

Frequently Asked Questions

Title Security in British Columbia

THESE QUESTIONS AND ANSWERS ARE PROVIDED AS GENERAL INFORMATION ABOUT THE SYSTEM OF LAND TITLE REGISTRATION IN BRITISH COLUMBIA. THEY ARE NOT A SUBSTITUTE FOR LEGAL ADVICE. IF YOU REQUIRE INFORMATION OR ADVICE ABOUT A SPECIFIC LEGAL PROBLEM, YOU SHOULD CONSULT A LAWYER.

1. Is land ownership fraud a big problem in British Columbia?

No, land ownership fraud is rare, and there is very little evidence to suggest that it is a problem in British Columbia. BC's land title system is one of the safest in the world, there is no pattern of increased title fraud, and we have the Assurance Fund available to compensate owners in the unlikely case that they are financially affected by a title registration error.

The land title system in BC has been in place since 1870 and claims against it are very infrequent. There are more than 1.9 million active titles in BC. In the past 20 years, the land title system processed nearly 16 million transactions – yet only three claims related to land ownership fraud and only 14 claims related to lesser interests in land such as discharges of mortgage were paid out from the Assurance Fund.

British Columbia's land title system includes numerous checks and balances to identify and prevent fraud. While people always should be vigilant in matters related to identity, property ownership and transfer, they should not be unduly concerned about fraud.

The Land Title and Survey Authority is responsible for operating the land title and survey systems in a manner which assures secure and marketable titles.

2. What does it mean to have title to land in British Columbia?

In BC, ownership of land is referred to as land title and is documented by registration through the LTSA. Once registered, the LTSA issues a Certificate of Title which represents that the named owner has legal title to the land. A registered title is conclusive evidence of the ownership of that land and provides legal certainty of ownership.

Only a person registered as owner has the right to transfer or otherwise deal with their legal title to land. Registered title also allows for simple, quick and inexpensive land transfers.

3. How is land title protected in British Columbia?

A property owner's legal title to land is legally protected in BC under the *Land Title Act*. The LTSA is responsible for managing the land title system in a manner that protects and maintains the security of land ownership records and documents.

The land title system of registration provides certainty of ownership. Along with other professionals involved in creating documents and dealing with title, the LTSA examines documents for accuracy every time land is sold. Other interests include things such as leases and statutory rights of way.

The responsibilities of the LTSA include:

- examining and registering applications for transfer of legal title to land;
- examining and registering applications for charges on title, such as mortgages, and releases of such charges; and
- examining and depositing survey plans, in support of applications for new titles to be created when land is subdivided into new lots or new condominiums are built for sale.

4. What is the Assurance Fund?

The Assurance Fund is an essential component of the land title system in BC and is available to compensate owners in the rare cases where they are deprived of title to land either because of an error in the administration of the land title system or because they are the innocent victims of forgery caused by identity theft. In the past 20 years, the land title system processed nearly 16 million transactions – yet only three claims related to land ownership fraud and only 14 claims related to lesser interests in land, such as discharges of mortgage, were paid from the Assurance Fund.

5. Why is it important for property title to be protected?

A property owner's legal title to land is legally protected in BC under the *Land Title Act*. The land title system in BC allows the selling and buying of land to occur with confidence and protects the system of real estate financing through the registration of mortgages. It allows for simple, quick and inexpensive land transfers. Protection of a property owner's legal title to land is provided to both the seller and purchaser of property, and is critically important for economic stability, investment and social stability.

6. Are there other protections in place for owners and sellers of property?

In BC, most land title and related lending transactions are conducted through professionals such as notaries and lawyers, who require proof of identity as part of their professional due diligence requirements. Law Society of British Columbia rules that were enacted relating to proof of identity have also led to the implementation of processes to thwart the ability of fraudsters to impersonate a true owner.

Land title documents can be submitted on paper or electronically using our Electronic Filing System – electronic submission is fast and secure. When land title documents are registered

through the LTSA, who owns legal title to land is again confirmed against existing land title records. Documents submitted to the LTSA require certification by a recognized professional.

