

# LAWPRO

## magazine

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INSURANCE ISSUE

## Your 2023 program: Continuing stability with minor changes

### Quick summary of changes:

- Base premium for 2023: \$3,250
- No change to transaction levy amounts
- Lawyers on the Restricted Area of Practice discount are now automatically exempt from all 2023 and future transaction levy filings
- Clarity on definition of Repairs and Loss Prevention

For the 2023 Primary Program, LAWPRO has focused on keeping premiums as low as possible despite rising claims and operational costs associated with the current economic environment, enhanced coverage, and improving the customer experience.

These improvements include automatic exemption from the transaction levy filing requirements for lawyers on the Restricted Area of Practice premium discount. These lawyers certify in their annual renewals that they and the other members of their firms will only practice criminal and/or immigration law during the policy period. This makes them unlikely to take part in the kinds of activities that give rise to real estate and/or civil litigation transaction levies. Starting in 2023, they will not have to file an exemption from the transaction filing requirements. A similar full and partial automatic transaction levy exemption is being introduced for LAWPRO's paralegal insureds.

The Policy also provides greater clarity for terms like Repairs and Loss Prevention so insureds can better know how their insurance can help them even before a lawsuit is commenced. In fact, with better reporting of these kinds of matters, LAWPRO hopes to prevent more lawsuits being commenced by early intervention and reduce the stress our insureds experience when an error has occurred.

### Important Dates

- **Policy renewals available October 3, 2022**
- **Real Estate and Civil Litigation quarterly transaction levies and forms due October 31, 2022**
- **Final day to renew: November 8, 2022**  
Renewal applications filed after this date will be subject to a \$350 dollar surcharge if filed by December 1, 2022. LAWYERS who do not file on or before December 1 will pay a \$600 surcharge and a default policy will be issued on their behalf.
- **Real Estate and Civil Litigation quarterly transaction levies and forms due January 31, 2023**

Visit the My LAWPRO portal at [lawpro.ca](http://lawpro.ca) to file your renewal



The full impact of the COVID-19 pandemic on LAWPRO remains to be seen. But rising inflation and higher claims costs mean that a premium increase is necessary to meet capital requirements.

Due to the financial challenges that many members of the profession faced as a result of the pandemic, LAWPRO deferred making a premium increase in 2022. To address increasing claims costs and meet minimum capital requirements set by our regulator, the Financial Services Regulatory Authority of Ontario, the base premium has been set at \$3,250.

As a captive insurer for Ontario lawyers, LAWPRO operates in a non-profit-driven manner with a loss ratio of 110%. **This means for every \$1.00 LAWPRO receives in premiums from Ontario lawyers, it pays out \$1.10 in direct claims costs such as for defence, investigation, settlements, and judgments.** In contrast, the average Canadian insurance company in 2022 paid out only \$0.50 to \$0.60 in claims costs for every \$1.00 received in premium payments.

LAWPRO makes up for its high loss ratio with prudent investment returns. This allows LAWPRO to offer lower premiums to Ontario lawyers while maintaining the minimum capital required to meet its regulatory obligations.

One of the strongest testimonies to LAWPRO's success as a professionally run insurance company is that, despite the current economic environment, the base premium is lower today than it was 10 years ago, when it was \$3,350, and far lower than it was when LAWPRO was founded following the 1994 insurance crisis for Ontario lawyers, when it was \$5,600.

Additionally, 34% of Ontario lawyers take advantage of the various discounts. These include discounts for lawyers in their first four years of call, lawyers practising part-time, and lawyers limited to Restricted Areas of Practice. These discounts range from 20-50% of the base premium. Lawyers looking to reduce their premiums can also review their deductible options, log approved risk management courses by the preceding September 15, and pay their annual premiums by February 4, 2023 by cheque or by pre-authorized payment.

## Making filing easier: Automatic exemptions from transaction levy filings

For 2023, we are introducing automatic exemption from the transaction levy filing requirements for lawyers on the Restricted Area of Practice premium discount. These lawyers certify on renewal that they and the other members of their firms only practise criminal and/or immigration law.

Starting Jan 1, 2023, these lawyers will not have to file an exemption from the transaction levy requirements. A similar exemption (full or partial) will be introduced for LAWPRO's paralegal insureds.

Lawyers who do not practise real estate or civil litigation, and do not restrict their practice to criminal and/or immigration law, should file an annual exemption at renewal to avoid quarterly filing requirements.

## Repairs and Loss Prevention: helping resolve potential claims

When a potential or alleged error or claim arises, LAWPRO prides itself on helping lawyers resolve the situation. Our counsel have substantial experience to quickly and efficiently close files so our insured can focus on their clients' legal issues, rather than their own.

