

Understanding any form of insurance can be a difficult experience. FCT wants to simplify the process by providing you with a basic understanding of what some title insurance terms mean.

For specific coverage, exclusions, legal definition of terms and claims processing provisions under a title insurance policy, please see the contents of your title insurance policy for specific legal reference.

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Access – The passageway to and from a property, either by vehicle or foot.

Actual Loss – The difference between the value of the interest as insured and the value of the interest subject to the defect, lien or encumbrance insured against by the title insurance policy.

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Building Code – Specifications required by a governmental authority which dictate how a structure should be built.

Building Permit – A certificate that must be obtained from the municipality by the property owner or contractor before a building or other structure can be erected, repaired or renovated.

Bylaw – A local ordinance.

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Closing – The completion of a real estate transaction when property changes hands or consideration is exchanged by way of deed and/or mortgage. An essential part of the closing is the registration of the title in the new owner's name or the registration of the mortgage (in the case of a refinance transaction).

Closing Date – The date on which the sale of a property becomes final and the new owner takes ownership and/or possession and the vendor receives payment for the sale.

Condition – A clause in a contract that delays the contract from becoming legally binding until the requirements of the clause have been met. For example, an agreement of purchase and sale may be conditional on the purchaser obtaining financing. The condition must be satisfied or waived in order for the agreement to become legally binding.

Covered Title Risk – Any of the coverages listed in the policy subject to the Exclusions, Exceptions, and Conditions contained in the Policy of Insurance.

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Defect – A problem with title which renders that title unmarketable or which gives rise to coverage under a title insurance policy, subject to its terms and conditions.

Defective Title – Title to land or property which is not good and marketable.

Duty to Defend – A title insurance company's responsibility to provide legal protection to defend the homeowner's title or the lender's interest in the mortgaged property. The Duty to Defend arises from an action or claim as a result of a covered title risk insured under the policy.

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Easement – The right of someone else to use your part of your land for a special purpose.

Encroachment – The presence of an improvement such as a building or other structure which sits on or overhangs over the property of an adjoining owner.

Encumbrance – A right of another against the land that is either a monetary claim against the land (such as a lien, mortgage or lease), or a non-monetary one (such as an easement).

Expropriation – A government's right to take ownership of land.

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Fraud – A deception deliberately practiced in order to secure unfair or unlawful gain.

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Governmental Authority – For the purposes of a title insurance policy, any department or division of the government of Canada or of the province or territory, or of the municipality in which the property is located, which has jurisdiction with respect to matters of building and zoning compliance.

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N/A

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Impersonation – To assume the character, identity or appearance of another for fraudulent purposes. The act of pretending or representing oneself to be another.

Incapacitation – Any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, or other cause (except being a minor) to the extent that there is a lack of sufficient understanding or capacity to make or communicate responsible decisions concerning such person.

Interest – A right, claim, title or legal share in something.

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N/A

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N/A

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Legal Hypothec – Using property to secure payment of a loan or mortgages. Putting up as collateral, while the borrower retains possession.

Lien – Any legal claim against a property to secure the payment of a debt or legal obligation.

Local Authority Search – Any search of local government records pertaining to the property which would be customarily required by a lawyer or notary in the normal course of a real estate transaction, in a given jurisdiction.

Local Improvement Charge – A municipal fee imposed by the municipality in the event of an improvement or enhancement, i.e. for the installation of sewers.

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Marketability – Fit to be offered for sale, wanted by purchasers and vendors.

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Notice of Violation – A document issued by a Governmental Authority to make someone aware of a breach in use, contract, municipal law, or any enforced regulatory conditions.

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N/A

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Policy Date – The date that the policy becomes effective, and is the registration date of the deed or mortgage – in Schedule A for a title insurance policy.

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N/A

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Real Property Report or Survey – A building location certificate, real property report or certification to localization prepared by a surveyor.

Restrictive Covenants – An agreement included in the title to a property that places restrictions on the future use of the property. Example: no fence may be built on the property except of dark wood and not more than six feet high, no tennis court or swimming pool may be constructed within 30 feet of the property line, and no structure can be built within 20 feet of the frontage street.

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Schedule – An addendum of an agreement or contract that contains additional information forming part of the main agreement or contract to which it is attached (i.e. an agreement of purchase and sale).

Special Assessment – An extra-ordinary charge to be paid by condominium unit owners. Usually used to pay for costs of unanticipated major repairs.

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Title - Ownership of your interest in the land.

Title Insurance - A contract under which an insurance company agrees to compensate the owner of the property for any actual loss arising out a covered title risk as set out in the policy, subject to the terms and conditions of the policy.

Title Search - The examination of land registry records for the property's title to determine the "chain of title" and the current status of title, including owner, legal description, easements, encumbrances, etc.

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Underwrite – To assess and determine whether to assume an insurance risk.

Unmarketable Title – Title that is affected by an alleged or apparent matter that would terminate the legal obligation of a prospective purchaser or lender to purchase, lease or lend if there is a contractual condition requiring the delivery of marketable title.

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Work Order – A written notice to the owners of property that a Governmental Authority (for example, the Building Department, the Fire Department or the Health Department) requires certain work to be completed to bring the property up to standard and/or code.

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N/A

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Zoning – Land use bylaw which specifies in great detail every aspect of how property within a particular area of the municipality may be used.

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