

THE ULTIMATE
REAL ESTATE TRANSACTION
COMPLIANCE MANUAL

YOUR GUIDE TO LAWS AND CUSTOMS IN ALL 51 JURISDICTIONS



ALLEN SOLOMON STEVE P. DAIGLE, SR. ROBERTO ABREU

System2 *Thinking*

THE ULTIMATE REAL ESTATE TRANSACTION COMPLIANCE MANUAL

YOUR GUIDE TO LAWS AND CUSTOMS IN ALL 51 JURISDICTIONS

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with foreword by Marc Shaw

**The Ultimate Real Estate Transaction Compliance Manual:
Your Guide To Laws and Customs In All 51 Jurisdictions**

by System 2 Thinking

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TABLE OF CONTENTS

Foreword	V
Prefaces & Acknowledgements	VI
Introduction	X
State by State Compliance Requirements.....	1

ALABAMA.....	2	MONTANA.....	106
ALASKA.....	5	NEBRASKA.....	110
ARIZONA.....	9	NEVADA.....	114
ARKANSAS.....	13	NEW HAMPSHIRE.....	118
CALIFORNIA.....	16	NEW JERSEY.....	122
COLORADO.....	20	NEW MEXICO.....	127
CONNECTICUT.....	24	NEW YORK.....	130
DELAWARE.....	28	NORTH CAROLINA.....	134
DISTRICT OF COLUMBIA.....	32	NORTH DAKOTA.....	138
FLORIDA.....	37	OHIO.....	142
GEORGIA.....	42	OKLAHOMA.....	146
HAWAII.....	46	OREGON.....	150
IDAHO.....	50	PENNSYLVANIA.....	154
ILLINOIS.....	54	RHODE ISLAND.....	159
INDIANA.....	58	SOUTH CAROLINA.....	162
IOWA.....	62	SOUTH DAKOTA.....	166
KANSAS.....	65	TENNESSEE.....	169
KENTUCKY.....	69	TEXAS.....	172
LOUISIANA.....	73	UTAH.....	176
MAINE.....	77	VERMONT.....	180
MARYLAND.....	81	VIRGINIA.....	184
MASSACHUSETTS.....	86	WASHINGTON.....	188
MICHIGAN.....	91	WEST VIRGINIA.....	192
MINNESOTA.....	95	WISCONSIN.....	195
MISSISSIPPI.....	99	WYOMING.....	199
MISSOURI.....	103		

FOREWORD

BY MARC E. SHAW, ESQ.

Three to four generations ago, George C. Parker, the famous New York city con man, exploited many by selling the Brooklyn Bridge several times over. Would-be bridge owners, with deed in hand, actually got arrested for setting up toll booths as if they truly owned it. Think about how far we have come in preventing fraud and safeguarding the land records.

The perception to the outsider, however, is that the title insurance industry has never changed. Certainly the industry lacked fundamental tech savviness and avoided major transformation. However, the last fifteen years have brought rapid change

Since the adoption of ALTA's (American Land Title Association) Best Practices, the majority of title providers have become paperless, now reconciling their escrow accounts daily and electronically recording their documents almost instantaneously. In fact, change in the industry has hit such an increased pace over the last couple years that every title insurer now constantly examines their technological capabilities to maintain their competitive advantage. Automation, artificial intelligence and better task management systems have finally been embraced by the industry, leading to increased data controls and privacy protection as well as dual authentication procedures and safeguards in order to protect from wire fraud.

Many think the next big disruption is blockchain. Will blockchain make the land records more efficient, secure and easy to obtain? Absolutely. However, the argument that the advent of the blockchain will displace the title agent is sorely misguided. Providing title insurance is more than just reviewing land documents. If the potential marketability risk was only located in the recorder of deeds office, then yes, systematically improving the land records system and putting them on the blockchain would certainly spell doomsday for the title industry. But title agents understand how to navigate all of the complexities of providing good title beyond the actual land record database or a future "global distributed land ledger." Think about divorce, child support, civil judgments, local utilities, municipal fines and violations, refuse, undisclosed heirs, corporate franchise certs or good standing letters and all other localized lien rights.

Title is not a straight line; it is an industry of zig zags. We are the experts that understand how to make our way through this jagged puzzle in order to declare a property insurable. And this is precisely what those tech wizards that declare blockchain as the big disruptor do not quite understand.

But just because the industry is immune to extinction does not mean that it is free from risks. A multi-state agent's biggest concerns are licensing and compliance with each state's separate rules and regulations, not to mention all of the different nuances of title in each specific state — be it examination, lien statutes, estates, corporations, recordation, funding or simply who can practice. Together these factors ultimately determine the insurability of a piece of property.

Learning these nuances is only half the battle. A multi-state agent's requirements for licensing, auditing, annual reports and surcharges are numerous and ever-changing. The first and only person to create a state-by-state manual to help multi-state agents simplify this complex licensing landscape was the author of this manual, Allen Solomon. The book is called *The First Title Agent Licensing Manual* and it has proved to be the missing tool and critical addition to many a title company library.

Mr. Solomon has now prepared a step-by-step guide called The Ultimate Real Estate Transaction Compliance Manual that will prove essential for multi-state agents and nationally aspiring title insurance companies learning how to examine, clear and close title in territories with which they are unfamiliar.

The zig zags of our industry are extremely daunting and being able to navigate multiple databases and county/city departments as well as understanding localized complex estate law is at times an insurmountable task. The goal was to provide a clear view of each state's recording laws, property tax structure, how title is vested, who can legally close or disburse a transaction, foreclosure law and statute of limitations laws. This goal was met with this concise, effectively-segmented manual that will help guide you in expanding your business.

Whether you are looking for a better understanding of the way a particular state works, looking to increase your footprint or simply want to have a great resource in your agency's library, this manual serves those purposes and more. Technology has made expansion easier, but do not fall into one of the many traps in each state. Good luck in your expanding footprint!

Marc E. Shaw, Esq.

President of World Wide Land Transfer, Inc.

PREFACE & ACKNOWLEDGEMENTS

BY ALLEN SOLOMON

If someone handed me this book 25 years ago, I would have kissed it. Literally.

As a founder and the national managing director of Linear Title & Closing, an ambitious national title agency in Rhode Island, it was my charge to ensure that our operations teams remained compliant and informed as we became licensed in new states.

Beginning with Connecticut, Massachusetts and New York, I painstakingly researched and compiled all the laws, regulations and customs that were pertinent to the real estate transaction process and operations in these new jurisdictions.

As we continued to expand across the country, I began compiling everything into a document that was notoriously known as Solomon's Cheat Sheet. There was a burning need for an encyclopedic, up to date and practical state-by-state compliance manual, but none existed. Nobody seemed to want to write it. So out of necessity, I began creating it myself.

By the time I retired in 2010, Solomon's Cheat Sheet had become comprehensive — a guide to all the laws and customs in all the 51 jurisdictions of the United States. There was nothing else like it in existence, no book a compliance officer or multi-state real estate professional could quickly reference to find a straightforward answer to complex questions.

I realized that my cheat sheet was a piece of intellectual property that needed to be shared with the real estate industry at large. For the next 8 years, I expanded it into the manual you are holding today.

Because courts can declare a statute invalid or amended, and the meaning of a statute can be changed by a slight word change, our team of compliance specialists carefully cite-checked thousands of statutes and regulations to ensure the manual was up to date before publication. I am deeply indebted to this team for their enthusiasm for the subject matter and diligence in conducting this vital research. With their help this manual became everything I hoped it would be.

The first acknowledgement is to Judge Steven R. Plotkin, my greatest mentor. Judge Plotkin received a Master of Laws degree from the University of Virginia, was an award winning trial lawyer, an assistant district attorney, and an appellate court judge. After my father passed at a young age, "the Judge," as he was known to me, took me under his wing and taught me about law, life and how to be an ethical human being.

I would like to thank Marc Shaw, President of World Wide Land Transfer, Inc., for contributing the thoughtful foreword to this manual. Marc is a consummate professional, a visionary and has deep domain experience in the national real estate transaction process. It's our honor to have him lend to this manual his keen and forward-looking vision of where this industry is heading.

Thank you to my friend Steve Daigle Sr., Chairman and Founder of Punctual Abstract, for co-authoring the manual. Steve has been in this business for over 30 years and knows more about real estate transactions and the laws associated therewith than anyone I am acquainted with. His contributions were paramount. By adding in little-known customs and regulations that only he would know for each state, Steve proved to be the manual's missing link.

I would like to thank Roberto Abreu, Chief Compliance Officer at System 2 Thinking and co-author of

this manual, for all the tireless days and nights he pored over every syllable in this manual. His critical thinking and perseverance are exceptional and I am proud to call him a friend and colleague.

I am also grateful to Howard Turk, CEO of Prosperitas Forward, who I have such great admiration for on so many levels. Through the years, Howard has imparted great wisdom to me with regard to the real estate services industry, but also with regard to the bigger questions. Thank you for all your tips on “life,” Howard.

Thank you to Fred Jones and David Scott. I met these fine gentleman about 17 years ago when Linear Title & Closing was searching for an underwriting partner. Not only have they been instrumental in advancing my career, they have provided uplifting and bona fide friendship, collegiality and support. Thank you for everything Fred and David.

Many many thanks go to Jeff and Ryan Stone. I met them 20 years ago when we needed a buttoned up high volume national closing company. Closing 5000 transactions a month takes precision, strong work ethic and a magnificent process. It always astounded me the volume that these gentlemen could handle without missing a beat. Over the years we have created a bona fide strong bond, grounded in friendship and mutual respect.

Thank you to Nick Liuzza, former CEO and President of Linear Title & Closing, for bringing me on the Linear journey. On so many levels, Nick was instrumental in advancing my career and I am indebted to him for that.

Walton Tate is worthy of mention as he introduced me to the real estate services business. Walt, I will never forget all those nights decades ago poring over files until we could no more.

To the wonderful creatives at The Rebel Unicorn, thank you for your hard work! And special thanks to Patrick Sugrue, Director of Content & Branding, who found the right words (as he always does) to introduce this manual to the market. Ziqiang He, Senior Visual Designer, did exemplary design and layout work on the website; the final product looks better than I could have imagined. Thank you to Sam Bernstein, who held down the fort over at The Rebel Unicorn while our teams poured over the manual. Last, great appreciation for Vanessa Reitz, who showed great skill in providing the manual's design and layout.

Last, but most important, I would like to thank my children, Jeremy, Alexandra and Bette as well as my sister, Mollie. In their own way, each has taught me about the many and varied aspects of life. I wish them all great luck in the future, health and happiness in this great journey we call life.

Allen Solomon

Chief Executive Officer

System 2 Thinking

PREFACE

BY STEVE P. DAIGLE

My phone rang over 20 years ago. On the other end of the line was Allen Solomon from Linear Title & Closing in New England. He said he needed an abstracting company with a national reach that could keep up with demand. They had a mountain of orders. He'd heard Punctual Abstract was the best. Could we help him?

Those days, before the housing crisis, were fast paced. Anybody and everybody was getting a loan. Everyone was borrowing money. I said we could, and so began a prosperous working relationship that has spanned more than 20 years.

A couple years ago, when Allen approached me looking for input on this manual, I knew instantly that he was the person for the job, to create an "encyclopedia" of all the laws, regulations and customs in all 51 jurisdictions. Seriously, who would take on this task but Allen? Allen is the most well-rounded real estate services professional that I've met in my 35 years in the industry. He knows every process and law in the real estate transaction workflow in every state. He has helped hundreds of companies start up and become compliant in all 51 jurisdictions.

I have been working in the real estate services industry for my entire professional career. I care deeply about it and the role my company, Punctual Abstract, has played in it. We say we're a national abstracting company with a local touch because we have never made any change in how we do business, except for the technology we use to be more efficient.

This manual will play as big a role in improving the real estate services industry as technological advancements have over the past 20 years. It will be an essential addition to any company in the real estate sector that has aspirations of working on a regional or national scale. I'm happy Allen consulted with me on this project, and I am very proud to have played a major role in bringing it to publication.

Steve P. Daigle, Sr.

Chairman and Founder

Punctual Abstract Company

PREFACE

BY ROBERTO ABREU

Many years ago, I found myself sitting at a dining room table in the East Side of Manhattan, drinking what was most likely the darkest cup of joe known to man, nervously discussing my carefully crafted, 14-point font resume with someone who really wasn't that interested in looking at a bulleted list of abilities. The interview was quite informal, though I dressed the part of the typical prospect—shined black dress shoes, the standard gray suit and accompanying blue tie. I had just moved to the city from Florida, trading the palm trees and sunshine for concrete and a pending snow storm. But this chance meeting with Allen Solomon would soon change my life, and I can't say I didn't see it coming.

Up until that point, my experience in the real estate services industry was centered around foreclosure defense and assisting clients seeking loan modifications and short sales following the apocalyptic burst of the housing bubble. I dabbled in preparing HUD statements and even supported partners at the law firm who handled probate cases. But nothing would have prepared me for the task I was about to undertake.

As I sat at that thick wooden table repeating lines I had rehearsed in my head the entire walk from the subway, I realized that Allen had already made his decision. He grabbed a large binder from the bookcase behind him, pages folded and marked with post-it notes—signs of constant use—and dropped it in front of me with a heavy thud. “You'll consume this from dawn to dusk every day for the next week,” he said. Not concerned with the perplexed look on my face, he continued, explaining that he wrote the 200-plus page First Title Agent's Licensing Manual for real estate professionals, that it was the only book of its kind and that I was about to dive into a wealth of knowledge that few across the country possessed. “If you learn this, Roberto,” he concluded, “doors will open for you across the entire real estate services industry. You'll be the premier licensing specialist in the nation. Few will have the breadth and depth of knowledge you will possess if you can make the information in this book a part of your daily vocabulary.”

And so here I am, years later, publishing a new book with my mentor and friend, Allen.

This journey has exposed me to hundreds if not thousands of people across the industry. I have learned so much working with our clients, the various governmental agencies and insurance departments across all 51 jurisdictions. Putting The Ultimate Real Estate Transaction Compliance Manual together has been a tedious, dare I say arduous, endeavor. Thousands of citations have been included in this comprehensive manual, along with countless hours upon hours of research into the standards and customs surrounding the real estate services sector.

Having a hand in the creation of this must-have office tool has been the highlight of my career, and it is my sincerest hope that you, the real estate professional, get as much out of it as I did researching and composing it.

Roberto Abreu

Chief Compliance Officer

System 2 Thinking

INTRODUCTION

I. THE PROBLEM

About 25 years ago, I was given an amazing opportunity to found a real estate services company that focused on vendor management, title insurance, abstracting, appraisals, mortgage technology and a whole host of other aspects of the real estate service suite. My partners and I zealously pursued the opportunity with exquisite preparation. Among the scores of items on our punch list was studying the mortgage process from the inside out. We interviewed mortgage loan officers, operations managers, processors and anyone up and down the mortgage food chain. After our preparation, we applied for state licenses and underwriting agreements with title insurance carriers.

The big day came when our underwriting agreement was granted, and we met in our new offices to execute these agreements. The agency representatives congratulated us on becoming a member of their team and wished us much luck in our new endeavor. The champagne corks were popping! I then asked the silly question, “Could you please, sirs, send me some training materials?” The room slowly but surely erupted in laughter. The agency reps wiped the tears from their eyes, and one of them said “Son, there are no training materials. Just sell and get to work.” They then left. The room was dead silent.

This was my introduction to the real estate services business, an industry that even today affords new practitioners with little to no training. There are no college courses available to learn the trade. You learn the ropes by acquiring knowledge through experience.

I knew then, and I know today, that there is a compelling need for a real estate transaction manual.

II. THE SOLUTION

After the sale of my first company, I was asked to be a founder of a start-up in New England called Linear Title & Closing, which had its humble beginnings in Newport, Rhode Island. Our stated mission was to become the premier national title agency in the United States with a razor sharp focus on technology. As the National Managing Director, I had my work cut out for me. How was I going to ensure that our operations teams, compliance officers and attorneys understood the laws, customs and regulations of each respective state as we grew from a local to a regional to a truly national enterprise?

The answer was simple: research and relay all relevant laws, customs, and regulations associated with the real estate transaction process in advance of licensing in each state. Actually doing it was not.

There are hundreds of laws, customs and regulations that affect a real estate transaction, and they vary in each of the 51 jurisdictions in the United States. These same laws and customs are regularly repealed and amended.

I needed a template that would provide our operations teams with all of the information they needed — nothing more and nothing less — to conduct a real estate transaction. It needed to be encyclopedic, but laid out in an intuitive manner so new, untrained employees could immediately begin acquainting themselves with each jurisdiction’s laws and customs.

My methodology was to first mechanically break down each major process point in a real estate transaction:

1. From Title Search to Title Commitment
2. From Title Commitment to “Cured” Title Commitment
3. Acquisition of Taxes, Recordation Cost and other Pre-Closing Tasks
4. The Closing “Ceremony”
5. Post-Closing Activities
6. Recordation of Relevant Closing Documents

Next, I organized the laws, customs and regulations that were relevant and connected to those process points into the following eight categories:

7. Title Searches and Examination of the Land Title Records
8. Ownership: Vesting and its Idiosyncrasies
9. Death and its Effect on the Transaction
10. Laws Surrounding Mortgages, Liens and Foreclosures
11. Statute of Limitations
12. Real Estate Closings
13. Recordation into the Public Records
14. Property Taxes

As our footprint increased, I was happy to see this template become the training tool and reference guide I had intended it to be. It became known – infamously – as Solomon’s Cheat Sheet.

III. FROM CHEAT SHEET TO THE ULTIMATE REAL ESTATE TRANSACTION COMPLIANCE MANUAL

Soon, Linear Title & Closing was performing real estate transactions in all 51 jurisdictions. I witnessed every possible problematic scenario one could imagine in every type of transaction in every state. Solomon’s Cheat Sheet became a living and breathing document that contained countless golden nuggets of information that were invaluable to our company. It was *THE* desk reference for thousands of employees. When I retired from Linear, Solomon’s Cheat Sheet went with me as a reminder of a job well done.

I then moved to New York City and wrote *The First Title Agent Licensing Manual*, which became the gold standard for title insurance licensing in the United States. After publication, my phone began ringing off the hook from real estate service professionals across the country. I founded System 2 Thinking to begin consulting to the industry where I’d gotten my start.

I'd scaled Linear Title & Closing to 5,000 transactions a month not just by developing the Cheat Sheet, but by becoming a Six Sigma expert. So in addition to helping hundreds of agencies expand into new states, System 2 Thinking developed a sister wing focused on process improvement that helped hundreds of agencies and mortgage companies reorganize and eliminate waste and process defects.

In 2017, I decided to undertake my greatest challenge yet and do for the real estate transaction what I'd done for title agency licensing. That meant filling in the gaps in Solomon's Cheat Sheet to turn it into a truly magnificent and valuable piece of intellectual property — a truly encyclopedic real estate transaction manual. I couldn't do it alone.

V. ENTER STEVE DAIGLE AND ROBERTO ABREU

Steve Daigle Sr., the founder and chairman of one of the largest abstracting firms in the United States, has more knowledge about real estate transactions and the laws associated therewith than any man I know. His expertise in real estate transactions was invaluable. By adding in little-known customs and regulations in each state, Steve proved to be the manual's missing link.

Roberto Abreu, the Chief Compliance Officer at System 2 Thinking, performed the equally necessary task of ensuring that the manual is truly up to date. He read every page of this voluminous manual 50 plus times, cite-checked and Shepardized® every existing law, updated modified law, and eliminated repealed law using the most advanced software on the market. Roberto has always been fastidious about his work product, so much so that it causes him great pain when something that has his mark is not perfect.

I owe both Steve and Roberto my deepest gratitude and respect for their invaluable input. These gentleman brought the manual to a level I did not think was possible.

VI. THE ENDLESS BENEFITS

Technology and automation have exponentially increased the speed at which we conduct real estate transactions. All the more reason to have a comprehensive manual that distills and curates the valuable and targeted information from the voluminous abyss of each state's laws.

The uses and benefits of this manual are endless. It is a real estate transaction encyclopedia for real estate professionals of all types — mortgage, title, real estate brokerage, REO, real estate portals, banking, asset management, servicing and technology providers.

It provides a 51-jurisdiction road map of all relevant laws, customs and regulations that are encountered by these professionals on a day to day basis.

Any national real estate company that is involved in the transaction process will certainly benefit from its use as a training manual. In training a new mortgage, title or legal processor, the first item of business will be to have the trainee read this book and outline it in its entirety.

Real estate compliance professionals who are faced with day to day legal issues will find here an essential desk reference to provide operations professionals with quick answers. Operations professionals, meanwhile, whether they are working in mortgage, title, REO or another field, will have the comfort of knowing that their work product is always compliant.

Players tangential to the transaction, such as real estate portals and technology providers, can now have a guide on which they can easily intertwine the law into their platforms and technologies.

V. AN EXAMPLE

Below is a common real estate transaction question and how it is answered by the manual.

QUESTION

In multijurisdiction practice, the following question often arises: “Do both spouses need to sign to convey to another party in a real estate transaction?”

ANSWER

If this question were posed with regard to a California transaction, one would simply turn to California and find the following under the Vesting section:

“Spouses may hold property as joint tenants, as tenants in common, as community property, or as community property with right of survivorship. **Both spouses must join in a conveyance community property notwithstanding how title is held.** Married persons may transmute community property to separate property of either spouse or transmute separate property of either spouse to community property.”

Without the manual, answering this question could take hours of research IF it could be found.

VI. OUR PROMISE

This book was designed to give confidence and knowledge to any person who touches a process point in a real estate transaction. I can promise you the following:

15. The laws, customs and regulations in this manual are comprehensive and cover the absolute necessary information needed for all real estate transaction professionals across the United States.
16. The thousands of legal citations contained herein have been cite-checked for accuracy up to and including June 2019.
17. The information contained within can be used as a comprehensive training manual for any company that conducts transactions in multiple jurisdictions.
18. It is highly organized and designed to be easy to use.
19. The information you’re about to read will deliver results. It will help you stay in control of your career as a real estate professional and get a leg up on the competition!

-Allen Solomon

Chief Executive Officer

System 2 Thinking

STATE BY STATE COMPLIANCE REQUIREMENTS

ALABAMA

TITLE SEARCHES AND EXAMINATION:

In the State of Alabama, a title search generally covers the prior forty to sixty years, unless there is a reason to search beyond that time frame. This procedure has been established by trade practice. A title search is not required, but recommended. Title records are recorded with the Judge for Probate in the county where the land is situated. Ala. Code § 35-11-215.

Jefferson, Shelby, Mobile, and Tuscaloosa counties use title plants for searches, while Montgomery County uses abstracts. Most other counties search the records from the Probate office.

Search and examination fees are not included in the title insurance fee and are an additional charge. In Alabama, title insurance agents and rates are not regulated. Some fees may be negotiable.

VESTING:

The State of Alabama recognizes tenancy in common and joint tenancies. There is no right of survivorship for tenancies in common. Joint tenancies have a right of survivorship. If spouses hold title as joint tenants, there is a right of survivorship when one spouse dies so long as it is stated in the instrument creating such tenancy that such tenancy is with right of survivorship or other words used therein showing such intention. Id. § 35-4-7.

Alabama is not a community property state, and the principles of dower and curtesy have been abolished and thus not applicable.

Real property may be conveyed by (1) warranty deeds, (2) limited warranty deeds, (3) special warranty deeds, and (4) quitclaim deeds. A valid conveyance requires a legal description of the property, identified competent parties, marital status of the parties, and specific language showing the grantor's intent to convey. The requirements of acknowledging a conveyance are that it must be apparent, known, the parties must be informed of contents, and sign voluntarily. See Id. § 35-4-20—35-4-34.

Conveyance instruments must meet the common-law requirements of including legal description, competent parties, names of parties, marital status of parties, words of grant, and acknowledgment.

DECEDENTS' ESTATES:

When an individual dies without a will, one must look to the inheritance statutes in effect at the time of the decedent's death to find out where title to real estate is vested. It is prudent to require an administration of an intestate estate. It would be risky and negligence to take a self-serving affidavit from a spouse that the spouse had absolute authority to convey title without the children joining in.

The Probate Court would be the proper authority to determine if the entire estate was worth less than \$50,000.00, and that there was no need for anyone other than the spouse to convey title.

Additionally, if there is no administration of decedent's estate, creditors under Ala. Code § 6-2-41 have up to two years to file for an administration. Thus, we often refer to the fact that there is a two-year non-claims period where intestate succession is involved.

MORTGAGES, LIENS, AND FORECLOSURE:

Alabama is a title theory state, which means that the title is held in trust until the mortgage is paid

off. A judgment lien is valid for ten years (id. § 6.9.211). All mortgage documents must provide the marital status of the grantors and identify the name and address of the individual who prepared the documents (Ala. Code §§ 35-4-73; 35-4-110). The customary security agreement is the mortgage with the exception that a deed will also be recognized.

No mortgage, deed or other conveyance of the homestead by a married person is valid without the voluntary signature and assent of the spouse (Ala. Code § 6-10-3; *Gilley v. Daniel*, 378 So. 2d 716 (Ala. 1979)). If the spouse died, the death certificate must be certified by: Bureau of Vital Statistics, Post Office Box 5625, Montgomery, Alabama 36103.

Release documents must clearly identify the mortgage by the recorded information. Additionally, the documents must be signed and acknowledged by both parties. A partial release must specifically identify the portion of the property that is being released.

Statute of Limitations for Liens	
Mortgages	20 years
Judgment Liens in favor of United States	20 years
All other Judgment liens	10 years, renewable.
State of Alabama Tax liens	10 years
Federal Tax Liens	10 years
Mechanics Liens	6 months
Estate Tax	20 years
Financing Statement	5 years

A delinquent property may be redeemed within 3 years of its sale by paying the owed taxes, interest, and fees. Ala. Code § 40-10-120. There is a penalty rate of 12 percent per year.

