

THE BASICS OF TITLE INSURANCE

What is title insurance?

Title insurance protects you against losses resulting from defects affecting your ownership (title to the land). A 'title insurance policy' is a contract between an insurer and a person with an interest in land ("policyholder"), which can include the property owner and/or a bank, by which the insurer agrees to indemnify the policyholder against certain losses. Banks often insist you purchase title insurance as a condition of financing.

What is a 'duty to defend'?

Title insurance policies include a 'duty to defend' meaning that if the policyholder's interest in the property is challenged, the insurer will cover the policyholder's legal fees to resolve insured title related issues.

How does title insurance differ from other types of insurance?

Standard insurance policies only cover future risks. In contrast, title insurance covers both risks that may happen in the future (e.g. title fraud or forgery) and existing unknown defects to title (e.g. pre-existing zoning violations).

Title insurance is available for both residential and commercial transactions, and is divided into two policy types: **owner's policies** and **lender's policies**.

- With an **owner's policy**, the policyholder pays a one-time premium, and remains insured for as long as they (or their heirs) own the property.
- **Lender's policies** (mortgage company) differ slightly in that, in most cases, they have to be renewed every time the property is refinanced.

What does title insurance cover?

- **Encroachments** (excepting, in most cases, fences and boundary walls)
- **Title fraud** arising from identity theft
- **Liens or encumbrances** registered against title existing at the time of possession
- **Municipal issues** such as non-compliance with zoning regulations and renovations done without proper building permits
- **Unregistered easements**
- **Access issues**

What is 'gap coverage'?

Gap coverage allows your purchase to close on time. Your lawyer can request and release your mortgage funds during the 'gap' in the time Land Titles takes to complete the actual registration.

It is important to note that title insurance will not cover you for any defects that you know about at the time the insurance was purchased.

Contact your lawyer to discuss your individual needs.

McKercher LLP enjoys a reputation for integrity, experience and innovation. Our lawyers, collectively and individually, strive to preserve and promote that reputation, committing themselves and their considerable talents to meeting the complex needs of local, provincial, national and international clients.

