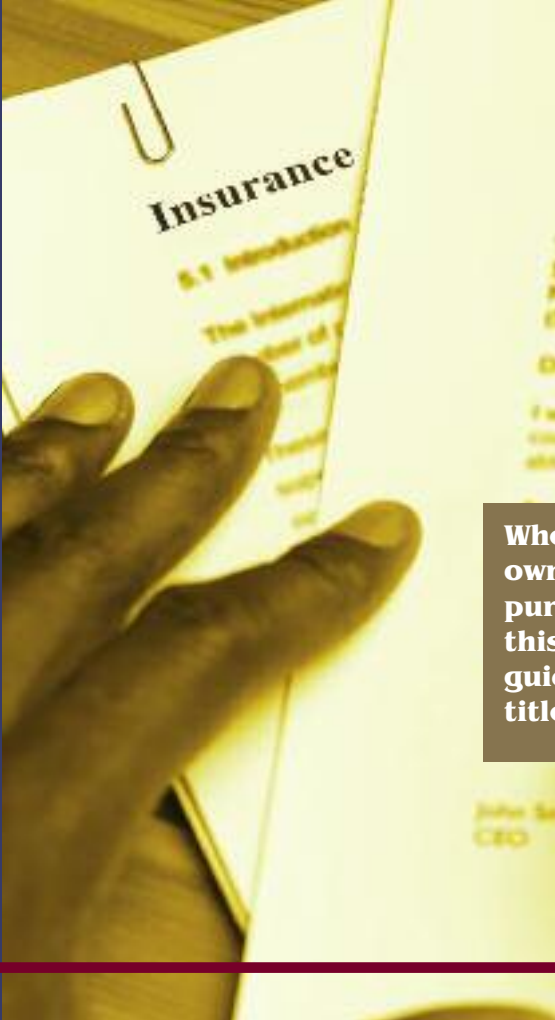




Understanding Title Insurance



Whether you currently own or plan to purchase a property, this brochure is your guide to understanding title insurance.



What is “Title”?

The word “title” is a legal term that means you have legal ownership of property. You obtain title to property when the owner signs the deed (transfer document) over to you. Title is then registered in the government’s land registration system.

What is Title Insurance?

Title insurance is an insurance policy that protects residential or commercial property owners and their lenders against losses related to the property’s title or ownership.

Do I Really Need Title Insurance?

Title insurance is not a requirement in Ontario. The decision on whether or not you should purchase title insurance should be discussed with your lawyer, title insurance company or insurance agent/broker, to fully understand what type of protection title insurance can provide you, and to determine if other options exist. Once you get all the facts, you can make an informed decision based on your specific situation and needs. It is important to keep in mind that title insurance does not replace legal advice when purchasing property.

What Does Title Insurance Cover?

For a one-time fee, called a *premium*, a title insurance policy may provide protection from such losses as:

- Unknown title defects (title issues that prevent you from having clear ownership of the property);
- Existing liens against the property’s title (e.g. the previous owner had unpaid debts from utilities, mortgages, property taxes or condominium charges secured against the property);
- Encroachment issues (e.g. a structure on your property needs to be removed because it is on your neighbour’s property);
- Title fraud;
- Errors in surveys and public records; and

This brochure is provided for information purposes only. Refer to the terms of your title insurance policy for the details of coverage and exclusions.

- Other title-related issues that can affect your ability to sell, mortgage, or lease your property in the future.

Your title insurance policy will protect you as long as you own your property, and will cover losses up to the maximum coverage set out in the policy. It may also cover most legal expenses related to restoring your property's title.

What is "Title Fraud"?

Title fraud (or real estate title fraud) is a form of real estate fraud that harms individual homeowners and their lenders. Title fraud typically involves a fraudster using stolen personal information, or forged documents to transfer your home's title to him/herself (or an accomplice), without your knowledge. The fraudster then gets a mortgage on your home and disappears with the money.

If you are a victim of title fraud, you may be able to receive compensation for your losses if you submit a claim through the government's Land Titles Assurance Fund (LTAF). For more information on the Land Titles Assurance Fund visit www.gov.on.ca/LTAF/.

What Does Title Insurance Not Cover?

When purchasing title insurance, it is important to read the policy and ask questions to be aware of the coverage that is provided. You also need to be aware of possible exclusions, which may include:

- Known title defects (that were revealed to you before you purchased your property);
- Environmental hazards (e.g. soil contamination);
- Native land claims;
- Problems that would only be discovered by a new survey or inspection of your property (e.g. the property is smaller than originally thought);
- Matters that are not listed in public records (e.g. unrecorded liens and encroachments); and
- Zoning bylaw violations from changes, renovations or additions to your property or land that you are responsible for creating.

