



Commercial Search Guidelines

A reference tool for legal professionals

The following required searches must be completed in advance of submitting a request for commercial title insurance. Search guidelines and coverage vary by policy type and the insured value of the policy. All search results must be disclosed to FCT. Copies of the searches are not required, unless requested.

FCT provides coverage without the need for certain searches, however you may decide to conduct the search for other reasons (e.g. to confirm the future use of the property). It is up to you to determine what other due diligence, or additional searches, may be necessary in order to properly protect your client.

Policy type	Loan policy with an insured value of \$50M or less	Loan policy with an insured value over \$50M	Owner's policy with an insured value of \$25M or less	Owner's policy with an insured value over \$25M
Title search	<ul style="list-style-type: none"> Subsearch (including radiated deeds) from the last arm's length transaction and sight search hypothecs and other charges published against the property for a period of one year prior to the transfer, or an updated copy of a previously issued title opinion, together with a copy of the opinion 	<ul style="list-style-type: none"> Full search or a subsearch (including radiated deeds) from a previously issued title opinion, together with a copy of the opinion 	<ul style="list-style-type: none"> Full search or a subsearch (including radiated deeds) from a previously issued title opinion, together with a copy of the opinion 	<ul style="list-style-type: none"> Full search or a subsearch (including radiated deeds) from a previously issued title opinion, together with a copy of the opinion
Corporate search	<p>Financing Borrower only</p> <p>Purchase Borrower and vendor</p>	<p>Financing Borrower only</p> <p>Purchase Borrower and vendor</p>	Vendor only	Vendor from and including the last arm's length vendor to the current vendor
Realty taxes (and utility accounts, if they form a legal hypothec)	Confirmation there are no arrears (certificates not required)	Confirmation there are no arrears (certificates not required)	Confirmation there are no arrears (certificates not required)	Confirmation there are no arrears (certificates not required)

► For multi-site transactions, underwriting is based on the insured value of each property.

Commercial property types

- Typical commercial buildings (shopping centres, office buildings)
- Industrial buildings
- Vacant commercial land
- Commercial agriculture land
- Multi-unit residential (more than six units)
- Mixed use properties
- Infrastructure and energy projects
- Commercial buildings on First Nations Land

Insurance is available for freehold and leasehold interests for any of the property types listed above and for share purchase transactions.

When do the required searches need to be completed?

All required searches need to be completed in advance of submitting the request for commercial title insurance. The corporate search should be dated within 30 days of the closing date. While there is no specific timing requirement for the title and realty tax searches, they should be as current as possible so that the likelihood of any new publications appearing prior to closing is remote. The title search must be updated again on the day of closing and prior to advancing the funds or publishing the security deeds.

Coverage list*

The chart below outlines the coverage available under the respective policies based on insured value, provided the standard search guidelines are completed and the results are disclosed to FCT.