The statute of limitations for actions arising from faulty construction and improvements to real property is 2 years from the discovery, and 7 years after substantial completion. Ala. Code §§ 6-5-221; 6-5-218.

An action may be filed against an attorney for malpractice within two years, or within 6 months of discovery of the defect, whichever is earlier. Id. § 6-5-574.

When a seller finances part of the sale price for the benefit of the buyer, they have a valid vendor's lien. A vendor's lien applies to purchase-money mortgages.

To cancel a mortgage or lien of record, both parties must sign a release of mortgage or release of lien. Sometimes, this is referred to as a satisfaction of mortgage. If the lender or lienholder fails to cancel the lien of record after the debt is satisfied in full, there is a statutory penalty and additional remedies available including suits for damages. Ala. Code § 35-10-90 et. seq.

The statute of limitations against prime contractors is 6 months from the date of construction. Ala. Code § 6-5-221.

For sub-contractors, laborers, and suppliers, the statute of limitations is 120 days. Laborers must file the lien within 30 days from the date of their last providing labor. Ala. Code § 35-11-215. Additionally, the law requires that if there is no direct contact with the owner, notice must be provided to the owner regarding the outstanding balance. If the party is only a supplier of materials they may provide preliminary notice to obtain the same lien rights as a general contractor.

A quiet title action is the procedure used to confirm property purchased for taxes. For quiet title actions on tax delinquent properties, see Ala. Code § 24-9-8.

REAL ESTATE CLOSINGS:

Attorneys generally conduct closings. However, both Mobile and Baldwin counties allow “corporate agents” to conduct the closing. Additionally, Alabama allows in-house “escrow closings.” Either an attorney handling the closing, or the parties to the closing, must prepare document preparation for the closing (i.e. seller, buyer).

RECORDING REGULATIONS:

Alabama is a notice-statute state. The recording must be in writing and identify all parties including but not limited to the buyer, the seller, the mortgagee/mortgagor, and grantee/grantor. The recording must also identify the property. It must also state the marital status of the parties receiving the conveyance. Furthermore, the document must be signed and notarized by all parties involved.

PROPERTY TAXES:

Property taxes are levied on October 1 and due retroactively the following year on October 1. The following are important dates for property taxes:

October 1	Property Taxes are due
January 1	Taxes become delinquent if not paid
February	Turned over to Probate Court
March	Probate Court Meets
April	Property is Advertised for Sale
May	Tax Sale (Usually the first Monday in May)

ALABAMA CALLOUTS

- In the State of Alabama, a title search generally covers the prior 40 to 60 years, unless there is a reason to search beyond that time frame.
- Search and examination fees are not included in the title insurance fee and are an additional charge.
- It is prudent to require an administration of an intestate estate. It would be risky and negligence to take a self-serving affidavit from a spouse that the spouse had absolute authority to convey title without the children joining in.
- A delinquent property may be redeemed within 3 years of its sale by paying the owed taxes, interest, and fees. There is a penalty rate of 12 percent per year.
- Alabama is a title theory state which means that the title is held in trust until the mortgage is paid off.
- Alabama is a notice-statute state.
- Attorneys generally conduct closings. However, both Mobile and Baldwin counties allow “corporate agents” to conduct the closing. Additionally, Alabama allows in-house “escrow closings.”

ALASKA

TITLE SEARCHES AND EXAMINATION:

In the State of Alaska, title searches are checked back to the last insurer or the patent. Alaska Stat. § 21.66.200 requires that a title plant searching for records go back at least 25 years when conducting examinations. A title insurance company shall own and maintain a title plant in the recording district in which its principal office in the state is located.

An examination shall include all instruments of record affecting all land within the recording district, for a period of at least 25 years immediately before the date a policy of title insurance is issued by the title insurance company. It shall also directly, or through its agent, own and maintain a comparable title plant for each additional recording district in which it or its agent maintains an office to transact a title insurance business.

Alaska Stat. § 21.66.450 speaks to the forms of policies and other contracts of title insurance.

The State Division of Insurance regulates title insurance agents. Title insurance rates must be filed and approved by the State Division of Insurance. Search and examination fees are not included in the title insurance fee and are an additional charge. Special rates are sometimes given in cases of where there has been another policy in the last two years.

Alaska Stat. § 21.66.370 requires rates to be filed and approved by the Director of Insurance Department of Commerce and Economic Development, State of Alaska. If not rejected, rates are deemed accepted after 30 days. Though rating bureaus are allowed, none exist, and any change in rates come from individual underwriters.

The same 30-day waiting period exists, but can be waived by the Department of Insurance under special circumstances and with a specific request to do so.

Examinations are conducted from title plants that are generally in the following counties: Anchorage, Palmer, Wasilla, Fairbanks, Homer, Kodiak, Juneau, Sitka, Ketchikan.

Title insurance policies and endorsements are generally the 1992 American Land Title Association (ALTA) form policies, with ALTA, California Land Title Association, and First American endorsements available.

The Uniform Land Sales Practice Act (Alaska Stat. Title 34, Ch. 55 Note) and Property Disclosures (id. § 34.70.010) should be reviewed for regulations on non-resident seller.

VESTING:

The State of Alaska recognizes tenancy in common, joint tenancies, and tenancy by entirety. There is no right of survivorship for tenancies in common. Joint tenancies have a right of survivorship. If spouses hold title as tenants by entirety, there is a right of survivorship when one spouse dies.

A husband and wife may hold an estate in real property jointly. A husband and wife who acquire title in real property hold the estate as tenants by the entirety, except as provided by Alaska Stat. § 34.77.100 unless it is expressly declared otherwise in the conveyance or devise. Id. § 34.15.110. The estate may be severed by conveyance called a "Waiver of Homestead Rights" or by divorce. Alaska is a homestead state that requires a spouse to sign all deeds and mortgages unless waiver has been signed.

A homestead held by tenants by the entirety is exempt from debts up to the extent of \$54,000. Otherwise, an estate by the entireties is liable for the debts of either or both tenants (Alaska Stat. § 09.38.010).

Alaska has a community property act that is a unique “opt-in” statute. There is no community property estate unless the spouses collectively create one (Alaska Stat. § 34.77.010). With respect to marital transfers, the property may be conveyed to husband and wife as tenants by the entirety with the right of survivorship. The property may also be transferred to a community property trust (id. § 34.77.100) or a community property agreement where the property will pass without probate to a designated person, trust, or other entity by non-testamentary disposition (id. § 34.77.090). A form of community property exists for estate planning, provided by id. § 34.77.010 .

Real property may be conveyed by (1) warranty deeds (id. § 34.15.030) and (2) quitclaim deeds (id. § 34.15.040). A valid conveyance under id. § 34.15.010, requires a legal description of the property, identified competent parties, marital status of the parties, and specific language showing the grantor’s intent to convey.

The requirements of acknowledging a conveyance must be apparent, known, informed of contents, and signed voluntarily. Acknowledgments must be made before a notary public or any other office authorized by the state to take same (id. §§ 34.15.150; 34.15.160).

Certified copies of death certificates should be requested from Vital Statistics, 941 West 4th Avenue, Room 146, Anchorage, Alaska 99501.

DECEDENTS’ ESTATES:

A personal representative may sell, mortgage, or lease any real property of the estate or any interest in it (Alaska Stat. § 13.16.410) unless restricted by the will or unless the personal representative is acting under a supervised administration (id. § 13.16.230).

Alaska has an estate tax, governed by Alaska Stat. Title 43, Ch. 31. Note: A report must be filed with the State of Alaska Department of Revenue.

MORTGAGES, LIENS, AND FORECLOSURE:

Alaska is a lien theory state. Judgment liens expire after 5 years but may be renewed by court order. The rule of title practice is to show a judgment for 10 years.

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	10 years
All state of Alaska tax liens	10 years
Federal tax liens	10 years
Mechanics Liens	6 months ; may be renewed for a period of 6 months , or pending lawsuit

Estate Tax	5 years
Financing Statement	6 years
Homeowners Association	10 years

A deed of conveyance is used to cancel mortgage liens of record that have been satisfied in full. The statutory penalties if a lender fails to cancel a lien of record after a secured debt is paid in full are \$300.00 plus consequential damages (Alaska Stat. § 34.20.115).

Alaska does not provide any statutory protection for sellers that finance part of the sale price for the buyer(s).

Adverse possession claims require the following elements: (1) open, (2) hostile, (3) notorious, (4) continuous for statutory period of 10 years. However, with color of title, the statutory period is 7 years. (Alaska Stat. § 09.45.052; *Shilts v. Young*, 567 P.2d 769 (Alaska 1977); *Walsh v. Emerick*, 611 P.2d 28 (Alaska 1980))

For claims relating to deficiency in construction or improvements to real property, an action must be brought within 10 years of "substantial completion" of the project (Alaska Stat. § 9.10.054).

REAL ESTATE CLOSINGS:

Attorneys, escrow agents, and banks may conduct closings. State law does not mandate licensing for those conducting closings, escrows, or settlements. Closing costs can be split or paid by either party. The Title Company or agent should prepare closing statements.

A power of attorney must comply with provisions set forth in Alaska Stat. §§ 13.26.645 — 13.26.680. State specific regulations on escrow transactions may be found in Alaska Stat. §§ 34.80.10 et. seq. Deeds of trust are the preferred method of real estate security.

The State of Alaska enacted a Good Funds Act, applicable to one-to-four family residential transactions. The Act requires receipt of funds prior to disbursement and prohibits disbursements until the day following the deposit into escrow, unless the funds are cash or wire transfer (Alaska Stat. § 34.80.040).

The money that is received by a settlement agent for an escrow transaction is not the property of the settlement agent and is not subject to execution, attachment, or other form of collection for a claim against the settlement agent. Escrow money may not be used for a purpose other than to fulfill the terms of the escrow transaction agreement. Alaska Stat. § 34.80.010.

RECORDING REGULATIONS:

Alaska is a race-notice statute state. The recording must be in writing and identify all parties including the buyer, the seller, the mortgagee/mortgagor, and grantee/grantor. The recording instrument must also identify the property. It must also state the marital status of the parties receiving the conveyance. Furthermore, the document must be signed and notarized by all parties involved. For additional recording requirements, see Alaska Stat. § 40.17.035.

PROPERTY TAXES:

Property taxes are levied and become due in accordance with individual counties. Some counties allow property taxes to be paid in installments. Additionally, some counties charge a 15% interest on property taxes being paid in installments.

Real property liens constitute an automatic tax effective January 1 of each year, having superior priority over prior recorded encumbrances and liens (Alaska Stat. § 29.45.300).

Actual tax payments are due on June 15 and August 15, in equal payments, each year.

ALASKA CALLOUTS

- In the State of Alaska, title searches are checked back to the last insurer or the patent. Alaska Stat. § 21.66.200 requires that examinations be conducted by a title plant searching for records that go back 25 years.
- The State of Alaska recognizes tenancy in common, joint tenancies, and tenancy by entirety. There is no right of survivorship for tenancies in common. Joint tenancies have a right of survivorship. If spouses hold title as tenants by entirety, there is a right of survivorship when one spouse dies.
- Alaska has a community property act that is a unique "opt-in" statute. There is no community property estate unless the spouses collectively create one (Alaska Stat. § 34.77.010).
- Attorneys, escrow agents, and banks may conduct closings. State law does not mandate licensing for those conducting closings, escrows, or settlements. Closing costs can be split or paid by either party. The Title Company or agent should prepare closing statements.
- Alaska is a race-notice statute state.
- Alaska is a lien theory state.
- Alaska has a community property act that is a unique "opt-in" statute. There is no community property estate unless one is collectively created by the spouses (Alaska Stat. § 34.77.010).

ARIZONA

TITLE SEARCHES AND EXAMINATIONS:

Land titles are checked back to prior base or patent to ensure good title. Title insurance agents are regulated by the Department of Insurance and Department of Banking. Title insurance rates must be filed with and be approved by the Department of Insurance. See Ariz. Rev. Stat. § 20-376.

Title insurance rates do include search and examination. Sometimes, special rates are given in cases of developers, investors, and builders.

Title insurance policies and endorsements are American Land Title Association (ALTA) policy forms and California Land Title Association policy forms.

Certified copies of death certificates can be secured from Arizona Department of Vital Records. 1818 West Adams, Phoenix, AZ 85007.

Arizona Department of Insurance: <https://insurance.az.gov>

VESTING:

Arizona recognizes tenancy in common, joint tenancy, and community property. There is no tenancy by the entireties in Arizona. If property rights are held as joint-tenants and a spouse is deceased, an affidavit and a certified death certificate is required to be filed with security instrument (Ariz. Rev. Stat. § 33-431).

Arizona is a community property state. Arizona is a homestead state. Persons who reside within Arizona may hold as a homestead exempt from attachment, not exceeding \$150,000.00 in value, their interest in real property so long as they reside in the home (id. § 33-1101). The doctrines of dower and curtesy have been abolished. As a general practice, a non-titled spouse of a titleholder should execute a deed to waive interest or accept interest in real property.

A valid conveyance is by warranty deed, special warranty deed, quitclaim deed (id. § 33-402). An Affidavit of Property Value or exemption codes must be included with the deed (id. § 11-1133). The preferred customary security agreement is a trust deed.

DECEDENTS' ESTATES:

Property may be sold free of creditors' claims and probate of the will upon appointment of a personal representative (Record certified Letters Testamentary), if Letters Testamentary do not contain restrictions on representative's powers. See id. § 14-5605.

The authority of a fiduciary on executory contracts affecting the interest of a decedent in real property is established by the Letters Testamentary on the powers and duties of a personal representative.

For the administration of a foreign will, one should file a certified copy of foreign personal representative to give the same power over Arizona property as a domiciliary personal representative. See id. § 14-4201.

Arizona requires filing of Letters Testamentary of state of probate to give authority over Arizona property for out of state fiduciaries. Id. § 14-4204.

MORTGAGES, LIENS, AND FORECLOSURE:

Arizona is a lien theory state (id. § 33-729(B)). Judgment liens expire after five years but may be renewed by filing an affidavit of renewal (Ariz. Rev. Stat. § 12-1612) with the proper court. Builder warranties provided by statute Article 2.1.

After a property has been foreclosed and sold, there is a period of redemption of 30 days after the date of sale if the court determined the property was both abandoned and not used primarily for agricultural or grazing purposes (id. § 12-1282). The same applies to foreclosures of mortgages or other liens (id. § 12-1283).

To cancel a mortgage or lien of record, a deed of release and full reconveyance is required. If the lender fails to cancel a lien of record after the secured debt is paid in full, there is a \$1000 statutory penalty (Ariz. Rev. Stat. § 33-712).

Under Arizona law, a person must occupy property that is otherwise neglected for at least two years before he or she makes a right of possession adverse possession claim. The person must occupy the property publicly, which includes paying property taxes and acting as if he or she has the right to possess the property.

Contractors' Recovery Fund, Ariz. Rev. Stat. § 32:1131 et seq.; maximum of \$20,000 for residential property. See also Ariz. Rev. Stat. § 47-2A; Arizona has codified the Uniform Commercial Code and this provision relates to implied warranty of merchantability and fitness.

Statute of Limitations for Liens	
Judgments – AZ Superior Court	5 years (may be renewed) The following judgments do not expire: Criminal Restitution Orders, Child Support and Spousal Maintenance, Juvenile Supervision Fees, Jury Fees, Judgments in favor of the State of Arizona
Judgments – AZ Justice Court	Not a lien on real property until filed in Superior Court; Once filed and recorded, treat same as AZ Superior Court Judgments
Judgments – U.S. District Court (TM 263)	20 years if creditor is U.S.A or its instrumentality; May be renewed for 20 years ; Non-U.S.A. creditor, treat same as AZ Superior Court
Federal Tax Liens	10 years from date of assessment
AZ State Tax Liens	6 years from recording or stated date; Except if "stay" or agreement exists; See TM 439 for title practice
Homeowner Association Liens	3 years after full amount of assessment becomes due;
Mechanics Liens	Generally, 120 days after C of O; Foreclosure to be filed w/in 6 mos. of recording (exceptions apply); Lis Pendens recorded w/in 5 days of filing action
U.C.C. Financing Statements	5 years from date of filing; 5 year continuations must be filed in the 6 mos. before termination; 30 years if statement indicates security is manufactured home

For claims regarding deficiencies in construction and improvement to real property, there is a statute of limitations running 8 years, unless the defect was discovered on the 8th year, in which case the homeowner has an additional year to bring actions to recover damages. Ariz. Rev. Stat. § 12-552.

REAL ESTATE CLOSINGS:

Escrow agents who are title company employees usually conduct a residential closing. Then, escrow receives the contract from parties or their agents and the title commitment is ordered. Escrow requests payoffs, draws or receives documents, takes signatures, addresses commitment requirements, and completes the settlement statement. It then receives and disburses funds, and records documents (Arizona provides that companies may use their form closing protection letters pursuant Ariz. Rev. Stat. § 6-841.02). Escrow agents, lawyers, or real estate agents can prepare closing documents. The State Banking Department regulates escrow agents.

For commercial or industrial closings, the contract or escrow instructions are deposited. The title commitment is requested and distributed. The escrow agent draws standard documents supplied by attorneys. The conditions of escrow are performed, as in residential closings, funds are received, documents are recorded, and funds are disbursed.

Closing costs are usually split between the seller and buyer equally. The seller generally pays for the owner's title policy. It is highly uncommon to disburse a loan before recording. Escrow agents are licensed by the Department of Financial Institutions.

Closers may work from either contract or escrow instructions. The trend is moving toward using contract instructions (there has been a standard form promulgated by the realtor's association) with an Addendum containing escrow agents' specific instructions. Settlements are conducted in escrow. Funds are disbursed after recording. Escrow is considered closed at recordation and the resultant disbursement. Recordation is a primary factor.

Arizona has enacted a "good funds" law (id. § 6-843), effective August 22, 2002.

RECORDING REGULATIONS:

Arizona has a notice recording statute (id. § 33-411; id. § 33-412).

All instruments presented for recording must be in ten-point type font; contain a two-inch margin at the top of the page, and half-inch side and bottom margins.

For additional recording requirements, see id. § 33-411. For specific requirements of recording release documents, see id. § 33-707.

PROPERTY TAXES:

In Arizona, real property and personal property tax is due on October 1 for the first half, and on March 1 for the second half. Unpaid taxes become delinquent after November 1. Id. § 42-18052.

Property taxes are billed in September and are payable in two installments. The first installment is due on October 1 and delinquent after November 1 for tax bills over \$100. After 5:00pm on December 31, full year tax bills become delinquent. All tax bills under \$100 must be paid prior to that time. A lien on the property is filed on January 1 for all properties with delinquent taxes.

Pursuant to Ariz. Rev. Stat. § 42-18114, the county treasurer "sells" real estate tax liens. The lien expires ten years after the last day of the month in which the lien was acquired. The purchaser of a

delinquent property must commence an action to foreclose the right of redemption. *Id.* § 42-18127.

The Arizona Department of Revenue records liens for delinquent taxes. The lien is valid for six years. Under Ariz. Rev. Stat. § 42-1114 it can be extended by agreement or by a stay under state or federal law.

ARIZONA CALLOUTS

- Land titles are checked back to prior base or patent to ensure good title.
- Arizona recognizes tenancy in common, joint tenancy, and community property. There is no tenancy by the entirety in Arizona. If property rights are held as joint-tenants and a spouse is deceased, an affidavit and a certified death certificate is required to be filed with security instrument (Ariz. Rev. Stat. § 33-431).
- Arizona is a community property state.
- Arizona is a homestead state. Persons who reside within Arizona may hold as a homestead exempt from attachment, not exceeding \$150,000.00 in value, their interest in real property so long as they reside in the home (*id.* § 33-1101).
- The doctrines of dower and curtesy have been abolished.
- Arizona is a lien theory state.
- Escrow agents who are title company employees usually conduct a residential closing. Then, escrow receives the contract from parties or their agents and the title commitment is ordered. Escrow requests payoffs, draws or receives documents, takes signatures, addresses commitment requirements, and completes the settlement statement. It then receives and disburses funds, and records documents (Arizona provides that companies may use their form closing protection letters pursuant Ariz. Rev. Stat. § 6-841.02). Escrow agents, lawyers, or real estate agents can prepare closing documents. The State Banking Department regulates escrow agents.
- Arizona has enacted a “good funds” law (*id.* § 6-843), effective August 22, 2002.
- Arizona is a notice recording statute state (*id.* § 33-411).
- In Arizona, real property and personal property tax is due on October 1 for the first half, and on March 1 for the second half. Unpaid taxes become delinquent after November 1. *Id.* § 42-18052.

ARKANSAS

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back no less than thirty years or to the prior certification date on abstract or policy. Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in cases of reissue or a substitution loan.

Title insurance rates are not regulated. Ark. Code Ann. § 23-67-203. Title insurance rates do not include search and examination. Title insurance agents must be licensed abstractors or lawyers. Abstractors are required to be licensed by the State of Arkansas.

Certified copies of death certificates can be obtained from Vital Records, Department of Health, 4815 West Markham Street, Slot 44, Little Rock, Arkansas 72205 (501-661- 2336)

Records are maintained in the Office of the Circuit Clerk and Recorder's office of each county. Title examinations are traditionally conducted from abstracts prepared by licensed abstractors, but some searching is done directly from the public records.

The traditional standard for a complete title search begins with entry and patent and covers all records up to the present.

The Arkansas Bar Association has adopted Standards for Examination of Real Estate Titles as of 1995.

VESTING:

Arkansas recognizes tenancies in common, joint tenancies, and tenancies by the entirety. While community property is not recognized, the Uniform Disposition of Community Property Rights at Death Act was adopted. See Ark. Code Ann. § 28-12-101 et seq.

Husband and wife may own real estate jointly as tenants by the entirety or as joint tenants with right of survivorship.

Estates of tenancy by the entirety may be created by conveyance to both as husband and wife, or by conveyance from one to the other for the expressed purpose of creating such estates (Ark. Code Ann. § 18-12-608). Estates of tenancy by the entirety are severed by death or by direct conveyance from one spouse to the other. Conveyances made to two or more persons are construed as tenancies in common.

Arkansas recognizes dower and curtesy. A surviving spouse may claim a dower or curtesy and homestead right in property owned by a deceased spouse (id. § 28-11-301 et seq.).

Arkansas is not a community property state. Homestead property is exempt from certain liens, judgments, and sales. Property located in a city town, or village is limited to a single acre and \$2,500 in value. Property in a rural area is limited to 160 acres and \$2,500 in value. See Ark. Code Ann. § 16-66-210.

If vesting is held as joint tenants and a spouse is deceased, an Affidavit of Death and a certified copy of death certificate is required to be filed with security instrument.

Conveyance is made by warranty deed, quitclaim deed, and special warranty deed. A valid

conveyance must contain the names of the grantor(s) and grantee(s), legal description of the property, a valid signature, and an acknowledgment.

An Affidavit of Property Value or exemption codes must be filed with a warranty and grant deed.

DECEDENTS' ESTATES:

A personal representative must petition the Court for permission to sell real estate of the decedent, which was subject to an executory contract of sale (Ark. Code Ann. § 28-49-114).

The will of a non-resident decedent who owned real estate in Arkansas must be admitted to Probate in Arkansas in order to effectively pass title to such real estate (id. § 28-40-120).

Admission to Probate of the will of a non-resident decedent, as a muniment of title, is sufficient for title insurance purposes.

Arkansas imposes an estate tax. Ark. Code Ann. § 26-59-109.

MORTGAGES, LIENS, AND FORECLOSURE:

Arkansas is a lien theory state (Ark. Code Ann. § 18-40-102). Judgment liens are valid for ten years (Ark. Code Ann. § 16-65-117) and may be renewed. A seller may take back a purchase-money mortgage.

A release deed or marginal entry on the record reserving the lien may be used to cancel a mortgage or lien that has been satisfied in full. Ark. Code Ann. § 18-40-107.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile, and open for a period of seven years with color of title. Id. § 18-11-106.

Statute of Limitations for Liens	
Mortgages	5 years from date of maturity
Judgment Liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Arkansas Tax Liens	10 years
Federal Tax Liens	10 years ; after October 1984
Mechanics Liens	Lien affidavit must be filed within 120 days after materials furnished or work performed. All actions must be filed within 15 months of filing of the lien.
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Title companies, lawyers, and escrow companies may conduct real estate closings. Lawyers usually prepare closing documents. Closing costs are usually negotiable.

A power of attorney may be used for a closing, but must be recorded and show who authorized the particular act. The customary security agreement is deed of trust and mortgage.

RECORDING REGULATIONS:

Arkansas follows the race-notice recording statute. Generally, the first person to record holds title.

Documents must be recorded in the Office of the Circuit Clerk of the county where the land is situated in. The document must supply names of the grantor and grantee, address to which future tax statements should be mailed, and a general description of improvements on the land, if any. Furthermore, it must include a transfer tax affidavit with proper amount of revenue stamps affixed, and must state the name and address of the preparer.

PROPERTY TAXES:

Property taxes are levied, attached, and due between the first business day in March and October 15 inclusive in the year succeeding the year in which the levy is made. See Ark. Code Ann. § 26-35-501.

Arkansas allows installment payments for property taxes. There is a 10% penalty against all unpaid tax balances remaining after October 15.

