

CHICAGO TITLE
CANADA 

Reference Guide

Commercial Endorsements

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Reference Guide to Commercial Endorsements

Chicago Title Insurance Company is pleased to provide you with this Quick Reference Guide to Commercial Endorsements. It is designed to provide general information on the coverage afforded by the most commonly used commercial endorsements available to your clients.

At a glance, this guide presents:

-  The name of the endorsement;
-  The type of policy (owner or lender) for which it is offered; and
-  A summary of the coverage provided by such endorsement.

We are also able to create specific endorsements to suit the unique needs of your commercial real estate transactions. We encourage you to contact a member of our experienced team to discuss your transaction further so we can ensure your client is receiving the best coverage possible.

This document is provided to you on a personal and confidential basis, for your exclusive use. It shall not be given or communicated to anyone, except other employees of your firm, for their use in the aforementioned context.

The discussion of title insurance coverage in this document is general and is intended only for informational purposes. It should not be construed as representing the position of the Company under any particular set of circumstances.

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Policy Type

O - Owner Policy

L - Loan Policy

Policy	Endorsement Name	Coverage Summary
O L	1. Access	Provides coverage for loss due to lack of access to an open public street.
O L	2. Address	Provides coverage for loss or damage if a specific improvement with the municipal address listed in the policy is not located on the Land.
L	3. Aggregation - Loan	This endorsement is used when one large loan is secured by mortgages/hypothecs registered against several properties in different jurisdictions and separate policies of insurance have been issued. The endorsement ties together the policies so that the cumulative amount of liability can be applied towards any particular loss, allowing the Insured to take advantage of any increase in value that may have occurred in any property. Additional premium may be charged for this endorsement.
O L	4. Arbitration - Deletion	Removes the condition in the policy jacket providing for either the Company or the Insured to demand arbitration to settle disputes.
L	5. Assignment of Rents - Loan	Provides coverage for a) defects in the execution of an assignment of rents or lessor's interest in a lease or leases; and/or b) the existence of any assignment of rents registered prior to the Insured's assignment of rents (unless otherwise excluded by an exception in Schedule B). Not applicable in Quebec.
O L	6. Assurance (ALTA)	Provides coverage for matters not covered under the Chicago Title Insurance Company Canada Form (10/07) Loan or Owner Policy but would have been insured against at Date of Policy in the Chicago Title Insurance Company ALTA 2006 Loan or Owner Policy.
L	7. Beneficial Owner - Loan	Provides coverage for loss or damage incurred due to the failure of the charge to be secured against the beneficial owner's interest in and to the Land.
L	8. Commercial Lenders' Group - Loan	Provides coverage for the invalidity, unenforceability or loss of priority of the lien of the Insured Mortgage, which loss of priority is caused by transfers after the Date of Policy of portions of the Indebtedness by the Participants within the Lender Group.



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| O | L | 9. Condominium/Strata | Provides coverage to address the unique risks that arise on Land which forms part of a condominium/strata title. Coverage includes loss or damage resulting from the failure of the condominium/strata unit to comply with applicable laws; the failure of the unit to be assessed for taxes; charges or assessments owing against the unit; errors in the status/Form B/Form F certificates resulting in an increase to common expenses or a special assessment; and violations of any restrictive covenants contained in the condominium/strata documents. |
| | L | 10. Construction Loan | Provides coverage for loss or damage suffered by reason of the failure of the Insured Mortgage to maintain its priority subsequent to each construction loan advance. The Insured must adhere to the guidelines contained in the endorsement for each advance in order to benefit from the coverage. In Quebec further documentation and requirements must be met in order to qualify for this coverage. Additional premium may be charged for this endorsement. |
| O | L | 11. Contiguity | Insures the Insured against loss or damage sustained or incurred by the Insured by reason of the parcels comprising the Land not being contiguous to each other or if one parcel only, the parcel not constituting one contiguous piece of land. |
| | L | 12. Contingent Loss/First Loss Payable | Provides coverage when several parcels of land or other collateral are used as security under the same mortgage. The endorsement provides that the insurer will be liable without requiring the Insured to foreclose and sell the properties not affected by the title defect, lien or encumbrance, and without requiring the Insured to pursue remedies against any other collateral secured by the Insured Mortgage. Additional premium may be charged for this endorsement. |
| | L | 13. Cross Default | Provides the Insured with coverage if a court declares the Insured Mortgage is not valid and enforceable with respect to the Land as a result of the cross-default provisions contained in the credit agreement. |
| O | L | 14. Covenants, Conditions and Restrictions | Provides coverage for outstanding violations of covenants, conditions and restrictions referred to as an exception on Schedule B as of the Date of Policy (ie. site plan or development agreements). Does not provide coverage for anything contained in a lease or for environmental matters. |