Title	Loan \$50M or less	Loan over \$50M	Owner \$25M or less	Owner over \$25M
Title to the estate or interest described on Schedule A being held other than as stated	✓	✓	✓	✓
Any defect in, charge, legal hypothec or encumbrance on the title	✓	✓	✓	✓
Unmarketability of title	✓	✓	✓	✓
Invalidity and unenforceability of the insured hypothec against title	✓	✓	n/a	n/a
Invalidity or unenforceability of any assignments shown on Schedule A of the insured hypothec or failure of the assignment to vest title to the insured hypothec in the named insured assignee free and clear of all legal hypothecs	✓	✓	n/a	n/a
Priority of any legal hypothecs or encumbrances over the insured hypothec (e.g. CRA super-priority liens)	✓	✓	n/a	n/a
Legal hypothecs, encumbrances, or other adverse interests affecting title to the land arising between the date of policy and the publication of security documents (gap coverage)	✓	✓	✓	✓
Claims made by a third party against the insured's interest in the land	✓	✓	✓	✓
Damage to existing improvements resulting from another's rights to extract or develop minerals from the surface of the land	✓ not vacant land	ⓘ	✓ not vacant land	ⓘ
Violations of certain covenants, conditions and restrictions published on title	✓	ⓘ	✓	ⓘ
A fraudulent transfer of title or radiation or publication of a hypothec that occurred prior to the date of policy or in the insured transaction	✓	✓	✓	✓
A fraudulent transfer of title or radiation of an insured hypothec or publication of a new hypothec occurring after the date of policy.	✓ not vacant land	✓ not vacant land	✓ not vacant land	✓ not vacant land
Damage to or forced removal/alteration of a structure because of a granted or reserved right to use or maintain a servitude	✓ not vacant land	✓ not vacant land	n/a	n/a
Off-title				
Non-compliance with zoning bylaws with respect to the failure of the current use of the land to be a permitted use under the applicable zoning bylaw as follows:				
• Failure of the current use of the land to be a permitted use under the applicable zoning bylaw	✓	ⓘ	✓	ⓘ
• Area, width, or depth of the land as a building site for the structures	✓	ⓘ	✓	ⓘ
• Floor space area of the structure	✓ not vacant land	ⓘ	✓ not vacant land	ⓘ
• Setback of the structure from the property lines of the land	✓ not vacant land	ⓘ	✓ not vacant land	ⓘ
• Height of the structure	✓ not vacant land	ⓘ	✓ not vacant land	ⓘ
• Number of parking spaces	✓ not vacant land	ⓘ	ⓘ	ⓘ
Governmental or quasi-governmental work orders	✓	ⓘ	n/a	n/a
Work orders with respect to compliance with fire safety regulations that would have been issued had an inspection been done	✓	ⓘ	n/a	n/a
Lack of building permits, development approval or occupancy permits for any building or improvement or portion thereof presently on the land	✓	ⓘ	n/a	n/a
Unpublished servitudes for utilities	✓	ⓘ	✓ not vacant land	ⓘ
Non-compliance with agreements (including, but not limited to, development, subdivision and site plan agreements)	✓	ⓘ	✓ municipal agreements only	ⓘ
Orders of a governmental or quasi-governmental authority concerning unlawful rents for multi-unit residential properties	✓	ⓘ	n/a	n/a
Outstanding special assessments that would have been revealed by a current statement of common charges (where the land is a condominium unit(s))	✓	ⓘ	ⓘ	ⓘ
Errors in written governmental off-title responses that relate to outstanding work orders or deficiency notices or to the zoning of the land (e.g. municipal work orders, conservation authority, health department, etc.). Searches must be made prior to closing the transaction. Excludes matters relating to environmental protection.	✓	✓	✓	✓

✓ Represents coverage available based on completion of the search guidelines

ⓘ **Additional coverage** for other items may be available depending upon the nature of the transaction and the availability of additional information required to underwrite the risk. Please speak to an underwriter for more information.

* Please refer to the policy for precise legal reference. The policy coverage is subject to the exclusions and conditions contained in the policy.

Coverage list*

Transactional	Loan \$50M or less	Loan over \$50M	Owner \$25M or less	Owner over \$25M
Legal fees and costs incurred to defend any matter covered under the policy	✓	✓	✓	✓
Lack of right of access to and from the land	✓	✓	✓	✓
Defects that would have been revealed by an up-to-date certificate of location (e.g. encroachments, setback requirements, servitude of right of way issues)	✓	✓	✓ not vacant land	ⓘ
The land not forming a single parcel of land free from any gaps separating any portion from any other portion (unless intended to be separate)	✓	ⓘ	✓	ⓘ
The loan being in violation of “doing business” laws of Canada	✓	ⓘ	n/a	n/a
Breach of the provisions of the Criminal Code with respect to criminal rates of interest	✓	ⓘ	n/a	n/a
When the insured hypothec is secured against a residential apartment building and a reduction or rebate in rent is enforced by a governmental authority	✓	ⓘ	n/a	n/a
When the insured hypothec contains a variable interest rate and provisions of the loan do not effectively provide for changes in the rate of interest	✓	ⓘ	n/a	n/a
Lack of priority of subsequent advances made under a revolving line of credit	✓	ⓘ	n/a	n/a
The land being taxed as part of a larger parcel or another parcel that the insured does not own	✓	ⓘ	✓	ⓘ

✓ Represents coverage available based on completion of the search guidelines

ⓘ **Additional coverage** for other items may be available depending upon the nature of the transaction and the availability of additional information required to underwrite the risk. Please speak to an underwriter for more information.

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