ARKANSAS CALLOUTS

- All land titles are checked back thirty years or to the prior certification date on abstract or policy.
- Certified copies of death certificates can be obtained from Vital Records, Department of Health, 4815 West Markham Street, Slot 44, Little Rock, Arkansas 72205 (501-661- 2336)
- Conveyance is made by warranty deed, quitclaim deed, and special warranty deed.
- Arkansas recognizes tenancies in common, joint tenancies, and tenancies by the entirety. While community property is not recognized, the Uniform Disposition of Community Property Rights at Death Act was adopted. See Ark. Code Ann. § 28-12-101 et seq.
- A personal representative must petition the Court for permission to sell real estate of the decedent, which was subject to an executory contract of sale (Ark. Code Ann. § 28-49-114).
- Arkansas is a lien theory state.
- Arkansas is a race-notice statute state.
- Title companies, lawyers, and escrow companies may conduct real estate closings.
- Property taxes are levied, attached, and due between the first business day in March and October 15 inclusive in the year succeeding the year in which the levy is made. See Ark. Code Ann. § 26-35-501.

CALIFORNIA

TITLE SEARCHES AND EXAMINATIONS:

www.insurance.ca.gov

All land titles are checked back to a prior policy, federal patent, or otherwise as dictated by local practice.

Title examinations in California are generally conducted in the title company's office or a joint title plant facility. Title searches are seldom done directly from the public records in the County Recorder's office.

Title insurance and escrow rates charged by title companies are required to be filed with the Department of Insurance at least 30 days prior to their effective date (Cal. Ins. Code § 12401.1). If not disapproved prior to their effective dates, rates are deemed effective.

Rates for title insurance are "all inclusive." There is no separate charge for search and examination. California has a comprehensive scheme of regulation of title insurers and business of title insurance.

Recorded documents can be found at the County Recorder's Office or County Clerk/Recorder's Office where combined.

Prior policies and reports (called "starters") are frequently used as the basis for searching title records.

UCC financing statements must be filed with the office of the County Recorder where the land is located.

Company escrow officers are authorized to prepare deeds, notes, deeds of trust, assignments of deeds of trust, and subordination agreements pursuant to instructions of parties to the Company as escrow holder using Company supplied forms of such documents. Title officers and assistants are not authorized to prepare documents for customers. Escrow officers generally prepare the closing statements.

VESTING:

Tenancy in common is the default unless a joint tenancy or community property is specified. If property is conveyed to spouses, community property is presumed absent contrary intent.

California has a community property law. Except as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property (Cal. Fam. Code § 760). Upon the death of a spouse, one half of the community property belongs to the surviving spouse and the other half goes to the heirs or devisees of the deceased spouse unless the property was held as community property with right of survivorship. Community property with right of survivorship passes to the surviving spouse upon the death of the other spouse (Cal Civ Code § 682.1).

Spouses may hold property as joint tenants, as tenants in common, as community property, or as community property with right of survivorship. Both spouses must join in a conveyance of

community property notwithstanding how title is held. Married persons may transmute community property to separate property of either spouse or transmute separate property of either spouse to community property. Transmutation is simply the process of changing the character of marital property

from separate to communal or communal to separate. To be valid, a transmutation must be made in writing by an express declaration that is made, joined in, consented to, or accepted by the spouse whose interest is adversely affected. A transmutation of real property is not valid as against third parties without notice unless recorded. Cal. Fam. Code § 852.

Conveyance is usually by grant deed. The content requirements for conveyance instruments: grantor, grantee, legal description, acknowledgment, granting clause, document transfer tax declaration, return address, and assessor parcel number.

DECEDENTS' ESTATES:

Cal. Prob. Code §§ 6401, 6402 & 6402.5 govern intestate succession in California.

A personal representative appointed pursuant to the Independent Administration of Estates Act with Full Authority may sell property of the Estate other than to himself or his attorney without court order, provided notice is given as required by statute (Cal. Prob. Code §§ 10510 & 10511).

Property in California of a decedent dying while resident in another state is subject to ancillary administration in California (Cal. Prob. Code § 12500 et seq.).

California imposes an estate tax equal to the portion of the maximum allowable amount of the credit for state death taxes allowable under the applicable federal estate tax law, which is attributable to property, located in California (Cal. Rev. & Tax. Code § 13302).

MORTGAGES, LIENS, AND FORECLOSURE:

California is a title theory state. The lien for California estate tax ceases 10 years after the recording of a notice of state tax lien. It is possible to extend the lien by recording a new notice prior to the expiration of the initial notice. However, a bona fide purchaser or encumbrancer that acquires their interest prior to the recording of a Notice of Tax Lien takes title free of the lien (Cal. Gov't Code § 7170).

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	10 years
All state of California Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Liens	90 days
Estate Tax	10 years

REAL ESTATE CLOSINGS:

Title companies and/or independent escrow companies or lawyers on large transactions conduct real estate closings. Title insurance agencies are regulated by the Department of Insurance. Title companies and agencies handling escrows must be licensed by the Department of Insurance. Title insurance rates include search and examination fees. Title insurance rates are regulated by the Department of Insurance.

Documents can be prepared by a title company's escrow division, an independent escrow company, or a lawyer. Company escrow officers are authorized to prepare deeds, notes, deeds of trust, assignments of deeds of trust, and subordination agreements pursuant to instructions of parties to the company as escrow holder using company supplied forms of such documents. Title officers and assistants are not authorized to prepare documents for customers. Escrow officers generally prepare the closing statements.

Residential and commercial transactions are closed in escrow. Title companies handling escrows are required to disburse funds as prescribed by Cal. Ins. Code § 12413.1.

Power of attorney in a closing may be used in most situations. The customary security agreement is a deed of trust.

RECORDING REGULATIONS:

California is a race-notice state.

A valid recording must be of the type authorized to be recorded by statute, be legible and photographically reproducible, be in English or be accompanied by a certified translation, and be capable of being indexed. It must also contain the title of the document, contain original signatures, be acknowledged (with certain exceptions), state the name of the person requesting recording, and state the name and address of the person to whom the document is to be returned after recording. Lastly, it should have 1 1/2" side, top, and bottom margins, except that the top 2 1/2" of first page may only be used for recording information (the left 3 1/2" for the name of the person requesting recording and return address and the right 5" left blank for the recorders stamp) (Cal. Gov't Code § 27201 et seq.).

PROPERTY TAXES:

Ad valorem real property taxes are assessed on a fiscal year basis commencing July 1 through June 30. The first half of ad valorem real property taxes are due on November 1 and the second half on February 1.

The lien for ad valorem real property taxes attaches as of 12:01 a.m. on the 1st day of January, preceding the fiscal year for which such taxes are levied (Cal. Rev. & Tax. Code § 2192). The lien of ad valorem real property taxes ceases to exist 30 years after such taxes become a lien, unless otherwise removed (Cal. Rev. & Tax. Code § 2195).

CALIFORNIA CALLOUTS

- All land titles are checked back to a prior policy, federal patent, or otherwise as dictated by local practice.
- Title companies and/or independent escrow companies or lawyers on large transactions conduct real estate closings.
- Rates for title insurance are “all inclusive.” There is no separate charge for search and examination. California has a comprehensive scheme of regulation of title insurers and business of title insurance.
- Tenancy in common is the default unless a joint tenancy or community property is specified. If property is conveyed to spouses, community property is presumed absent contrary intent.
- California has a community property law. Except as otherwise provided by statute, all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state is community property (Cal. Fam. Code § 760). Upon the death of a spouse, one half of the community property belongs to the surviving spouse and the other half goes to the heirs or devisees of the deceased spouse unless the property was held as community property with right of survivorship. Community property with right of survivorship passes to the surviving spouse upon the death of the other spouse (Cal Civ Code § 682.1).
- Documents can be prepared by a title company’s escrow division, an independent escrow company, or a lawyer. Company escrow officers are authorized to prepare deeds, notes, deeds of trust, assignments of deeds of trust, and subordination agreements pursuant to instructions of parties to the company as escrow holder using company supplied forms of such documents. Title officers and assistants are not authorized to prepare documents for customers. Escrow officers generally prepare the closing statements.
- California is a title theory state.
- California is a race-notice state.
- Ad valorem real property taxes are assessed on a fiscal year basis commencing July 1 through June 30. The first half of ad valorem real property taxes are due on November 1 and the second half on February 1.

COLORADO

TITLE SEARCHES AND EXAMINATIONS:

Checking of land titles varies with usage of property (that is, whether residential subdivided, metes and bounds). Title examinations are conducted from a search of the company's title plant. Custom appears to dictate that a complete title search is one that commences with the original patent from the government.

Title insurance policies and endorsements are American Land Title Association forms. Title insurance rates do include search and examination. Special rates are not given.

Title insurance agents are regulated by the State Department of Insurance.

Recordings are performed in the office of the clerk and recorder in the county where the property is situated.

VESTING:

Colorado recognizes joint tenancies ("as joint tenants" is sufficient), and tenancies in common. The non-titled spouse of homestead property is not required to sign the security instrument. Tenancy in common is presumed in Colorado, unless joint tenancy is expressly stated in the deed.

Colorado is not a community property state. The interests of spouses are separate estates. In Colorado, you cannot hold real property in a tenancy by the entirety with your spouse. Colo. Rev. Stat. § 38-31-201

Marital estates, which can be held jointly by spouses, are created only by express agreement between the spouses. They must declare in the conveyance that the property is conveyed in joint tenancy. If this is not stated, the spouses as tenants will acquire the property in common.

Every homestead in the state of Colorado occupied as a home by the owner or his family, shall be exempt from execution and attachment arising from any debt, contract, or civil obligation not exceeding in value the sum of \$75,000, or, in the sum of \$105,000 if the home is occupied by an elderly or disabled owner, spouse of, or disabled dependent of an owner. Colo. Rev. Stat. § 38-41-201

Homesteaded property may be conveyed or encumbered by the owner of the property free and clear of all homestead rights, and no signature other than that of the owner shall be required. The owner of the property shall be determined without regard to the ownership of any homestead rights. Id. § 38-41-201.

Acceptable instruments for transferring ownership on real property include the general warranty deed, special warranty deed, bargain and sale deed, quit claim deed, fiduciary and official deeds, grant deed, and beneficiary deed.

DECEDENTS ESTATES:

Colo. Rev. Stat. § 15-12-714, which provides that a person who, in good faith, either assists a personal representative or deals with him for value, is protected as if the personal representative properly exercised his power, protects a purchaser of real property from improper exercise of power.

A person is not bound to see to the proper application of estate assets paid or delivered to a personal representative. For purposes of this section, any recorded instrument evidencing a transaction with a

personal representative on which a state documentary fee is noted, shall be prima facie evidence that such transaction was made for value.

Colorado has a current estate tax which applies to decedents dying after January 1, 1980 (Colo. Rev. Stat. § 39-23.5-101 et seq.). In general, this tax adds tip to the amount of the federal credit. However, unless the person required to file consents to a special lien because he has requested an extended time to pay the tax or to pay the tax in installments, no tax liens on real property are provided for Colorado estate taxes.

MORTGAGE, LIENS, AND FORECLOSURE:

Colorado is a lien theory state. Judgment liens are valid for six years, unless renewed. Colo. Rev. Stat. § 13-52-102.

A release is used to cancel mortgages and liens of record. When all indebtedness, whether absolute or contingent, secured by a lien on real property has been satisfied, unless the debtor requests in writing that the lien not be released, the creditor or holder of the indebtedness shall, within ninety days after the satisfaction of the indebtedness and receipt from the debtor of the reasonable costs of procuring and recording the release documents, record with the appropriate clerk and recorder the documents necessary to release or satisfy the lien of record (Colo. Rev. Stat. § 38-35-124).

Adverse-possession requires eighteen years of actual possession; and adverse, hostile, exclusive, and uninterrupted possession. See Colo. Rev. Stat. § 38-41-101.

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	6 years
All state of Colorado Tax Liens	Until paid
Federal Tax Liens	10 years
Mechanics Liens	6 months
Estate Tax	10 years
Financing Statement	5 years
Homeowners Association	6 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by title companies or lenders. Documents can be prepared by lawyers or real estate agents approved by the Real Estate Commission. Closing costs are usually divided equally between the parties.

It is permissible to use a power of attorney for the closing as long as it is recorded and the power is specific.

Title companies are allowed to prepare deeds, notes, security instruments, settlement statements, and HUD statements. Document preparation services are subject to the same prohibitions. Title insurance companies probably prepare most closing documents in Colorado, with document preparation

services and attorneys preparing the rest. Colo. Rev. Stat. § 38-30-113 sets forth the substantial form required in a deed for the conveyance of real property in Colorado.

Colo. Rev. Stat. § 38-30-117 sets forth the forms required to create an enforceable mortgage against real property in Colorado.

Deeds of trust are the most commonly used security documents in Colorado. The deed of trust should name the lender as beneficiary and the Public Trustee of the county in which the subject property is situated as trustee. Public Trustees conduct all judicial foreclosures in Colorado.

The Colorado Division of Insurance regulates the business of title insurance in its entirety. Colorado does not require any state license for persons conducting closings, escrows, or settlements.

Colo. Rev. Stat. § 38-35-125, the Colorado good funds or "Wet Settlement" statute. Title companies must have collected funds (usually wire transfers) before they can disburse. In Colorado, this issue is nonnegotiable. Failure to comply with this statute constitutes a deceptive trade practice actionable by the state attorney general or the county district attorney.

RECORDING REGULATIONS:

Colorado is a race-notice recording statute. See Colo. Rev. Stat. § 38-35-109.

The recording fee is payable to the clerk and recorder of the county in which the real property is situated for the recording of the instrument. As of May 1999, this fee is set for all counties in the State of Colorado as follows: \$10.00 for the first page of each document to be recorded \$5.00 for all subsequent pages of each document to be recorded. Colo. Rev. Stat. § 30-1-103.

A recording fee shall be computed at the rate of one cent for each one hundred dollars. No fee is required if there is no consideration or if the amount is \$500 or less. Colo. Rev. Stat. § 39-13-102.

Certain cities and towns levy a local real estate transfer tax. For example, the City of Aspen's has two real estate transfer taxes (RETT) that total 1.5% of the purchase price of a property. The amounts of these taxes vary from city to city.

PROPERTY TAXES:

Property taxes are levied on January 1 and are due, if paid in full, by April 30. Property taxes can be paid in two installments the first of which is due February 28, and the second half due June 15. There is no interest rate on installment tax payments unless the taxes are delinquent.

Real estate taxes are paid in arrears in Colorado, typically in two installments. The last day of February and June 15 installment deadlines are applicable every year.

COLORADO CALLOUTS

- Title examinations are conducted from a search of the company's title plant.
- Colorado recognizes joint tenancies ("as joint tenants" is sufficient), and tenancies in common.
- The non-titled spouse of homestead property is not required to sign the security instrument. Tenancy in common is presumed in Colorado, unless joint tenancy is expressly stated in the deed.
- Colorado is not a community property state. The interests of spouses are separate estates. In Colorado, you cannot hold real property in a tenancy by the entirety with your spouse. Colo. Rev. Stat. § 38-31-201
- Title companies are allowed to prepare deeds, notes, security instruments, settlement statements, and HUD statements. Document preparation services are subject to the same prohibitions. Title insurance companies probably prepare most closing documents in Colorado, with document preparation services and attorneys preparing the rest. Colo. Rev. Stat. § 38-30-113 sets forth the substantial form required in a deed for the conveyance of real property in Colorado.
- Colorado is a lien theory state.
- Colorado is a race-notice recording statute.
- Property taxes are levied on January 1 and are due, if paid in full, by April 30. Property taxes can be paid in two installments the first of which is due February 28, and the second half due June 15. There is no interest rate on installment tax payments unless the taxes are delinquent.

CONNECTICUT

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back forty years to ensure a marketable title. See Conn. Gen. Stat. § 47-33f. The standard for a complete title search is forty years to a "root deed."

Title insurance policies and endorsements are American Land Title Association forms.

Title insurance rates do not include search and examination. Special rates are given in cases of reissue lenders, bulk rates, and governmental and charitable organizations. Under Connecticut law, a title insurance agent must be a practicing attorney, unless he or she held a valid title insurance license on or before June 12, 1984. Title insurance rates must be filed with the Insurance Commissioner. Connecticut is a filed rate state and rates must therefore be filed and approved prior to use. The law prohibits an insurer from paying a title insurance agent more than 60% of the gross policy premium. It also prohibits an insurer from increasing a title agent's commission directly or indirectly by providing anything of value, including services, to an agent for less than the actual cost or fair market value (CGS § 38a-415(b)).

Non resident title agencies cannot compliantly conduct title operations in Connecticut. Mortgage companies utilizing the services of a national title agency must be assured that the business model is compliant with Connecticut law.

Certified copies of death certificates should be requested from the municipal departments of health in the city of where the decedent died or last resided.

Land record documents are recorded in the offices of the City Clerk or Town Clerk for each of Connecticut's 169 cities and towns.

Connecticut has adopted a Marketable Title Act (id. § 47-33a et seq.). Its provisions are incorporated into the Connecticut Standards of Title of the Connecticut Bar Association.

VESTING:

Connecticut recognizes tenancies in common and joint tenancies. The non-titled spouse is not required to join in the execution of the security instrument.

For a statutory interpretation of conveyances made to two or more persons, see id. § 47-14a; requiring the conveyance to contain language to create survivorship. In other words, a conveyance made to two or more persons is construed as a tenancy in common, unless specified as a joint tenancy with the right of survivorship.

Any real property interest is capable of being held in joint tenancy with rights of survivorship. Estates in joint tenancy are not limited in availability to married persons; any two or more persons can hold title in survivorship. Connecticut's Statutes generally control estates in joint tenancy, Conn. Gen. Stat. §§ 47-14a through 47-14k. Conn. Gen. Stat. § 47-14a was amended in 1999 to provide that estates in joint tenancy can be held in unequal shares.

Connecticut is not a community property state. Dower and curtesy have been abolished. Connecticut law does provide for a homestead exemption which protects the equity of the debtor's home that is an eligible homestead property. It is the value of the home less any mortgage balance. The homestead of the exemptioner to the value of \$75,000, or, in the case of a money judgment arising out of services provided at a hospital, to the value of \$125,000. Conn. Gen. Stat. § 52-352b.

Divorce or marriage dissolution automatically converts a joint tenancy into a tenancy in common, unless the dissolution of marriage decree expressly provides otherwise. See Conn. Gen. Stat. § 47-14g.

A conveyance is made by warranty deed or quitclaim deed. A valid conveyance requires signatures of the parties, two witnesses, and an acknowledgment.

DECEDENTS' ESTATES:

In the event that a decedent's net estate exceeds the exemption amount for the various classes of beneficiaries (see Conn. Gen. Stat. § 12-344) a succession tax is payable and the State of Connecticut acquires a lien against the property of the decedent to secure that tax. The lien is perfected without any recording, and arises as of the moment of death. The lien is indefinite in duration, there is no limitation period with respect to the right of the State of Connecticut to enforce the lien.

MORTGAGE, LIENS, AND FORECLOSURE:

Although it can be said that Connecticut is a lien theory state since the property acts as security for the underlying loan, it is still widely considered a title theory state as the operative mortgage document has the same legal effect as a deed of trust. Judgment liens expire after twenty years, unless renewed. There is no special statutory protection for sellers who finance part of the sale price for the buyer.

A release of mortgage is used to cancel mortgages and liens of record. If the lender fails to cancel lien of record after secured debt is paid in full, the penalties are as follows: After sixty (60) days notice, the greater of \$200.00 per week to a maximum of \$5,000.00 or actual damages, plus costs and attorney's fees. See Conn. Gen. Stat. § 49-8.

A claim for adverse possession requires fifteen years of exclusive, continuous, hostile, and open possession. See Conn. Gen. Stat. § 52-575.

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of 180 days to complete the process taking into account all legal requirements. There is no redemption period after sale.

See Conn. Gen. Stat. § 47-116 et seq. for new home warranties.

There is a two-year statute of limitation on lawyers' certificate of title, after defect is discovered, but not more than 10 years from date of delivery of certificate. See Conn. Gen. Stat. § 52-584b.

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	20 years
All state of Connecticut Tax Liens	No limit
Federal Tax Liens	10 years
Mechanics Liens	1 year
Estate Tax	10 years
Financing Statement	5 years
Homeowners Association	3 years

REAL ESTATE CLOSINGS:

Lawyers conduct real estate closings and prepare the closing documents.

Closing costs are negotiable between buyer and seller. A power of attorney in a closing is permitted. The customary security agreement is a mortgage.

Connecticut recognizes the common law forms of deeds, provided they contain words of grant and are executed with the requisite statutory formality of two witnesses and an acknowledgment. Additionally, certain statutory forms of deed also exist. See Conn. Gen. Stat. § 47-36c.

There are no licensing requirements in Connecticut for persons conducting closings, escrows or settlements, other than the obvious licensing requirements for attorneys admitted to practice in the state.

Connecticut case law still holds that the act of title evaluation, as distinguished from title searching, constitutes the practice of law.

Attorneys, in their capacity as title agents, will evaluate the title and issue a title policy based on the results of the title search.

Conn. Gen. Stat. § 36a-758 requires that payment of loan proceeds be by certified, bank treasurer's or cashier's check, or by wire transfer.

RECORDING REGULATIONS:

Connecticut is a notice recording jurisdiction, upon delivery to the grantee, a conveyance (which includes a mortgage) is effective provided that the conveyance is recorded within a reasonable period of time following the delivery.

All conveyances of land shall be: (1) in writing; (2) if the grantor is a natural person, subscribed, with or without a seal, by the grantor with his own hand or with his mark with his name annexed to it or by his attorney authorized for that purpose by a power executed, acknowledged, and witnessed in the manner provided for conveyances or, if the grantor is a corporation, limited liability company or partnership, subscribed by a duly authorized person; (3) acknowledged by the grantor, his attorney, or such duly authorized person to be his free act and deed; and (4) attested to by two witnesses. Conn. Gen. Stat. § 47-5

PROPERTY TAXES:

Real property taxes are levied by towns annually and are due on July 1 of each year. Real property taxes may be paid annually, semi-annually, or quarterly, depending on the town. There is an interest rate of 1.5% per month for taxes paid in installment plans. Delinquent property taxes incur interest at a rate of 1.5% per month (18% per year), if they are received or postmarked after the 30-day grace period.

Generally, taxes are assessed in each town in October and become a lien against the property immediately upon assessment. Taxes are generally payable in July of the following year, although most towns provide for a two-payment system with the second payment due in January. Other towns provide for quarterly payments, and still others have a single payment system.

In addition to municipal real estate taxes, various towns imposed a variety of additional taxes, such as fire district taxes. Water and sewer districts have assessment rights as well as user charges.

CONNECTICUT CALLOUTS

- All land titles are checked back 40 years.
- Connecticut recognizes tenancies in common and joint tenancies.
- Although it can be said that Connecticut is a lien theory state since the property acts as security for the underlying loan, it is still widely considered a title theory state as the operative mortgage document has the same legal effect as a deed of trust. Judgment liens expire after twenty years, unless renewed. There is no special statutory protection for sellers who finance part of the sale price for the buyer. Connecticut is a notice recording state.
- Real property taxes are levied by towns annually and are due on July 1 of each year.
- Under Connecticut law, a title insurance agent must be a practicing attorney, unless he or she held a valid title insurance license on or before June 12, 1984.
- Non resident title agencies cannot compliantly conduct title operations in Connecticut. Mortgage companies utilizing the services of a national title agency must be assured that the business model is compliant with Connecticut law.
- Lawyers conduct real estate closings and prepare the closing documents.
- Closing costs are negotiable between buyer and seller. A power of attorney in a closing is permitted. The customary security agreement is a mortgage.
- Connecticut is a notice recording jurisdiction, upon delivery to the grantee, a conveyance (which includes a mortgage) is effective provided that the conveyance is recorded within a reasonable period of time following the delivery.

DELAWARE

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years as required by title companies. Depending on the circumstances, some titles may be searched back further.

Title insurance policies and endorsements are American Land Title Association forms.

Special rates are given in cases of reissue, substitution, and construction loans. The insurance rates do not include search and examination. The Insurance Commissioner regulates title insurance agents. Title insurance rates are regulated by the Insurance Department, but rates vary by insurer. Title insurers are required to file with the Insurance Commissioner its schedule of rates and charges for title insurance. See Del. Code Ann. tit. 18, § 2504. However, be aware that new statutory language pertaining to the "Making of Rates" go into effect August 1, 2019. See Del. Code Ann. tit. 18, § 2503.

Name and address of state agency from which certified copies of death certificates are secured:
Delaware Office of Vital Statistics, P.O. Box 637, Dover, Delaware 19903 (302)-995-8586.

The custom in Delaware is to examine record title to property going back 60 years from the present date. The search should begin with the last conveyance for value more than 60 years before the present date. Records are kept at the Recorder of Deeds for each county.

The Seminole Delaware Supreme Court decision in 2000 (see *In re Mid-Atl. Settlement Servs.*, 755 A.2d 389 (Del. 2000)) mandates that an attorney licensed to practice law in Delaware is required to be involved in a direct or supervisory capacity in drafting or reviewing all documents affecting transfers of title to Delaware real property or where Delaware real property is used as security for the repayment of a debt or the performance of an obligation, with the exception of home equity loans where no evaluation of exceptions to title is required.

VESTING:

Delaware recognizes joint tenancies (requires express language), tenancies in common, and tenancies by the entirety.

The non-titled spouse of real property is not required to sign the security instrument unless they held title prior to December 25, 1974. Certain lenders may require spouses to sign the security instrument regardless of the exception. Homestead laws are not applicable. Dower and curtesy have been abolished.

The statutory interpretation of conveyances made to two or more persons are tenancies in common, unless specific language is used to create a "joint tenancy with rights of survivorship."

Conveyance is by special warranty deed. Content requirements for conveyance instruments:

competent grantor, grantee, consideration, the words "grant and convey," adequate description of land, signature and seal of grantor, and acknowledged before recording.