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| L | 15. Doing Business – Loan | Provides coverage in the event of a court order denying the Insured the right to enforce the Insured Mortgage on the grounds that making the loan violated “doing business” laws of the applicable jurisdiction. |
| L | 16. Easement – Damage or Enforced Removal – Loan | Provides coverage against loss caused by the encroachment of a building located on the Land onto or over a servitude/easement shown as an exception in Schedule B, as disclosed by a certificate of location/survey of the Land. The loss must be based on an exercise of the servitude/easement and is only for damage to an existing building, enforced removal, or alteration. |
| L | 17. Easement – Existing Encroachment | When there is a known encroachment onto an easement/servitude, this endorsement provides coverage for loss resulting from the owner of the easement/servitude compelling the removal of any portion of the improvements on the Land which are encroaching. |
| L | 18. Encroachments – Boundaries and Easements | Provides coverage against loss caused by the encroachment of an improvement located on the Land onto or over a servitude/easement shown as an exception in Schedule B or onto adjoining lands, as disclosed by a certificate of location/survey of the Land. |
| L | 19. Environmental Lien – Loan | Provides coverage for violations relating to environmental protection, if a notice is registered in the Public Records as of the Date of Policy and not listed as an exception on Schedule B. |
| L | 20. Expired Leases – Loan | Provides coverage for loss by reason of a third party claiming a right under an expired lease where the tenants have vacated the Land. |
| L | 21. Future Advances – Letter of Credit – Loan | Provides coverage for a mortgage which collateralizes the obligations of a borrower under a letter of credit. An example would be a letter of credit given to a municipality to secure obligations of a developer where a draw would not occur unless the developer was unable to make a required payment to the municipality. The endorsement provides coverage if the Insured Mortgage is deemed unenforceable, invalid, not in priority or illegal as a result of the draw occurring after the Date of Policy. |



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| | L | 22. | Future Advances – Priority - Loan | Provides coverage for the priority and enforceability of the lien of the Insured Mortgage where the loan facility allows for future advances, repayments, and re-advances of Indebtedness. The coverage includes losses occurring as a result of a variable rate, the addition of unpaid interest to the Indebtedness, and negative amortization (interest on interest). |
| ○ | L | 23. | Government Response | Provides coverage to the extent a search has been conducted prior to closing and the results of such search received prior to closing turn out to be inaccurate. No coverage is provided to the extent such search was not conducted and/or a written response was not received prior to the Date of Policy. |
| ○ | L | 24. | Identified Risk Coverage | Provides coverage for a known title issue identified as an exception on Schedule B. It further clarifies if coverage applies when a third party asserts a right or if a final judgement is required before loss can be determined. This endorsement does not release the Company from the duty to defend. |
| ○ | L | 25. | Identified Risk – Enforced Removal | Provides coverage for a known encroachment, identified as an exception on Schedule B, of a structure onto an adjoining Land or onto an easement/servitude. It further clarifies if coverage applies when a third party asserts a right or if a final judgement is required before loss can be determined. This endorsement does not release the Company from the duty to defend. |
| ○ | L | 26. | Identified Risk – Lack of Access | Provides coverage where access to the Land is across a private road that has not been dedicated by a municipality or for which a valid right of way has not been granted. The nature and extent of the Identified Risk will be customized on a case by case basis. |
| ○ | L | 27. | Indigenous Lands | This endorsement adapts the language in the policy to include any records maintained by the Government of Canada with respect to Indigenous lands and adapts certain terms in the policy to include any powers of the Indigenous group having jurisdiction over the Land. |
| ○ | L | 28. | Issuance of Future Insurance | This endorsement may be issued when the Insured will be acquiring a new interest or entering into a new security arrangement at a later date and wants confirmation that the Company will issue insurance in the future, subject to payment of the premium. A time limit will be put on the endorsement, generally five years and it will be subject to underwriting practices, rules, regulations and rates in effect at the date the subsequent insurance coverage is issued. |



