



MINNESOTA A - Z UNDERWRITING GUIDE

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A

ACKNOWLEDGMENTS

What is the General Rule for acknowledgements?

- All documents that are to be recorded must be acknowledged by a notary public. A county will not record documentation (deeds, mortgages, POAs, etc.) that is not acknowledged by a notary public. See [MN ST 386.39](#) and [MN ST 507.24](#)

Do all Affidavits need to be notarized?

- Yes, all Affidavits used for a transaction, recorded or not, must also be notarized by a notary public.

Is a notary stamp/seal required for a valid notarization?

- Yes. See [MN ST 359.03](#) and [Minnesota Secretary Of State - Notary FAQ](#)

Is there any guidance on common acknowledgment discrepancies?

- Yes.
 - Date Issues: See [MN Title Standard 43](#)
 - Marital Status Issues: See [MN Title Standard 44](#)
 - Missing Notary Expiration Date Issues: See [MN Title Standard 49](#)

ADVERSE POSSESSION

How is Adverse Possession established?

- Generally, to establish adverse possession, an individual must demonstrate possession of real property for a period of 15 years, which is actual, hostile, open, continuous, and exclusive. See [MN ST 541.02](#)

How to insure title based on a claim of adverse possession?

- The individual must obtain an Order Quietening Title that vests them as the fee simple titleholder.

ASSESSMENTS

Are there special assessment liens?

- Yes, and special assessments are liens from date of levy. See [MN ST Chapter 429](#)

Where can I find more information about special assessments?

- See <https://www.house.leg.state.mn.us/hrd/pubs/ss/ssspecasmt.pdf>

What about PACE liens? Where can I find more information about them?

- Yes, there are PACE liens in MN. See [Residential PACE Loan Program / Minnesota.gov \(mn.gov\)](#) and [PACE-FAQ-CERTs.pdf \(cleanenergyresourceteams.org\)](#)

How should PACE liens be addressed?

- See [2018 PACE Bulletin](#) and [2019 PACE Bulletin](#). Contact underwriting with additional questions.

ATTORNEY LIENS

Can liens for attorney fees attach to real property?

- Yes. Attorney is to file a notice of intent to claim a lien within 120 days after last claim. From there, the attorney has one year from filing notice of intent to claim a lien to enforce the action. See [MN ST 481.13](#) and [MN Title Standard 107](#)

B

BANKRUPTCY

What are the most common types of Bankruptcy that can be filed?

1. Chapter 7: Liquidation
2. Chapter 9: City/Municipality
3. Chapter 11: Business Reorganization
4. Chapter 12: Family Farmers and Fisheries Reorganization
5. Chapter 13: Individual Reorganization

How do you clear a judgment with a Chapter 7 bankruptcy?

- Avoidance
 - Order to Avoid obtained from the bankruptcy court specifically stating the judgment has been avoided and/or is no longer a valid lien. Avoidance is not effective until discharge.
- Certificate of Discharge of Judgment Due to Bankruptcy Discharge
 - MN specific statutory process which allows debtor to apply to Court where judgments were entered for a Certificate of Discharge of judgments discharged where avoidance wasn't obtained in bankruptcy. Recording the Certificate of Discharge for the judgments is proof that the judgment has been addressed. Debtor should have counsel assist with process to make sure it is properly followed. See [MN ST 548.181](#) and [MN Title Standard 35 and 35A](#)

How do you clear a judgment with a Chapter 13 bankruptcy?

- Same options as Chapter 7 above.
- Chapter 13 Plan
 1. If a Motion to Avoid the judgment is referenced in the Chapter 13 Plan and the Plan is confirmed, then the Confirmation of Plan acts as the Order to Avoid the judgment.
 - The avoidance is not effective until the Plan is completed and discharge is entered.
 2. In this situation the Plan will need to be carefully reviewed to confirm a separate avoidance proceeding isn't required.

How do you clear a junior mortgage lien with a Chapter 7 bankruptcy?

- As of July 2015, you can no longer strip a junior mortgage lien in a Chapter 7 bankruptcy.
 - Why? See [The Caulkett Case](#)
- If an Order stripping a junior mortgage lien was entered in a bankruptcy that was completed prior to July 2015, please send to underwriting for review.

How do you clear a junior mortgage lien with in a Chapter 13 bankruptcy?

- Order Stripping a junior mortgage lien
 1. Order entered by the bankruptcy court specifically stating the junior mortgage lien is stripped/avoided/void as a lien.

2. Generally, an Order only stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. The Order MUST also state that the lien is stripped/avoided/void.
 3. Best practice is to record the Order to avoid future clearance issues.
- Chapter 13 Plan
 1. If a Motion to strip the junior mortgage lien is referenced in the Chapter 13 Plan and the Plan is confirmed, the Confirmation of Plan acts as the Order to Strip the mortgage lien.
 2. Language in the Plan stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. It must state that the lien is stripped/avoided/void.

