

# Coverage Information



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## What’s covered under the Professional Liability Indemnification Policy

This information sheet explains the coverage available under the [BC Lawyers Professional Liability Indemnification Policy<sup>1</sup>](#) (the “Policy”) for licensees acting within the scope of their authority to practice law. The wording of the Policy governs any claim or potential claim.

### Type of coverage, limits of liability and deductibles

#### ***Part A: professional liability indemnity coverage for negligence***

Part A protects you if you are liable for negligence and ensures that clients receive compensation to which they are entitled. As a covered licensee, you have \$1 million of coverage for each error, and an annual maximum of \$2 million for all errors reported during the year.

The consequences of a paid claim are:

- a deductible of \$5,000 for the first paid claim and \$10,000 for each subsequently paid claim within three years of the report date of the first claim, and
- for each of the next five years, a surcharge of \$2,000 is applied to the indemnity fee and you are ineligible for the part-time discount.<sup>2</sup>

#### ***Part B: trust protection coverage for dishonest appropriation***

Part B ensures that innocent members of the public do not suffer a financial loss through theft by you while you were acting in your professional capacity.

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<sup>1</sup> [www.lif.ca/your-policy/the-policy-wording/](http://www.lif.ca/your-policy/the-policy-wording/)

<sup>2</sup> These consequences are waived if the payment relates to sanctioned pro bono services or a real estate licensee’s advice given pursuant to the [Conveyancing Protocol](#).

Trust protection coverage offers a profession-wide annual aggregate limit of \$17.5 million. Each claimant may recover up to \$300,000 per claim. If the claim arises out of your inter-jurisdictional practice, different limits apply.

You will be responsible for reimbursing the Law Society for all amounts paid on your behalf.

### ***Part C: trust shortage liability coverage***

Part C provides some protection for you if you fall victim to a bad cheque scam or a funds transfer fraud, helping ensure that clients do not suffer a financial loss.

Trust shortage liability coverage provides a limit of \$500,000 per claim, licensee, and firm annually. For funds transfer fraud claims, the deductible is 30% unless a secondary verification has been made, in which case the deductible is 15%. The deductible for loss from a deposited fraudulent cheque is 15%.

## **Coverage territory**

You may sometimes legally practise law outside of BC or give advice on the law of another jurisdiction. Part A of the Policy usually covers you for your permissible practice of any type of law, anywhere in the world, including practising law in another Canadian jurisdiction in accordance with the provisions of the National Mobility Agreement (see [Mobility in Canada](#)). There are only a few exceptions to this broad coverage, as follows:

- You must be authorized by the foreign jurisdiction to give the advice or provide the service. Coverage is not available if the claim arises out of or is in any way connected to your practice that is in contravention of the rules of another law society or bar.
- If you have a permanent practice in another jurisdiction outside of Canada and are a member of that other jurisdiction's law society or bar, there is no coverage for any claims arising out of or in any way connected to your permanent practice in that other jurisdiction. In determining whether the practice is permanent, we will consider factors such as office space, advertising, contact information, letterhead, and client base. However, your occasional practice in or advice on the law of another jurisdiction of which you are a member will not, without more, constitute a permanent practice in that other jurisdiction.
- If you give advice on the law of another jurisdiction that is beyond your level of competence, you may be courting a risk and may jeopardize coverage under the policy.

## Extended reporting period / tail coverage

The Policy will respond to claims made after you retire or are no longer practising law, so long as the error occurred while you were paying the indemnity fee.<sup>3</sup>

## Professional services

### ***Services covered by the Policy are:***

- the practice of law as defined in the *Legal Profession Act*,
- *pro bono* legal services or sanctioned pro bono services<sup>4</sup>,
- acting as a custodian under Part 6 of the *Legal Profession Act* or in a similar role,
- acting as an arbitrator, mediator or parenting coordinator (includes family dispute resolution professionals),
- performing any other activity deemed to be the practice of law by the Law Society, and
- acting as an MDP partner, provided that such services support or supplement the practice of law by the firm and are provided under the supervision of a licensee.

Other professional services are covered if the services, and the related appointment or retainer, are connected and incidental to your practice of law. Such professional services are acting as:

- an executor or personal representative of a deceased,
- an administrator, escrow holder, attorney appointed under a Power of Attorney, a guardian, a trustee, a committee, or in any similar fiduciary capacity,
- a patent or trademark agent,
- a filing or record keeping agent,
- a researcher, or
- a realtor.

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<sup>3</sup> [www.lif.ca/our-program/exemptions/tail-coverage/](http://www.lif.ca/our-program/exemptions/tail-coverage/)

<sup>4</sup> LIF Coverage Information – Pro Bono Legal Services ([www.lif.ca/LIF/media/Shared/docs/insurance/LIF-probono.pdf](http://www.lif.ca/LIF/media/Shared/docs/insurance/LIF-probono.pdf))

**Services not covered by the Policy are:**

- acting as a bailee (holding personal property) or as a conduit for funds, or providing investment advice or services unless such services, and the related appointment or retainer, are performed in consequence of and incidental to your practice of law,
- mortgage brokering, and
- publishing or communicating on a website, blog, or social media.

**Exclusions****Excluded from all parts of the Policy coverage are:**

- a claim arising from your practice in an area not permitted by your license or in contravention of a practice restriction or limitation;
- a claim related to:
  - criminal, dishonest, fraudulent or malicious acts,
  - personal injury<sup>5</sup> or property damage,
  - employee benefit or pension plans,
  - acting as an outside officer or director, and
  - an organization if you, your family and colleagues control or own more than 10% of it;
- a claim by your employer or organization that is related to your employer; and
- a claim where payment would benefit you or your family or colleagues,

**Additional exclusions to the Part A coverage are:**

- claims arising from some privacy breaches
- claims arising out of a data breach, a network security breach, or a cybercrime,
- liability assumed by contract, and
- a claim covered by Part B or C of the Policy.

**Additional exclusions to the Part B coverage are:**

- claims where the claimant is at fault or the property was unlawfully obtained, and

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<sup>5</sup>Coverage is provided for defence of a defamation claim.

- a claim that is connected to an investment.

***Additional exclusions to the Part C coverage are:***

- a claim where someone at your firm was involved in the fraud, and
- a claim where you did not follow the Law Society's client identification or verification rules.

## **Excess professional liability coverage**

The \$1 million per error limit offers generous financial protection for the majority of claims you face; however, this may not be enough. If a mistake leads to a claim that may cost more than \$1 million to defend and pay, both you and your firm are at risk. You can increase the limits of your coverage by purchasing [excess insurance](#)<sup>6</sup> privately. [Commercial insurance](#)<sup>7</sup> that protects you from risks not covered by the Policy is also available.

## **Lawyers Indemnity Fund**

Please contact the Lawyers Indemnity Fund with any questions regarding the Policy and coverage: [Contact us by types of inquiries | LIF](#).

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<sup>6</sup> [www.lif.ca/our-program/excess-and-other-insurance/excess-insurance/](http://www.lif.ca/our-program/excess-and-other-insurance/excess-insurance/)

<sup>7</sup> [www.lif.ca/our-program/excess-and-other-insurance/](http://www.lif.ca/our-program/excess-and-other-insurance/)