These efforts, known as Repairs and Loss Prevention, can arise in situations such as setting aside administrative dismissals, motions to extend deadlines for service, naming the wrong party in court documents, application for relief from forfeiture, or rectification of mistakes in contracts.

When an insured reports a potential claim, and there are reasonable and prudent immediate steps to circumvent potential damages or negative consequences, LAWPRO can often assist our insured in doing so. If LAWPRO steps in to help and it's clear the lawyer did not make an error, these Loss Prevention actions will often not affect the lawyer's premiums, or their deductible, even if some costs are incurred by LAWPRO.

## How to get this help?

You should always fill out a claims notice if: (i) you made a mistake (an error or omission); (ii) your client or another party accuses you of making an error that could reasonably lead to a claim being made against you; or (iii) someone is requesting you provide evidence or produce your file as part of an underlying dispute. This can apply to every type of practice—from hearing about an appeal of a criminal conviction for a former client based on ineffective assistance of counsel, to a will challenge based on lack of capacity, to forgetting to put in "joint tenancy" for status when doing a transfer to spouses.

Even when it appears no error has been made, or you believe the claim is baseless, timely notice to LAWPRO is always the best course of action. ■



# 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 side of the page
- 2) Log in with your 6 character LSO# 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) If you will be making no changes to your policy or personal information, click on the “No Changes? One-Click Renewal for 2023” button under the “File Online” tab and then “SUBMIT”

OR

If you will be making changes to your policy options or personal information, click on the “Renew Professional Liability Insurance for 2023 With Changes” button under the “File Online” tab. Complete the application, click “Review” at the bottom of the form, and then “SUBMIT”

- 4) Record your confirmation number (starting with “P”)

## **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, 2022.

## **Q. Although the deadline to renew my insurance for 2023 is November 8, 2022, I will be practising at a new firm effective January 1, 2023. 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, 2023.

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, 2022 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 2023 and then e-file your renewal application online. (For instructions on e-filing, see Question 1.)

## **Q. I will be retiring from the practice of law as of December 31, 2022. 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, 2022 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 6 character LSO# 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 date 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 6 character 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?**

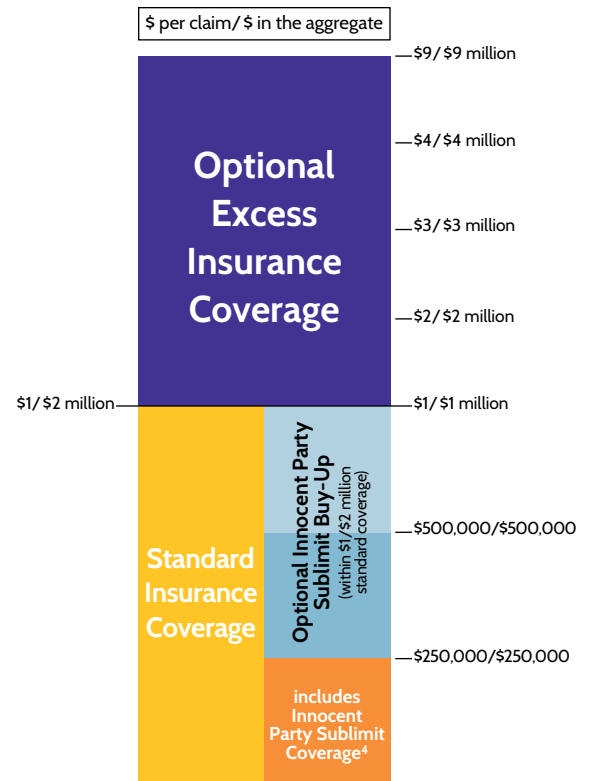
**A.** You should note that if both you and your firm submit separate renewal filings for the same renewal policy year, the filing done by the firm will trump any individual filing. If you wish to pay by a separate method of payment than that provided by the firm, please file an online Premium Payment Authorization Form with your individual payment information.

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

**A.** Applications filed after this date will be subject to an additional premium of \$350 if filed between November 9 and December 1 or \$600 if not filed. ■

# Lawyers in private practice

sole practitioners and lawyers in association or partnership<sup>1</sup>



## Standard insurance coverage

### The base program

#### Eligibility:

Required of all lawyers<sup>1</sup> providing services in private practice.<sup>2</sup>

#### Premium reductions for new lawyers

LAWPRO provides premium discounts for new lawyers with less than 4 years of practice:

- 50% discount - less than one year of practice
- 40% - 2 years of practice
- 30% - 3 years of practice
- 20% - 4 years of 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.