What happens if an Order to Avoid or Strip the Mortgage is obtained in a Chapter 13 bankruptcy that is subsequently converted to a Chapter 7?

- Generally, the Order is considered void and the lien is still effective.
 - A new Order to Strip the mortgage cannot be filed in the subsequent Chapter 7.

What if the bankruptcy has been dismissed?

- If the bankruptcy has been dismissed, it is as if the bankruptcy never occurred. All Orders are considered void and cannot be relied upon.

What is required to refinance, sell, or purchase property while in an active Chapter 7 bankruptcy?

- An Order authorizing the refinance, sale, or purchase of property (also known as an Order to incur debt) from the bankruptcy court.
 1. For an Order authorizing the sale of property, there is a 14 day appeal period from the date of the Order unless that period is waived by the court. If there has been no appeal/objection to the sale after those 14 days, the sale can proceed.

What is required to refinance, sell, or purchase property while in an active Chapter 13 bankruptcy?

- Authorization in the Chapter 13 Plan allowing the sale/refinance/purchase of property without additional court order.
- If no authorization in the Plan, same requirements as a Chapter 7 bankruptcy.

What is required to refinance/sell/purchase property while in a Chapter 7 bankruptcy that has been discharged but not yet closed?

- One of the following:
 1. Letter from the bankruptcy trustee formally abandoning the subject property
 2. An Order abandoning the subject property.
 3. An Order authorizing the refi/sale/purchase.
 4. Wait for the bankruptcy to close.

What is required to refinance/sell/purchase property while in a Chapter 13 bankruptcy that has been discharged but not closed?

- One of the following:
 1. Authorization allowing the sale/refinance/purchase of property without additional court order.
 2. Same above options as in a Chapter 7.

C

CHILD SUPPORT LIENS

What is the statute of limitations for Child Support Liens?

- Once docketed, an unpaid amount of support is a lien for 10 years from entry. For Torrens property, the lien needs to be recorded. See [MN ST 548.091](#) and [Minnesota Judicial Branch - Child Support \(mncourts.gov\)](#)

COMMITMENT

Where can you find WFG's commitment form?

- In 2021, ALTA issued a new version of the Commitment for Title Insurance. See [WFG Underwriting](#)

CONDOS

What statutes govern condominiums?

- Condominiums are governed by [MN ST Chapter 515](#) and [MN ST Chapter 515A](#)

How are condos created?

- Recording a Declaration. See [MN ST 515A.2-101](#) and [MN Title Standard 94](#)

How are condo liens created?

- Unpaid assessments are automatic liens and need to be addressed. See [MN ST Chapter 515A.3-115](#)

What documentation needs to be obtained from the association on a transaction?

- An estoppel letter showing all assessments are current. Any delinquencies will need to be addressed.

CONSERVATORSHIP

Is a transaction specific Order required, in addition to the Letters of Conservatorship, for a conservator to sell/mortgage/etc. on an incapacitated individual or minor's behalf?

- Yes. See [MN ST 524.5-417](#)

COVENANTS & RESTRICTIONS

How are covenants and restrictions addressed on policies?

- All policies generally contain an exception relating to covenants, conditions, or restrictions.
 - Loan policies for residential property usually contain a general catch-all exception.
 - Owner's policies and Commercial loan policies contain specific exceptions showing the recording information for each covenant, condition, or restriction.

Can covenants expire?

- Yes. [MN ST 500.20](#) and [MN Title Standards 91 & 91A](#)

D

DECEDENT'S ESTATES

What are the General Considerations for addressing a deceased titleholder's interest?

- Titleholder dies testate (with a Will). Will needs to be submitted to probate. Personal Representative (PR) needs to be appointed and Letters of Administration should be issued. See [MN ST 524, Article 3](#)
- Titleholder dies intestate (without a Will). Estate needs to be probated. PR needs to be appointed and Letters of Authority should be issued. See [MN ST 524, Article 2](#)
- Probate should be completed within three years of death, or a Court Determination of Descent may be required. See <https://www.ag.state.mn.us/consumer/handbooks/probate/CH2.asp>
- Also, See [Minnesota Judicial Branch - Probate Wills and Estates \(mncourts.gov\)](#)

What documentation should be obtained for an estate review?

- At minimum, the Application/Petition for Administration, Will (if there is one), Letters granted to PR, and Inventory need to be reviewed. Confirm Letters of Administration are not restricted and don't require an additional court order to distribute the property. The powers and duties of the PR can be found in [MN ST 524, Article 3, part 7](#)
- For further reference, See <https://www.mncourts.gov/GetForms.aspx?c=31>

On a refinance, what is generally required to properly transfer a decedent's interest to the refinancing party?

- A deed out of the estate to the party taking title to the property, or certified copy of decree of distribution pursuant to Will after appeals period has expired. See [MN Title Standard 23 and 24](#). If Torrens, certified copy of Letters should be recorded with deed, too. Generally, the PR and all heirs will all need to sign an estate deed to confirm all interests have been accounted for. If there was a Will with a specific devise of the property, the PR is free to convey to the devisee only without the other heirs needing to join.