DECEDENTS' ESTATES:

The State of Delaware repealed its Estate Tax effective for estates of decedents dying after December 31, 2017. (2017 Del. ALS 52, 81 Del. Laws 52, 2017 Del. HB 16)

In performing the functions of the office, the Register of Wills of each county shall act only as a Clerk of the Court of Chancery.(59 Del. Laws, c. 384, § 1; 70 Del Laws, c. 186, § 1.

The Register of Wills shall have power to take acknowledgements, administer oaths, issue notices, certify and authenticate copies of instruments, documents and records of the Court and perform the usual functions of the Register's office.(b) If a matter is one with respect to which no notice is required by statute or rule of court to be given to any person then, except as otherwise provided in this title or by rule of court, the Register of Wills may hear and determine it and make all orders, adjudgments and decrees in connection therewith which the Court of Chancery could make, subject to being set aside or modified by the Court at any time within 30 days thereafter; and if not so set aside or modified such orders, adjudgments and decrees shall have the same effect as if made by the Court.

Delaware has abolished by statute the concepts of dower and curtesy (Del. Code Ann. tit. 12, § 511). Therefore, an individual who is married but holds sole title to the property can convey the property and give good title without the joinder of the spouse. The same is for the signing of mortgages.

MORTGAGE, LIENS, AND FORECLOSURE:

Delaware is a lien theory state. Judgment liens expire after ten years, unless they are renewed. See Del. Code Ann. tit. 10, § 4711.

In the event of a purchase-money mortgage, priority is given to the seller financing all or part of the sale of real estate if the mortgage deed is recorded within five days of the deed conveying the property. Del. Code Ann. tit. 25, § 2108

A mortgage satisfaction piece is used to cancel a mortgage or lien of record that has been satisfied. If a lender fails to cancel lien of record after secured debt is paid in full, the statutory penalty is not to exceed \$1,000. See Del. Code Ann. tit. 25, § 2111(e). Adverse-possession requirements: see Del. Code Ann. tit. 10, § 7901; possession must be exclusive, adverse to rights of all others, and continued for at least twenty years.

Foreclosure is usually by judicial means. The most common procedure is known as scire facias. In English law, a writ of scire facias (Latin, meaning literally "make known") was a writ founded upon some judicial record directing the sheriff to make the record known to a specified party, and requiring the defendant to show cause why the party bringing the writ should not be able to cite that record in his own interest, or why, in the case of letters patent and grants, the patent or grant should not be annulled and vacated. In the United States, the writ has been abolished under federal law but may still be available in some state legal systems.

A lis pendens is a recorded document that provides public notice that the property is being foreclosed upon. The defendant has twenty (20) days to respond. There is no redemption period after a foreclosure sale, but there is a 60-day redemption period (Del. Code Ann. tit. 9, § 8729) for a tax sale.

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	10 years
All state of Delaware Tax Liens	20 years
Federal Tax Liens	10 years
Mechanics Liens	1 year
Estate Tax	10 years from date of death

REAL ESTATE CLOSINGS:

Delaware is an attorney state. A Delaware attorney is required to conduct the closing of a sales or refinances of Delaware property. Aside from the Board of Professional Responsibility governing the conduct of lawyers, Delaware does not have a state agency that regulates closings.

It is common in Delaware to disburse the loan proceeds prior to the recording of the security instruments. Pursuant to Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct, a lawyer shall not disburse funds from his or escrow account unless the funds deposited are "good funds."

A power of attorney may be used in a closing. The buyer usually pays closing costs but the parties may agree to split costs. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Delaware is a race recording state. The first person to record the deed has priority over any later recordings. All documents must be under seal. There are additional requirements for New Castle and Sussex counties.

For requirements for acknowledgments, see Del. Code Ann. tit. 25, §109, et seq. Deeds may be acknowledged in any county, by any party to the deed, in the Superior Court, or before any judge of the state, or notary public, or before two justices of the peace for the same county, or before the Judge of the Municipal Court of the City of Wilmington, or before the mayor of Wilmington. Any attorney admitted to the Delaware State Bar can perform a notarial act. Del. Code Ann. tit. 25, § 132 is a curative section for improper acknowledgements. The only language presently required to acknowledge a deed properly is as follows: "sealed and delivered in the presence of _____." The deed must contain the seal of the person(s) acknowledging the signatures of the parties.

The Deed should be in the form prescribed by Del. Code Ann. tit. 25, § 121. The statutory form of deed requires the following: names of the grantor and grantee, recital of the consideration, words of conveyance, "grants and conveys," description of premises, recital of title, signature and seal of grantor, date, and delivery to grantee. It also must be acknowledged before it can be recorded and the deed should have the address of the grantee noted thereon. Each requires that the tax parcel number for the property be set forth in the upper right hand corner of the deed, along with the name and address of the person who prepared the deed, and the name and address of the person to which the deed is to be returned after recording.

The mortgage should be in the form prescribed by Del. Code Ann. tit. 25, § 2101. The statutory form of mortgages requires the following: names of mortgagor and mortgagee, recital of the principal amount, description of premises, signature and seal of mortgagor, and date acknowledged. Each also requires that the tax parcel number for the property be set forth in the upper right hand corner of the mortgage, along with the name and address of the person who prepared the mortgage, and the name and address of the person to which the mortgage is to be returned after recording.

PROPERTY TAXES:

Property taxes are levied at various times, depending on the county, and are due on September 30th. Property taxes cannot be paid in installments, absent a special arrangement. Interest rates on installment tax payments are determined by agreement if special arrangements are made.

DELAWARE CALLOUTS

- All land titles are checked back 60 years as required by title companies.
- The Seminole Delaware Supreme Court decision in 2000 (see *In re Mid-Atl. Settlement Servs.*, 755 A.2d 389 (Del. 2000)) mandates that an attorney licensed to practice law in Delaware is required to be involved in a direct or supervisory capacity in drafting or reviewing all documents affecting transfers of title to Delaware real property or where Delaware real property is used as security for the repayment of a debt or the performance of an obligation, with the exception of home equity loans where no evaluation of exceptions to title is required.
- Delaware recognizes joint tenancies (requires express language), tenancies in common, and tenancies by the entirety.
- The non-titled spouse of real property is not required to sign the security instrument unless they held title prior to December 25, 1974. Certain lenders may require spouses to sign the security instrument regardless of the exception. Homestead laws are not applicable. Dower and curtesy have been abolished.
- The State of Delaware repealed its Estate Tax effective for estates of decedents dying after December 31, 2017. (2017 Del. ALS 52, 81 Del. Laws 52, 2017 Del. HB 16)
- It is common in Delaware to disburse the loan proceeds prior to the recording of the security instruments. Pursuant to Rule 1.15 of the Delaware Lawyers' Rules of Professional Conduct, a lawyer shall not disburse funds from his or escrow account unless the funds deposited are "good funds."
- Delaware is a lien theory state.
- Delaware is a race-notice state.

DISTRICT OF COLUMBIA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years. A title examination would involve either a full 60-year search of the above-referenced records or a modified title search from a "starter" or "statement of early title" from a title plant. The District of Columbia does not have accepted title standards.

Until 2011, DC title insurance premiums and settlement fees were negotiable. Title underwriting companies published rates and title agents negotiated with consumers. The revised laws that took effect in 2011 regulated and licensed title insurance underwriters, agents, rates and affected continuing education requirements. Large real estate brokerage firms with affiliated business arrangements with title companies benefitted from the change, which resulted in increased costs to home buyers. These arrangements are typically between real estate brokers, mortgage lenders and/or title insurance companies.

The District of Columbia requires title insurers to file rates. A title insurer or title insurance producer may charge any rates regulated by the District of Columbia; provided, that in accordance with the premium rate schedule and manual filed by the title insurer with and approved by the Commissioner in accordance with applicable law and rules governing rate filings. D.C. Code § 31-5031.17.

On July 2, 2010, as part of the Fiscal Year 2011 Budget Support Act of 2010, the District of Columbia enacted the Title Insurance Insurer Act of 2010 and the Title Insurance Producer Act of 2010. The Acts subject title insurers and title insurance agents operating in the District of Columbia to comprehensive regulation by the D.C. Department of Insurance, Securities and Banking, effective January 1, 2011.

In the District of Columbia, a title examination would include a review of the records of the following offices: Office of the Recorder of Deeds (land records), Office of the Register of Wills, Office of the Surveyor, Superior Court of the District of Columbia Civil Division, Superior Court of the District of Columbia Family Division-Domestic Relations Branch, United States Bankruptcy Court for the District of Columbia, and the United States District Court for the District of Columbia.

Name and address of state agency from which certified copies of death certificates are secured: Department of Health, Vital Records Division, 899 North Capitol Street, NE - First Floor, Washington, DC 20002.

VESTING:

The District of Columbia recognizes tenancies in common, joint tenancies, and tenancies by the entirety. D.C. Code § 42-516. The non-titled spouse is not required to sign the security instrument.

The District of Columbia is not a community property jurisdiction. In the District of Columbia, the homestead exemption applies to real property, including your home or condominium, or your interest or your dependents' interest in a co-op in which you or your dependents reside. See D.C. Code § 15-501.

When a conveyance is made to two or more persons a tenancy in common is construed, unless expressly declared to be a joint tenancy. D.C. Code § 42-516. A conveyance to husband and wife as joint tenants generally creates a tenancy by the entireties.

The District of Columbia follows the common law doctrine of the merger of contract into deed.

The District of Columbia abolished dower for all transfers on or subsequent to April 27, 2001, Id. § 19-102.

It is important to note that a final divorce decree dissolves a tenancy by the entirety and converts it into a tenancy in common.

Acceptable instruments for transferring ownership on real property: Warranty Deed, Limited Warranty Deed, Special Warranty Deed, or Quit Claim Deed. Any deed must include a mail tax statement to address, which should be the grantee name, and address.

DECEDENTS' ESTATES:

D.C. Code § 47-3701(14), as modified by the Fiscal Year 2018 Budget Support Act of 2017 (D.C. Council Bill 22-244), § 7173(b) changes D.C. Code § 47-3701(14) to read in part: "'Zero bracket amount' means ... (C) For a decedent whose death occurs after December 31, 2017, an amount equal to the basic exclusion amount as prescribed in section 2010(c)(3)(A) of the Internal Revenue Code and any cost-of-living adjustments made pursuant to section 2010(c)(3)(B) of the Internal Revenue Code."

MORTGAGES, LIENS, AND FORECLOSURE:

The District of Columbia is a title theory jurisdiction. Judgment liens expire after twelve years, unless renewed by order of revival for another twelve years. (D.C. Code § 15-101).

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of six weeks. There is no redemption period after sale.

The estates of dower and curtesy were abolished. D.C. Code § 19-102 The lien of a mortgage or deed of trust upon real property, given by the purchaser to secure the payment of the whole or any part of the purchase-money, is superior to that of a previous judgment or decree against the purchaser. Id. § 15-104.

A deed of release is used to cancel mortgages and liens of record. Currently, if a lender fails to cancel a mortgage or lien of record that has been satisfied, a penalty in the amount of \$50 per day shall be incurred by the lender for all actual and consequential damages caused by the holder's failure to timely deliver or record the full or partial release. D.C. Code § 42-818.02.

Adverse-possession requires the common law elements of open, notorious, adverse, continuous, exclusive, with claim of right for fifteen years. D.C. Code § 16-1113.

The statute of limitations for the recovery of damages for an injury to real or personal property is 3 years. D.C. Code § 12-301.

There are no builder warranties provided by statute except for the implied warranties, under the Uniform Commercial Code of merchantability and fitness for particular purpose (D.C. Code §§ 28:2-314, 28:2-315).

Limitations applicable to actions arising from deficiencies in construction, or improvements to real property: standard limitations set forth in D.C. Code § 12-301. Specific limitation periods pertain to actions arising out of death or injury caused by defective or unsafe improvements to real property or caused by exposure to asbestos. (See D.C. Code § 12-310; § 12-311).

Statute of Limitations for Liens	
Judgment Liens in favor of the United States	20 years
All other judgment liens	12 years
All District of Columbia Tax Liens	10 years
Federal Tax Liens	10 years
Estate Tax	10 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by title insurance companies, lawyers, agents, and settlement companies. Documents can be prepared by lawyers, title insurance companies, lawyer-agents, and settlement companies. Closing costs are customarily paid by the purchaser in addition to the 1.1 % of consideration or fair market value for residential property transfers less than \$400,000 and 1.45% of consideration or fair market value on the entire amount, if transfer is greater than \$400,000. (Note: For residential properties under \$400,000, the rate is 1.1% of consideration or fair market value.)

A power of attorney must be recorded before or with the deed being recorded. If recorded before the deed, the deed must include the instrument number and recording date reference in the land records of the District of Columbia. Special statutory language is required, on the top of the front page, in bold and capital letters. The power of attorney may be revoked by recording a revocation. The person signing with a power of attorney shall sign and acknowledge the deed as attorney-in-fact. D.C. Code § 42-101. The power of attorney must include a legal description of the property. The customary security agreement is a deed of trust.

The law office or settlement company conducting the settlement/closing generally prepares the following documents: title insurance binder, title insurance policy, power of attorney, CD, Deed, recording forms required by the District of Columbia, affidavits required by title insurer, 1099 certification, and escrow agreements (if necessary).

DC Code Section 42-601 provides for a number of statutory deed forms and standard deed of trust and mortgage forms. Although mortgages can be used in the District of Columbia, deeds of trust are the prevalent security document.

The District of Columbia does not license/regulate persons involved in real estate settlements/closings.

The District of Columbia has a "Wet Settlement" Act, which is contained in D.C. Code § 42-2401, et seq. The Act requires that lenders deliver loan funds to a settlement agent in the form of cash: wired funds, certified checks, checks issued by the District of Columbia, cashier's checks, or checks drawn on a financial institution, the accounts of which are insured by an agency of the federal government, a state, or the District of Columbia government, and are located within the Fifth Federal Reserve District. In addition, the Act requires that settlement agents record all deeds, deeds of trust, mortgages, or other documents required to be recorded and disburse the settlement proceeds within one business day of settlement (id. § 42-2405).

RECORDING REGULATIONS:

The District of Columbia has adopted a “race-notice” recording statute.

Special recording requirements for all instruments to be recorded: must be legible and contain legal description, except those recorded in chattel records. “Slip” or stapled acknowledgments are unacceptable.

Generally, deeds conveying title to real property are subject to both recordation tax and transfer tax. Both taxes are computed as a percentage of the total consideration for the deed. (D.C. Code § 42-1103 (recordation tax); D.C. Code § 47-903 (transfer tax)). In addition to recordation and transfer taxes, there is a “per document” surcharge and a “per page” filing fee charged by the Recorder of Deeds.

D.C. Code Section 47-1431(a) requires that all documents by which legal title to real property or an estate for life or a lease for a term of at least 30 years is transferred, or by which a security interest in real property is conveyed, be recorded with the Recorder of Deeds within 30 days of its execution. DC Code Section 47-1433(c) further provides for up to \$250 in penalties for failure to record within the 30-day period.

The Recorder of Deeds shall not accept for recordation any instrument unless the instrument is executed and acknowledged according to law by the person granting or contracting his or her right, title, or interest in the real property. D.C. Code § 42-407. It must also contain the name of Grantor(s) and Grantee(s), a description of the property conveyed (lot/square number and tax lot number), and a description of the interest or estate conveyed. It must be executed, acknowledged, and under seal.

“Every deed of trust or substitution of trustee offered for recordation shall have the name and address of each party to the deed of trust or substitution of trustee typed or printed directly above or below the signature of the party. Deeds of trust or substitution of trustee submitted without both the name and address of each person will not be recorded.”

A Real Property Recordation Tax Form FP 7/C must be completed in its entirety and submitted with instruments that convey an interest in real property (i.e., deeds, deeds of trusts, easements, leases). The Form must be executed by the grantor(s) and grantee(s) and their signatures must be notarized (Note: District of Columbia Form FP 7A is an addendum to the Form FP 7/C which is used in the event that all required signatures cannot be included on the Form FP 7/C.).

Nonetheless, pursuant to D.C. Code § 42-602, the deed of a corporation shall be executed and acknowledged either (1) by an attorney-in-fact appointed for that purpose or (2) without appointment, by its president or a vice-president if also attested by the secretary or assistant secretary of the corporation.

PROPERTY TAXES:

The District of Columbia real estate property tax year is from October 1 to September 30. The taxes are paid in semi-annual installments. The first half tax bill covers the period of October 1 (of the previous calendar year) through March 31. The bill is issued in the beginning of March and is due on March 31. The second half tax bill covers the period from April 1 to September 30. This bill is issued in August and is due by September 15.

Installment tax payments are only permissible upon specific negotiation with the Department of Finance and Revenue. If payments are late, there is a 10 percent penalty, and interest accrues at 1 percent per month.

DISTRICT OF COLUMBIA CALLOUTS

- All land titles are checked back 60 years.
- Until 2011, DC title insurance premiums and settlement fees were negotiable. Title underwriting companies published rates and title agents negotiated with consumers. The revised laws that took effect in 2011 regulated and licensed title insurance underwriters, agents, rates and affected continuing education requirements. Large real estate brokerage firms with affiliated business arrangements with title companies benefitted from the change, which resulted in increased costs to home buyers. These arrangements are typically between real estate brokers, mortgage lenders and/or title insurance companies.
- The District of Columbia recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- The District of Columbia is not a community property jurisdiction.
- The District of Columbia is a title theory jurisdiction.
- Real estate closings may be conducted by title insurance companies, lawyers, agents, and settlement companies. Documents can be prepared by lawyers, title insurance companies, lawyer-agents, and settlement companies. Closing costs are customarily paid by the purchaser.
- The District of Columbia has adopted a “race-notice” recording statute.
- Real estate closings may be conducted by title insurance companies, lawyers, agents, and settlement companies.
- The District of Columbia has a “Wet Settlement” Act, which is contained in D.C. Code § 42-2401, et seq. The Act requires that lenders deliver loan funds to a settlement agent in the form of cash: wired funds, certified checks, checks issued by the District of Columbia, cashier’s checks, or checks drawn on a financial institution.

FLORIDA

TITLE SEARCHES AND EXAMINATION:

All land titles are checked back to the patent out of the United States government, or deed out of the trustees of the Internal Improvement Trust Fund of the state of Florida, to verify that the sovereign has conveyed and to check for easements of record that may be in use. Documents within the chain of title are examined from a root of title of record for at least thirty years to the present date. This is based upon Fla. Stat. Ann. § 712, et seq. (Marketable Record Title Act). General Florida standard would be to search title back to a sufficient "root of title" which is at least 30 years old. The Real Property, Probate, and trust Law Section of the Florida Bar Association has issued a set of Uniform Title Standards.

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents are regulated in that non-lawyer agents must be licensed and agencies must be licensed.

The Insurance Commissioner regulates title insurance rates. Title insurance premiums in Florida are promulgated by the Office of Treasurer, Department of Insurance.

Public land records are recorded in the County Office of the Clerk of Circuit Court wherein the property is located. Most searches are performed online through the County websites.

Certified copies of death certificates should be requested from the Department of Health; each county has its own office.

VESTING:

Conveyances are made by statutory warranty deeds or quit claim deeds (Fla. Stat. Ann. § 689.02).

Florida requires two witnesses, who are not parties to the instrument and certificate of acknowledgment, before a notary public, who is not a party for a conveyance, to be valid.

The statutory interpretation of conveyances made to two or more persons is a tenancy by the entirety (id. § 689.11). For unusual characteristics in the creation of tenants by the entirety, tenancy in common, and joint tenants with right of survivorship, the instrument creating the estate must expressly provide for the right of survivorship. Fla. Stat. § 689.15.

Florida's interpretation of the doctrine of merger looks to the intent of the parties.

The non-titled spouse must sign and have their signatures acknowledged and notarized on the recorded mortgage or other security instrument. This is a requirement so that any potential homestead interest may be foreclosed in the event it becomes necessary (see Fla. Const. art. X, § 4).

Documentary stamp tax is due on all documents that convey an interest in Florida real property. The tax must be paid at the time of recording with the Clerks of Court or County Recordors if the document is recorded prior to the 20th day of the month following the month the document is delivered.

Florida abolished dower and curtesy. Homestead property constitutes the place where the owner and his family reside and it protected by the Florida Constitution and Florida Statutes from forced sale and levy. Homestead rights pertain to primary place of residence only and not for investment (1-4 lot or condo) properties in Florida. The non-title spouse does not need to sign the security instrument for an investment property; however the following verbiage needs to be on the front page of the document:

"Mortgagor represents and warrants that the property herein does not constitute the homestead, domicile or principal residence of the mortgagor nor is it contiguous thereto." However, there is always the question that the property may later become the homestead, therefore the non-titled spouse will be required to join in the conveyance.

Where the property in question is considered a homestead property, both spouses must sign the mortgage even if only one spouse is on title. A separate waiver is insufficient.

DECEDENTS' ESTATES:

Federal and Florida estate taxes automatically become liens on a decedent's property at the date of death. All unpaid estate tax liens shall run for 12 years. When insuring title after the death of a record titleholder, the agent must assume that estate tax liens have attached to the real property. If the department is satisfied that no tax liability exists, it may issue a waiver releasing any or all property of such estate from the imposed lien. Fla. Stat. § 198.22.

While otherwise exempt from debts and claims, homestead property as well as non-homestead property, must be cleared of estate tax liens. For tax purposes, a decedent's gross estate is defined as the value at death of all his property, real and personal, tangible and intangible, wherever situated. Therefore, although homestead is not part of the probate estate, it is part of the estate for tax purposes.

MORTGAGES, LIENS, AND FORECLOSURE:

Florida is a lien theory state. Judgment liens expire after ten years, unless renewed by re-recording certified copy of judgment prior to expiration (Fla. Stat. Ann. § 55.10). In no event will a lien exceed twenty years (id. § 55.081). Judgments recorded between July 1, 1987, and June 30, 1994, expire after seven years from the date of the recording.

For sellers who finance part of the sale price for the buyer, there is a common law priority of a purchase-money mortgage over pre-existing judgments and liens against the buyer. (*Bancflorida v. Hayward*, 689 So. 2d 1052 (Fla. 1997))

A satisfaction of mortgage/release of mortgage may be used to cancel a mortgage or lien that has been satisfied. Lender must cancel lien of record within 45 days after secured debt is paid in full, unless the mortgage is an open-end mortgage (Fla. Stat. Ann. § 701.03.)

Adverse-possession requires seven years of continued possession, held adversely with claim founded on a written instrument as being a conveyance of the property or on a decree or judgment (Fla. Stat. Ann. § 95.16) or possessor has paid all property taxes within one year after entering into possession. (Fla. Stat. Ann. § 95.18)

Limitations applicable to actions arising from deficiencies in construction, or improvements to real property: within four years from the latest of (1) date the certificate of occupancy is issued, (2) the date of actual possession by owner, (3) date of abandonment of construction, if not completed, or (4) date of completion or termination of the contract between the contractor and his or her employer. Actions founded on latent construction defects must be brought within four years of discovery of the defect and no later than fifteen years after the latest of dates specified in 1-4 above (Fla. Stat. ch. 95.11 (1991)).

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of three months. There is a redemption period after sale, which ends when the certificate of sale is issued (Fla. Stat. § 45.0315).

Statute of Limitations for Liens	
Mortgages	5 years from maturity date provided the mortgagor is no longer on title. This is applied on a case by case basis and underwriting must be contacted.
Judgments	A judgment, order, or decree becomes a lien on real property in any county when a certified copy of it is recorded in the official records or judgment lien record of the county. The judgment, order, or decree shall be a lien in that county for an initial period of 10 years from the date of the recording. The lien may be extended for an additional period of 10 years by re-recording a certified copy of the judgment, order, or decree prior to the expiration of the lien and by simultaneously recording an affidavit with the current address of the person who has a lien as a result of the judgment, order, or decree. The extension shall be effective from the date the certified copy of the judgment, order, or decree is recorded. In no event shall the lien upon real property created by this section be extended beyond 20 years from the date of the entry of such judgment, order, or decree. This applies to civil judgments ONLY pursuant to Fla. Stat. Ann. § 55.10. All other judgments (i.e. judgments issued by courts of other states or federal courts located in other states (these are "Foreign Judgments," the lien of which are created pursuant to id. §. 55.501—55.509), judgments issued by courts of foreign countries (these are "Out of Country Foreign Judgments," the lien of which are created pursuant to id. § 55.601—607), "Public Defender Liens" (these are judgments for unpaid attorney's fees, the lien of which are created pursuant to Fla. Stat. Ann. § 938.29), "Restitution Liens" (these are judgments ordering restitution to a victim pursuant to id. § 938.29), "Support Liens" (these are certificates reflecting a delinquency in the payment of a support award and are defined as having the effect of a judgment, but the lien of which are created pursuant to Fla. Stat. Ann. § 61.14, or "Welfare Liens" (which are for fees assessed by the Department of Children and Family Services or the Department of Health, the lien of which are created pursuant to Fla. Stat. Ann. § 402.33, and other judgments) need not be certified and need to be addressed if they are less than 20 years old .
Federal Tax Liens	10 years
Mechanics Liens	Lien is valid for 1 year from the date filed unless Notice of Contest is filed, reducing period to 60 days from recordation of Notice (713.22 Fla. Stat.). The filing of a lawsuit either during the 1-year period if no contest filed, or with the 60-day contest period will preserve the lien.
Estate Tax	12 years
Financing Statement	5 years or when released with Satisfaction of Mortgage or a Termination Statement. There may be a UCC-3 Statement of Change extending the period of the original UCC-1 financing Statement.
Notice of Commencement	1 year unless specifically stated. There are many N/C's filed with an expiration date of more than one year.

REAL ESTATE CLOSINGS:

Real estate closings are conducted by attorneys, title insurers, and title agents.