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| O | L | 29. Issuance of Future Insurance (New Construction) | This endorsement may be issued for new construction where the original Amount of Insurance represents the value of the raw land and there is no construction loan to be insured. The Insured applies for an increase in the Amount of Insurance either upon completion of the construction or within five years from the Date of Policy, whichever occurs first and the Company agrees to provide the increase, subject to underwriting practices, rules, regulations and rates in effect at the date the subsequent insurance coverage is issued. |
| O | L | 30. Leasehold | Designed for use with an Owner or Loan Policy where the Company is being asked to insure a leasehold interest or emphyteusis or a charge of such interest, pursuant to a lease or other contract registered against title to the Land. Coverage is provided for loss or damage suffered as a result of eviction due to termination of the leasehold interest, based on a covered risk under the policy. |
| | L | 31. Legal Rents - Loan | Provides coverage further to a judgment requiring the reduction of any portion of the rents collected prior to the Date of Policy. The Ontario version is limited to two years prior to the Date of Policy. |
| O | L | 32. Measure of Damages | Confirms that the Company will take into consideration the use of the Land in calculating the loss or damage. This endorsement is issued when the Land is used for a unique purpose such as a renewable energy project where the value of the bare land does not justify the Amount of Insurance. |
| | L | 33. Minerals and Other Subsurface Substances - Improvements | Provides coverage for damage caused by the enforced removal of any building, or structure located on the surface of the Land, and any paved road, walkway, parking area, driveway or curb, affixed to the Land, based upon the right to use the surface of the Land to extract or develop mineral interests. Not available in Alberta, Saskatchewan or Manitoba. |
| O | | 34. Minerals and Other Subsurface Substances - Buildings | Provides coverage for damage caused by the enforced removal of a building on the surface of the Land based upon the right to use the surface of the Land to extract or develop mineral interests. Not available in Alberta, Saskatchewan or Manitoba. |



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| O | 35. Non-Imputation | Designed for use when the transaction involves a share purchase and confirms that the Company will not deny coverage on the basis that the Insured had knowledge of any matter imputed to it through the selling shareholder and/or former directors and officers. There are two versions of the endorsement depending on whether the transaction is a partial or full share transfer. A declaration from the exiting shareholders regarding their knowledge of the property is required to issue the endorsement. |
| O L | 36. Pending Improvements | Provides coverage for an amount which is less than the Amount of Insurance and confirms that the amount available in case of loss increases up to the Amount of Insurance as improvements are made after the Date of Policy. This endorsement does not amend the Date of Policy. |
| O L | 37. Policy Authentication | Provides coverage to the Insured for electronically issued policies. |
| O L | 38. Post Policy Fraud | Provides coverage to the Insured for losses up to \$5,000,000, inclusive of legal fees, for any defect, lien or encumbrance occurring after the Date of Policy as a result of fraud or forgery. Lenders have coverage if the Insured Mortgage is assigned, released, discharged, postponed or modified. |
| O | 39. Private Rights - Owner | Provides coverage for an actual loss resulting from the enforcement of an option to purchase, right of first refusal or right of prior approval of a future purchaser or occupant. The instruments registered against Title, which contain such rights, must be identified and the nature of the right disclosed to the Company. Not available in Quebec. |
| L | 40. Private Rights - Loan | Provides coverage for an actual loss resulting from the enforcement of a private charge or assessment, option to purchase, right of first refusal or right of prior approval of a future purchaser or occupant as it affects the priority or enforceability of the lien of the Insured Mortgage. The instruments registered against Title, which contain such rights, must be identified and the nature of the right disclosed to the Company. Not available in Quebec. |
| L | 41. Restrictions, Encroachments, Minerals - Loan | Provides coverage for loss resulting from the violation of enforceable covenants, conditions or restrictions registered in the Public Records. Additionally, it provides coverage for damage to existing improvements resulting from the exercise of the right to use the surface of the Land for the extraction or development of minerals. |



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| L | 42. | Revolving Credit | Provides coverage under the Policy, not to exceed the Amount of Insurance, for advances made after the Date of Policy associated with a revolving line of credit. |
| L | 43. | Septic System (Loan) | Provides coverage for outstanding notices of violation or work orders regarding the septic system issued as of the Date of Policy as well as for encroachments of the septic system onto adjoining land, a servitude, right-of-way or easement. It also provides coverage for actual loss as a result of the as built improvements on the Land at the Date of Policy violating the certificate of approval/use permit or if the septic system was built without a certificate of approval/use permit and one was required at the time of its installation. |
| ○ | 44. | Septic System (Owner) | Provides coverage for adverse matters regarding the septic system which would have been revealed by an up to date survey. |
| ○ L | 45. | Subdivision | Provides coverage for the validity of the legal description under the laws regulating the creation of parcels in the jurisdiction where the Land is located. |
| L | 46. | Subsequent Advances – Increase Amount of Insurance | This endorsement may be requested if the loan facility contains provision for subsequent advances made after the Date of Policy which will exceed the Amount of Insurance. Provided the requirements in the endorsement are met and additional premium is paid, the Company agrees to amend the policy to increase the amount of insurance and bring the Date of Policy forward to the date of such subsequent advance. Additional premium may be charged for this endorsement. |
| L | 47. | Subsequent Advances – Up to Amount of Insurance | This endorsement may be requested if the loan facility that is secured by the Insured Mortgage contains a provision for subsequent advances made after the Date of Policy up to the Amount of Insurance. Provided the requirements in the endorsement are met, the Company agrees to bring the Date of Policy forward to the date of such subsequent advance. Additional premium may be charged for this endorsement. |



