



# Reasons to Title Insure your Commercial Transaction

## 1. **Survey/Real Property Report Coverage**

In most cases, a survey or real property report is not required to obtain title insurance and the policy provides the insured with coverage for issues that would have been revealed by an up to date survey/real property report. Even if one is available, the policy insures for accuracy and would cover a loss suffered for an issue that should have been revealed.

## 2. **Faster Closings**

It can take weeks to receive a response from a municipality regarding building and zoning inquiries, which can significantly delay a transaction. Many routine off title searches are not required to issue a title insurance policy and the policy can be relied on instead of obtaining the results.

## 3. **Saves Money and One Time Premium**

Title insurance decreases your due diligence costs as fewer off title searches are required and less time is spent reviewing and reporting on the results. A title insurance policy is often much less expensive than obtaining a new survey/real property report, which in many cases is not required. Unlike other insurance, you also only pay once for a title insurance policy and coverage continues for as long as the owner has an interest in the property and the mortgage is registered on title. It can also be transferred to a subsequent lender as well.

## 4. **Coverage over Known Title Defects**

Title insurance is a solution for known title defects that may have been revealed by a survey/real property report or through off title inquiries. Often these issues are not easily remedied and can significantly delay a closing. Title insurance is the perfect solution as transactions close on time and coverage can be provided for issues like encroachments, lack of access or zoning violations.

## 5. **Duty to Defend**

In addition to coverage for loss or damage suffered by the insured for any of the covered title risks, the policy jacket contains a duty to defend title in any court case that is based on a covered title risk. This means coverage for legal costs and expenses incurred in this defense, which may be well in excess of the insured amount on the policy.

## 6. No Fault Insurance

If an insured suffers a loss for a matter covered under the policy, they can be compensated for the loss by making a claim under the policy and they don't need to sue the party responsible or prove negligence. There's no out of pocket expense for the insured and no time spent making a claim against a lawyer with the Law Society or with a Land Titles assurance fund in order to be compensated for their loss. Simply submit a claim to Chicago Title Insurance Company and we do all the work. We also have the fastest claims turnaround times in the industry.

## 7. Fraud Protection

Despite best efforts, you can't control what other lawyers or parties may do in a transaction so a title insurance policy gives comfort that if the insured becomes a victim of fraud, they are protected. Coverage is available for issues like missing payout funds or stolen/forged identity of an individual or corporation involved in the transaction that impairs the interest in the land.

## 8. Coverage Against the Unknown

Some issues cannot be discovered and this is why a title insurance policy is crucial. For example, super priority liens with the Canadian Revenue Agency (CRA) can be very scary for lenders as they may lose the priority of their mortgage if the borrower owes money to the CRA and they may not find this out until after the mortgage is advanced.

## 9. Protection for Registry Interests

Interests outside of a Land Titles system are not guaranteed so title insurance is very valuable if there is an issue with title. In registry systems the onus is on the purchaser or lender to review title thoroughly to ensure there is a good and valid interest as clouds on title are not covered by a Land Titles assurance fund. Indigenous lands and mining interests are examples of title we insure in registry systems.

## 10. Gap Coverage

Intervening registrations between the time the deal is closed and/or funds are advanced and the time the actual transfer and/or security is registered are covered under the policy. This is a great tool in jurisdictions where there is a delay in registration as it protects the priority of the interest. It also is extremely beneficial when insuring land outside of the Land Titles system like interests in Indigenous Lands, mining interests and grazing leases. Gap coverage also comes to the rescue during a Land Title or Registry offices' impromptu closure due to local disasters or technical difficulties.



### 11. Zoning By-Law Compliance

It can be very difficult and expensive to get an opinion on whether a property complies with the zoning by-laws with respect to parking, setbacks, building height, floor area or the number of permitted units. Often a city planner or some other independent consultant must be engaged to verify the property is in compliance. The same comfort can be provided in a title insurance policy at a fraction of the cost.

### 12. Errors in Governmental and Quasi-Governmental Search Responses

Most off title inquiries contain language that “errors and omissions are accepted”. We provide government response coverage to insure the accuracy of such results. We are seeing an increasing amount of incorrect search results, as well as results that are so vague that they do not provide much value. We are also seeing more errors in the Status/Form B certificates for condominiums/strata title where the certificates are missing special assessments, increases to expenses or litigation. Title insurance will pay for loss or damage which results from such errors.

### 13. Super Priority Lien Endorsement

The super priority lien endorsement provides coverage to the lender for CRA or provincial remittances that are outstanding and not paid as of the date of policy (the date on which the mortgage was registered). The coverage for these unremitted amounts will be extended 10 years after the insured mortgage is discharged and limited to the least of the amount of the policy or \$500,000.

### 14. Encroachments, Restrictions and Work Orders – Post Date of Policy Endorsement

This endorsement offers added protection to the lender against loss or damage resulting from matters arising after the Date of Policy, such as unpermitted structures, encroachments or a post policy violation of a covenant, condition, limitation or restriction in a document or instrument registered in the Public Records on the Date of Policy.

### 15. Transaction Protection Endorsement

This endorsement, which is unique in the market, indirectly protects the solicitors acting on behalf of the parties in commercial real estate transactions, as the Insured can make a claim directly to the title insurer rather than the liability insurance (E&O) provider. Coverage offered by this endorsement include errors and omissions in the review of documents related to the transactions or made in the statement of adjustments. This endorsement is offered for transactions having an Amount of Insurance of \$5M or less.

### 16. Post closing protection vs. Solicitor opinion

Relying on a Title opinion to close a transaction is great. Combining this legal opinion with a title insurance policy will provide the optimal coverage to lenders and purchasers. There are matters, which cannot be covered under the protective umbrella of a title opinion, such as forgery or fraud, gap, duty to defend, construction liens, etc. so relying on a commercial title insurance policy issued by Chicago Title Insurance Company is the way to go!

Disclaimer: This material is intended to provide general information only. For specific coverage and exclusions, refer to the applicable policy. Copies are available upon request. Some products/services may vary by province. Prices and products/services offered are subject to change without notice.

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