The Butler rebate in Florida refers to the Supreme Court decision in the 2000 case of Chicago Title Insurance Co. v. Butler, 2000 WL 1535354 (Fla. 2000). By way of legal history, in 1992 the Florida Legislature enacted the following laws:

- Require the Department of Insurance to establish rates to be charged for title insurance "risk premium" (i.e., an amount intended to cover the risk assumed by the insurer and agent in connection with issuance of a title policy, as distinguished from charges for related services such as closing and settlement costs).
- To guarantee that 30% of the adopted "risk premium" would be paid to the title insurance underwriter. To require that at least actual cost must be charged for related title services in addition to the adopted risk premium.
- To prohibit the giving of "unlawful rebates" by a title insurer or title agent.

Butler argued that the anti-rebate law deprived him of his constitutionally protected right to negotiate a title agent's commission. The Supreme Court agreed with him.

On 10/1/07 The Department of Financial Services Memorandum 12-2007 clarified House Bill 111 as follows:

State of Florida House Bill 111 modified section 626.9541, F.S. to allow title insurance agents and agencies to return any portion of the agent's share of the premium or any other agent charge or fee to the person responsible for paying the related premium, charge or fee.

The Florida Statutes still prohibit a licensee from paying for the referral of title insurance business.

Documents can be prepared by lawyers admitted to practice law in Florida and title insurers or title agents (including laypersons) when prepared as a necessary incident to issuance of a title insurance policy. Florida Bar v. McPhee, 195 So. 2d 552 (Fla. 1967); Cooperman v. West Coast Title Company, 75 So. 2d 818 (Fla. 1954); Florida Bar v. Coastal Bonded Title Company, 323 So.2d 562 (Fla. 1975). A title agent may prepare simple and routine documents such as contracts for sale, deeds, mortgages, and notes, which are necessary to fulfill conditions set forth in title insurance commitments which will result in the issuance of title insurance policies.

In Florida, attorneys may conduct residential real estate closings, but in addition thereto, a title underwriter direct office or lay title agent may also conduct residential real estate closings so long as a title insurance policy is issued. Collected funds are required at settlement. See Fla. Admin. Code ch. 4-186.

A Florida escrow account is required to conduct escrow closings (Fla. Stat. § 626.8473(3)). The person handling the closing needs to determine if a reissue rate can be used. The monthly reconciliations must be submitted to the underwriter. Closing costs are paid according to trade customs.

The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Florida has a notice recording statute. See Fla. Stat. Ann. § 695.01. The preparer must be identified in the instrument. A blank space of at least three inches must be left on the top of the first page for the recorder stamps.

Requirements for Recording - Fla. Stat. Ann. § 695.26(1)(e) directs the Clerks of the Circuit Court not to accept for recordation instruments affecting title to real property unless there is a 3-inch x 3-inch blank space at the top right-hand corner of the first page and a 1-inch x 3-inch blank space at the top right-hand corner of each subsequent page.

PROPERTY TAXES:

Real estate taxes are levied by the County wherein the property is located. They are due on November 1 of each year, and become delinquent if not paid by April 1 of the following year. Property taxes must be paid in full by April 1. Installment options are not available.

FLORIDA CALLOUTS

- All land titles are checked back to the patent out of the United States government, or deed out of the trustees of the Internal Improvement Trust Fund of the state of Florida, to verify that the sovereign has conveyed and to check for easements of record that may be in use.
- Florida recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- Lenders must cancel lien of record within 45 days after secured debt is paid in full, unless the mortgage is an open-end mortgage (Fla. Stat. Ann. § 701.03)
- Real estate closings are conducted by attorneys, title insurers, and title agents.
- Florida is a lien theory state. Judgment liens expire after ten years, unless renewed by re-recording certified copy of judgment prior to expiration (Fla. Stat. Ann. § 55.10). In no event will a lien exceed twenty years (*id.* § 55.081). Judgments recorded between July 1, 1987, and June 30, 1994, expire after seven years from the date of the recording.
- The Butler rebate in Florida refers to the Supreme Court decision in the 2000 case of *Chicago Title Insurance Co. v. Butler*, 2000 WL 1535354 (Fla. 2000).
- Florida has a notice recording statute.
- Real estate taxes are levied by the County wherein the property is located. They are due on November 1 of each year, and become delinquent if not paid by April 1 of the following year. Property taxes must be paid in full by April 1. Installment options are not available.

GEORGIA

TITLE SEARCH AND EXAMINATIONS:

All land titles are checked back fifty years, per title standards of the state bar. Lawyers under agency contracts issue title insurance policies and endorsements.

Special rates are given in cases of commercial transactions. Title insurance rates do not include search and examination. Title insurance agents and rates are not regulated.

Georgia does not have a rate-filing requirement but forms must be filed with the Insurance

Commissioner for review and approval. Forms are deemed approved if the Commissioner has not sent a denial within 30 days of filing for approval.

Public land records are recorded in the Office of the Clerk of the Superior Court of the county in which the property is located (Ga. Code Ann. § 44-2-1). The general standard is to search the prior fifty years to the previous warranty deed or other acceptable vesting deed. Most title examinations, however, begin with a title policy or from a prior examination on the same property found in the title plant or records of the examining attorney or firm.

Certified copies of death certificates can be obtained from: State Office of Vital Records, 1680 Phoenix Blvd., Suite 100, Atlanta, GA 30349.

VESTING:

Georgia recognizes tenancies in common and estates in joint tenancies. The statutory interpretation of conveyances made to two or more persons is tenants in common. Husband and wife may hold title independently of each other, as tenants in common or as joint tenants with right of survivorship. Tenancy by the entirety is not recognized in Georgia, and the non-titled spouse is not required to sign the security instrument.

Conveyance is by general warranty deed, quitclaim deed, limited warranty deed or a transfer tax declaration form. The conveyance instruments must be in accordance with O.C.G.A. § 44-5-30.

When several estates in the same land vest in the same person, the lesser estate is merged in the greater. O.C.G.A. § 44-6-2.

DECEDENTS' ESTATES:

As of July 1, 2014, the State of Georgia eliminated the estate tax. However, any taxes levied, including penalties and interests are still owed for any civil action related to any violation of law committed prior to July 1, 2014. See O.C.G.A. § 48-12-1.

State tax liens must be filed within seven years of the assessment date of the tax liability if the assessment was issued before February 21, 2018. The Department has five years to file the lien if the assessment was issued on or after February 21, 2018. Once the Department files a lien, the Department has ten years from the date the lien was filed to collect the liability. This ten year period may be extended for specific reasons outlined in Georgia Code including but not limited to the taxpayer filing bankruptcy or entering into an Installment Payment Agreement with the Department. A tax lien may not be renewed.

MORTGAGES, LIENS, AND FORECLOSURE:

Georgia is a title theory state: a deed to secure debt is “an absolute conveyance...and shall not be held to be a mortgage” (O.C.G.A. § 44-14-60). Judgment liens expire after seven years, unless renewed by refilling on general execution docket.

Georgia provides statutory protection for sellers who finance part of the sale price for the buyer because purchase-money deeds have priority over existing judgments recorded against the buyer. O.C.G.A. § 44-14-321 .

To cancel mortgages and liens of record, the original security deed with cancellation signed on its face, or quitclaim deed with appropriate recital to release, must be filed.

If a lender fails to cancel a lien of record after secured debt is paid in full, state statute provides that one must cancel within sixty days of payoff. If not, they are liable for a \$500.00 fine; Statute effective July 1, 1999. It allows attorneys or officers of certain financial institutions to record affidavit of payment (with documentation attached), directing clerk to cancel lien of record; See O.C.G.A. § 44-14-3 (c.1) .

For adverse-possession (otherwise known as “title by prescription” in Georgia) requirements see Ga. Code Ann. §§ 44-5-160, 44-5-161.

Foreclosure is usually done by non-judicial means. The time for the foreclosure process is a minimum of four weeks, with the advertisement sale on the first Tuesday of each month. There is no redemption period after sale. O.C.G.A. §§ 44-14-162, 44-14-162.2.

Statute of Limitations for Liens	
Mortgages	20 years from maturity date or, if none, 20 years from date of Mortgages
Judgment Liens in Favor of United States	20 years
All other judgment liens	7 years
Federal Tax Liens	10 years (prior to 10/84 – 6 years)
Mechanics Liens	1 Year* from date the claim became due unless suit is filed. *Effective with Security Deeds dated 4/19/94 and subsequent, period is seven (7) years
Estate Tax	10 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Title companies/agents are allowed to prepare papers, including deeds, security instruments, and notes. Georgia uses a security deed, sometimes referred to as a deed to secure debt. The security deed is neither a mortgage nor a deed of trust, but is an instrument unique to Georgia. It conveys the title to the land to the grantee to secure the indebtedness of the grantor. The purchaser is generally responsible for closing costs.

Real estate closings, or conveyances, constitute the practice of law, and as the practice of law, are regulated by the judiciary under the State Supreme Court. Attorneys who are licensed to practice law in the State of Georgia may conduct closings. See O.C.G.A. § 44-14-13. The use of a power of attorney in a closing is acceptable, if the grants are specific and the document is executed in recordable form.

The customary security agreement is a deed to secure debt. There is no statutory form of security instrument, but the deed should state that it is given to secure a debt (O.C.G.A. § 44-14-60). Other requirements are that the deed must contain the name of the grantor and grantee, sufficient words of conveyance, a valid description of the property, proper execution and attestation and delivery. The deed should also authorize public foreclosure and contain provisions for a power of sale in event of default, a statement that the grantor will cancel the deed or reconvey the property upon payment of the debt, and provisions stating the rights of the parties to the transaction. It must also contain the address of the grantee (O.C.G.A. § 44-14-63).

RECORDING REGULATIONS:

Georgia is a "race-notice" state.

There are charges for recording deeds and mortgages, which are set by state statute. In order to record a warranty deed or quitclaim deed, a real estate transfer tax form must be presented to the clerk at the time of filing with the deed (O.C.G.A. § 48-6-4). In addition to recording charges there is an Intangible Recording Tax (O.C.G.A. § 48-6-60 et. Seq.). The tax is at the rate of \$1.50 for each \$500.00 or fraction thereof of the face amount of the note. There is a maximum tax of \$25,000.00. The tax is only for documents securing long-term notes that fall due more than three years from the date of the document.

If the mortgage is a refinance, the intangible mortgage tax is calculated by taking the new loan amount minus the unpaid principal balance of the previous mortgage. The exemption applies only when the parties to the first loan and the parties to the new loan are identical and there has been no assignment or transfer of the original loan. There is no signature requirement; it is simply additional language to be included with the new mortgage.

All intangible recording tax due on the previous long-term note has been paid. This loan has never been transferred or assigned. "The unpaid principal cannot include any interest, prepayment charges, closing cost," etc.

Instruments being recorded must have a witness signature and acknowledged by a notary, with notary seal affixed. Deeds and liens must have 3" margins at the top. The name and address of person to whom deed is to be returned after recording must appear at the top of the deed (also applies to warranty deed and other deeds). In addition, deeds recorded in Georgia must have a three-inch blank margin at the top of the first page of the document and must contain two witnesses - one of whom must be a notary with his seal affixed, or if one of the two witnesses is not a notary, then there must be an acknowledgement by a notary attached to the deed. There must also be a name and address of a natural person printed at the top of the first page of the document stating to whom the document is to be returned to after recording. The name may be on the left, center, or right part of the page, but must be at the top.

In order for the tax commissioner to calculate the intangible tax, the security deed must show the final maturity date of the debt.

PROPERTY TAXES:

Property taxes are levied on January 1 and become due in accordance with each county's policy. Property taxes may be paid in two installments upon the approval of the county. There is a 12% interest rate on installment tax payments.

Ad valorem taxes billing dates and due dates vary from county to county and municipality to municipality. Generally, they are billed in late summer (July-August) and due in two installments in early fall. The installments are usually due on the first and the fifteenth of the second month following the billing. The second installment is usually due approximately two months later.

GEORGIA CALLOUTS

- All land titles are checked back fifty years, per title standards of the state bar. Lawyers under agency contracts issue title insurance policies and endorsements.
- Georgia recognizes tenancies in common and estates in joint tenancies. The statutory interpretation of conveyances made to two or more persons is tenants in common. Husband and wife may hold title independently of each other, as tenants in common or as joint tenants with right of survivorship. Tenancy by the entirety is not recognized in Georgia, and the non-titled spouse is not required to sign the security instrument.
- As of July 1, 2014, the State of Georgia eliminated the estate tax. However, any taxes levied, including penalties and interests are still owed for any civil action related to any violation of law committed prior to July 1, 2014. See O.C.G.A. § 48-12-1.
- Title companies/agents are permitted to prepare closing papers, including deeds, security instruments, and notes.
- Georgia is a title theory state: a deed to secure debt is "an absolute conveyance ... and shall not be held to be a mortgage" (O.C.G.A. § 44-14-60).
- Georgia is a "race-notice" state.
- If a lender fails to cancel a lien of record after secured debt is paid in full, state statute provides that one must cancel within sixty days of payoff. If not, they are liable for a \$500.00 fine; Statute effective July 1, 1999. It allows attorneys or officers of certain financial institutions to record affidavit of payment (with documentation attached), directing clerk to cancel lien of record; See O.C.G.A. § 44-14-3 (c.1)
- Instruments being recorded must have a witness signature and acknowledged by a notary, with notary seal affixed. Deeds and liens must have 3" margins at the top. The name and address of person to whom deed is to be returned after recording must appear at the top of the deed (also applies to warranty deed and other deeds). In addition, deeds recorded in Georgia must have a three-inch blank margin at the top of the first page of the document and must contain two witnesses - one of whom must be a notary with his seal affixed, or if one of the two witnesses is not a notary, then there must be an acknowledgement by a notary attached to the deed. There must also be a name and address of a natural person printed at the top of the first page of the document stating to whom the document is to be returned to after recording. The name may be on the left, center, or right part of the page, but must be at the top.

HAWAII

TITLE SEARCHES AND EXAMINATIONS:

Title searches are generally based on a complete search back to patent. If previous title insurance has been written, the prior policy will be "start." Searches go back to the original land grant if a starter is not available. Title examinations are conducted using title plants and searches in the Bureau of Conveyances.

Title insurance rates do not need to be filed. Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents are regulated by the State of Hawaii Insurance Division. Title insurance rates are published and filed with the State of Hawaii. Title insurance rates do include search and examination. Special rates are given in various cases.

HRS § 431:20-121 requires the filing of policy and endorsement forms, which is effective 30 days from filing unless the Insurance Commissioner disapproves the filing within such 30-day period.

VESTING:

Hawaii recognizes tenancies in common, joint tenancies, tenancies by the entirety, tenancies in severalty, and reciprocal beneficiary tenancies.

A husband and wife may jointly own property as tenants by the entirety, joint tenants, or tenants in common. The rights are created by a deed that manifests the intent to create this particular estate (HRS § 509-2). A creditor of only one spouse may not attach property held in tenancy by the entirety. The non-titled spouse is required to sign the security instrument if the property is located on Hawaiian Homelands. Hawaii is not a community property state.

Conveyance is by warranty deed, quitclaim deed, deed, and assignment of lease. A transfer form is required for conveyances and mortgage modifications.

A valid conveyance requires the following: names and addresses of the grantor and the grantee, consideration, a legal description of the property, and specific words of grant. Conveyances made to two or more persons are construed as tenancies in common. Upon delivery and acceptance of the deed, the provisions of the underlying intent for conveyance are merged into the deed and thereby become extinguished and unenforceable.

Hawaii generally accepts all out-of-state acknowledgments, provided they conform to the statutory requirements of the state or county in which acknowledgment is taken.

All minerals are owned by the state of Hawaii.

DECEDENTS' ESTATES:

of the sale from the court (HRS § 560:3-715; § 531-29). Ancillary administration is required for out-of-state probates (HRS § 560:4-101 et seq.).

An estate tax in the amount of the federal credit is imposed under HRS §236D-3. An unpaid estate tax is a lien on the gross estate of the decedent for ten years from the date of death (HRS §236D-11(b)).

MORTGAGES, LIENS, AND FORECLOSURE:

Hawaii is a lien theory state, which means that a transfer of an interest in real property to secure the performance of an act creates a lien only; it does not pass title (HRS §-506-1(a)).

For adverse-possession requirements, see HRS § 657-31.5 ; twenty years limited to five or fewer acres; the person claiming adverse possession must have asserted no similar claim, in good faith, within the past twenty years, unless that claim was made before November 7, 1978.

A release of mortgage or satisfaction of mortgage is used to cancel a mortgage liens of record.

Builder warranties provided by statute: see HRS § 444-26; owners or lessees of private residences, including condominiums and cooperatives, may recover up to \$12,500.00 from the state-run "Contractor's Recovery Fund." Damages are limited to actions occurring from additions and improvements.

There is a two-year statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property (Id. § 657-8). This cause of action does not apply to owners and surveyors.

Foreclosure is usually by judicial means; non-judicial foreclosures are increasing in popularity. See HRS § 667 et seq. regarding the minimum time for the foreclosure process. There is no redemption period after sale.

Statute of Limitations for Liens	
Judgment Liens in Favor of United States	20 years
Judgments for Hawaii State Courts	10 years; 6 years if judgment
Hawaii Tax Liens	15 years
Mechanics Liens	45 days after the date of completion

REAL ESTATE CLOSINGS:

A closing is usually conducted by an escrow company or a title company. Escrow companies must be licensed by the Financial Institutions Division of the Department of Commerce and Consumer Affairs.

HRS § 449-16 provides that an escrow may not disburse funds until funds have been received and final settlement of the deposit has occurred.

Attorneys prepare conveyance and loan documents used in real estate transactions. Title and escrow companies prepare escrow instructions and closing statements. Escrow companies are prohibited by law from preparing any other transactional documents. Closing costs are usually split between the buyer and seller, or as set forth in the contract. The use of a power of attorney in a closing is permitted. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

The system of recording is under a race-notice act (HRS § 502-83), which means that a conveyance or encumbrance of real estate is void as against any subsequent purchaser, lessee, or mortgagee, in good faith and for a valuable consideration, not having actual notice, whose interest is first duly recorded.

Hawaii has a dual recording system. Documents affecting real property can be recorded in the Land Court System, the Regular System, or both depending on which system was originally used for the property.

Hawaii Administrative Rules Relating to Conveyances (HAR § 13-16-22) sets forth recording fees for both the Regular System and the Land Court. The fees are based on the number of pages, with an additional fee for issuing a new Transfer Certificate of Title in the Land Court.

In addition, HRS §247-2 imposes a conveyance tax computed as a percentage of the consideration for the transfer. A conveyance tax certificate must be printed on yellow paper and an exemption from conveyance tax must be printed on green paper. HRS § 431P-16(b) imposes a mortgage recording fee computed as a percentage of the principal amount of the debt secured by the mortgage.

For a valid recording, the recording instrument must contain an acknowledgment, the original signature of the person executing the document, and the first page must identify the names and addresses of the parties. Interlineations, erasures, and changes must be initialed by the notary. The top three and one-half inches of space of the first page shall be reserved for recording information for the Land Court on the left half of such space, and for the Regular System on the right half of such space. The following one-inch of space shall be reserved for information showing to whom the document should be returned to. The spacing should conform to the following: one and one-half inch from the left margin and not exceeding three and one-half inches per line. In addition, the first page shall identify and include all grantors, names, and addresses of the grantees or other person claiming under the instrument, the type of document, and the tax map key number. Each page of the instrument shall be a single-sided sheet of written text on pages measuring 8.5 by 11 inches (HRS §502-31, Regular; HRS § 501-108, Land Court).

For registration in Land Court, the marital status of all parties must be stated, the full name of the spouse must be stated if a party is married, and the instrument must contain a reference to the current Transfer Certificate of Title affected by the instrument (HRS § 501-105 and § 501-108).

PROPERTY TAXES:

Hawaii real property taxes are based on the county (Hawaii, Honolulu, Kauai, Maui) assessed values using the cost and market approach. The 1st installment payment of property taxes is due on August 20 and is for the tax period from July 1 to December 31. The 2nd installment payment due on February 20 is for the tax period from January 1 to June 30.

HAWAII CALLOUTS

- Title searches are generally based on a complete search back to patent.
- Hawaii recognizes tenancies in common, joint tenancies, tenancies by the entirety, tenancies in severalty, and reciprocal beneficiary tenancies.
- Conveyance is by warranty deed, quitclaim deed, deed, and assignment of lease. A transfer form is required for conveyances and mortgage modifications.
- In order to sell real property of the estate, the personal representative must obtain an order of confirmation of the sale from the court (HRS § 560:3-715; § 531-29)
- A closing is usually conducted by an escrow company or a title company. Escrow companies must be licensed by the Financial Institutions Division of the Department of Commerce and Consumer Affairs.
- HRS § 449-16 provides that an escrow may not disburse funds until funds have been received and final settlement of the deposit has occurred.
- A closing is usually conducted by an escrow company or a title company.
- Hawaii has a dual recording system. Documents affecting real property can be recorded in the Land Court System, the Regular System, or both depending on which system was originally used for the property.
- Hawaii is a “lien theory” state.
- The system of recording is under a race-notice act.

IDAHO

TITLE SEARCHES AND EXAMINATION:

All land titles are checked back to the United States or state patent, because the patent is the initial conveyance from the sovereign, conveying all its rights in the lands with the exclusion of certain mineral or easement rights, and generally initiates the chain of title.

Deeds, mortgages, and other instruments are recorded at the County Recorder's office where the property is located (Idaho Code § 55-808). Title policies can only be issued by title entities that own and maintain complete sets of tract indexes, or abstract records from the inception of title from the United States (Idaho Code § 41-2705).

Idaho requires that title insurance rates be filed with accompanying justification with the Department of Insurance by title insurers or by a title insurance rating organization. Forms must be filed with the Department of Insurance, along with a certification that they comply with Idaho law. Id. § 41-2705.

Title insurance policies and endorsements are filed and approved by the Department of Insurance before use. Title insurance rates do include search and examination. Title insurance agents are regulated by the Department of Insurance. Title insurance rates are regulated by the Department of Insurance.

Certified copies of death certificates should be requested from Vital Statistics, 450 W. State, Boise, Idaho 83702.

VESTING:

Idaho recognizes tenancies in common, joint tenancies, and tenancies in partnership. Idaho is a community property state. All property acquired by either or both spouses after marriage (other than by gift, devise, or descent) is presumed to be community property. This presumption is so strong that it may be practically impossible for a husband and wife to acquire jointly owned property in any other form of co-ownership. Curtesy and dower were abolished in Idaho (Idaho Code § 32-914).

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. Mineral deposits in lands belonging to the state are reserved from sale (Idaho Code § 47-701).

Conveyance is by warranty deed, grant deed, or quitclaim deed. A valid conveyance requires names of grantor and grantee, description of the land conveyed, words of conveyance, and grantor's signature. A conveyance made to two or more persons is construed as a community property to husband and wife (Idaho Code § 32-906), otherwise it is a tenancy in common (Idaho Code § 55-104). Conveyance documents must include grantor, grantee, legal descriptions, word of conveyance, and grantor's signature. Property conveyed by one spouse to the other spouse is presumed to be the separate property of the grantee (Idaho Code § 32-906).

The non-titled spouse must sign the security instrument regardless if he/she holds title. A husband and wife each have the right to manage and control community property, but neither may convey or encumber community real estate unless the other joins in the execution and acknowledgment of the deed or encumbrance (Idaho Code 32-912).

A homestead cannot be conveyed or encumbered without the execution and acknowledgment of both spouses, whether the property is community property or separate property (Idaho Code § 55-1007). A separate waiver is insufficient.

DECEDENTS' ESTATES:

Idaho imposes an estate tax equal to the federal credit (the maximum amount of the credit for state death taxes allowed by Section 2011 of the United States internal revenue code of 1986) on the transfer of the taxable estate of every resident. Idaho Code § 14-403.

For nonresidents, the amount of the estate tax is computed by multiplying the federal credit by a fraction; the numerator of which is the value of the property located in Idaho, and the denominator of which is the value of the decedent's gross estate (Idaho Code § 14-403).

The estate tax becomes a lien on the decedent's estate from the time of death of the decedent until paid (Idaho Code § 14-409).

MORTGAGES, LIENS, AND FORECLOSURE:

Idaho is a lien theory state; however, distinction has largely been eliminated. Judgment liens expire after ten years, unless renewed before expiration of a ten-year period. See Idaho Code §§ 10-1110, 10-1111.

Sellers who finance part of the sale price for the buyer get a vendor's lien. See Idaho Code § 45-801.

A satisfaction or release of mortgage is used to cancel a lien or mortgage that has been satisfied in full. If a lender fails to cancel lien of record after secured debt is paid in full: see Idaho Code §§ 45-1514, 45-915; \$100.00 and damages.

A claim for adverse possession requires that the property be protected by substantial enclosure in addition to it being improved or cultivated. It must be shown that the land has been occupied continuously for twenty years and all taxes paid. Idaho Code § 5-210.

The statute of limitations for actions arising from deficiencies in construction, or improvements to real property, is five years for written contracts (see Idaho Code § 5-216) and 4 years for oral contracts (see Idaho Code § 5-217).

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of 120 days. There is no redemption period after sale. Trust deeds can be foreclosed judicially or, more commonly, non-judicially pursuant to the advertisement and sale procedure set out in Idaho Code § 45-1506 and following sections.

Statute of Limitations for Liens	
Judgment Liens in Favor of United States	20 years
All other judgment liens	10 years
All State of Idaho Tax Liens	5 years
Federal Tax Liens	10 years
Mechanics Liens	6 months
Estate Tax	10 years
Financing Statement	5 years unless renewed
Homeowners Association	1 year

REAL ESTATE CLOSINGS:

Title companies typically conduct closings on residential and commercial properties. Documents can be prepared by lawyers, with some documents relating to real property transactions being prepared by title companies. Closing costs are usually divided between the buyer and seller. When closing transactions, title companies typically prepare closing instructions, statements, and related documents in addition to completing standard forms of deeds, deeds of trust, and notes.

