



## RealTalk® about Real Estate

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### **Topic: Title Insurance vs Land Titles Assurance Fund**

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Claims made against either the Land Titles Assurance Fund or a Title Insurance Policy are relatively uncommon, so it is worth reviewing the coverage that each provides.

#### **Land Titles Assurance Fund**

This is a government fund established to compensate for losses arising at the Land Titles Office. Losses covered by the Assurance Fund include those arising from:

1. Clerical errors made by the Land Titles Office; and
2. Fraudulent documentation accepted by the Land Titles Office.

For a successful claim against the Assurance Fund, one must obtain a Court judgement. Additionally, it must be demonstrated in the Court proceedings that there are no other parties who are liable and able to pay for losses arising from a claim because the Assurance Fund is a “payor of last resort”.

#### **Title Insurance**

Title Insurance is generally purchased on behalf of a buyer by their lawyer and is designed to provide protection for matters such as:

1. Defects in the condition of the land and improvements;
2. Title fraud; and
3. Intervening registrations such as Writs and Builders Liens.

Title insurance comes in two forms:

1. A *lender policy* which will generally be in the amount of the mortgage and only covers losses suffered by the Lender; and
2. An *owner policy* which will generally be in the amount of the full purchase price and will cover losses suffered by the Lender or the buyer.

In order to make a claim and recover losses one must submit a claim to the title insurance company. There is some overlap in coverage between title insurance and the Assurance Fund when it comes to the registration of fraudulent documents, in which case it may be easier to advance a claim through the title insurer. However, one title insurance company has taken the position that they will only cover claims when a loss actually occurs, which creates a lack of coverage which will be the topic of another RealTalk.

We're pleased to welcome Kristina Saedi, Student-at-Law, to our firm. She can be reached at [kristina@admirallaw.ca](mailto:kristina@admirallaw.ca) and 403-444-1163 ext. 203. Finally, we wish to congratulate Jesse Mullin on his acceptance to the bar and wish him good luck on his return to British Columbia.

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