

Title PLUS[®]

Hotsheet

Expanded Eligibility for TitlePLUS[®] Policy¹ Coverage in Ontario

The new *Mortgage Brokerages, Lenders and Administrators Act, 2006* and regulations² under it (collectively referred to as the “Act”) will come into full effect on July 1, 2008.

As of July 1, 2008, a lawyer who engages in certain activities prescribed by regulation under the Act will not require a licence under the Act for these activities when he or she is acting in his or her professional capacity as a lawyer on behalf of a client.³ As a result, eligibility for TitlePLUS coverage will be expanded to include transactions where the lawyer engages in activities that are exempt from licensing requirements under the Act.⁴

When applying for a TitlePLUS policy, the eligibility question:

“Are you or your firm acting as mortgage brokers for this transaction?”

will be replaced by:

“For this transaction, are you or your firm performing mortgage brokering, lending or administration services which require a licence under the *Mortgage Brokerages, Lenders and Administrators Act, 2006*?”

An answer of “No” will result in the transaction being eligible for a TitlePLUS policy. An answer of “Yes” will render the transaction ineligible for a TitlePLUS policy **unless** you indicate that you have the required licence under the Act.

Activities Exempt from Licensing Requirements for Lawyers⁵

A lawyer is exempt from licensing requirements under the Act if he or she:

1. Engages in **dealing in mortgages** (except when soliciting another person or entity to borrow money on the security of real property), **trading in mortgages** or **administering mortgages** when acting in his or her professional capacity as a lawyer on behalf of a client; and
2. Does not hold himself or herself out as engaging in **dealing in mortgages, trading in mortgages** or **administering mortgages**, except when acting in his or her professional capacity as a lawyer on behalf of a client.

▪ **Dealing in Mortgages:**

A lawyer is exempt from licensing requirements under the Act when dealing in mortgages when he or she, acting in his or her professional capacity as a lawyer on behalf of a client:

1. In Ontario, solicits another person or entity to lend money on the security of real property; or
2. Engages in any of the following activities in Ontario:
 - (a) providing information about a prospective borrower to a prospective mortgage lender;

- (b) assessing a prospective borrower on behalf of a prospective mortgage lender; or
- (c) negotiating or arranging a mortgage on behalf of another person or entity, or attempting to do so.

Lawyers who **deal in mortgages** by soliciting another person or entity to borrow money on the security of real property are **not** exempt from licensing requirements under the Act.

- **Trading in Mortgages:**

A lawyer is exempt from licensing requirements under the Act when trading in mortgages when he or she engages in any of the following activities in Ontario, when acting in his or her professional capacity as a lawyer on behalf of a client:

1. Soliciting another person or entity to buy, sell or exchange mortgages; or
2. Buying, selling or exchanging mortgages on behalf of another person or entity.

- **Administering Mortgages:**

A lawyer is exempt from licensing requirements under the Act when administering mortgages when he or she engages in any of the following activities in Ontario, when acting in his or her professional capacity as a lawyer on behalf of a client:

1. Receiving payments from a borrower under a mortgage on behalf of another person or entity, and remitting the payments to or on behalf of that person or entity; or
2. Taking steps, on behalf of another person or entity, to enforce payment by a borrower under a mortgage.

Simple Referrals

In addition to the above exemptions for lawyers, simple referrals⁶ of prospective borrowers to prospective mortgage lenders, and prospective mortgage lenders to prospective borrowers, will be exempt from licensing requirements under the Act.

If you have any questions about whether a transaction is eligible for TitlePLUS coverage, please contact a TitlePLUS Underwriter at 416-598-5899 or 1-800-410-1013.

¹ The TitlePLUS policy is underwritten by Lawyers' Professional Indemnity Company.

² S.O. 2006, Chapter 29, O.Reg. 406/07 and O.Reg. 407/07.

³ Subsection 6(6) of the Act and Sections 3, 4 and 5 of O.Reg. 407/07.

⁴ Prior to July 1, 2008, transactions in which the lawyer acted as a mortgage broker are not eligible for TitlePLUS coverage.

⁵ For full particulars of all exemptions from licensing requirements under the Act, please see the Act.

⁶ As defined in Subsections 6(4) and 6(5) of the Act and Sections 1 and 2 of O.Reg. 407/07.

© 2008 Lawyers' Professional Indemnity Company

® Registered trademark of Lawyers' Professional Indemnity Company.

(June 2008)