The Department of Insurance for the State of Idaho regulates closings and escrows handled by title insurers and title insurance agents. Idaho requires escrow agencies to be licensed by the Idaho Department of Finance. Idaho Code § 30-903. There is an exception to licensing requirement for having title insurance agents having a valid license as a title insurance agent, issued by the Idaho Department of Insurance (Idaho Code § 30-905(3)).

A power of attorney may be used for a closing as long as it is recorded pursuant to Idaho Code § 55-806. By state regulation, no disbursement of funds or delivery of documents may occur until the escrow account contains collected funds.

RECORDING REGULATIONS:

Idaho is a race-notice jurisdiction.

Deeds, mortgages, trust deeds, and releasing documents must contain a proper certificate of acknowledgment to be entitled for recordation in Idaho. The form must be as prescribed by Idaho statute, unless the instrument is executed and acknowledged in another state or foreign country - in which case the acknowledgement form will be sufficient (Idaho Code Ann. § 55-805).

PROPERTY TAXES:

Real estate taxes are due and payable in full on or before December 20 of the year in which the taxes are levied. Property taxes are levied on a calendar year and are due on the fourth Monday in November. They may be paid in two installments; the first half is due on or before December 20, with a grace period extending to June 20, when the second half is due. Idaho Code § 63-903.

Once levied, the taxes become a first and prior lien on the real property assessed therefore and can only be discharged by payment or cancellation. (Idaho Code § 63-206).

IDAHO CALLOUTS

- All land titles are checked back to the United States or state patent, because the patent is the initial conveyance from the sovereign, conveying all its rights in the lands with the exclusion of certain mineral or easement rights, and generally initiates the chain of title.
- Deeds, mortgages, and other instruments are recorded at the County Recorder's office where the property is located (Idaho Code § 55-808). Title policies can only be issued by title entities that own and maintain complete sets of tract indexes, or abstract records from the inception of title from the United States (Idaho Code § 41-2705).
- Idaho requires that title insurance rates be filed with accompanying justification with the Department of Insurance by title insurers or by a title insurance rating organization. Forms must be filed with the Department of Insurance, along with a certification that they comply with Idaho law. Id. § 41-2705.
- The non-titled spouse must sign the security instrument regardless if he/she holds title. A husband and wife each have the right to manage and control community property, but neither may convey or encumber community real estate unless the other joins in the execution and acknowledgment of the deed or encumbrance (Idaho Code 32-912).
- Idaho recognizes tenancies in common, joint tenancies, and tenancies in partnership.
- Title companies typically conduct closings on residential and commercial properties.
- Idaho is a lien theory state.
- Idaho is a race-notice jurisdiction.

ILLINOIS

TITLE SEARCHES AND EXAMINATIONS:

Title examinations are conducted from a search of the courthouse records. All land titles are checked back as far as the title company feels appropriate.

Title plants are also used. The standard for a complete title search is 40 years in Illinois pursuant to Illinois' "Marketable Title Act" 735 Ill. Comp. Stat. Ann. 5/13-118. Rates do not have to be filed and approved in Illinois. Forms do not need to be filed and approved prior to use in Illinois.

Title insurance policies and endorsements are American Land Title Association forms. Special rates are given if negotiated. Title insurance agents must be registered with the state by their underwriter. Title insurance rates are not regulated. However, as of February 2019, the Illinois Land Title Association (ILTA) has submitted draft legislation to the Legislative Reference Bureau that would make significant changes to the Illinois Title Insurance Act. The proposed legislation will make changes to three main areas of the Title Insurance Act: Rate Regulation, Title Agent Licensing, and Specific Prohibited Acts. The legislation would allow for the creation of a rating bureau to research and file rates and forms on behalf of its subscribers.

Certified copies of death certificates should be requested from the County Clerk in the county of decedent's residence.

VESTING:

The following tenancy types are recognized: tenancies in common, joint tenancies, estate with right of survivorship (requires express declaration that estate must pass as joint tenancy and not as tenancy in common), and tenancies by the entirety. A grant of ownership of real estate to two or more persons creates a tenancy in common, unless a joint tenancy or tenancy by the entirety is specified. (765 Ill. Comp. Stat. 1005/1, 1005/1c.) The non-titled spouse must sign the security instrument regardless of whether he/she holds title.

Conveyance is by warranty or quitclaim deed. All conveyance instruments should use the terms "convey and warrant." A conveyance made to two or more persons is construed as a tenancy in common, absent clear language conveying property to joint tenants with the right of survivorship.

If the contract does not exclude minerals, they probably cannot be excluded from the transfer instrument. An acknowledgment is valid in Illinois if it is valid in the jurisdiction in which the acknowledgment is taken (765 Ill. Comp. Stat. Ann. 25/1).

A Declaration of Sale Price, prepared by an attorney, must be filed together with the deed. The statutory form deed in Illinois is the general warranty deed. Deeds must have a real estate transfer declaration.

Illinois' interpretation of the doctrine of merger is to look at the intention of the parties.

Illinois is not a community property state. Estates may be held by husband and wife in Illinois as tenants in common, joint tenants, or tenants by the entirety. Marital rights held by husband and wife are created in Illinois by operation of law (i.e. homestead, deeds of conveyance, wills). Both spouses must sign all conveyance instruments even if only one spouse is on title. A waiver of homestead may be signed by one spouse but must be specific as to the mortgage in question. 735 Ill. Comp. Stat. Ann. 5/12-901 et seq.

Marital rights held jointly by husband and wife in Illinois are severed by divorce, legal separation, death of spouse, and conveyances.

Procedure to confirm title to property purchased for taxes: obtain a certificate of purchase; see 35 Ill. Comp. Stat. Ann. 200/21-250. See generally 35 Ill. Comp. Stat. Ann. 200/21 et seq.

DECEDENTS' ESTATES:

All estates subject to probate in Illinois must be open for at least six months. This is because creditors of the estate typically have six months to assert their claims after notice is mailed or published. The claims period for unprobated estates is two years from date of death (755 Ill. Comp. Stat. Ann. 5/18-12).

The Illinois estate tax amount on estates of persons dying before January 1, 2003, is the state tax credit reduced by the lesser of: (a) the amount of the state tax credit paid to any other state or states; and (b) the amount determined by multiplying the maximum state tax credit allowable with respect to the taxable transfer by the percentage which the gross value of the transferred property not having a tax situs in Illinois bears to the gross value of the total transferred property. However, on estates of persons dying on or after January 1, 2003, the amount of the Illinois estate tax shall be the state tax credit, as defined in 35 Ill. Comp. Stat. Ann. 405/2, reduced by the amount determined by multiplying the state tax credit with respect to the taxable transfer by the percentage which the gross value of the transferred property not having a tax situs in Illinois bears to the gross value of the total transferred property (35 Ill. Comp. Stat. Ann. 405/3).

MORTGAGES, LIENS, AND FORECLOSURE:

Illinois is a lien theory state. Judgment liens are valid for seven years (735 Ill. Comp. Stat. Ann. 5/12-101).

A claim for adverse possession requires the common law elements of exclusive, continuous, and open and hostile for a period of twenty years. The period is reduced to seven years if the adverse possessor is able to furnish a recorded deed or provide proof of payment of property taxes for the prior seven years (735 Ill. Comp. Stat. Ann. §§ 5/13-105,107,109).

A foreclosure of a mortgage must be commenced within 10 years after the right to bring the action accrues—ordinarily when a default occurs (735 Ill. Comp. Stat. Ann. 5/13-115).

The statute of limitations and repose applicable to all actions based in tort or contract for construction activities is found in 735 Ill. Comp. Stat. Ann. 5/13-214. The statute contains a four-year statute of limitations and a ten-year statute of repose. The statute applies to almost all construction defect claims, as well as injury claims that arise from one of the statute's enumerated construction-related activities

The statute of limitations on lawyer's certificate of title is six years or two years from knowledge of injury.

For sellers who finance part of the sale price for the buyer, their lien supersedes pre-existing liens against buyer.

A release is used to cancel a mortgage lien of record. There is a \$200 penalty plus reasonable attorneys' fees that may be recovered by the aggrieved party for payment of debt secured by mortgage or trust deed for failing to cancel a lien within one month, (765 Ill. Comp. Stat. Ann. 905/4).

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of one

month, which is also the time required for publication of notice. One must first obtain a judgment, and then comply with the rules for judicial sale. See 735 Ill. Comp. Stat. Ann. 5/15-1507 (1992). There is no redemption period after sale.

Statute of Limitations for Liens	
Mortgages	21 years from maturity date or, if none, 30 years from date of mortgage
Judgment Liens in favor United States	20 years
All other Judgment Liens	7 years (Except that judgment may be revived for 2 consecutive 7-year periods for a total of 21 years)
Illinois Tax Liens	20 years
Federal Tax Liens	10 years
Estate Tax	10 years
Financing Statements	5 years or release of Mortgage, if financing statement was recorded contemporaneously with mortgage

REAL ESTATE CLOSINGS:

Document preparation in Illinois is typically handled by attorneys and law firms. Some attorney agents also prepare legal documents for closings. Real estate closings are conducted by title companies. Closing costs are usually paid by the buyer; transfer tax and title insurance are paid by the seller. A power of attorney is acceptable to use for a closing if it follows the statutory form.

The Department of Financial Institutions (DFI) in Springfield, Illinois regulates closings and escrow agents in terms of proper licensing and investigations.

Illinois requires licenses for those conducting closings, escrows, and agents issuing title insurance policies. Licensing is handled by the Department of Financial Institution (DFI) in Springfield, Illinois.

There is no "Wet Settlement" Act in Illinois. However, local custom and company policy typically requires collected funds at the time of settlement.

Mortgages and deeds of trust are the most common security instruments used in Illinois.

RECORDING REGULATIONS:

Illinois is a notice recording jurisdiction.

The general recording requirements for Illinois are: 1) Legal description of property; 2) Original signatures; 3) Address of Property; 4) Notary/Acknowledgement; 5) Property Index Number (PIN), Declaration of sale price must be filed with the deed. (55 Ill. Comp. Stat. Ann. 5/3-5020, 5/3-5020.5).

PROPERTY TAXES:

In most counties, property taxes are paid in two installments, usually June 1 and September 1. If the tax bills are mailed late (after May 1), the first installment is due 30 days after the date on your tax bill. County boards may adopt an accelerated billing method by resolution or ordinance.

Cook County and some other counties use this billing method. Under this system, the first installment of taxes is 50 percent of last year's tax bill. This installment is mailed by January 31. In Cook County, the first installment is due by March 1. (Elsewhere, a county board may set a due date as late as June 1.) The second installment is prepared and mailed by June 30 and is for the balance of taxes due. The balance is calculated by subtracting the first installment from the total taxes due for the present year. The second installment is due August 1.

ILLINOIS CALLOUTS

- The standard for a complete title search is 40 years in Illinois pursuant to Illinois' Marketable Title Act 735 Ill. Comp. Stat. 5/13-118.
- As of February 2019, the Illinois Land Title Association (ILTA) has submitted draft legislation to the Legislative Reference Bureau that would make significant changes to the Illinois Title Insurance Act. The proposed legislation will make changes to three main areas of the Title Insurance Act: Rate Regulation, Title Agent Licensing, and Specific Prohibited Acts. The legislation would allow for the creation of a rating bureau to research and file rates and forms on behalf of its subscribers.
- The following tenancy types are recognized: tenancies in common, joint tenancies, estate with right of survivorship (requires express declaration that estate must pass as joint tenancy and not as tenancy in common), and tenancies by the entirety.
- Real estate closings are conducted by title companies.
- Illinois is a lien theory state.
- Illinois is a notice recording jurisdiction.
- In most counties, property taxes are paid in two installments, usually June 1 and September 1. If the tax bills are mailed late (after May 1), the first installment is due 30 days after the date on your tax bill. County boards may adopt an accelerated billing method by resolution or ordinance.
- Cook County and some other counties use this billing method. Under this system, the first installment of taxes is 50 percent of last year's tax bill. This installment is mailed by January 31. In Cook County, the first installment is due by March 1. (Elsewhere, a county board may set a due date as late as June 1.) The second installment is prepared and mailed by June 30 and is for the balance of taxes due. The balance is calculated by subtracting the first installment from the total taxes due for the present year. The second installment is due August 1.

INDIANA

TITLE SEARCHES AND EXAMINATIONS:

The standard for a complete title search is generally fifty years, which is based upon custom. Generally, all land titles are checked back as far as prudent per the judgment of a seasoned abstractor. Most conveyances have had previous title searches and thus checks do not go back beyond the previous file.

Indiana became a "file and use" state in recent years. Under the new law, the Indiana Department of Insurance is required to approve title insurance rates. As of July 1, 2014, the title insurers have the option to join a rating bureau authorized by the new law. Members of the rating bureau will file rates for approval based upon an independent actuarial analysis by a third party. Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in cases of reissue. Title insurance rates do include search and examination. Title insurance agents are regulated by the Indiana Department of Insurance.

Certified copies of death certificates can be obtained from the health department in the county where the decedent resided.

Most searches performed by an agency involve the use of the agency's title plant, with a small portion involving the local courthouse (i.e. checking on taxes and judgments). For those offices not equipped with a title plant, a title search is performed at the local courthouse.

VESTING:

Indiana recognizes joint tenancies (require express language), tenancies in common, and tenancies by the entirety.

Conveyance is usually by warranty deed. A certificate of acknowledgment of a conveyance shall be written on or attached to the deed. The certificate shall state that the officer was acting lawfully, and that the clerk's signature to the certificate of acknowledgment is genuine (Ind. Code Ann. § 32-21-2-9). Conveyances made to two or more persons are construed as tenancies in common unless expressed otherwise in a written instrument; see Ind. Code Ann. § 32-17-11-29. For married persons, a tenancy by entirety is construed; see Ind. Code Ann. § 32-17-3-1.

Homestead laws provide exemption of up to \$10,000 worth of property as a homestead; see Ind. Code Ann. § 34-55-10-2. Dower and curtesy have been abolished.

Indiana is not a community property state. The statutory presumption is that whenever two married persons own real estate, they own it as tenants by the entirety. A tenancy by the entirety may be severed by the entry of a divorce decree or by the conveyance by one spouse to the other. Since marriage is a prerequisite for holding property by the entirety, the entry of a final decree of dissolution terminating the marital estate automatically terminates the entirety estate as well. Indiana is one of the "pure" entirety states. The lien must be against both spouses for it to attach to entirety property. Both parties must execute the mortgage in order to create an enforceable lien.

If a contract does not exclude minerals, they can be excluded from the transfer instrument. However, this is not customary.

Merger is permitted when there is an express or implied intention of the parties. See *Link v. Breen*, 649 N.E.2d 126 (Ind. Ct. App. 1995).

For statutes related to aliens holding title to land, see Ind. Code Ann. § 32-22-2-5.

DECEDENTS' ESTATES:

Indiana law provides that a will must be probated within three years of the date of death of the testator (Ind. Code Ann. § 29-1-7-15.1). If it is not probated within that three-year period, it is ineffective.

Creditors have nine months from the date of death to require opening of an estate. See Ind. Code Ann. § 29-1-14-1. If an estate is not set up within five months after the decedent's death, real property in the estate may not be sold to satisfy debts (Ind. Code Ann. § 29-1-7-15.1). A creditor must then realize his claims from other assets of the decedent. Therefore, property can be sold free of creditor's claims five months after the death of the decedent.

If the will gives a power of sale without court approval to a foreign executor, then the executor is free to sell and convey Indiana real estate. Otherwise, one may petition the Indiana court for authorization to sell the real estate. Indiana did impose an inheritance tax upon the right to take property by descent or devise. The Inheritance tax was repealed a number of years ago, so no inheritance tax returns (Form IH-6 for Indiana residents and Form IH-12 for nonresidents) have to be prepared or filed. No tax must be paid. In addition, no Consents to Transfer (Form IH-14) personal property or Notice of Intended Transfer of Checking Account (Form IH-19) are required for those dying after Dec. 31, 2012.

MORTGAGES, LIENS, AND FORECLOSURE:

Indiana is a lien theory state. Judgment liens are valid for twenty years (Ind. Code Ann. § 34-11-2-12).

For sellers who finance part of the sale price for the buyer, there is purchase-money mortgage protection; see Ind. Code Ann. § 32-29-1-4.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile, as well as payment of all applicable taxes for a period of ten years; see Ind. Code Ann. § 32-21-7-1.

Limitations applicable to actions arising from deficiencies in construction, or improvements to real property; see Ind. Code Ann. § 32-30-1-5.

A release is used to cancel mortgage liens of record. The release of mortgage is not a valid release unless the release is attested on the record by the recorder or deputy recorder of the county in which the mortgage is recorded (Ind. Code Ann. § 32-29-3-1). If a lender fails to cancel lien of record after secured debt is paid in full, there is a \$500.00 maximum fine; see Ind. Code Ann. § 32-28-1-2. A suit for damages may be plausible.

The certificate of sale gives the purchaser a lien superior to all others. A tax deed is later issued, following the applicable redemption period; see Ind. Code Ann. §§ 6-1.1-24-1 to 6-1.1-25-4.5.

Statute of Limitations for Liens	
Mortgages	21 years from maturity date
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
All State of Indiana Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Liens	60 Days (Residential); 90 Days (Commercial)
Estate Tax	10 years from date of death
Personal Property Tax Liens	10 years
Workers' Compensation Liens	10 years

REAL ESTATE CLOSINGS:

A title insurance representative or agent conducts most residential closings. Indiana is a "Wet Funding" state. Real estate closings can be conducted by anyone. Lawyers or the parties to the transaction can prepare documents. The lender's employees can prepare mortgages and other loan documents.

Closing costs are usually negotiable, unless the lender has specific requirements. A power of attorney is acceptable so long as it is recorded. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Indiana follows a race-notice recording statute. A valid recording must have the proper acknowledgments. The physical requirements for recording documents under Ind. Code Ann. § 36-2-11-16.5 are as follows: paper size no larger than 8.5 inches; white paper of at least 20 pounds weight only; minimum margins on first and last pages of 2 inches (top and bottom) and 2 inches (each side); minimum margins on each interior page of 2 inches on top, bottom, and sides. Documents must be typed, written, or computer generated in black ink in at least 10-point type, and permanently bound documents and continuous form paper is forbidden.

Non-conforming documents are still recordable, however, the recorder may attach additional pages as needed and collect \$1.00 additional fees for each non-conforming page. These requirements do not apply to judgment orders of court wills, death certificates, plats, or surveys.

Pursuant to Ind. Code Ann. § 6-1.1-5.5-5, a standard sales disclosure form must be filed with the auditor's office. A filing fee applies when filing instruments.

PROPERTY TAXES:

Property taxes are levied on March 1. Property taxes can be paid in installments, due and payable in two equal installments on May 10 and November 10 of the following year. There is currently no interest rate on installment tax payments.

There are a number of small tax items that can become liens upon real estate, such as conservancy sanitary sewer district taxes and Barrett Law taxes. However, these taxes are not “hidden” taxes and will appear in the records of either the county treasurer or in the judgment.

INDIANA CALLOUTS

- The standard for a complete title search is generally 50 years, which is based upon custom.
- Title insurance rates do include search and examination
- Indiana recognizes joint tenancies (require express language), tenancies in common, and tenancies by the entirety.
- Indiana is not a community property state. The statutory presumption is that whenever two married persons own real estate, they own it as tenants by the entirety
- Indiana law provides that a will must be probated within three years of the date of death of the testator (Ind. Code Ann. § 29-1-7-15.1). If it is not probated within that three-year period, it is ineffective.
- The Inheritance tax was repealed a number of years ago, so no inheritance tax returns (Form IH-6 for Indiana residents and Form IH-12 for nonresidents) have to be prepared or filed. No tax must be paid.
- A title insurance representative or agent conducts most residential closings.
- Indiana is a “Wet Funding” state.
- Indiana is a lien theory state.

IOWA

TITLE EXAMINATIONS AND SEARCHES:

The Iowa legislation created the Iowa Title Guaranty to provide assurance and integrity for property titles. The fees associated are reinvested in the state.

Title searches are conducted through the Iowa Land Title Association. The Iowa Land Title Association also provides a directory of licensed companies and agents.

Land title professionals should be certified by the Iowa Land Title Association.

Title standards are set by the Iowa State Bar Association.

Please visit iowafinanceauthority.gov for additional requirements and applications for the title guaranty program.

VESTING:

Iowa recognizes tenancies in common, joint tenancies, and tenancies by the entirety. Joint tenancies requires specific language creating interests as joint tenants. Tenancies by the entirety are held by husband and wife. A divorce will generally sever a tenancy by the entirety.

Conveyance is by quitclaim deed, deed in fee simple with warranty, and deed in fee simple without warranty, and mortgage (Iowa Code § 558.19).

Iowa is a homestead state and allows a \$4,850 tax exemption (Iowa Code § 425.1(2)).

Certified copies of death certificates should be requested from the Department of Vital Records in the county of where the person died.

DECEDENTS' ESTATES:

Inheritance tax is a tax on the share going to a beneficiary, and it is the beneficiary who is responsible for payment of the tax. When payment in full has been received by the Iowa Department of Revenue, an inheritance tax clearance will be issued. The tax clearance releases the property from the inheritance tax lien and permits the estate to be closed.

Inheritance Tax exemptions can be found in Iowa Code § 450.4. In computing the tax on the net estate, the entire amount of property, interest in property, and income passing to the surviving spouse, lineal ascendants, lineal descendants, and stepchildren and their lineal descendants are exempt from tax. "Lineal descendants" includes descendants by adoption (id. § 450.9).

Any other beneficiary does not receive an exemption and is taxed on the entire share passing from the estate to that person. The rate of tax paid on a recipient's share varies based upon the relationship of the recipient to the decedent and can be found in Iowa Code § 450.10.

The first \$500 of the total of all Masses specified in the Will is exempt from tax. If all the property of the estate has a value of less than \$25,000, no tax is due.

The inheritance tax return must be filed, and any tax due paid on or before the last day of the ninth month after the death of the decedent (Iowa Code § 450.6). An extension of time to file the return and make payment may be requested by contacting the Department. If an extension is granted, the

taxpayer will be required to pay interest on the unpaid tax which remains due. Interest accrues on a monthly basis, with each fraction of a month considered a full month. A penalty is assessed by the Department for failure to timely file or pay the tax due. This occurs when the return and payment are delinquent, and an extension of time has not been granted. The penalty is computed on the amount of the tax that is due. If assets are discovered after completing and filing a return, an amended return must be filed and any additional tax paid.

MORTGAGES, LIENS, AND FORECLOSURE:

Iowa is a lien theory state. Judgments are valid for a period of ten years. Judgment liens generally do not attach to homestead property (Iowa Code § 561.16).

A party claiming title by adverse possession must establish hostile, actual, open, exclusive, and continuous possession, under claim of right or color of title for at least five years (Iowa Code § 560.2).

Most Iowa foreclosures are judicial. If the lender elects to foreclose without redemption, the borrower can demand a delay of sale of up to six months before the sale. There is no post-sale right of redemption (Iowa Code § 654.20). If the borrower agrees to this type of foreclosure, there is no redemption period (Iowa Code § 654.18).

REAL ESTATE CLOSINGS:

Real estate closings are generally conducted by attorneys but may be conducted by title insurance companies or lenders. Deed preparation is considered the practice of law and therefore is prepared by attorneys.

Sellers must provide a disclosure statement required by Iowa law.

RECORDING REGULATIONS:

Iowa is a notice recording jurisdiction.

All documents presented for recording must be legible and contain original signatures. Documents must also be dated, notarized, and acknowledged. Further, recording instruments must identify the name and address of whomever prepared the document.

Property must be identified by a legal description including the lot, block, city, township, etc.

A minimum of 3-inches of empty space should be left on the top of all documents. There are usually fees associated with recording.

Additional information specific to the county should be found on the websites of the recorder's office of each county.

PROPERTY TAXES:

Iowa mails tax statements once a year. Property taxes may be paid in two installments. The first installment is due on September 1 and becomes delinquent if not paid by September 30. The second payment is due on March 1 and becomes delinquent if not paid by March 31. Delinquent taxes incur a 1.5% monthly penalty.

IOWA CALLOUTS

- Title searches are conducted through the Iowa Land Title Association. The Iowa Land Title Association also provides a directory of licenses, companies, and agents.
- The Iowa legislation created the Iowa Title Guaranty to provide assurance and integrity for property titles. The fees associated are reinvested in the state.
- Inheritance tax is a tax on the share going to a beneficiary, and it is the beneficiary who is responsible for payment of the tax.
- Iowa recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- Judgment liens generally do not attach to homestead property (Iowa Code § 561.16).
- Real estate closings are generally conducted by attorneys but may be conducted by title insurance companies or lenders.
- Sellers must provide a disclosure statement required by Iowa law.
- Iowa is a lien theory state.
- Iowa is a notice recording jurisdiction.

KANSAS

TITLE SEARCHES AND EXAMINATIONS:

Title examinations are conducted through the use of title plants. In some counties, examinations are completed based on information obtained through a direct search of the public records. Section land and platted land is searched 50 or more years back, if knowledge of pipeline easements or other encumbrances are a factor.

The Kansas Bar Association has published the Kansas Title Standards Handbook. Records imparting constructive notice are filed with the Register of deeds and the Office of the Clerk of the District Court.

Title insurance policies and endorsements are American Land Title Association forms, filed with the state Insurance Commissioner Office. Title insurance rates do include search and examination. Special rates are given in cases of reissue, refinance, or new construction. Title insurance agents are regulated by the state Insurance Commissioner. Title insurance rates are filed with the state Insurance Commissioner Office.

