



NOVA SCOTIA
BARRISTERS' SOCIETY

MEMORANDUM TO COUNCIL

From: Lawrence Rubin and the Professional Standards (Real Estate) Committee

Date: March 26, 2021

Subject: Professional Standards (Real Estate) 3.19 Quieting Titles Act

For: **Approval** **Introduction** **Information**

DATE	Council	Introduction
March 26, 2021		
	Council	Approval

Recommendation/Motion:

This is the introduction to Council of revised standard 3.19 – Quieting Titles Act – by the Professional Standards (Real Estate) Committee. Following introduction, the standard will be circulated to the membership for review and consultation. The Committee will review any comments received and then present the final form, amended if necessary, to Council for approval. An equity lens was applied while revising this standard.

Executive Summary:

After annual review, the Committee determined that the current standard, approved by Council on November 22, 2002, required updating to align with current practice and legislation. The revised standard is an updated statement of the law as it currently exists and resources have been added.

Exhibit:

Revised Standard 3.19 – Quieting Titles Act with rationale for the revisions.

Existing Standard	Proposed Standard	Rationale
<p>STANDARD</p> <p>Before accepting a certificate of title issued under the <i>Quieting Titles Act</i>, a lawyer must examine the certificate and should advise the client with reference to the exceptions in the certificate and those referred to in the <i>Act</i>.¹</p> <p>FOOTNOTES</p> <p>1. Effect of, exceptions to, certificate of title: <i>Quieting Titles Act</i>, R.S.N.S. 1989, c. 382, s. 16, <i>Land Registration Act</i>, S.N.S. 2001, c. 6, s. 122</p> <p>ADDITIONAL RESOURCES</p> <ul style="list-style-type: none"> Recording of plan: <i>Land Registration Act</i>, S.N.S. 2001, c. 6, s. 41(2) <i>Nova Scotia (Attorney General) v. Brill</i>, 2010 NSCA 69 	<p>STANDARD</p> <p>A certificate of title issued pursuant to the <i>Quieting Titles Act</i> and registered pursuant to the <i>Land Registration Act</i> is absolute and indefeasible as regards the Crown and all persons subject to such exceptions or qualifications as enumerated in the certificate or the <i>Act</i>.¹</p> <p>A certificate of title issued under the <i>Quieting Titles Act</i> is a good root of title where the certificate recognizes a fee simple interest.</p> <p>A certificate of title issued under the <i>Quieting Titles Act</i> is a trigger for migration unless the certificate of title was recorded under the <i>Registry Act</i>. The migrating lawyer must contact the Registrar General so that a form 32 can be issued which forms the enabling instrument for the migration. The application for registration must include a textual qualification that indicates the certificate of title issued by the court will be registered on title after the migration is complete.</p> <p>FOOTNOTES</p> <p>1. <i>Quieting Titles Act</i>, R.S.N.S. 1989, c. 382, s. 1.</p>	<p>After annual review, the Committee determined that the current standard, approved by Council on November 22, 2002, required updating to align with current practice and legislation. The revised standard is an updated statement of the law as it currently exists and resources have been added.</p>

**Approved by Council on
November 22, 2002**

2. *Land Registration Act*, S.N.S. 2001, c. 6, s. 46(1)(d)

ADDITIONAL RESOURCES

- Recording of plan: *Land Registration Act*, S.N.S. 2001, c. 6, s. 41(2)
- *Nova Scotia (Attorney General) v. Brill*, 2010 NSCA 69.
- Supreme Court of Nova Scotia Practice Memorandum #11.