8 deadline?

- A. If the effective date of your retirement will be December 31 or January 1, you will need to file an Exemption Form before the November 8, 2018 filing deadline. You can e-file your Exemption Form by following these simple steps:
- 1) Go to lawpro.ca and click on the yellow “LOGIN” box
 - 2) Log in with your Law Society number and confidential online password. If you cannot remember that password or need to set up a new one, follow the online instructions or contact LAWPRO Customer Service for assistance at 416-598-5899 or at 1-800-410-1013
 - 3) Select “Apply for an Exemption” from the list of options
 - 4) Complete the filing using the online instructions
 - 5) Successful e-filing will result in an online confirmation number that begins with the letter “X”

If you are not yet sure of the date of your retirement from the practice of law, or the effective is after January 1, you should renew your insurance coverage by the November 8 deadline and then subsequently file an Exemption Form noting the effective date on the form.

Q. I filed my renewal application online myself (logging in using my own LSO# and password) and my firm also completed a filing on behalf of all the members of my firm (including me). Which filing will be processed?

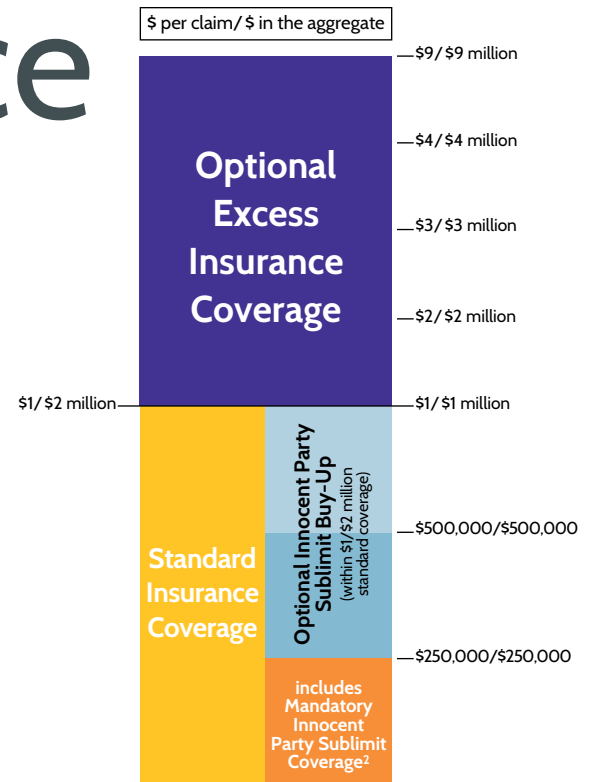
- A. You should note that if both you and your firm submit separate renewal filings for the same renewal policy year, the filing done by the firm will trump any individual filing.

Q. What happens if I miss the November 8 filing deadline?

- A. Applications filed after this date will be subject to a surcharge equal to 30 per cent of the base premium. ■

2019 insurance coverage

for lawyers in private practice sole practitioners and lawyers in association or partnership¹



Standard insurance coverage

The base program

Eligibility:

Required of all lawyers¹ providing services in private practice.³

Coverage limit:

\$1 million per claim/\$2 million in the aggregate (i.e., for all claims made in 2019), applicable to claim expenses, indemnity payments and/or costs of repairs together.

Premium discounts for new lawyers

LAWPRO provides premium discounts for new lawyers with less than 4 years of practice. This discount ranges from 50 per cent of base premium (for lawyers with less than 1 full year in practice) to 20 per cent of base premium (for lawyers with between 3 and 4 years in practice). A "full year" of experience is deemed to be at least 200 days in practice, and years of experience as a licensed lawyer in practice in any jurisdiction will be considered when considering discount eligibility.

Standard deductible:

\$5,000 per claim, applicable to claim expenses, indemnity payments and/or costs of repairs together (some exceptions apply).

Base premium:

\$2,950 per insured lawyer (plus PST).

Mandatory innocent party sublimit coverage⁴

Eligibility:

Required of all lawyers practising in partnership (including in MDPs or LLPs), in association, in law corporations with more than one lawyer, or as sole practitioners practising with employed lawyers. Also required of licensed paralegals practising in partnership with lawyers or as shareholders in combined licensee firms (CLFs).