Name and address of the state agency from which certified copies of death certificates are secured: Kansas Department of Health and Environment, Office of Vital Statistics, 1000 SW Jackson, Ste. 120 Topeka, Kansas 66620.

VESTING:

Kansas recognizes tenancies in common and joint tenancies. Tenancy by the entirety is not recognized in Kansas. Real or personal property granted or devised to two or more persons, including husband and wife, shall be construed as a tenancy in common, unless language is included making it clear that joint tenancy was intended (see Kan. Stat. Ann. § 58-501). Exceptions to the aforementioned are included within the statutory language. Kansas is not a community property state. Kansas is a homestead state where spouses must sign all deeds and mortgages even if only one spouse holds title. Property owned separately before marriage remains the individual property of the spouses. Homestead exemption limitations can be found in Kan. Stat. Ann. § 60-2301.

All property, whether held individually or in some form of joint ownership, becomes marital property at the time one of them files for divorce. Husband and wife can hold property as joint tenants or as tenants in common. Such estates are created by deed and can be severed by a spouse deeding his/her interest to another grantee. However, the spouse still has a marital interest in the other spouse's property, so when he/she deeds out, the other spouse must join in the deed. Homestead laws are constitutionally recognized. Dower and curtesy have not been abolished.

A conveyance is by warranty deed, quitclaim deed, or court action. A valid conveyance requires identifying the grantor, the grantee, consideration, a legal description of the property, a granting clause, and an acknowledgment.

The statutory language for a warranty deed can be found in Kan. Stat. Ann. § 58-2203. The statutory language for a quitclaim deed is found in id. § 58-2204. A mortgage is the standard form of security instrument.

If the contract does not exclude minerals, they can be excluded from the transfer instrument only by specific exclusion and/or as set forth in the contract, or as previously excluded from the title.

Merger will occur unless a specifically stated intent not to merge is stated in the document.

Statutes related to aliens holding title to land: see Kan. Const. B. of R. § 17; Kan. Stat. Ann. § 58-2238.

Statutes related to foreign corporations or partnerships holding title to land: see, Kan. Stat. Ann. §§ 17-6003, 17-6801 et. seq, 17-7501 et seq.; Kan. Stat. Ann. § 60-308.

DECEDENTS' ESTATES:

The 2006 Kansas Legislature made substantial changes to the Kansas Estate Tax. The Kansas Estate Tax Act, found in SB365, Chapter 199 of the 2006 Session Laws, provides for a stand alone Kansas Estate Tax. The law applies to the estates of decedents dying on or after Jan. 1, 2007, and is effective for the years 2007, 2008, and 2009. Estates of decedents dying after 2009 are not subject to the Kansas estate tax.

The estate tax can be roughly divided into two parts. The first includes those provisions which provide for the calculation and imposition of tax. The second includes administrative and enforcement provisions. Although the Kansas law is independent of federal law, it does parallel many aspects of federal estate tax law with regard to the composition and valuation of the estate, and with regard to the types and amount of deductions which are allowed. There are, however, notable differences such as the filing threshold, rate of tax, and valuation of land devoted to an agricultural use.

MORTGAGES, LIENS, AND FORECLOSURE:

Kansas is a lien theory state. Judgment liens expire after five years, unless renewed for two-year renewal period, for a total of seven years (see Kan. Stat. Ann. § 60-2403).

A release or satisfaction of mortgage may be used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, there is a penalty of \$500.00 plus attorney's fees should the mortgagee fail to enter satisfaction of the mortgage within twenty days of the request by the mortgagor. Civil action is also available as an additional remedy. (See Kan. Stat. Ann. § 58-2309)

A purchase money mortgage holds priority over prior judgments against the purchaser (Kan. Stat. Ann. § 58-2305).

The requirement for adverse-possession is fifteen years of exclusive, continuous, hostile, and open possession (Kan. Stat. Ann. § 60-503). Sometimes a court order is required for a claim of adverse possession.

Foreclosure is by judicial means. The time for the foreclosure process is a minimum of 90 to 120 days, plus redemption time. There is a six-month to twelve-month redemption period after sale.

Statute of Limitations for Liens	
Judgments in favor of the state of Kansas	A judgment lien relates back four months from the date of the judgment, but not prior to the filing of the petition.
Kansas State Tax Liens	10 years
Judgments in favor of the United States	20 years with the option to renew for another period of 20 years .
Federal Tax Liens	10 years from the date of assessment; however against bona fide purchasers for value, including purchasers/holders of security interests, mechanic lien holders and judgment lien creditors, the lien is not valid unless it has been filed.
All State of Indiana Tax Liens	10 years

REAL ESTATE CLOSINGS:

Title companies or loan companies can conduct real estate closings. Title companies, lawyers, or lenders can prepare closing documents.

Closing costs are usually split between both parties. A power of attorney used in a closing must be recorded. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Kansas is notice statute jurisdiction.

In order for a recording to be valid, all documents must be signed and acknowledged or proven in accordance with statutes found in Kan. Stat. Ann. §§ 58-2209—58-2216. An approved form of validation questionnaire must be filed with every deed (Kan. Stat. Ann. § 79-1437).

PROPERTY TAXES:

The county treasurer mails tax bills on or before December 15th. All or at least half of the tax is due by December 20th, and the second half is due by May 10th of the following year. If you have a mortgage loan on your property, you will receive a statement with tax information on it. Your tax bill will be sent to the mortgage company or bank, and the tax will be paid out of your escrow account.

A lien for all taxes shall attach to the real property on the first day of November in the year in which the tax is levied (KSA 79-804). Taxes for special assessments also become liens placed on real property.

KANSAS CALLOUTS

- Title examinations are conducted through the use of title plants. In some counties, examinations are completed based on information obtained through a direct search of the public records. Section land and platted land is searched 50 or more years back, if knowledge of pipeline easements or other encumbrances are a factor.
- Kansas recognizes tenancies in common and joint tenancies. Tenancy by the entirety is not recognized in Kansas. Title companies or loan companies can conduct real estate closings.
- A release or satisfaction of mortgage may be used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, there is a penalty of \$500.00 plus attorney's fees should the mortgagee fail to enter satisfaction of the mortgage within twenty days of the request by the mortgagor. Civil action is also available as an additional remedy. (See Kan. Stat. Ann. § 58-2309)
- Title companies or loan companies can conduct real estate closings. Title companies, lawyers, or lenders can prepare closing documents.
- Kansas is a lien theory state.
- Kansas is notice recording statute jurisdiction.

KENTUCKY

TITLE SEARCHES AND EXAMINATION:

The office of the County Clerk for each county has the responsibility for recording and keeping the public records (Ky. Rev. Stat. § 382.110). Title examinations are performed by checking the records in the County Clerk's office of the county in which the property lies. The standard examination period is 30 years for residential properties and 60 years for commercial properties.

There is no title insurance licensing. Title insurance is regulated by Subtitle 22 of the Insurance Code (Ky. Rev. Stat. §§ 304.22-010 — 304.22-040). Further, Section 304.22-020 requires that rates be filed and adhered to. Section 304.22-030 sets out the specific powers of a title insurer in addition to those set forth in Ky. Rev. Stat. § 271B.3-020.

Title insurance policies and endorsements are the American Land Title Association forms. Title insurance rates do not include search and examination fees. Special rates are sometimes given in cases of commercial policies.

Certified copies of death certificates can be obtained from: Vital Records, 275 East Main Street, Frankfort, Kentucky 40621, (502) 564-4212.

VESTING:

Kentucky recognizes tenancies in common, joint tenancies, and tenancies by the entirety.

Kentucky recognizes dower and curtesy rights. (Ky. Rev. Stat. § 392.010 et seq.) Unless a right by survivorship is expressly provided for, there shall be no mutual right to the entirety by survivorship between husband and wife (Ky. Rev. Stat. § 381.050).

Kentucky is a homestead state - both spouses must sign conveyances and mortgages even if only one spouse holds title. Release of Waiver of Dower Rights may be signed for relief of this requirement.

Conveyance is by general warranty deed (Ky. Rev. Stat. § 382.030), special warranty deed (id. § 382.040), and quitclaim deed. The content requirements for conveyance instruments are identity of parties, preparer's statement with signature, and sale price recitation. Conveyances made to two or more persons are construed as tenancies in common. If the contract does not exclude minerals, they can be excluded from the transfer instrument. All contents of the contract merge into the deed under the state's merger theory.

For statutes relating to aliens holding title to land, see KY Rev. Stat. Ann. §§ 381.290—381.340.

To confirm title to property purchased for taxes, the tax deed must be valid. (KY Rev. Stat. Ann. §§ 131.500—131.550).

DECEDENTS' ESTATES:

Estates are under the jurisdiction of the District Court in the county in which the decedent resided. The personal representative of the decedent administers estates. If the will contains a power of sale clause, the personal representative can sell real property alone. Ky. Rev. Stat. § 396.011 provides a statute of limitations for claims against the estate, which is two years from the date of death or six months from the appointment of a personal representative.

In Kentucky, the amount of the inheritance tax depends on the relationship of the beneficiary to the deceased person and the value of the property. Generally, the closer the relationship the greater the exemption and the smaller the tax rate. However, real estate located in another state is not subject to the tax. If the inheritance tax is paid within nine months of date of decedent's death, a 5 percent discount is allowed. The tax due should be paid when the return is filed. However, if the beneficiary's net inheritance tax liability exceeds \$5,000 and the return is filed timely, an election can be made to pay the tax in 10 equal annual installments. The first installment is due at the time the return is filed. The portion of the tax deferred is charged with interest at the rate established by law beginning 18 months after the date of death. Inheritance Tax Rates can be found in Ky. Rev. Stat. § 140.070.

MORTGAGES, LIENS, AND FORECLOSURE:

Kentucky is a lien theory state. Judgment liens expire after fifteen years (Ky. Rev. Stat. § 413.090). Sellers who finance part of the sale price are entitled to a vendor's lien.

A release is used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, there is a \$50.00 fine if not paid in thirty days. However, the penalty is often impractical to enforce.

The adverse-possession requirements are the common law requirements for a period of fifteen years (exclusive, continuous, open, and hostile).

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of three months. There is a one-year redemption period after sale, with special restrictions.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	15 years , may be renewed
All State of Kentucky Tax Liens	11 years
Federal Tax Liens	10 years
Mechanics Liens	6 months from the date that work was last performed or material were supplied. See KRS §376.080. The lienholder then has twelve months to file suit in order to enforce the lien. – KRS §376.090
Estate Tax	10 years
Homeowners Association	15 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by lawyers, mortgage companies, and title insurance companies. Mortgage documents must be prepared by lawyers, but sellers may prepare deeds. Documents are recorded before money is disbursed.

Kentucky "Wet Settlement" rules are specified in Ky. Rev. Stat. § 324.111. Generally, buyers pay the closing costs, but sellers usually pay for deed preparation and the transfer tax. The use of a power of attorney is permitted in closings. The power of attorney must be recorded and designate specific powers. See Ky. Rev. Stat. § 382.370.

The customary security agreement is a mortgage. Mortgages must provide the exact amount of the debt (Ky. Rev. Stat. § 382.290) and the maturity date (Ky. Rev. Stat. § 382.330).

RECORDING REGULATIONS:

Kentucky is a notice statute jurisdiction.

A valid deed must contain: the names of parties, address of the grantee, words of conveyance, consideration, legal description of the property, grantor's source of title, purchase price, consideration certificate must be completed, deed must be subscribed, and grantor's signature must be notarized. It must also contain preparer's certification.

The requirements for a mortgage are the names of parties, words of conveyance, the amount of the debt, and the maturity date. Furthermore, the source of title must be cited and mortgage must be subscribed. All documents must be notarized and must contain preparer's certification.

PROPERTY TAXES:

Property taxes are levied by each county in October and are due by December 31. Cities impose their own due dates for taxes. (See Ky. Rev. Stat. § 134.015) At the close of business on April 15th, the tax bills are transferred from the sheriff's office to the county clerk's office. They are then known as a certificate of delinquency and represent a lien against the property in question. Interest begins to accrue on the total due at the rate of 1% per month. A 10% county clerk fee and a 20% county attorney fee are also added to the total due. The county attorney is required to send a notice by May 15th to the delinquent taxpayers and, if necessary, another notice is sent by June 15th. Delinquent taxpayers can enter into installment payment plans with the county attorney at this time. Homestead exemptions are usually reserved for elderly or disabled people and they must apply to receive the exemption (Ky. Rev. Stat. § 132.810).

Unpaid taxes result in a lien that lasts for 11 years (Ky. Rev. Stat. § 134.420). City taxes are generally controlled by the individual municipalities.

KENTUCKY CALLOUTS

- The standard examination period is 30 years for residential properties, and 60 years for commercial properties.
- The office of the County Clerk for each county has the responsibility for recording and keeping the public records (Ky. Rev. Stat. § 382.110). Title examinations are performed by checking the records in the County Clerk's office of the county in which the property lies.
- There is no title insurance licensing. Title insurance is regulated by Subtitle 22 of the Insurance Code (Ky. Rev. Stat. §§ 304.22-010 — 304.22-040).
- Kentucky recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- Kentucky recognizes dower and curtesy rights. (Ky. Rev. Stat. § 392.010 et seq.)
- In Kentucky, the amount of the inheritance tax depends on the relationship of the beneficiary to the deceased person and the value of the property
- Real estate closings are conducted by lawyers, mortgage companies, and title insurance companies.
- Mortgage documents must be prepared by lawyers, but sellers may prepare deeds. Documents are recorded before money is disbursed.
- Kentucky "Wet Settlement" rules are specified in Ky. Rev. Stat. § 324.111.
- Generally, buyers pay the closing costs, but sellers usually pay for deed preparation and the transfer tax.
- Kentucky is a lien theory state.
- Kentucky is a notice statute jurisdiction.

LOUISIANA

TITLE SEARCHES AND EXAMINATION:

Public records are recorded in each Parish in the Clerk of Courts office. A parish is the equivalent of a county. Parishes utilize a single registry for conveyances and encumbrances (however, they are indexed separately). Most recently in Orleans Parish, a consolidation of the three offices formally known as Recorder of Mortgages, Custodian of Notarial Archives, and Register of Conveyances was completed and brought under the Land Records Division of the Offices of the Clerk of Civil District Court.

All land titles are checked back forty-nine years for commercial property and thirty-five years for residential property to establish an unbroken chain of title. Title examinations are conducted from abstracts. Most abstracts are prepared from the courthouse registry.

The title insurance policies and endorsements are filed for approval with the Commissioner of Insurance. Special rates are given when an owner's and mortgagee's policy are purchased simultaneously, when a current owner's policyholder is obtaining a mortgagee's policy, when a substitution loan (refinance) is secured, and when a new owner's policy is obtained based on a current owner's policy no older than ten years.

Title insurance rates do not include search and examination. Title insurance agents are regulated through the Louisiana Insurance Code and the Louisiana Title Insurance Act. See La. Rev. Stat. Ann. § 22:511 et seq. The rates must be approved by the Louisiana Department of Insurance. Proposed rates must be submitted and scheduled for an approval hearing. State law requires licensing of those signing title policies and commitments.

Certified copies of death certificates can be obtained from the State Registrar & Vital Records, 1450 Poydras Street, Suite 400, New Orleans, LA 70112.

VESTING:

Louisiana recognizes tenancies in common, community property, separate property, and joint tenancies with the rights of survivorship.

Louisiana is a homestead state, where both spouses must sign conveyances and mortgages unless the property is the separate property of the spouse. Then, no signature is required. A waiver of Homestead Exemption executed by both spouses can be used to extinguish this requirement. Unless a separate property marital regime is formed, community property laws apply to property interest between spouses.

A warranty deed is used for transferring ownership of real property. A conveyance is made by authentic act; see La. Civ. Code Ann. art. 1839 and art. 2440. An oral transfer is valid between the parties when the property has been actually delivered and the transferor recognizes the transfer when interrogated on oath. Deeds in Louisiana may also be referred to as Act of Sales or Cash Sales.

An instrument involving immovable property shall have effect against third persons only from the time it is filed for registry in the parish where the property is located.

The parties must appear before a notary public and two witnesses; full consideration must be included (La. Civ. Code Ann. Art. 1833). When a conveyance is made to two or more persons, they become owners in indivision. Unless otherwise stated, the shares of all co-owners are presumed to be equal. See La. Civ. Code Ann. § art.797.

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. Louisiana has specific statutes regulating conveyance of mineral interests.

Louisiana uses the term “confusion”—when the mortgagee acquires title, the debt is extinguished by confusion. See La. Civ. Code Ann. art.1903.

Statutes related to foreign corporations, partnerships, and limited liability companies holding title to land: Ownership is not prohibited, but see the guidelines for foreign corporations (La. Rev. Stat. Ann. § 12:302), limited liability companies (La. Rev. Stat. Ann. § 12:1343), and foreign partnerships (La. Rev. Stat. Ann. § 9:3423).

If a purchaser buys a property from a tax sale, they shall receive an absolute and perfect title to the property conveyed in the deed of sale, without any claim. See La. Rev. Stat. Ann. § 47:2121.

DECEDENTS' ESTATES:

Louisiana repealed its inheritance taxes on decedent's estates.

The executor or succession representative is vested with administrative authority over the decedent's estate. In order to sell property, the representative must obtain court approval to enter into the purchase agreement and obtain approval to sell the property. There are also advertisement requirements.

MORTGAGES, LIENS, AND FORECLOSURE:

Louisiana is a lien theory state. Judgment liens expire after ten years and may be renewed for another period of ten years.

Sellers who finance part of the sale price for the buyer receive a vendor's lien (La. Rev. Stat. Ann. § 6:830).

The requirements for bad faith adverse-possession are open, notorious, foot-by-foot possession for thirty years (La. Civ. Code Ann. arts.3486-88).

Builder warranties provided by statute: see La. Rev. Stat. Ann. § 9:3144; one-year warranty that home is free from defects due to noncompliance with building standards; two-year warranty that plumbing, electrical, heating, cooling, and ventilation systems, excluding appliances, are free from defects due to noncompliance with building standards; five year warranty that home is free from major structural defects due to noncompliance with building standards. See also id. §§ 9:3144(B), 9:3144(C).

The statute of limitations on lawyer's certificate of title is one-year from the date of discovery of act, but in no case longer than three years from the act or error of omission (La. Rev. Stat. Ann. § 9:5606).

The original promissory note is filed with, and held by, the clerk of court. Other methods provided in La. Rev. Stat. Ann. § 9:5166 are: released by the mortgagee of record for future advance mortgages; affidavit by the notary public who has lost or destroyed the note; affidavit by the last holder of the note; or affidavit of an authorized officer of a title insurance business, the closing notary public or the attorney for the person or entity which made the payoff.

If a lender fails to cancel lien of record after secured debt is paid in full, see La. Rev. Stat. Ann. §§ 9:5174 and 9:5385. No damage penalty occurs unless the creditor refuses to release the lien. Then, the borrower can bring an action to compel the creditor to cancel the lien and pay all costs associated with the action.

Foreclosure is most commonly by executory proceeding. The time for the foreclosure process can range anywhere between six to nine months. There is no redemption period after sale.

Homestead laws are applicable in foreclosure actions unless waived. The homestead exemption extends to 5 acres in a municipality, and up to 200 acres if not in a municipality and \$35,000.00 in value. The buildings and land are exempt from seizure and sale under any writ or mandate. See La. Rev. Stat. Ann. § 20:1. Dower and curtesy are not applicable.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Louisiana Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Liens	1 year unless lis pendens filed
Estate Tax	10 years
Homeowners Assoc.	5 years

REAL ESTATE CLOSINGS:

Notaries may conduct closings, both residential and non-residential. It is not required that attorneys conduct closings. Title agents are also permitted to prepare all closing forms. The use of power of attorney in a closing is permitted and must be in authentic form and give authority to convey or mortgage the property. Closing costs are generally paid by the buyer/purchaser.

Louisiana has a good funds requirement. Funds must be collected prior to disbursement. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Louisiana is a race recording statute jurisdiction. The first person to record the instrument has priority over later recording.

All parishes impose recording fees, but only Orleans Parish charges recording taxes known as the "Documentary Transaction Tax." The recording charges vary across the state and are imposed by the local parishes. The charges vary from flat fees to charges based on the number of pages.

Deeds must be written and executed by the seller (and the purchaser if any waivers are included, sale by assumption, etc.). The instrument must be by authentic act or private act duly acknowledged and must be an original. The original act is kept at the courthouse.

Mortgages must be written and executed by the mortgagor. As with deeds, many clerks may require

the signatures to be in authentic form. If the mortgage contains special statutory language and is executed in authentic form, special expedited foreclosure rights will exist in favor of the mortgagee. Authentic form relates to evidentiary presumptions, but the general custom is to have the deed executed in authentic form.

PROPERTY TAXES:

All parishes, as well as most municipalities, collect property taxes. Property taxes are levied annually. Taxes are due on January 31 in Orleans Parish, and on December 31 in all other parishes. Property taxes must be paid in full when they become due, otherwise penalties are applied. Property taxes are considered liens, and take priority over other recorded liens.

Louisiana homeowners benefit from a homestead exemption on their property taxes as long as the property is an owner-occupied primary residence. The tax exemption reduces the assessed value by \$7,500.

LOUISIANA CALLOUTS

- All land titles are checked back 49 years for commercial property and thirty-five years for residential property to establish an unbroken chain of title.
- Public records are recorded in each Parish in the Clerk of Courts office. A parish is the equivalent of a county. Parishes utilize a single registry for conveyances and encumbrances (however, they are indexed separately).
- Special rates are given when an owner's and mortgagee's policy are purchased simultaneously, when a current owner's policyholder is obtaining a mortgagee's policy, when a substitution loan (refinance) is secured, and when a new owner's policy is obtained based on a current owner's policy no older than ten years.
- Louisiana recognizes tenancies in common, community property, separate property, and joint tenancies with the rights of survivorship.
- Louisiana is a homestead state, where both spouses must sign conveyances and mortgages unless the property is the separate property of the spouse. Then, no signature is required. A waiver of Homestead Exemption executed by both spouses can be used to extinguish this requirement. Unless a separate property marital regime is formed, community property laws apply to property interest between spouses.
- It is not required that attorneys conduct closings. Closings may
 - be conducted by notaries and title insurance agents.
- Louisiana repealed its inheritance taxes on decedent's estates.
- Louisiana is a lien theory state.
- Louisiana is a race recording statute jurisdiction. The first person to record the instrument has priority over later recording.
- All parishes impose recording fees, but only Orleans Parish charges recording taxes known as the "Documentary Transaction Tax." The recording charges vary across the state and are imposed by the local parishes. The charges vary from flat fees to charges based on the number of pages.

MAINE

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back at least forty years to a warranty deed, under a guideline set by Maine Title Standards.

Title insurance policies and endorsements are American Land Title Association forms. Maine requires form and rate filing. Special rates are given in cases of transactions in excess of \$1 million. Title insurance rates do not include search and examination. Title insurance agents are licensed by the Maine Bureau of Insurance. Title insurance rates are regulated by the Maine Bureau of Insurance.

The municipality of decedent issues certified copies of death certificates.

VESTING:

Maine recognizes joint tenancies and tenancies in common (see Me. Rev. Stat. tit. 33, § 159). The non-titled spouse to real property is not required to sign the security instrument. Maine is not a community property state. Maine is a homestead state and according to ME. Rev. Stat. tit. 14, § 4422(1), the exemption of a debtor's residence is exempt up to \$47,500.00 in value, and \$95,000.00 for debtor's with minor dependents. Likewise, if a debtor is over the age of 60 or disabled, the exemption amount is also \$95,000.00 (joint debtors in this category may double). The estates of dower and curtesy are abolished in 18A M.R.S. § 2-113.

A valid conveyance is made by warranty deed for residential property and quitclaim deed for commercial property. A Declaration of Value must be filed with the deed (as of July 1, 2019, please refer to 36 M.R.S. § 4641-D).

The conveyance instrument must contain the names of parties, address of grantee(s), covenant language, a legal description of the property, signatures of grantors, and an acknowledgment for recording. Conveyances made to two or more persons are construed as tenancies in common, unless specific intent for a joint tenancy is clearly expressed (Me. Rev. Stat. tit. 33, § 159).

Maine recognizes the Uniform Recognition of Acknowledgments Act (Me. Rev. Stat. tit. 4, § 1011 et. seq.). An acknowledgment is valid if it conforms to the requirements of the state where the acknowledgment was taken. If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. Any lesser interest in property will merge into the greater interest when ownership merges.

Statutes related to aliens holding title to land: see Me. Rev. Stat. tit. 33, § 451.

DECEDENTS' ESTATES:

Estate taxes in Maine are levied in accordance with Me. Rev. Stat. tit. 36, § 4063.

Effective July 1, 2019, pursuant 18-C M.R.S. § 2-102, the intestate share of a decedent's surviving spouse is:

1. No descendant or parent. The entire intestate estate if: (a) no descendant or parent of the decedent survives the decedent; or (b) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;
2. No descendant but parent survives. The first \$300,000, plus 3/4 of any balance of the intestate

estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

3. Descendants of both decedent and spouse, just spouse. The first \$100,000, plus 1/2 of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent; and

4. Descendants of decedent, not spouse. One-half of the intestate estate, if there are surviving descendants one or more of whom are not descendants of the surviving spouse.

MORTGAGES, LIENS, AND FORECLOSURE:

Maine is a lien theory state. Judgment liens expire after twenty years. There is no renewal of liens.

The requirements for adverse-possession requirements are twenty years of open, notorious, hostile, adverse, and continuous possession. The intent to adversely possess is not required.

