



NOVA SCOTIA  
BARRISTERS' SOCIETY

## MEMORANDUM TO COUNCIL

**From:** Lisa M. Wight and the Professional Standards (Real Estate) Committee

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**Date:** March 20, 2023

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**Subject:** Professional Standards (Real Estate) 3.22 New Standard – Land Title Clarification Act

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

DATE March 20, 2023	Council	Introduction
	Council	Approval

### Recommendation/Motion:

This is the introduction to Council of a new standard 3.22 New Standard – Land Title Clarification Act – by the Professional Standards (Real Estate) Committee. This standard will be concurrently sent to the Equity Committee for review and comment in accordance with the Society's Equity Lens Application in Policy Development guideline. Following introduction to Council, the standard will be circulated to the membership for review and consultation. The RESC will review any comments received by members and the Equity Committee, and then present the final form, amended if necessary, to Council for approval. An equity lens was applied while revising this standard.

### Executive Summary:

One of the Committee's mandates is to review and update existing standards as appropriate and necessary so that they align with current practice. After annual review, the Committee determined that there was no standard but there should be.

### Exhibit:

New Standard 3.22 – Land Title Clarification Act - with rationale for the revisions.

Existing Standards	Proposed Standard	Rationale
<p>This a new standard.</p>	<p><b>STANDARD</b></p> <p>A certificate of title issued pursuant to the <i>Land Titles Clarification Act</i> and registered pursuant to the <i>Land Registration Act</i> vests an absolute and indefeasible fee simple interest in the person named in the certificate subject to any liens, judgments, encumbrances, reservations and such exceptions or other qualifications mentioned in the certificate or the Act<sup>1</sup>.</p> <p>A certificate of title is a good root of title.</p> <p>Entitlement to land located in a land titles clarification area can be established through evidence of use and occupation but does not require that an applicant meet the common law standard of adverse possession.</p> <p>Claims are to be determined on a case-by-case basis<sup>2</sup>.</p>	<p>The Committee determined that it would be prudent to establish a Standard to align with current practice, case law and legislation.</p> <p>This Standard is intended to provide guidance and assistance to lawyers with respect to land title clarification.</p>

## Land Titles Clarification Act – New – Proposed RESC Standard 3.22

	<p>A certificate of title issued under the <i>Land Titles Clarification Act</i> is a trigger for migration. 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><b>PRACTICE NOTES</b></p> <p><a href="#"><u><i>Beals v. Nova Scotia (Attorney General), 2020 NSSC 60</i></u></a></p> <p><b>FOOTNOTES</b></p> <ol style="list-style-type: none"><li>1. <a href="#"><u><i>Land Titles Clarification Act, R.S., c. 250, s. 1.</i></u></a></li><li>2. <a href="#"><u><i>Downey v. Nova Scotia, 2020 NSSC 201</i></u></a></li></ol>	
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