On a sale, what is generally required to properly transfer a decedent's interest to the buyer?

- A deed out of the estate to the party taking title to the property, or certified copy of decree of distribution pursuant to Will after appeals period has expired. See [MN Title Standard 23 and 24](#).
- If there was a Will with specific devise of the property we generally require the devisee to join on the deed out of the estate from the PR/Executor to buyer. If Torrens, certified copy of Letters may need to be recorded with deed, too.
- If there was no specific devise or no Will then the PR/Executor is free to convey to the buyer.

Is there a state estate or inheritance tax?

- There is estate tax. See <https://www.revenue.state.mn.us/estate-tax-filing-requirement>
- **NOTE:** Estates are still subject to federal estate tax if they meet the amount threshold and lien is recorded. See [MN Title Standard 101](#)

What about creditor claims against the estate?

- Creditors have up to four months from date of notification to file claims. See [MN ST 524.3-803](#)
Also, watch for liens granted by probate court order. See [MN Title Standard 114](#)

DEEDS

What are some common types of deeds?

1. Warranty Deed See [MN ST 507.07](#)
2. Quitclaim Deed See [MN ST 507.07](#)
3. Special/Limited Warranty Deed
4. Fiduciary Deed: Via Conservator/PR/Trustee/Custodian
5. Deed in fulfillment of Contract for Deed as agreed upon by the parties in the Contract for Deed

Are there approved state deed forms?

- Yes. See [Uniform Conveyancing Forms / Minnesota.gov \(mn.gov\)](#)

DIVORCE

Can a divorce be recorded in lieu of a deed to transfer an interest in property?

- It's possible depending on the language and legal description for the property, but most commonly a Summary Real Estate Disposition is recorded in lieu of a deed. See [MN ST 518.191](#), [MN Title Standard 84](#), and [Instructions - SREDJ \(mncourts.gov\)](#)

Does a divorce sever a joint tenancy between spouses?

- Yes, unless the divorce decree states that the parties will continue as joint tenants. See [MN ST 500.19](#) and [MN Title Standard 21.2](#)

What about liens? Appeals?

- Liens may be granted in a divorce decree in favor of parties or attorneys. See [MN Title Standard 114](#)
- Appeal period is generally 60 days. See [Family Appeal Packet.pdf \(mncourts.gov\)](#) & [MN Court Rule 104.01](#)

E

EASEMENTS & RIGHTS OF WAY

What are some policy considerations for easements and rights of way?

- Exception on the policy should be taken for all easements and rights of way.

ENDORSEMENTS

Where can I find what endorsements are available?

- Find MN endorsement forms, manual, and rates at [WFG Underwriting](#)

ENTITIES

What is needed for an entity to sell or refinance property?

- An entity selling or refinancing must be active, in good standing, and able to provide the applicable documentation showing who has authorization to sign on its behalf.

Who governs entities?

- The Department of Commerce governs entities. See [Business Entities / Minnesota.gov \(mn.gov\)](#)

What are common types of entities and what documentation is needed to show authority to sign?

- **Corporation** - See [MN ST Ch. 302A](#)
 - Generally, a Corporate Resolution is needed to show who has the authority to sign.
 - See [MN Title Standard 59](#) re: Corporate Deeds Lacking Corporate Signature and [MN ST 358.50](#)
 - Absence of corporate seal is not fatal. See [MN Title Standard 63](#)
- **LLC** - See [MN ST Ch. 322C](#)
 - Operating Agreement or Resolution signed by all members.
- **General or Limited Partnership** - See [MN ST Ch. 323A](#)
 - Review of Partnership Agreement.
 - For more on LP: See [MN Title Standard 79](#)
 - For more on GP: See [MN Title Standard 80](#)

Are there any guidelines on conveyances from religious corporations?

- Yes. See [MN Title Standard 33A](#) and [MN ST Ch 315](#)

Are there any guidelines on variations of entity names in chain of title?

- Yes. See [MN Title Standard 6](#)

ESCROW

What should be included in an escrow agreement?

An Escrow Agreement should include the following provisions:

- All Parties to the Agreement
- Escrow Deposit amount
- Release of Escrow terms
- End Date of Agreement
- Dispute Resolution, should it arise
- Liability limitation/indemnity clause

EXCEPTIONS

Any specific guidance from WFG on MN exceptions?

- No.

F

FEDERAL TAX LIENS

What is the general rule for a federal tax lien?

- A federal tax lien attaches to all property, including after-acquired property, by the debtor in the county the federal tax lien is recorded in.

What is the statute of limitations for a Federal Tax Lien?

- The statute of limitations on a Federal Tax Lien is 10 years and 30 days from the latest date of Assessment (section D).

Can Federal Tax Liens be renewed?

