

Law/taxes

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Q: I have heard that title insurance companies are becoming involved in the closing of real-estate transactions. How will this affect me when I buy a new home?

A: A turf war has developed between Ontario lawyers and some large, American-owned title insurance companies. These two groups are fighting over control of the huge residential conveyancing market. Historically, lawyers in this province have certified the legal right of ownership of property to a homebuyer. Their legal opinion is backed up by a mandatory errors-and-omissions insurance policy that is operated, indirectly, by the Law Society of Upper Canada. In addition, under our land titles system, the government also provides a guarantee of title to the purchaser. In Ontario, both the surveying of lots and the legal conveyance of same have been of a consistently high standard. Because of this, the insurance companies feel there will be few claims and they can make a very good profit by selling title insurance.

The Law Society of Upper Canada has responded to their challenge by issuing its own insurance product called TitlePlus. In response, the Americans have started to operate closing centres in Toronto and Hamilton where not only are the real estate transfers completed, but other services are also offered. The large title insurers say they will lower costs by reducing the input of lawyers in real-estate transactions. Perhaps their real motive is simply to control the market and squeeze out small practitioners.

In other countries, lawyers have become sales partners. Some feel that, when this happens, they no longer act to protect their clients. How it will finally shake out in Canada will be interesting. There are a number of possibilities.

In Scotland, conveyancing lawyers have become real estate agents. This has changed their role from protecting consumers in brokering deals. Whatever happens in our own country, chances are that the system will change so as to produce savings for the consumer. If this is the result and lawyers can still act to protect their clients, it will have been a worthwhile exercise.