Coverage sublimits:

\$250,000 per claim/in the aggregate, applicable to claim expenses, indemnity payments and/or costs of repairs together.

Premium:

\$125 per lawyer or eligible paralegal licensee (plus PST).

¹ Includes paralegals practising as partners or shareholders in combined licensee firms.

² Optional for sole practitioners.

³ Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program.

⁴ Coverage for dishonest (as defined), fraudulent, criminal or malicious acts or omissions.

Mandatory Real Estate Practice coverage (for real estate practitioners)

Eligibility:

Required of all lawyers practising real estate law in Ontario in 2019.

Lawyers not eligible for the Real Estate Practice Coverage Option are:

- those who are in bankruptcy;
- those who have been convicted or disciplined in connection with real estate fraud; and/or
- those under investigation, where the Law Society obtains: an interlocutory suspension order or a restriction on the lawyer's practice prohibiting the lawyer from practising real estate; or an undertaking not to practise real estate.

Coverage limit:

\$250,000 per claim/\$1 million in the aggregate, applicable to claim expenses, indemnity payments and/or costs of repairs together.

Premium:

\$100 per lawyer (plus PST).

Optional insurance coverages

Innocent Party Sublimit Buy-Up⁵

Eligibility

Optional for all lawyers and eligible paralegal licensees practising in association or partnership (including MDPs, LLPs, and lawyer/paralegal partnerships), law corporations (with more than one lawyer and/or paralegal shareholder) and sole practitioners practising with employed lawyers.

Coverage sublimits & premiums:

Innocent Party Sublimit coverage can be increased as follows:

- to \$500,000 per claim/aggregate for an additional \$75 per insured (\$200 total Innocent Party premium); or
- to \$1 million per claim/aggregate for an additional \$125 per insured (\$250 total Innocent Party premium).

Optional Innocent Party Sublimit coverage⁵

Eligibility:

Optional for sole practitioners and lawyers practising alone in a law corporation. Provides protection for ongoing liability that these practitioners can have in situations such as the following:

- if you've acted as back-up counsel or had others act as back-up counsel for you;
- if you've taken a temporary leave of absence from your practice and have delegated your work to others;
- if you've practised as a partner or associate in the past;
- if your practice once included employee lawyers;
- if you've practised in any situation in which you could be seen as lending your name to others;
- as an assurance to others if involved in electronic registration and escrow closings; or
- if acting as a *locum*, (you must carry at least the same amount of innocent party sublimit coverage as is carried by lawyers in the firm that has hired you).

Coverage sublimits:

LAWPRO offers optional Innocent Party sublimits of:

- \$250,000 per claim/aggregate;
- \$500,000 per claim/aggregate; and
- \$1 million per claim/aggregate.

Premiums:

Underwritten on an individual basis, based on a risk assessment of information provided in the Innocent Party Sublimit Buy-Up application.

Excess insurance coverage

Eligibility:

Available to law firms (including multi-discipline partnerships and combined licensee firms) and to lawyers with topped-up Run-Off coverage.

Coverage limits:

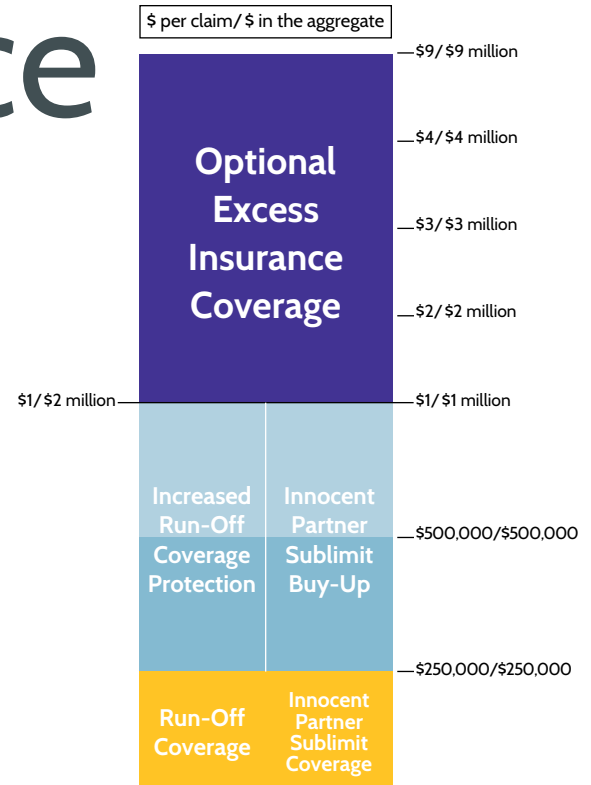
Up to \$9 million per claim/\$9 million in the aggregate

See page 7 for details of the Excess program.