You need to carefully review your title insurance policy, as it may include additional exclusions and exceptions that are specific to your property.

Title insurance does not provide compensation for non-title related issues. It is not a home warranty or home insurance policy, and will not provide compensation for:

- Damages due to flooding, fire or sewer backup;
- General wear and tear of your home (e.g. replacing old windows, a leaky roof, or an old furnace);
- Theft (e.g. a burglar breaks into your home and steals your television); and
- Other losses or damages due to non-title related issues.

Refer to your title insurance policy for a full list of exclusions, restrictions, and terms and conditions.

Do I Need Extended Title Insurance Coverage?

For an additional fee, some title insurance companies may also offer you protection from additional risks that are not covered by a standard title insurance policy, such as identity theft and certain known title defects. Speak to your lawyer, title insurance company, or insurance agent/broker to determine if you require extended or additional title insurance coverage. They can compare several different title insurance products and recommend the product that would best meet your needs.

What are the Different Types of Title Insurance?

There are two main types of title insurance policies:

- *Owner's policy* – Protects the property owner from various title-related losses that are listed in the insurance policy, for as long as the property is owned. An owner's policy sets a maximum amount of coverage.
- *Lender's policy* – Protects the lender from losses in the event that the property's mortgage is invalid or unenforceable. A lender's policy usually provides coverage for the amount of the property's mortgage.

You can purchase title insurance for both residential and commercial properties.

Types of *residential* title insurance include:

- Policies for new homeowners
- Policies for existing homeowners
- Policies for lenders in a residential mortgage

Types of *commercial* title insurance include:

- Policies for individuals purchasing commercial properties
- Policies for lenders in a commercial mortgage

What Types of Properties can be Insured?

Residential title insurance policies can insure:

- houses
- condominiums
- cottages
- rental units
- vacant land
- cooperatives
- leased properties
- rural properties

Commercial title insurance policies can insure:

- office buildings
- industrial buildings
- shopping centres
- apartment buildings
- rental units
- warehouses
- vacant commercial land
- leased commercial properties

Residential Title Insurance

If you are planning to purchase a house or condominium, or even if you already own a home, you may want to consider purchasing residential title insurance.

What coverage does residential title insurance provide?

Residential title insurance can provide:

- *Comprehensive coverage* – It provides comprehensive insurance coverage against losses related to the property’s title. It may also provide coverage for your lawyer’s negligence or errors relating to title risks that are covered by your policy.
- *Gap coverage* – It insures you for the “gap” between the time your property purchase is finalized (home closing) and the time your title is registered in Ontario’s land registration system.
- *Survey coverage* – It may eliminate the need for a new up-to-date survey of your property. It is acceptable to most lenders as an alternative to a survey or Real Property Report (RPR).

- *Legal coverage* – The title insurance company will pay for most legal expenses* involved in defending your home’s title.
- *Savings of time and money* – It simplifies the closing process for your lawyer, thereby saving you time and money.

When is residential title insurance normally purchased?

Residential title insurance is usually purchased when you buy your home. However, you can also purchase residential title insurance anytime after you purchase your home.

Note - Title insurance policies for existing homeowners are slightly different than policies that are obtained at the time a property is purchased.

How much does it cost?

The cost of residential title insurance varies based on the value of your property, and the insurance company you choose. You will need to pay a one-time fee, called a *premium*.

How long does the coverage last?

Residential title insurance coverage lasts as long as you own the property. Most residential title insurance policies extend coverage to your heirs through a will, to a spouse in the event of a divorce, or to children when the property is transferred from parents to children for nominal consideration.

Where can it be purchased?

You can purchase residential title insurance through your lawyer or title insurance company, or you can contact an insurance agent/broker.

For a list of insurance companies who are licensed to sell title insurance in Ontario, visit the Financial Services Commission of Ontario’s (FSCO) website at www.fSCO.gov.on.ca, click on *Licensing & Registration*, and select *Licensed Insurance Companies in Ontario*.

Title Insurance Purchasing Tips

When purchasing residential title insurance make sure:

- Your property is insured for its full value;
- Your policy’s effective date is the same as your property’s closing date (*for policies obtained at the time a property is purchased*);

*Refer to your title insurance policy for full details on what legal expenses are covered.

- You carefully review your policy to ensure that it correctly describes all of the property you are purchasing;
- You understand what title-related losses your policy will cover; and
- You know what your policy excludes or does not cover.