#### Coverage limit:

\$1 million per claim/\$2 million in the aggregate (i.e., for all claims made in 2023), applicable to claim expenses and/or indemnity payments (some exceptions apply).<sup>3</sup>

#### Standard deductible:

\$5,000 per claim, applicable to claim expenses and/or indemnity payments (some exceptions apply).<sup>3</sup>

#### Base premium:

\$3,250 per insured lawyer (plus PST).

#### Innocent party sublimit<sup>4</sup>

\$250,000 per claim/in the aggregate, applicable to claim expenses and/or indemnity payments (some exceptions apply).<sup>3</sup>

<sup>1</sup> Includes paralegals practising as partners or shareholders in combined licensee firms.

<sup>2</sup> 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.

<sup>3</sup> Claim expenses include costs of Repairs and costs of Loss Prevention.

<sup>4</sup> 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 2023.

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 sublimit:

\$250,000 per claim/\$1 million in the aggregate, applicable to claim expenses and/or indemnity payments (some exceptions apply).<sup>3</sup>

### Premium:

\$100 per lawyer (plus PST).

Remember to file transaction levy forms on time

- **No transactions or matters? Quarterly reports still required: If you are practising in real estate or civil litigation, you need to file a transaction summary form even when there are no transactions or matters that quarter.**
- **Wondering if a transaction levy applies? Check out our information at [lawpro.ca/faqs](http://lawpro.ca/faqs)**

### NEW FOR 2023

- **All applicants who have the Restricted Area of Practice discount are now automatically exempt from all 2023 and future transaction levy filings and will not have to file an annual exemption form.**

## Optional insurance coverages

### Innocent Party Sublimit Buy-Up<sup>5</sup>

#### 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.

#### Sublimit buy-ups & premiums:

Innocent Party Sublimit can be increased as follows:

- to \$500,000 per claim/aggregate for an additional \$75 per insured; or
- to \$1 million per claim/aggregate for an additional \$125 per insured.

### 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. ■

<sup>5</sup> 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.

LAWPRO  
magazine

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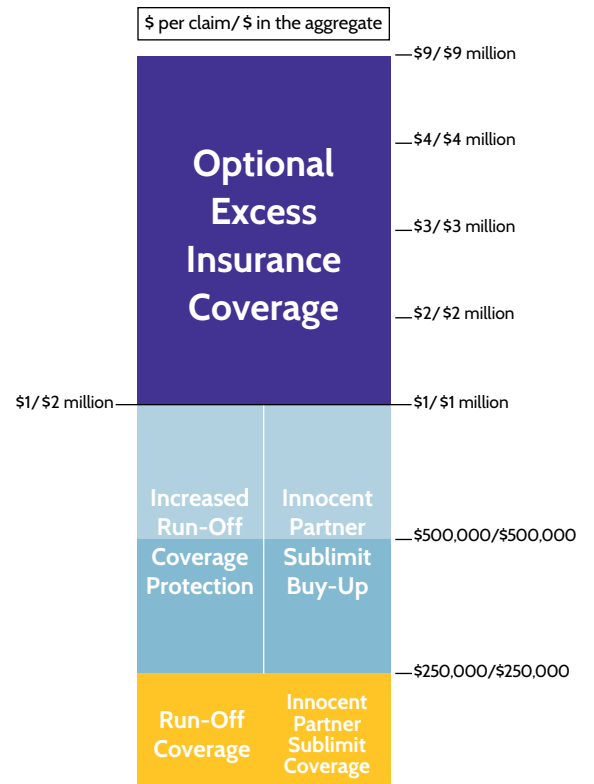
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*The comments in this publication are intended as a general description of the insurance and services available to qualified customers through LAWPRO. Your policy is the contract that specifically and fully describes your coverage and nothing stated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



# 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 exemption<sup>1</sup> 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 and/or indemnity payments (some exceptions apply).<sup>2</sup>
- 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 and/or indemnity payments (some exceptions apply).<sup>2</sup>

### Member Assistance Program (MAP)

LAWPRO provides almost half of the annual funding for the Ontario lawyers' Member Assistance Program. Through the MAP, legal professionals are able to access confidential mental health and wellness resources such as counselling on topics such as stress, anxiety, depression, and addiction. The MAP also offers confidential online wellness literature, child care resources, and elder care resources. For more information visit [myassistplan.com](http://myassistplan.com).

<sup>1</sup> 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 [lawpro.ca](http://lawpro.ca)

<sup>2</sup> Claim expenses include costs of Repairs and costs of Loss Prevention.



## 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 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-Up<sup>3</sup>

**Eligibility:**

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

## 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](http://lawpro.ca/faqs)? If you have a question, we invite you to visit our FAQs to find the answer.*

**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. ■

<sup>3</sup> LAWPRO strongly recommends that lawyers increase their optional coverage protection to the maximum sublimit offered, to avoid gaps in coverage.