- Yes, Federal Tax Liens can be renewed.

FINANCING STATEMENTS

What is the statute of limitations for a UCC-1 Financing Statement?

- UCC-1 Financing Statements are a lien for 5 years from the date of recording unless a subsequent continuation is recorded, extending the lien an additional 5 years. See [MN Title Standard 118](#)

Is there a limit on renewing UCC-1 Financing Statements?

- No, there is no limit on extending a UCC. As long as a Continuation Statement is recorded before the 5 years is up the UCC is extended an additional 5 years.

How is a UCC Financing Statement addressed on a transaction?

- A UCC-1 Fixture Filing will need to be excepted out, terminated, or subordinated to insure. UCC3 is used to terminate. See https://www.sos.state.mn.us/media/1465/ucc3_eff-7-1-13.pdf

What about UCCs on manufactured homes?

- 30 years from date of filing under UCC Code 9-515(2).

Any special considerations for UCCs for solar panels?

- No. If it's a fixture filing it needs to be addressed.

FORECLOSURE

What kind of foreclosures are an option?

- Judicial and non-judicial foreclosure. See [MN ST 580.01](#) and [MN ST 581.01](#)

Is there a redemption period?

- Yes, generally 6 or 12 months. Length of the redemption period depends on several factors. See [MN ST 580.23](#)

Can the redemption period be shortened?

- Yes, in some limited cases involving abandoned property. See [MN ST 582.032](#)

Are there any guidelines on defects in foreclosure?

- Yes.
 - Non-judicial - See [MN Title Standard 38](#)
 - Judicial - See [MN Title Standard 38A](#)

What about liens/interests recorded prior to the foreclosed mortgage?

- Purchaser takes title subject to any interests senior to the foreclosed mortgage.

What if there is an IRS lien that's a junior interest to the foreclosed mortgage? Do they need notice?

- Yes, IRS must be given specific notice of foreclosure. See https://www.irs.gov/irm/part5/irm_05-012-004

Any guidelines on Deeds in Lieu of Foreclosure?

- Yes, See [MN Title Standard 36](#)

Where is there more information about the foreclosure process?

- See [Mortgage & Foreclosure - Credit/Debt - Library Research Guides at Minnesota State Law Library \(libguides.com\)](#) and [Facing Mortgage Foreclosure | The Office of Attorney General Keith Ellison \(state.mn.us\)](#)

FORMS

Where can you find common WFG Forms?

- See WFG Forms List at [WFG Underwriting- Minnesota](#)

G

GOOD FUNDS

Is there a good funds requirement?

- Yes. See [MN ST 82.77](#)

H

HOMEOWNER ASSOCIATIONS (HOAs)

What statutes govern HOAs?

- HOAs in Minnesota are governed by [MN ST Chapter 515B](#)

How are condo liens created?

- Unpaid assessments are automatic liens and need to be addressed. See [MN ST 515B.3-116](#) and [MN ST 515B.3-117](#)

What documentation needs to be obtained from the association on a transaction?

- An estoppel letter showing all assessments are current. Any delinquencies will need to be addressed.

HOSPITAL LIENS

Do these generally attach to real property?

- No. Read language of lien to see if it references the statute indicating it's not a lien on real property and make sure it doesn't otherwise claim to be a lien on real property. Note, a judgment lien in favor of a hospital is not the same as a hospital lien as filed under [MN ST 514.68, et. seq.](#)

I

INSURANCE

Who regulates title insurance premiums?

- The MN Department of Commerce. See [Title Insurance / Minnesota.gov \(mn.gov\)](https://www.mn.gov)

J

JUDGMENTS

What is the statute of limitations for judgments?

- 10 years. For abstract property, lien is created upon docketing. For Torrens property, judgment needs to be recorded with registrar of titles to create lien. See [MN ST 541.04](#) and [MN ST 548.09](#)

Can Judgment liens be renewed?

- Yes.

Is there homestead debt protection?

- Yes. However, to insure, we require a court order confirming the property as homestead and stating that the judgment does not attach.

Do PMM take priority to judgment liens against buyer?

- Yes. See [Northern State Bank v. Toal](#)

K

L

LAND CONTRACTS AKA CONTRACTS FOR DEED

What happens when parties enter into a land contract (contract for deed)?

- When a contract for deed is executed, the contract for deed purchaser is given an equitable interest in the subject property, while the contract for deed seller retains the legal interest. See <https://mn.gov/commerce/consumers/your-home/protect/real-estate/contract-deed.jsp>
- Ideally, at minimum a memorandum of contract for deed should be recorded.

What should be used to convey an equitable interest?

- An Assignment of contract for deed or deed can be used to convey a contract for deed purchaser interest. See [MN Title Standard 76](#)

Is it possible for contracts for deed be disregarded based on time?

- Yes, 21 years from maturity of final payment under contract. If no date of maturity, 21 years from date of contract. See [MN Title Standard 26](#)

Any special guidelines for liens against contract for deed sellers?