It is important to know that all lawyers practicing real estate law in Ontario are required to carry professional liability insurance. Your lawyer's professional liability insurance may provide coverage for title-related issues that relate to the services your lawyer provides in the real estate transaction.

A lawyer will provide you legal advice in order to help you make an informed decision about title insurance and other aspects of the transaction. The title insurance provisions under Rules of Professional Conduct Rule 2.02 ensure that lawyers meet their obligations. These rules are available on the Law Society of Upper Canada's website at www.lsuc.on.ca, under *Rules of Professional Conduct*.

Since title insurance policies contain a lot of legal terminology, make sure you ask your lawyer or title insurance company questions about anything that you do not understand.

Title insurance companies and insurance agents/brokers should meet best practice standards that include:

- providing information to clients on all available options;
- supplying full details for all matters related to the title insurance transaction; and
- ensuring that the recommended product meets the client's needs.

Keep in mind that you are the customer and can choose any one of the title insurance companies that you think would best meet your needs.

How Do I Make a Claim?

1. **Double-check your insurance policy** to verify that the title-related problem is covered by your policy. Your insurance company will not provide compensation for an issue that is excluded by your policy.
 2. **Submit your claim as soon as possible.** Ask your title insurance company or refer to your policy to find out when claims must be submitted.
 3. **Make your claim in writing.** Write a letter to the title insurance company and include information on the losses you have experienced due to a title-related problem. Make sure you include your policy number, contact information and any relevant documents related to your claim.
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You may want to contact your title insurance company or insurance agent/broker to obtain information on its claims handling process.

4. Keep a copy of your claim for your records.

Once your claim is received by the title insurance company, it will be reviewed to determine if you qualify for coverage, based on your policy. Your title insurance company will then contact you to let you know that the claim was received. A decision about your claim should be communicated to you within a reasonable amount of time.

If You Have a Complaint

If you are not satisfied with how your claim is being handled, there are steps you can take. Improved measures have been put in place to help consumers get their insurance complaints resolved more quickly. Among them is the establishment of a Complaint Handling Protocol by all title insurance companies licensed to operate in Ontario. How the complaint process works varies from company to company. Your company representative (agent, broker, claims adjuster or customer service representative) will be able to provide you with specific information about the procedures to follow should you have a complaint.

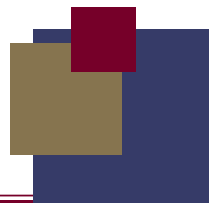
In addition, each company has a Consumer Complaint Officer who oversees the complaint handling process. The Consumer Complaint Officer is an employee of your insurance company responsible for ensuring that your complaint is addressed. If you are unable to obtain information about the protocol from your company representative, or if you are having difficulty obtaining a response outlining your company's position, then you should contact your company's Consumer Complaint Officer.

For your convenience, the Financial Services Commission of Ontario (FSCO) has compiled a list of all company Consumer Complaint Officers. This list is available online at www.fSCO.gov.on.ca. If you are unable to find the name of your company's Consumer Complaint Officer on this list, you should direct your complaint to the Chief Executive Officer of your insurance company, or contact FSCO at (416) 250-7250, Toll-free: 1-800-668-0128.

If you are unable to resolve your complaint with your insurance company, your company is obligated to provide you with a letter stating its final position on your complaint, as well as provide you with the name and details of an independent ombudsman organization that can review the complaint.

If you decide to write to the independent ombudsman organization referred to in your company's final position letter, make sure you describe your complaint and why you disagree with the company's position. Remember to include your company's letter and any documentation that relates to your complaint.

Upon receipt of your unresolved complaint, a Complaint Officer at the independent ombudsman organization will review and respond to your complaint.



About FSCO

FSCO is an arm's-length agency of Ontario's Ministry of Finance. In addition to insurance, FSCO regulates pension plans, credit unions, caisses populaires, mortgage brokers, loan and trust companies, and co-operatives.

FSCO works with consumers, industry stakeholders and investors to enhance public confidence in, and access to, a fair and efficient financial services industry in Ontario.

For more information on any of these sectors, visit our website at www.fSCO.gov.on.ca, or call our Contact Centre at: (416) 250-7250, Toll-free: 1-800-668-0128, TTY toll-free: 1-800-387-0584.

Remember to visit FSCO's website at www.fSCO.gov.on.ca for more information on:

- insurance,
- how to file a complaint against your insurance company,
- FSCO's dispute resolution services,
- pensions,
- applying for special access to money in locked-in retirement savings accounts, and
- important consumer tips.

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FSCO website: www.fSCO.gov.on.ca

Ce feuillet de renseignements est également disponible en français



Financial Services
Commission
of Ontario

ISBN 978-1-4249-6301-0
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