



Federation of Ontario
Law Associations
Fédération des associations
de barreau de l'Ontario

February 5, 2025

Dear Real Estate Representatives, Presidents and Library Staff,

In an effort to keep real estate lawyers updated with the ever-changing situation in the way we practice, we have further information to be shared with the real estate lawyers in your association.

LRO In the Know

Rebecca Hockridge, Director of Titles, has been making rounds to various Law Associations with updates and pending changes to the land titles registration system in Ontario with additional bulletins to follow. There is a proposal to update the eReg Guide in 2025, which we will be looking forward to this year.

Update Email with the Land Titles Office

As part of its modernization program, the Land Titles Office and Teraview will no longer be contacting licensees by facsimile, instead using email for message delivery. Licensees will need to ensure their email address is updated on the portal to ensure timely communication. The instructions and details can be found [here](#).

Homeowner Protection Act, 2024 (NOSIs)

On June 6, 2024 this Bill was promulgated, with some sections coming into force immediately while others were delayed. One immediate amendment was the various changes to the *Personal Property Security Act* in connection with registered notices of security interest (a "NOSI"). The effect was to prevent registration of a NOSI in the Land Titles system for prescribed consumer goods and immediately expire all NOSIs in existence at the time of Royal Assent (June 6). For reference as to the process to remove qualified NOSIs from title, please refer to the LRO Bulletin 2024-07, which can be found [here](#). Please note that this process for discharging NOSIs will not apply to chattel leases and lodgements of title (historical registrations).

LawPRO's PracticePRO website also has a good article summarizing this and some good practices relating to NOSIs which can be accessed [here](#).

Deferral of Capital Gains Increase

The Federal Government is deferring the increase of the capital gains inclusion rate, which it originally had targeted for implementation on June 24, 2024, to now be effective on January 1, 2026. Most exemptions have been maintained with some additional ones proposed. The release can be accessed [here](#).

Federal Trust Reporting Requirements 2023-2025

The federal government added new reporting requirements for trusts to be implemented for the December 31, 2023 year end, requiring all trusts (except for limited identified exceptions) to file T3 returns and a Schedule 15 report in connection with the trust property, beneficial owners and

income derived therefrom. On March 28, 2024, the government suspended this obligation (days before the reporting deadline). On August 12, 2024, the federal government introduced legislation that would remove reporting requirements for specified trusts for 2024 and attempt to further clarify which trusts are required to report and which are exempted. It would set reporting requirements for certain trusts in the 2025 tax year. We will continue to monitor this in regard to affected trusts.

Tarion Requires Notice of Purchase of New Freehold Houses

Starting July 1, 2025, Tarion will require new freehold home purchasers to provide Tarion with notice of their purchase within 45 days of entering into the agreement. This would apply to all purchase agreements signed on or after July 1, 2025. Purchasers will do so using an online tool, which is what purchasers would have access to as part of their warranty coverage. The notice will include information about the purchaser, the property, the deposits paid and the vendor/builder. Compliance will dictate the deposit warranty coverage available for purchasers. The initial release can be found [here](#).

Changes to Land Transfer Tax Statements

The Ministry of Finance no longer requires automatic submission of supplementary material when a transfer is made involving a trust for the same beneficial owner. Lawyers will still need to assemble the information and retain it in their files in case the Ministry requests it or reassesses the transaction. Changes to the eReg system have been made to address this.

In addition, a new statement 9205 has been introduced to confirm acknowledgement as to the collection of information and privacy for land transfer tax statements. The newsletter outlining these changes can be found [here](#).

Starting January 1, 2025, new Municipal Land Transfer Tax statements are being created to account for the Municipal Non-Resident Speculation Tax for the City of Toronto and to address the payment of this tax. The notice can be found [here](#).

Wiring of Funds

The movement of funds on a real estate or corporate transaction is increasingly complicated. Systems and attitudes are changing but there is not consistency of an approach. Cheques are being phased out, with financial institutions mistrusting them and holding back funds pending due diligence and clearance checks. Direct deposits are quick but not guaranteed funds and there is a general rise in incidences where funds have not cleared several days after deposit. Wires are the preferred means of moving guaranteed funds, but each financial institution has its own way of processing them, leading to unpredictable timing and coordination of the movement of funds.

This creates challenges for lawyers who are left, at the last minute, to deal with these uncertainties. Case law is starting to develop around responsibility for movement of funds, including recent cases regarding time being of the essence.

FOLA is looking into the issue and the various components that need to be resolved to bring predictability into the equation and any interim measures that can be brought forward pending a global consensus. This includes:

1. discussion with insurers on best practices and coverage;

2. understanding the key timelines with the Canadian Payments Association and the financial institutions members to develop comprehensive systems for movement of money;
3. language for agreements of purchase and sale to address movement of money challenges, escrowed closings and extension of closing dates where necessary;
4. educating real estate professionals about the challenges of tying a purchase and sale to the same date, with options to clients about bridge financing or other alternatives to stagger closing dates.

We continue to monitor this important issue and welcome thoughts and concerns.

Stay up to date with FOLA's real estate information at <https://www.fola.ca/issue/real-estate/>.

Mark Giavedoni
FOLA Real Estate Chair

Please note: The information provided herein is of a general nature only and is not intended to provide legal advice.