- Yes. See [MN Title Standard 90](#)

LEGAL DESCRIPTIONS

What legal description system is used?

- The Public Land Survey System (PLSS)/rectangular survey system. Section, Township & Range: townships that are 6 miles square, divided into 36 sections, and referenced in relation to a north-south line. See [FAQs - Minnesota Society of Professional Surveyors \(mnsurveyor.com\)](#)

What types of legal descriptions are there?

- Common descriptions are done via: metes and bounds, plat/subdivisions, certified survey maps, condos, assessor's plats, and government lots. See [Legal Descriptions | Chisago County, MN - Official Website \(chisagocountymn.gov\)](#)

Any guidance on plat name discrepancies?

- Yes. See [MN Title Standard 64](#)

Any guidance on vacated streets and alleys?

- Yes. See [MN Title Standard 57](#)

Any other guidelines on legal descriptions?

- Yes. See [MN Bar Guidelines for Legal Descriptions and Survey Matters, Supplement to MN Title Standards](#)

LICENSING

Who handles title insurance licensing?

- Title insurance licensing is handled by the Minnesota Commerce Department. See [Title Insurance / Minnesota.gov \(mn.gov\)](#)

LIFE ESTATES

Is an enhanced life estate available?

- No. Alternatively, you'll see traditional life estates, or Transfer on Death Deeds. See [MN ST 507.071](#)

Are there any estate recovery issues re: public assistance liens on titles with life estates or TODDs?

- Yes. Life estates created on or after 8/1/2003 are subject to estate recovery by DHS for medical assistance benefits received. Also, assistance liens should be addressed with TODDs. See [MN ST 256B.15](#) & [MN Title Standard 70.2 and 70.3](#)

LIS PENDENS

What is the statute of limitations for a Lis Pendens?

- Expires 10 years after recording (unless re-filed within the 10 years). See [MN ST 557.02](#), [MN ST 557.021](#), and [MN Title Standard 42.1](#)

What is the difference between a Lis Pendens and Notice of Pendency?

- Lis pendens typically involves a court action, while notice of pendency indicates a non-judicial foreclosure action. Notice of pendency needs to be addressed until mortgage is satisfied or released, or otherwise out on time. See [MN ST 580.032](#), [MN ST 508.57](#), and [MN Title Standard 42.2](#)

M

MANUFACTURED/MODULAR/MOBILE HOMES

What are the basic characteristics of the main different types?

- a) **Manufactured/Mobile:** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems. See [MN ST 327.31](#)
- b) **Modular:** Factory built, shipped in sections, assembled on site, typically on a permanent foundation, and not required to meet HUD standards. See [MN 327.31](#)

See [US HUD- Manufactured Housing FAQ](#)

How do you evidence affixture?

- Affix the manufactured home to land owned by the home's owner by a permanent foundation.
- Ensure the home is connected to public utilities, has a well and septic tank system, or is serviced by water and sewer facilities comparable to other real property in the taxing district.
- Ensure there are no perfected security interests on the home.
- Fill out an [Application for Notice of Cancellation of Manufactured Home Certificate of Title](#) and submit to the commissioner of public safety for cancellation.
- Obtain a notice of cancellation from the commissioner of public safety.
- Record an [Affidavit of Affixation](#) with the county recorder (abstract) or registrar of titles (Torrens/registered land) for the county where the real property is located. Include a copy of the notice of cancellation and the required fees.

See [MN ST 273.125](#) and [MN ST 168A.1412](#)

What are the common endorsements?

- ALTA 7-06 (owner's & loan policies), 7.1-06 (loan policy - conversion), and 7.2-06 (owner's policy - conversion). See these MN Endorsements at: [WFG Underwriting-Minnesota](#)

MARIJUANA/CANNABIS PROPERTIES

Will WFG insure these properties?

- Generally, no. See WFG Bulletin NB 2018-07 *Revised* at [WFG Underwriting-National](#)

MARITAL RIGHTS

What marital rights exist?

- Homestead rights. See [MN ST 507.03](#)

Who is required to sign the mortgage on homestead property?

- Both spouses are required to sign the mortgage if the property is the homestead of the titled spouse. See [MN ST 507.02](#)

What are the exceptions?

- Purchase Money Mortgage.
 - If the spouse is not being added to title and the mortgage is a purchase money mortgage, the spouse does not need to join. See [MN ST 507.03](#)
- Conveyances between spouses.
 - Both spouses do not need to join on the deed if one spouse is conveying to the other. See [MN ST 507.02](#)

What if the non-titled spouse resides elsewhere?

- If it is the titled spouse's homestead, the non-titled spouse has a marital homestead interest in the property regardless if the non-titled spouse resides there.

Can homestead be waived so the non-titled spouse doesn't have to execute the mortgage on a refinance?

- No. Spouse must sign.

