



# Best practices for title insurance with Chicago Title Insurance Company

Title insurance is property and casualty insurance. A title insurance policy is a contract of indemnification and defense where the insurer agrees to indemnify the owner of an insured property or their mortgage lender against actual loss or damage incurred because of a covered title risk.

We analyze the information and documents provided to assess the risk and offer coverage to the property owner and/or their mortgage lender, and determine which endorsements apply.

It's of the utmost importance that the notary or lawyer acting on the transaction disclose to us all information and matters that could affect coverage. We've compiled a list of items requiring particular attention when ordering a title insurance policy.

## 1 The closing date

The closing date added in CTIC Express must be the date the deed of sale is executed by all parties and the mortgage documents.

For example: If today's date is January 25, 2023, and the deed of sale was executed on July 15, 2022, you must indicate the date of July 15, 2022, not the date on which you ordered the title insurance policy.

**Why is this important?** We will ask additional questions and request other supporting documents to assess risk.

## 2 Orders submitted after the closing of the transaction

Title insurance requests must to be submitted before closing to allow us to assess the risk properly. A late order will trigger additional questions and additional documents.

For example, for an application submitted one year after the purchase or refinance transaction, we will require written evidence from the mortgage lender that the borrower is not in default.

**Why is this important?** A request submitted after the purchase transaction is riskier. The lawyer risks not obtaining the desired coverage or being refused entirely. Title defects discovered after closing could be added as an exception to coverage.

### 3 Indicate the proper amount of insurance in CTIC Express

The amount of insurance for an owner policy is the amount indicated in the agreement of purchase and sale. Where taxes are applicable, these can be added to the amount of insurance.

The loan title insurance policy should indicate the total security amount against the property. For example, where the borrower obtained a loan for \$300,000 secured by a mortgage in the amount of \$360,000, you should indicate the amount of the security given to the mortgage lender.

**Why is this important?** In an eligible claim, the maximum amount paid is specified on Schedule A of the policy, along with the inflationary provision in each policy issued by Chicago Title Insurance Company or the Increased Policy Amount endorsement.

### 4 The property type

The choice of property type directly impacts the coverage offered under the policy.

The Multi-family endorsement will not be issued if you indicate that it is a single-family residence but the property is truly a triplex.

**Why is this important?** The Multi-family endorsement offers coverage for the number of residential units in the insured property. By not disclosing the number of units, you are affecting coverage under the policy.

### 5 Waterfront properties

Waterfront properties or crossed by a watercourse require particular attention. As a rule, the owner title insurance policy does not provide coverage for environmental issues. The following are usually excepted from coverage: shoreline, riparian protection strip, wetland, hydric environment, sensitive environment, flood zone, risk zone, landslide zone, and erosion zone.

**Why is this important?** Knowing that the property is waterfront, we can adjust the exceptions by reviewing the certificate of location (if available) and determine if any matters could be covered under the title insurance policy. For example, we could ensure a setback that doesn't comply with the zoning by-law while another part of the building encroaches slightly into the riparian protection strip.

### 6 The unique nature of the relationships between parties in the real estate transaction

Where the seller and the buyer are related, such as a parent who sells to their child or former spouses who separate, this is important information to disclose when submitting the insurance application.

**Why is this important?** A child who buys a house from their parents is often familiar with the property and may know its problems. Risks known to the insured are excluded from coverage under the policy.

## 7 Title issues

Title insurance has this particularity where we can provide coverage over known defects. A detailed explanation of the issue and supporting documents, including copies of the deeds, and current indexes of immovables for all parcels (certificate of registered owner if the property is located in New Brunswick) must be provided. A copy of the certificate of location and/or real property report is also required where the surveyor outlines the problem.

**Why is this important?** We need to understand the nature of the problem to properly assess the opportunity to provide coverage and to what extent.

## 8 Information and documents that could impact the coverage offered

Here are some examples of important information to share with us:

- ✓ The seller has told you they received a work order or notice of deficiency from the municipality requesting a correction.
- ✓ The seller reported a compliance issue.
- ✓ The seller has told you there will be an imminent lawsuit against them or the syndicate of co-owners.
- ✓ The seller has let you know that they will receive a demand letter from an unhappy neighbour shortly.
- ✓ A legal hypothec of construction has been registered, or you have been notified that a subcontractor will soon publish a legal hypothec of construction.

**Why is this important?** When the title insurance order is submitted, specific information and documents are required to determine the opportunity to provide coverage over known issues.

## 9 Private lender transactions

Where a private hypothec/mortgage is registered on title, and the transaction involves the payment of this private hypothec/mortgage or the new mortgagee is a private lender, we perform additional due diligence to prevent real estate fraud. Additional information and documents are required to issue a title insurance policy.

**Why is this important?** Transactions involving private lenders add additional risk on our shoulders on several levels, such as real estate fraud through identity theft and the priority of the new mortgage lender.

## 10 Vacant parcels

Transactions on vacant parcels also bring additional risks, not only for real estate fraud, as they are an easy target for fraudsters, but also for title defects that we need to underwrite properly.

**Why is this important?** We request a copy of the cadastral plan of the land register/site plan (if available) to verify whether the land is waterfront, landlocked, or contiguous to the other parcels being insured (if applicable).

## **11 Not owner-occupied property, mortgage-free property, or property owned by a non-resident of Canada**

These properties are easy targets for fraudsters, and we will perform additional due diligence before issuing title insurance policies.

**Why is this important?** Fraud prevention. The claims department is currently handling numerous multi-million dollar claims where the vendors' identity has been stolen. This type of request usually requires ID Verification of the vendor to ensure they are the true owner of the property.

## **12 The insured lender is an administrative agent**

In certain circumstances, lenders will register their mortgage in the name of an administrative agent. These agents aren't the true lender.

**Why is this important?** We need to know the name of the true lender and the name of the administrative agent so they can be both listed on the policy as the insured.



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