⁵ LAWPRO strongly recommends that lawyers increase their optional coverage protection to the maximum sublimit offered, to provide comprehensive coverage and reduce the likelihood of gaps in coverage.

2019 insurance coverage for exempt lawyers

- in-house corporate counsel
- government lawyers, educators and others not in active private practice
- retired lawyers, estate trustees, emeritus lawyers, judges and others no longer practising law
- legal aid clinic lawyers (not directly employed by Legal Aid Ontario)
- lawyers who engage in only occasional practice in Ontario and are resident in a Canadian jurisdiction other than Ontario



The standard Run-Off coverage

Eligibility:

Provided at no charge to all lawyer members of the Law Society who are not in active private practice who qualify for exemption¹ from payment of insurance premiums and levies.

Coverage limits:

\$250,000 per claim/in the aggregate, not re-instated annually, subject to the following:

- applies to claims arising out of services provided while the lawyer was in private practice or otherwise maintained the full ongoing practice coverage;
- does not provide coverage for claims arising out of any services a lawyer provides while exempt from paying the insurance premium. The only exceptions to this are with respect to *pro bono* legal services provided through an approved *pro bono* legal services program associated with Pro Bono Ontario, with respect to qualifying mentoring activities, or where the lawyer has applied for and purchased additional coverage specifically for certain services yet to be performed as estate trustee, trustee for *inter vivos* trust, or attorney for property;

- applies to claim expenses, indemnity payments and/or costs of repairs together;
- includes a sublimit coverage of up to \$250,000 per claim/in the aggregate for Innocent Partner claims;
- includes a sublimit coverage of up to \$250,000 per claim/in the aggregate for cybercrime claims.

Premium:

None for standard Run-Off coverage.

Deductible:

Deductible for Run-Off coverage is \$5,000 per claim applicable to claim expenses, indemnity payments and/or costs of repairs together (some exceptions apply).

Mentoring relationships

LAWPRO encourages both practising and exempt lawyers to act as mentors. Accordingly, LAWPRO will waive any deductible and claims levy surcharge on any claim made against a lawyer mentor arising out of a mentoring relationship provided certain formal requirements are met. For more information on the qualifications applying to mentoring relationships, visit lawpro.ca/mentor

¹ Lawyers who are on temporary leave and qualify for exemption (c) are provided with the full limit coverage of \$1 million per claim/\$2 million in the aggregate provided under the base program. Lawyers eligible for the "mobility" exemption have insurance coverage as described on the website at lawpro.ca

Optional insurance coverages

Increased Run-Off coverage protection

Eligibility:

- optional for lawyers with only the basic Run-Off coverage who are concerned that claims now and in the future may exceed \$250,000 per claim/aggregate; or
- optional for lawyers named or acting as estate trustee, trustee for *inter vivos* trust, or attorney for property as residual work from their former law practice who wish to purchase expanded coverage for these services yet to be performed.

Coverage limits:

Exempt lawyers can apply to increase Run-Off coverage limits to:

- \$500,000 per claim/aggregate; or
- \$1 million per claim/\$2 million in the aggregate.

Terms ranging from two to five years are available.

Lawyers acting as estate trustee, trustee for *inter vivos* trust, or attorney for property:

Exempt lawyers can apply to increase Run-Off coverage protection to include protection for services yet to be performed as estate trustee, trustee for *inter vivos* trust, or attorney for property, as follows:

- apply for and purchase expanded protection for these services within the standard \$250,000 Run-Off coverage limit; and/or
- apply for and purchase expanded protection for these services within the Increased Run-Off coverage limits, as described above.

Through a deeming provision, ongoing activities of this type may be included under the Run-Off coverage protection provided to you.

Premiums:

Underwritten on an individual basis, depending on the years practised, areas of law practised, the amount of time since the applicant was in private practice, and other risk-based factors.