Can homestead be waived so the non-titled spouse doesn't have to execute the deed in the event of sale?

- Generally, no. However if the parties have a prenuptial agreement that specifically waives homestead rights to the property being sold please send to Underwriting for review.

MARKETABLE TITLE

What is the marketable record title period?

- Abstract Property: Generally, 40 years See [MN ST 541.023](#) and [MN Title Standards 60 and 61](#)
- Torrens Property: Because the property is registered there is no marketable title period. Certificate of Title should be carefully reviewed to address all items. See [MN ST 541.023](#)

MECHANIC'S LIENS

How long does a contractor or subcontractor have to file a Mechanic's Claim of Lien?

- 120 days from the last day work was performed or materials furnished. See [MN ST 514.08](#)

Once a Mechanic's Claim of Lien is filed how long does the contractor or subcontractor have to file to enforce the claim of lien?

- One year from date the Claim of Lien is filed. See [MN ST 514.12](#)

MORTGAGES

What is the statute of limitations for a mortgage?

- 15 years from the date of maturity. If no maturity date, 15 years from date of the mortgage. See [MN ST 541.03](#) and [MN Title Standard 25](#)

What mortgage theory is recognized?

- The lien theory, in which title remains in mortgagor and mortgagee has a lien on the property.

MUTUAL INDEMNITY AGREEMENT

Is there a Mutual Indemnity Agreement that WFG is a party to?

- No.

N

O

OIL, GAS, & MINERAL RIGHTS

Do oil, gas, and mineral rights issues arise?

- Yes.

Where can I find information about oil/gas/mineral rights?

- See [MN ST Chapter 93](#), [MN ST 272.039](#), [272.04](#), [272.05](#), and [Minnesota DNR: Land and Mineral FAQs](#)

OVER THE LIMIT REQUESTS

What is the process for submitting to WFG?

- See WFG OTL Bulletin at [WFG Underwriting](#)

P

PACA & PSA

What is PACA?

- The Perishable Agricultural Commodities Act, enacted in 1930. See [7 U.S.C. §§ 499a-499t](#)

What is PSA?

- The Packers and Stockyards Act, enacted in 1921. See [7 U.S.C. 181-229](#)

When do we worry about PACA & PSA for title insurance purposes?

- Where the borrower is involved in the meatpacking, produce, grocery, or food business. Following a 2013 state court decision in New York, there is concern that PACA/PSA claimants can have a superior claim over a mortgage.

Is a PACA/PSA exception necessary?

- The 2021 ALTA loan policy and owner's policy include a new Covered Risk for Notices of Enforcement of the PACA-PSA Trust recorded in the Public Records, and exclusion and definition of PACA-PSA Trust that is substitute for the prior PACA-PSA exception. However, if using a 2006 policy form, you would still need to raise an exception along these lines: "Any claim that the Title is subject to a trust or lien created under The Perishable Agricultural Commodities Act (7 U.S.C. 499a, et seq.) or the Packers and Stockyards Act (7 U.S.C. 181 et seq.) or under similar state laws." To insure without exception check with your underwriter to see if a PACA affidavit will work for your situation: See WFG PACA affidavit at [WFG Underwriting](#)

PLATS

What is a plat/plat map?

- A map dividing a parcel of land into lots (e.g. subdivision). See [MN ST 505.021](#) and [MN Title Standard 64](#)

Where can I find plat maps?

- See [Minnesota Geospatial Information Office-Land Ownership: Properties Boundaries](#)

POAs

What kinds of POA distinctions for real property will you find?

- You may run into a general or limited/specific POA, an immediate or springing POA, a durable or non-durable POA, military, etc.

Can durability be presumed?

- No, durability must be stated. See [MN ST 523.07](#)

Are witnesses required?

- No. Only a notary acknowledgment is required. See [MN ST 523.01](#)

Is there a statutory POA form?

- Yes. See [MN ST 523.23](#) for the statutory POA form for Minnesota

Does a POA have to expressly state the powers to convey and encumber for those powers to be exercised?

- If the statutory short form POA under MN ST 523.23 is used then the POA does not need to expressly state the powers to convey and encumber for those powers to be exercised. Language granting general authority regarding real property allows the agent to exercise all powers under [MN ST 523.24](#).

Should a POA be recorded?

- Yes, unless it's a military POA the POA should be recorded.

Any WFG education on POAs?

- Yes. See [WFG POA Webinar](#)

POLICIES

What are common title insurance policies?

- a) Owner's Policy (fee and leasehold): Protects the owner.
- b) Loan Policy (fee and leasehold): Protects the lender.
- c) Homeowner's Policy (expanded coverage policy): Protects the owner with additional coverage beyond a standard owner's policy. Discuss this option with your WFG underwriter and See [WFG-ALTA Policy Comparison](#)

What happens when multiple policies are issued?

- This is referred to as simultaneous issue and can result in rate reduction.

Are there WFG guidelines for replacement policies?