The Federal Government introduced the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) program. This requires real estate brokers and agents to verify their clients' identities following specific FINTRAC guidelines, and to keep a client information record for every purchase or sale of real estate. If some parties in a real estate transaction are not represented by a real estate broker, the broker/agent will need to verify those parties' identities. Financial institutions are also required to verify their clients' identities for certain transactions following specific FINTRAC guidelines.

7. How have legislative changes improved Assurance Fund coverage for land owners in British Columbia?

In 2005, amendments to legislation provided additional strength to the integrity of the land title registration system by providing a legal means for fairly compensating losses to:

- registered owners of land who are innocent victims of fraud or forgery; and
- claimants whose loss could be partially a result of an administrative error of the Registrar and partially a result of their own actions.

8. What can an owner do to help protect their land title?

As with any area of commerce, there may be people who want to misrepresent ownership of an item, such as land. Identity theft is a concern these days and people should always ask for identification when dealing with any individual with regard to the title to land to ensure that they are dealing with the true owner of the land. Lawyers and notaries check their clients' identities as their professional due diligence before submitting documents to the LTSA. Law Society of British Columbia rules that were enacted relating to proof of identity have also led to the implementation of processes to thwart the ability of fraudsters to impersonate a true owner.

FINTRAC rules require real estate brokers and agents to verify their clients' identities following specific guidelines, and to keep a client information record for every purchase or sale of real estate. If some parties in a real estate transaction are not represented by a real estate broker, the broker/agent will need to verify those parties' identities. Financial institutions are also required to verify their clients' identities for certain transactions following specific FINTRAC guidelines.

If a property owner still feels that their land holdings are at risk, there are a number of steps that may be taken to provide additional protection:

- Through a lawyer, notary, land surveyor or registry agent, a property owner can use the LTSA's Activity Advisory Service accessed through BC OnLine. This service will provide an e-mail notice to the lawyer, notary, land surveyor or registry agent when an application is made that may affect your title.
- Registry agents can conduct title searches for property owners wishing to check the status of their titles.

- If you want to obtain a copy of your title for your personal records, for a fee a lawyer, notary, land surveyor or registry agent can apply for a State of Title Certificate, which is a certified true copy of an owner's legal title to land.
- For a less formal printout of a legal title to land, an owner may obtain a computer-generated 'title search print' from the Land Title Office for a nominal fee.

9. Why is it important to work with lawyers, notaries, real estate agents and land surveyors?

Professionals such as lawyers, notaries, real estate agents and land surveyors contribute to having a high quality land title system in BC by representing the interests of individual citizens in transactions related to legal title to land. They prepare legal ownership documents and survey plans for registration and filing with the LTSA for registration. Standards are established by professional organizations governing the practices of lawyers, notaries, real estate agents and land surveyors. Professionals in these fields are expected to be vigilant in their practices to help identify and prevent fraud.

Lawyers and notaries, as officers under the *Land Title Act*, have responsibilities to confirm the identity of those who wish to register documents with the LTSA. Additionally, the FINTRAC rules require real estate agents and brokers to verify the identities of parties involved in real estate transactions, and financial institutions to verify the identities of their clients. Law Society of British Columbia rules that were enacted relating to proof of identity have also led to the implementation of processes to thwart the ability of fraudsters to impersonate a true owner.

In any situation where these professionals are found to be negligent, claims may be made against them and through their professional organization. They may also be subject to disciplinary actions by their professional organization.

10. How many private property transactions does the LTSA process? How many active titles and charges are there in British Columbia?

Every year the Land Title Office processes hundreds of thousands of land title applications. In the 2009/10 fiscal year, the Land Title Office processed over one million land title registration applications. As of the end of 2009, the LTSA maintained a record of nearly two million land titles and an equivalent number of active registered charges on those titles.

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Last updated: July 13, 2010