Innocent Partner Sublimit Buy-Up²

Eligibility:

Optional for exempt lawyers who have applied for increased Run-Off coverage and who may be concerned about their innocent partner exposure.

Coverage sublimits & premiums:

Innocent Partner Sublimit coverage can be increased as follows:

- to \$500,000 per claim/aggregate; or
- to \$1 million per claim/aggregate.

Underwritten on an individual basis, based on a risk assessment of information provided in the Innocent Party Sublimit Buy-Up application.

Excess insurance for law firms and lawyers with topped-up Run-Off coverage

Eligibility:

Available to law firms (including MDPs and CLFs), and to lawyers with topped-up Run-Off coverage.

Coverage limits:

The following Excess limits are above the \$1 million per claim/\$2 million in the aggregate limits of the primary program. Coverage is provided on a firm basis (i.e., for all firm lawyers for services on behalf of the firm):

- \$1 million per claim/\$1 million in the aggregate;
- \$2 million per claim/\$2 million in the aggregate;
- \$3 million per claim/\$3 million in the aggregate;
- \$4 million per claim/\$4 million in the aggregate; and
- \$9 million per claim/\$9 million in the aggregate.

Premiums:

Underwritten on a firm-wide basis, based on a risk assessment using, for example, information provided in the Excess insurance application, marketing materials of the firm and supporting documentation.

Have you visited our FAQ pages?

Did you know that LAWPRO maintains an extensive collection of Frequently Asked Questions at lawpro.ca/faqs? If you have a question, we invite you to visit our FAQs to find the answer.

Visit the new lawpro.ca for more information

The lawpro.ca website was recently updated with a new look and navigation. You can find detailed information on the insurance programs and options easily and quickly.

² LAWPRO strongly recommends that lawyers increase their optional coverage protection to the maximum sublimit offered, to avoid gaps in coverage.

Welcome Andrew Spurgeon and Heather Zordel

LAWPRO is pleased to welcome Andrew Spurgeon and Heather Zordel to its Board of Directors.

Andrew Spurgeon is a personal injury lawyer and a partner with Ross & McBride LLP. He received his LL.B. from Osgoode Hall Law School and his B.A. and M.A. from York University. He has appeared in all levels of court in Ontario and is an Adjunct Professor in the Faculty of Law at Western University where he teaches Insurance Law. He is a past President of the Hamilton Law Association; a former Director of the Advocates' Society; and a recipient of the Ontario Trial Lawyers Association's Distinguished Service Award.

Heather Zordel is a partner in the Securities Group at Gardiner Roberts LLP, focusing on corporate finance and securities regulatory

compliance. In addition to her law practice, Heather is a Co-Director and a Course Director for the Osgoode Hall LL.M. program in securities law and also teaches in legal professional development programs. She was previously appointed by the Federal Minister of Finance to the Expert Panel on Securities Regulations, tasked with providing advice on the best way forward to improve securities regulation in Canada. She is a past chair of the Securities Advisory Committee, and she is currently a Board and Audit Committee member of the Toronto Hydro Corporation.

Completing their service with our Board are Robert Evans and Jerry Udell. We are grateful for their dedicated service to LAWPRO. ■

Have a quick question? Make a quick call.

Sometimes the fastest way to get the answer you're looking for is to just make a call. Our Customer Service department makes or receives over 40,000 customer calls each year, but we always have time for more. Our pickup times are short and we are

happy to answer any questions you may have about your policy, insurance options, and renewals.

Contact us at 416-598-5899 or 1-800-410-1013. You can also reach us via email: service@lawpro.ca

Connect with LAWPRO:     



Return undeliverable Canadian addresses to:
LAWPRO • 250 Yonge Street • Suite 3101, P.O. Box 3 • Toronto, Ontario M5B 2L7

LAWPRO

magazine

President & CEO: Dan Pinnington

Editors: Naomi Dummett naomi.dummett@lawpro.ca
Shawn Erker shawn.erker@lawpro.ca

Design & Production: Freeman Communications studio@freemancomm.com

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The comments in this publication are intended as a general description of the insurance and services available to qualified customers through LAWPRO. Your policy is the contract that specifically and fully describes your coverage and nothing stated here revises or amends the policy.

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Tel: 416-598-5800 or 1-800-410-1013
Fax: 416-599-8341 or 1-800-286-7639



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