- Yes. See NB 2018-04 at [WFG Underwriting-National](#)

PROPERTY TAXES

When are real property taxes typically due?

- May 15th and October 15 of each year. See [MN ST 279.01](#)

Do any real property tax exemptions exist?

- Yes. See [MN ST 272.02](#)

Where can I find more information on real property taxes?

- All county websites have information regarding real property taxes. Also See [MN Chapter 272](#) and [Minnesota Department of Revenue](#)

Q

QUIET TITLE

Is quiet title an available action?

- Yes.
 - Abstract Property: See [MN ST 559.01](#)
 - Torrens Property: See [MN ST Chapter 508](#)

R

RAILROAD TITLE

What kind of ownership does a railroad have?

- Look to the deed. If it conveys land, it's in fee (be it fee simple determinable or fee simple absolute), but if only a right of way, it's an easement. **Note, for railroad exam you will need to complete chain of title generally dating back as early as the 1830s. Documents can be very hard to read.**

What happens if a railroad abandons a right of way?

- Federal law requires a railroad obtain permission from Surface Transportation Board.

What resources provide additional information on dealing with parcels that has/had any railroad interests?

- Consult your WFG underwriter and See:
 - [Surface Transportation Board](#)
 - [US Department of Transportation](#)

RATES

How are rates regulated?

- Rates are filed with the Minnesota Department of Commerce.

What are common commercial and residential rates?

- Find MN rates at [WFG Underwriting-Minnesota](#) and use WFG rate calculator at [WFG Rate Calculator](#)

REAL ESTATE BROKERS & SALESPERSONS

How are real estate brokers and salespersons regulated?

- Under the [Minnesota Department of Commerce: Real Estate](#) and [MN ST Chapter 82](#)

RECEIVERSHIP

What is a real estate related receivership?

- A proceeding in which a Receiver is appointed to take control of property. An alternative to bankruptcy.

What is required to insure where sale of property is done by court appointed receiver?

- Obtain and review Complaint, Motion to Appoint, Order of Appointment, Motion for Sale, Notice of Sale, and Property Order Authorizing Sale, and consult your WFG underwriter to advise if further requirements exist to insure.

RECORDING

Where are documents recorded?

- Abstract Property: The County Register of Deeds.
- Torrens Property: The County Registrar of Titles.

What is the difference between Abstract Property and Torrens property?

- **Abstract Property:** A condensed history of all recorded instruments affecting the title of the subject property. An abstract begins with the legal description of the land covered by the abstract and then shows the original patent and all subsequent recorded documents affecting the title.
- **Torrens Property:** Property in which the title has been adjudicated under the authority of [MN ST Chapter 508](#). All matters pertaining to the title are (deeds, mortgages, etc.) are “registered” with and approved by the court. As a result the Registrar of Titles issues a Certificate of Title showing the current owners and interests in the land.

What are commonly recorded documents?

- Deeds, mortgages, leases, land contracts, easements and rights of way, miscellaneous liens and UCC financing statements, affidavits, death certificates, POAs, Court Orders, and releases/discharges, etc.

What type of recording priority is recognized?

- Race-notice, which gives priority to who records first, so long as that party lacked notice of prior unrecorded claims. See [MN ST 507.34](#)

What recording requirements exist?

- Every county in Minnesota has different recording requirements. We recommend visiting the specific county's Register of Deeds website to view their specific requirements for recording. Also, See [General Minnesota's Recorder Checklist](#)

Is there any statutory authority on corrective instruments?

- Yes. See [MN ST 507.29](#) and [MN Title Standard 22](#)

RON

Has RON been adopted?

- Yes. See [WFG NB 2022-01](#) for RON guidelines

S

SEARCH STANDARDS

Does WFG have guidelines on search standards?

- No specific guidelines, but generally the search standard is 40 years. See [MN Title Standard 60 and 61](#)

SHORT SALES

Are there any WFG guidelines for short sales?

- Yes. See WFG national bulletin Short Sale Deed Restrictions at [WFG Underwriting- National](#)

SPLIT CLOSINGS

Who facilitates what?

- There is typically a title company for buyer's side acting as settlement agent who issues a loan policy and CPL, and another title company acting as seller's agent who issues an owner's policy. Issues may arise between the agents. Consult your WFG underwriter if you need assistance.

SURVEYS

Are there any specific survey guidelines?

- Yes. See [MN Land Title Standards: Guidelines for Legal Descriptions and Survey Matters](#)

Is a survey required to issue the ALTA 9 endorsement?

- Generally, yes.

T

TAX LIENS

What is the statute of limitations for state tax liens?

- 10 years. See [MN ST 270C.63](#)

TAX SALES

What does a tax sale look like?