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| O | 48. | Successor Insured | Expands the definition of Insured contained in the Policy Jacket to add a successor by change of name, amalgamation or plan of arrangement. |
| O | L | 49. Suffered | Clarifies the definition of the term "Suffered" as used in the Policy Jacket. |
| O | 50. | Survey (Same as) - Owner | Provides coverage that the Land as described in Schedule A of the policy is the same as the Land as described in the survey/real property report/certificate of location identified in the endorsement. |
| O | 51. | Survey (No Survey) - Owner | Provides coverage when there is no survey/real property report/certificate of location for the Land against loss or damage suffered as a result of the enforced removal of the structure due to set-back violations or because it encroaches onto adjoining land or an easement. Satisfactory information must be provided concerning the improvements in order to issue the endorsement. |
| O | L | 52. Tax Lot | Provides coverage that the tax bill for the Land only includes what is described in Schedule A of the policy and includes no other parcels. |
| | L | 53. Usury - Loan | Provides coverage for loss as a result of a final judgment ruling that the charge created by the Insured Mortgage is invalid or unenforceable on the grounds that the loan is usurious under the laws of Canada and/or the jurisdiction where the Land is located. |
| | L | 54. Utility Facility - Loan | Provides coverage for the utility services to be located directly adjacent to the Land or delivered via a valid easement/servitude. |
| | L | 55. Variable Rate - Loan | Provides coverage as to the validity, priority or enforceability of the lien of the Insured Mortgage resulting from provisions failing to effectively provide for changes in the interest rate. |
| O | 56. | Water Building - Owner | Provides coverage for loss by reason of the enforced removal or alteration of any building located on the surface of the Land resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of water. |
| | L | 57. Water Improvements - Loan | Provides coverage by reason of the enforced removal or alteration of any building, or structure located on the surface of the Land, and any paved road, walkway, parking area, driveway, or curb, affixed to the Land resulting from the future exercise of any right existing at Date of Policy to use the surface of the Land for the extraction or development of water. |



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| L | 58. Water Potability | Provides coverage for loss as a result of the water from non-municipal sources being non-potable as at the Date of Policy. |
| L | 59. Work Order - Loan | Provides coverage for certain governmental or quasi-governmental work orders outstanding as of the Date of Policy that may not have been revealed in municipal clearance responses and work orders issued after the Date of Policy with respect to compliance with fire safety regulations for any state or condition that existed prior to the Date of Policy. |
| L | 60. Work Order & Compliance - Loan | Provides coverage for outstanding work orders from governmental or quasi-governmental authorities (excluding environmental) outstanding on the Date of Policy, work orders arising out of open building permits in existence as of the Date of Policy, work orders issued after the Date of Policy with respect to compliance with fire safety regulations for any condition that existed on the Date of Policy, and any lack of building or occupancy permits. Issuance outside of loan programs requires off title searches with respect to work orders and permits or a statutory declaration. |
| L | 61. Zoning Affirmative Coverage | Provides coverage for multi-residential properties if there is non-compliance with the number of units permitted under the applicable municipal zoning by-law. |
| ○ L | 62. Zoning (As to Use) | Provides coverage that the use of the Land is permitted under the applicable zoning by-law. It also insures against loss if any of those uses are prohibited by a court order that invalidates the zoning by-law. This endorsement is available for both vacant and improved land. |
| ○ L | 63. Zoning (Completed Structure) | Provides coverage for loss or damage suffered by reason of the failure of the use of the Land at the Date of Policy to be a permitted use. There is no liability if the use is not permitted as a result of any lack of compliance with conditions, restrictions, or requirements contained in the zoning by-law (including the failure to obtain necessary consents or authorizations).
As an example, the failure to obtain a required license to operate a business will not be covered under this endorsement.
The endorsement also provides coverage in the event that there is a court order prohibiting the Insured from using the Land, or requiring the removal or alteration of the structure on the basis that the municipal by-law has been violated with respect to various matters such as: area, width, depth of the Land as a building site, floor space, setbacks and height. Coverage is provided for the number of parking units for a loan policy. |



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- L 64. **Zoning Land Under Development** This endorsement may be requested if the Land being insured is currently vacant or under construction and there are plans and approvals in place for the development of further improvements on the Land. Zoning coverage, similar to that provided through the Zoning - Completed Structure endorsement will be provided for those improvements constructed after the Date of Policy so long as they have been constructed in accordance with the Plans and the other issuing guidelines of this endorsement have been met.