- On or before March 20th the County Auditor will mail a delinquent tax notice and delinquent tax letter to all property owners, taxpayers of record, and other interested parties of property delinquent on their property taxes from the year prior. The County Auditor will also publish a Notice of Delinquent taxes on or before March 20th, and then a second time at least two weeks after the first publication. See [MN ST 279.14](#)
- If the delinquent taxes aren't paid after 20 days have passed since the filing of the affidavit of publication or affidavit of mailing by the county auditor (whichever is later) the administrator of the district court enters a tax judgment. It is then sold to the state, subject to the redemption period. See [MN ST 279.16](#) and [MN ST 280.01](#)
- If the taxes are not redeemed in 3 years, the property automatically forfeits to the state and can be sold.
- The specific tax sale foreclosure procedure can be found in [Minnesota Department of Revenue: Delinquent Real Property Tax Forfeiture Manual](#)

How are tax sales insured?

- Generally, WFG looks for a deed from the prior owner who lost the property at tax sale and releases from all lienholders, or an Order Quieting Title to the tax sale purchaser, with all parties properly noticed. An insurable tax title turns on adequate notice.

TENANCIES

What tenancies are common?

- a) **Tenancy in Common:** The default tenancy if no tenancy expressly stated and grantees are not married. See [MN ST 500.19](#)
- b) **Joint Tenancy:** A tenancy that must be expressly stated, in which two or more persons hold equally a non-divided share in property, and upon the death of a joint tenant that tenant's interest passes automatically to the surviving joint tenant. See [MN ST 500.19](#)

What tenancy is presumed if spouses hold title with a marital status (ie. "husband and wife") without any additional tenancy designation?

- They are considered to be tenants in common. Tenancy by the entirety is not a recognized tenancy in Minnesota. See [MN ST 500.19](#)

Any WFG education on tenancy?

- Yes. Some common law tenancy rules are discussed in [WFG Webinar- Types of Tenancy](#)

TRANSFER ON DEATH DEEDS

Are they recognized?

- Yes. See [MN ST 507.071](#)

TRANSFER TAX

Is there deed property transfer tax (revenue stamps)?

- Yes. See [MN ST 287.21](#)

What transfer tax exemptions exist?

- See [MN ST 287.22](#) et seq. for all transfer tax exemptions.

Is there a mortgage tax?

- Yes, the state Mortgage Tax rate is 0.0023 of the debt that is being secured by a mortgage on Minnesota real property. Hennepin and Ramsey counties have an additional Environmental Response Fund Tax of 0.0001 (ERT Tax). See [MN DOR: Mortgage Registry Tax, MN ST 287.01 et seq.](#)

TRUSTS

Is a Certificate of Trust used?

- Yes. See [MN ST 501C.1013](#)

Does a Certificate of Trust need to be recorded as a separate document?

- Yes.

Any WFG education on Trusts?

- Yes. See [WFG Webinar- Trusts](#)

U

UNAUTHORIZED PRACTICE OF LAW

Is there statutory authority on UPL?

- Yes. See [MN ST 481.02](#)

Is it considered UPL to prepare deeds without an attorney?

- No. See [MN ST 481.02](#) and [MN ST 507.45](#)

USURY

What are the Usury guidelines re: interest rate?

- See [MN ST 334.01 et seq.](#) for MN Usury Guidelines.

V

W

WATER (RIPARIAN) RIGHTS

What kind of water rights exist?

- Riparian rights, related to land bordering a river, and Littoral rights, related to land abutting a lake. Riparian rights encompass both riparian and littoral rights in Minnesota. Riparian rights are not alienable, severable, divisible, or assignable. Riparian rights do not stem from who owns the lake bed but arise by reason of ownership of the shoreline. Every owner of land abutting a lake has the right to use the lake for normal riparian uses: fishing, boating, hunting, swimming, docking, etc., whether the lake is navigable or non-navigable, subject to restrictions enacted by the State and provided the use does not unreasonably interfere with the riparian rights of others.

Do water rights change?

- Riparian rights can change with accretion and reliction (adding land) and erosion and avulsion (losing land).

Where can I find more information on Riparian Rights?

- See [MN Department of Natural Resources: Water Basics](#) and [MN Department of Natural Resources: Water Statutes and Rules](#)

Are there exceptions for water rights?

- Consult your WFG underwriter as there may be separate exceptions depending on the body of water in question.

Any WFG education on water rights?

- Yes. See [WFG Webinar- Riparian Rights](#) & [WFG News- Riparian and Other Water Related Rights](#)

X

Y

Z

ZONING

Any helpful resources on zoning?

- See [MN State Law Library- Zoning and Land Use](#)

Other Helpful Links:

[Minnesota Title Standards Online](#)

[Minnesota Land Title Association](#)

[Real Property - Minnesota State Law Library](#)

NOTE: The information contained in this underwriting guide is current as of **November 22, 2022**. It contains general information and guidelines for issues that arise during title insurance transactions in the State of Minnesota. If you need clarification or have any questions regarding how these guidelines apply to your specific real estate transaction, please contact your WFG underwriter. This underwriting guide is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents, affiliates of its title insurance agents, and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

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