A mortgage only may be discharged by a written instrument acknowledging the satisfaction thereof and signed and acknowledged by the mortgagee or by the mortgagee's duly authorized officer or agent, personal representative or assignee. The instrument must recite the name or identity of the mortgagee and mortgagor, or their successors in interest and the record location of the mortgage discharged. The instrument, when recorded, has the same effect as a deed of release duly acknowledged and recorded. If a release is not transmitted to the registry of deeds within 60 days, the owner and any such servicer are jointly and severally liable to an aggrieved party for damages equal to exemplary damages of \$200 per week after expiration of the 60 days, up to an aggregate maximum of \$5,000 for all aggrieved parties or the actual loss sustained by the aggrieved party, whichever is greater (Me. Rev. Stat. tit. 33, § 551).

For actions arising from deficiencies in construction, or improvements to real property, there is a six-year statute of limitations. The statute of limitations on a lawyer's certificate of title is six years.

Foreclosure is usually by judicial means. The time for the foreclosure process is typically ninety days. There is a ninety-day redemption period from the date of the judgment (Me. Rev. Stat. tit. 14, § 6322).

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
Tax Liens	10 years, renewable
Federal Tax Liens	10 years
Estate Tax Lien	10 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by attorneys. A consumer's choice of title attorney guidelines is outlined in Me. Rev. Stat. tit. 9-A, § 9-303. Closing procedures are usually held at the title company's office or lawyer's office. The closing officer coordinates the document signing and the collection and disbursement of funds.

Deeds and mortgages are both used in Maine. Maine enacted a Short Forms Deeds Act which is explained in Me. Rev. Stat. tit. 33, §§ 761 to 775. The statutory form to use in preparation of a deed is provided by Me. Rev. Stat. tit. 33, § 775.

The use of a power of attorney in a closing is permitted, as long as power of attorney is recorded and is durable. Seals are not required. The buyer usually pays closing costs. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Maine is a notice recording statute jurisdiction.

Signatures of all parties must be included on acknowledgement. All original signatures must have names typed or printed under signature line. All documents must include the names and mailing addresses of the grantor and grantee. Proper acknowledgment is required and instrument must be signed.

PROPERTY TAXES:

Property taxes are assessed on April 1, and each municipality can set its own tax year. Property taxes can be paid in one or two installments, with the due date depending on the municipality. The interest rate on installment tax payment varies.

The rate of transfer tax is \$2.20 for each \$500.00 of the value of the property being transferred. The tax is imposed half on the grantor, half on the grantee (Me. Rev. Stat. tit. 36, § 4641-A).

A separate Return/Declaration must be filed for each transfer of a controlling interest in the county where real property is located. The real estate transfer tax is imposed on each deed by which any real property in this State is transferred. The register of deeds will compute the tax based on the value of the property, as set forth in the declaration of value. (See Me. Rev. Stat. tit. 36, §§ 4641-4641-N).

In Me. Rev. Stat. tit. 36, § 507, the law requires that when a municipality issues a property tax bill to each taxpayer, each "bill must contain a statement or calculation that demonstrates the amount or percentage by which the taxpayer's tax has been reduced by the distribution of state municipal revenue sharing, state reimbursement for the Maine resident homestead property tax exemption and state aid for education."

An automatic lien for estate taxes, interest, and penalties attaches to all Maine property owned by a decedent at death. The lien continues indefinitely until it is released.

When a personal representative of an estate files a completed Certificate of Discharge of Estate Tax Lien, the Assessor will release the lien upon a showing by the estate that all taxes, interest, and penalties have been paid or a determination by Maine Revenue Services that no tax is due.

MAINE CALLOUTS

- All land titles are checked back at least 40 years to a warranty deed, under a guideline set by Maine Title Standards.
- Maine recognizes joint tenancies and tenancies in common (see Me. Rev. Stat. tit. 33, § 159). The non-titled spouse to real property is not required to sign the security instrument. Maine is not a community property state. Maine is a homestead state and according to ME. Rev. Stat. tit. 14, § 4422(1).
- Estate taxes in Maine are levied in accordance with Me. Rev. Stat. tit. 36, § 4063.
- Real estate closings are conducted by attorneys. A consumer's choice of title attorney guidelines is outlined in Me. Rev. Stat. tit. 9-A, § 9-303. Closing procedures are usually held at the title company's office or lawyer's office. The closing officer coordinates the document signing and the collection and disbursement of funds.
- An automatic lien for estate taxes, interest, and penalties attaches to all Maine property owned by a decedent at death. The lien continues indefinitely until it is released.
- Maine is a lien theory state.
- Maine is a notice recording statute jurisdiction.

MARYLAND

TITLE SEARCHES AND EXAMINATION:

Title searches are conducted from the public records located in the Land and Court Records in the office of the Clerk of the Circuit Court, together with the probate records located in the Orphans Court for the county in which the land lies.

Based on customs, the accepted period of a complete title search is 60 years or back to a good legal description, whichever is greater.

Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in cases of reissues and substitution loans. Title insurance rates do not include search and examination. Title insurance agents are regulated by the state Department of Insurance. Additionally, all forms of contracts, policies, or guarantees of insurance, as well as all modifications of contracts, policies, or guarantee of insurance shall be filed with the Maryland Insurance Administration.

Certified copies of death certificates can be obtained from the Division of Vital Records, 6550 Reisterstown Road, Unit 70, Baltimore, Maryland 21215 (410-764-3038).

VESTING:

Maryland is a community property state. Maryland recognizes tenancies in common, joint tenancies, and tenancies by the entirety. The non-titled spouse to real property is not required to sign the security instrument.

Maryland is not a homestead state. "Any interest in property held by a husband and wife in tenancy by the entirety may be granted, (1) by both acting jointly, to themselves, to either of them, individually, or to themselves and any other person, in joint tenancy or tenancy in common; (2) by both acting jointly, to either husband or wife and any other person in joint tenancy or tenancy in common; and (3) by either acting individually to the other in tenancy in severalty, without the use of a straw man as an intermediate grantee-grantor. These grants, regardless of when made, are ratified, confirmed, and declared valid as having created the type of ownership that the grant purports to grant" (Md. Code Ann., Real Prop. § 4-108 (1964 & Supp. 1990) (LexisNexis, Lexis Advance through June 1, 2018)).

Marital rights held jointly by husband and wife can be severed by a conveyance by one spouse to the other spouse, and divorce. Former spouses become tenants in common unless the final decree of divorce directs otherwise.

A conveyance is made by warranty deed. A valid conveyance must contain the lawyer's certificate of preparation for recordings, and identify the consideration. Conveyances made to two or more persons are construed as tenancies in common.

If the contract does not exclude minerals, they can be excluded from the transfer document.

Maryland's doctrine of merger looks to the intent of the parties.

For statutes relating to aliens holding title to land, see Md. Code Ann., Real Prop. § 14-101 (1998 & Supp. 1990).

For statutes relating to foreign corporations or partnerships holding title to land, see Md. Code Ann., Corps. & Ass'ns § 7-104 (1993 & Supp. 1990).

A judgment from the court is needed to confirm title to property purchased for taxes. Md. Code Ann., Tax-Prop. §§ 14-845, 14-847 (1994 & Supp. 1990).

DECEDENTS' ESTATES:

The state imposes inheritance taxes on estates. The inheritance tax rate is 10% of the clear value of the property that passes from a decedent. Clear value refers to the fair market value minus expenses (Md. Code Ann., Tax-Gen. § 7-204 (1994 & Supp. 1990) (LexisNexis, Lexis Advance through June 1, 2018)).

The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of:

- a grandparent of the decedent;
- a parent of the decedent;
- a spouse of the decedent;
- a child of the decedent or a lineal descendant of a child of the decedent;
- a spouse of a child of the decedent or a spouse of a lineal descendant of a child of the decedent;
- a surviving spouse of a deceased child of the decedent or of a deceased lineal descendant of a child of the decedent who was married to the child or lineal descendant of the child at the time of the child's or lineal descendant death;
- a brother or sister of the decedent; or
- a corporation, partnership, or limited liability company if all of its stockholders, partners, or members consist of individuals specified in items (i) through (vii) of this paragraph.

(Md. Code Ann., Tax-Gen. § 7-203 (1994 & Supp. 1990) (LexisNexis, Lexis Advance through June 1, 2018)).

MORTGAGES, LIENS, AND FORECLOSURE:

Maryland is a title theory state. Judgment liens expire after twelve years, unless renewed by filing a notice of renewal before the expiration of the lien. See Md. Rule 3-625 (1986).

The requirements of adverse possession are the common law requirements of exclusive, continuous, open and hostile for 20 years (Md. Code Ann., Cts. & Jud. Proc. § 5-103 (LexisNexis, Lexis Advance through June 1, 2018)).

Sellers who finance part of the sale price for the buyer are entitled to a purchase-money mortgage; see Md. Code Ann., Real Prop. § 7-104 (1988).

To cancel mortgage liens of record, a release or certificate of satisfaction must be filed. If a lender fails to cancel a lien of record after secured debt is paid in full Md. Code Ann., Real Prop. § 7-106 (1988) prescribes penalties.

Builder warranties provided by statute. See Md. Code Ann., Real Prop. § 10-601 (1988) to 10-610 (1998).

For limitations applicable to actions arising from deficiencies in construction, or improvements to real property, see Md. Code Ann., Real Prop. § 10-601 (1988) to 10-610 (1988); Md. Code Ann., Bus. Reg. § 8-401 (1992) (Home Improvement Guaranty Fund). See also Md. Code Ann., Cts. & Jud. Proc. § 5-108 (1995) (injuries on improved property).

Title insurance policies and certificates of title are subject to a twelve-year statute of limitations: see Md. Code Ann., Real Prop. § 5-102 (1995).

Foreclosure is usually court supervised, but it is not necessary to file suit on the deed of trust. The time for the foreclosure process is set by Md. Code Ann., Maryland Rules W70-W80 (1996). There is no redemption period after sale. The final act is the order of ratification.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	12 years
All State of Maryland Tax Liens	3 years
Federal Tax Liens	10 years
Mechanic's Lien	1 year
Estate Tax	10 years

REAL ESTATE CLOSINGS:

A residential and/or commercial closing may be conducted by an attorney, a licensed and appointed title agent, or a licensed and appointed employee of the title agent. Documents can be prepared by title companies or lawyers.

The state requires licenses for those conducting closings, escrows, or settlements. Additionally, the state requires an escrow account exclusively for Maryland closings. Closings costs are negotiable, but are typically split between the buyer and the seller. The use of a power of attorney in a closing is permitted as long as it is recorded; see (Md. Code Ann., Real Prop. § 4-107 (1995) (LexisNexis, Lexis Advance through June 1, 2018)). The customary security agreement is a deed of trust.

On purchase money transactions on residential properties, the lender is required to disburse at the time of closing.

Maryland Annotated Code requires that all deeds, mortgages, or deeds of trust must bear the certification of an attorney at law (the attorney-at-law must be a member of the Maryland Bar), that the instrument has been prepared by an attorney or under an attorney's supervision or a certificate that the instrument was prepared by one of the parties named in the instrument.

Closing statements and other support documents, affidavits, etc. may be prepared by the title insurer, title agent, or other document preparer.

Deeds of trust as well as mortgages may be utilized in Maryland. The statutory deed form may be found in Kan. Stat. Ann. §§ 4-201, 4-202(a). Real Property Article, Maryland Annotated Code. The security instrument of choice or of greater use is the deed of trust statutory forms of both instruments may be found in the Real Property Article of the Maryland Annotated Code Mortgage.

RECORDING REGULATIONS:

Maryland is a race-notice recording state. For recording requirements, see Md. Code Ann., Real Prop. § 3-104 (Supp. 1995).

All real estate taxes and assessment must be paid prior to recordation of the deed: A deed or other instrument which effects a change of ownership must be transferred on the assessment records prior to recordation, containing the names of the grantor and grantee, a description of the property sufficient to identify it with reasonable certainty, and the interest or estate intended to be granted. Seals and witness are not required.

No mortgage or deed of trust is valid except as between the parties unless there is contained in, endorsed on, or attached to it an oath or affirmation of the mortgage or the party secured by a deed of trust that the consideration recited in the mortgage or deed of trust is true and bona fide as set forth. If the deed of trust or mortgage is a purchase money instrument, an affidavit of disbursement must be affixed to the instrument that the funds were paid over at closing.

Montgomery County - Deed must state the following: Parcel id number (this is the tax account number); The street address of the property; The mailing address of the Grantor and Grantee; and the name of the title insurer, if any.

Prince George's County - Deeds must state the election district in which the property described in the deed is located.

Worcester County - No deed granting property lying within the boundaries of any sanitary district operated by the Worcester County Sanitary Commission may be accepted by the Clerk of the Circuit Court for recording unless the deed is marked by the commission indicated that every assessment or charge currently due and owed to the Commission has been paid.

Transfer and recordation taxes are imposed by the State of Maryland and by the municipalities (Counties and Baltimore City). Transfer taxes are calculated based on a percentage of the purchase price.

Purchase money Deeds of Trust and Mortgages are exempt from tax up to the purchase price of the land and improvements being purchased.

If the deed of trust or mortgage is a refinance of the borrower's principal residents, the consideration of the security instrument is exempt up to the unpaid balance of the debt being satisfied. Any amount in excess will be subject to a recordation tax. A refinance affidavit or statement must be affixed to the security instrument. If the deed of trust or mortgage is not purchase money mortgage, the instrument will be subject to recordation tax.

PROPERTY TAXES:

Property taxes are levied on July 1 and are due on October 1. Property taxes cannot be paid in installments. Real estate taxes for non-owner-occupied residential property is due on July 1 of each year. For owner-occupied residential property (effective July 1, 2000), the first installment is due on July 1, and the second installment is due on December 1. Real estate taxes become a lien on their respective due dates if they become delinquent. In general, there is a 7-year statute of limitations on tax liens.

MARYLAND CALLOUTS

- Title searches are conducted from the public records located in the Land and Court Records in the office of the Clerk of the Circuit Court, together with the probate records located in the Orphans Court for the county in which the land lies.
- Based on customs, the accepted period of a complete title search is 60 years or back to a good legal description, whichever is greater.
- Maryland is a community property state.
- Maryland recognizes tenancies in common, joint tenancies, and tenancies by the entirety. The non-titled spouse to real property is not required to sign the security instrument.
- Maryland is not a homestead state.
- The state requires licenses for those conducting closings, escrows, or settlements.
- Maryland is a title theory state.
- Maryland is a race-notice recording state.

MASSACHUSETTS

PREFACE:

Massachusetts does not require a license for title insurance agents or agencies. However, this does not mean that an applicant can simply get started by contracting with an underwriter. Because of a past incident in which an attorney sought to effectively monopolize the title insurance practice in the state, a lobbying effort was launched to impose stricter regulations on the industry. The Massachusetts Bar Association wrote an advisory opinion stating that closing a loan in the state of Massachusetts is the practice of law. Subsequently, real estate attorneys who were interested in issuing title insurance formed the Real Estate Bar Association of Massachusetts (REBA). REBA was known for sending cease and desist letters to title agencies, alleging that the agencies are engaging in the unauthorized practice of law.

In 2009, this influential association brought a massive lawsuit against National Real Estate Information Services (NREIS), a powerful national title agency. The case pitted Massachusetts real estate closing attorneys against out-of-state non-attorney settlement service providers that were attempting to perform "witness or notary" closings in the state of Massachusetts.

The Massachusetts Supreme Court ruled on *The Real Estate Bar Association (REBA) v. National Estate Information Services (NREIS)* in April of 2011. The Court's ruling essentially reaffirmed Massachusetts attorneys' long-standing role to oversee the closing process and conduct closings.

Massachusetts attorneys must be present for closings and take an active role in the transaction both before and after the closing; this requirement applies to purchases and refinances. Most significantly, the court's ruling forbade the use of "robo-attorneys." Previously, title agencies engaged the services of "robo-signing" attorneys, whose role was to be present at the closing (i.e., meeting clients for the first time, witnessing signatures, and blindly signing unfamiliar documents). However, because these attorneys were not meaningfully participating in the transaction from the start, and the rote functionality during the closing defeated the purpose of the attorney requirement according to the court's opinion, the practice was invalidated.

Secondly, the court held that attorneys are required to draft deeds as well as effectuate the transaction. This obligation includes ensuring the proper recordation of that deed and mortgage, the proper disbursement of funds to the appropriate parties, and the proper release of prior mortgages and liens.

On a positive note for title insurance agents, the court ruled that title abstracts, title insurance, and other administrative functions may be properly delegated to non-attorneys. The court also recognized that, consistent with modern practices, many functions in the real estate transaction need not be performed by an attorney, including the following: the preparation of title abstracts by title examiners at the registries of deeds; the issuance of title insurance policies; and the preparation of closing documents and the HUD Settlement Statement.

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back fifty years (Mass. Ann. Laws ch. 93, § 70). Title examinations are conducted in the appropriate County Registry of Deeds of where the property is located. The attorney then reviews the title and makes a determination of title. The attorney then certifies the title to a buyer, lender, or title insurance company. The certification of title is determined to be the practice of law in Massachusetts.

Within each County Registry of Deeds there are two (2) distinct systems of land records. Registry of Deeds encompasses all properties referred to as unregistered land and Registry of Deeds District of the Land Court encompasses properties that have been registered through the Massachusetts Land Court.

The Massachusetts Conveyancers Association has compiled and adopted a set of title standards. Massachusetts has no requirements to file title insurance rates or title insurance forms. Title insurance policies and endorsements are permitted and unregulated, however, ALTA owner's and lender's title insurance policies and endorsements are most commonly used. Special rates are given in cases of over \$2 million. Title insurance rates do not include search and examination. Title insurance agents are not regulated. Title insurance rates are not regulated.

Certified copies of death certificates can be obtained from the Registry of Vital Records and Statistics, 150 Mt. Vernon St., 1st Floor, Dorchester, MA 02125-3105.

VESTING:

Massachusetts recognizes tenancies in common, joint tenancies, and tenancies by the entirety. See Mass. Ann. Laws ch. 184, § 7. The non-titled spouse must sign the security instrument regardless if he/she holds title.

A husband and wife together may hold title as tenants by the entirety. Massachusetts does not recognize community property. A conveyance to a husband and wife is construed to create a tenancy in common unless a different intention is expressed (*id.* ch. 184, § 7). A tenancy by the entirety is severed by a divorce and becomes tenants in common. A creditor of either a husband or a wife whose principal residence is held as tenants by the entirety may not seize the residence absent the joint signatures of both spouses.

The Massachusetts Homestead Act (see Mass. Ann. Laws ch. 188, § 1 *et. seq.*) protects a homeowner up to \$500,000.00 against only unsecured creditors claims. It does not, however, apply to situations where one has provided a home as collateral for obtaining a loan or other financing. Homeowners' principal residents receive an automatic exemption in the amount of \$125,000.00, unless a written declaration of homestead is filed and recorded at the local registry, which increases the amount to \$500,000. Please note that two kinds of declarations of homestead exist—one for non-disabled persons, and the other for elderly and disabled individuals. Non-exempted debts to which the homestead petition does not protect are as follows: Federal, state and local taxes and liens; mortgages contracted for the purchase of the home and most other mortgages; debts and encumbrances that existed prior to the formation of the homestead petition; probate court orders for child or spousal support; attachments on land not owned by the owner of the homestead estate and finally court-ordered executions in cases of fraud, mistake, duress, undue influence or lack of capacity.

Dower and curtesy have been abolished.

A conveyance is made by a quitclaim deed or warranty deed. Conveyance instruments must contain the grantor, grantee, consideration, address, property description, signature, and acknowledgement. The requirements for acknowledgments are outlined by Mass. Ann. Laws ch. 183, § 30.

Conveyances made to two or more persons are construed as tenancies in common, except for mortgages. See Mass. Gen. Laws ch. 184, § 7. If contract does not exclude minerals, they can be excluded from the transfer instrument.

Massachusetts recognizes the doctrine of merger. When there is a unity of title in the same person, the titles merge into one. The title must be coextensive for the merger to take place.

For statutes relating to aliens holding title to land, see Mass. Ann. Laws ch. 183, § 1.

For statutes relating to foreign corporations or partnerships conveying title to land, see Mass. Ann. Laws ch. 155, § 8.

The procedure to confirm title to property purchased for taxes involves foreclosure of tax title. See Mass. Ann. Laws ch. 60 et seq. for additional information.

DECEDENTS' ESTATES:

Massachusetts Estate Taxes are governed by Mass. Ann. Laws ch. 65C. An Estate Tax is imposed on the estates of deceased residents of Massachusetts with estates over threshold amounts depending on the date of death.

Even if there are no estate taxes due, Massachusetts imposed an automatic lien on real property of the decedent. The lien automatically remains on the property for ten (10) years (Mass. Ann. Laws ch. 65C, § 14) unless the Commissioner of Revenue issues a certificate of Release of Estate Tax Lien for the property, or there is proof of payment of the amount shown due by the Massachusetts estate tax closing letter.

MORTGAGES, LIENS, AND FORECLOSURE:

Massachusetts is a title theory state. Judgment liens expire after six years.

Adverse-possession requirements: twenty years of open, notorious, continuous, adverse possession with claim of right.

A discharge is used to cancel mortgage liens of record. If the lender fails to cancel lien of record within 45 days after secured debt is paid in full, Mass. Ann. Laws ch. 183, § 55 prescribed penalties.

Limitations applicable to actions arising from deficiencies in construction, or improvements to real property: six years. See Mass. Gen. Laws ch. 260, § 2 (1992).

Statute of limitations on lawyer's certificate of title: see Mass. Ann. Laws ch. 93, § 70.

Foreclosure may be by judicial or by non-judicial means. The time for the foreclosure process is typically 90 days. There is no redemption period after sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
All State of Massachusetts Tax Liens	10 years
Federal Tax Liens	10 years
Estate Tax	10 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Massachusetts is an attorney state; closings must be conducted by an attorney. If a non-attorney conducts a closing it is considered a non-authorized practice of law.

Closing costs are usually paid by the buyer and stamps are paid by the seller. A power of attorney in a closing is allowed. Massachusetts does not mandate a form of Closing Protection Letter. The standard ALTA Insured Closing Protection Letter has been adopted in Massachusetts. The customary security agreement is a mortgage with private power of sale.

For the majority of residential closings, the Lender or Lender's counsel prepares the security documents and federal disclosures. These documents include notes, mortgages, and truth in lending forms. The closing attorney prepares the exhibit for property description, deeds, settlement statements and state specific forms.

RECORDING REGULATIONS:

Massachusetts is a notice recording statute state.

The deed must contain the grantor(s) full name, signatures, and acknowledgement of grantor(s). All deeds must be notarized. The names of the grantee(s) with their residence and post office address; Full consideration paid with state excise or documentary stamps affixed; Address of property set forth in left hand margin; and Description of property conveyed.

To be recorded, the following requirements must be met on the Mortgage: Mortgagor(s) full name; Execution by Mortgagor(s); Acknowledgement of Mortgagor(s); Name of Mortgagee and address; Consideration of the Note that the Mortgage secures: Address of property mortgaged; Description of property mortgaged; Return address after recording; and Recording fee.

PROPERTY TAXES:

Only the municipality levies real estate taxes in Massachusetts. Cities and towns in Massachusetts issue tax bills on a quarterly basis. The bills are sent 30 days before they are due. So, your property tax bills will be mailed four times per year: **July 1, October 1, January 1, and April 1.**

The Collector of Taxes of any city or town shall issue a Municipal Lien Certificate showing all taxes and assessments, including water charges and charges due to municipal lighting plants which constitute liens on the specific property and are payable on account of such real estate. See Mass. Ann. Laws ch. 60, § 23

The statute permits recording or filing of a Municipal Lien Certificate within 150 days of its date, in which case it will operate to discharge the parcel specified from taxes and assessments not appearing in the Certificate, except for liens for which a tax taking or sale has been recorded or filed.

MASSACHUSETTS CALLOUTS

- All land titles are checked back 50 years.
- The Massachusetts Supreme Court ruled on *The Real Estate Bar Association (REBA) v. National Estate Information Services (NREIS)* in April of 2011. The Court's ruling essentially reaffirmed Massachusetts attorneys' long-standing role to oversee the closing process and conduct closings.
- Massachusetts attorneys must be present for closings and take an active role in the transaction both before and after the closing; this requirement applies to purchases and refinances. Most significantly, the court's ruling forbade the use of "robo-attorneys." Previously, title agencies engaged the services of "robo-signing" attorneys, whose role was to be present at the closing (i.e., meeting clients for the first time, witnessing signatures, and blindly signing unfamiliar documents). However, because these attorneys were not meaningfully participating in the transaction from the start, and the rote functionality during the closing defeated the purpose of the attorney requirement according to the court's opinion, the practice was invalidated.
- Massachusetts recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- Massachusetts is an attorney state; closings must be conducted by an attorney. If a non-attorney conducts a closing it is considered a non-authorized practice of law.
- Closing costs are usually paid by the buyer and stamps are paid by the seller. A power of attorney in a closing is allowed. Massachusetts does not mandate a form of Closing Protection Letter. The standard ALTA Insured Closing Protection Letter has been adopted in Massachusetts. The customary security agreement is a mortgage with private power of sale.
- For the majority of residential closings, the Lender or Lender's counsel prepares the security documents and federal disclosures. These documents include notes, mortgages, and truth in lending forms. The closing attorney prepares the exhibit for property description, deeds, settlement statements and state specific forms.
- The Massachusetts Homestead Act (see Mass. Ann. Laws ch. 188, § 1 et. seq.) protects a homeowner up to \$500,000.00 against only unsecured creditors claims. It does not, however, apply to situations where one has provided a home as collateral for obtaining a loan or other financing. Homeowners' principal residents receive an automatic exemption in the amount of \$125,000.00, unless a written declaration of homestead is filed and recorded at the local registry, which increases the amount to \$500,000
- Massachusetts is a title theory state.
- Massachusetts is a notice recording statute state.

MICHIGAN

TITLE SEARCHES AND EXAMINATIONS:

A search is conducted, depending on the locale, in the county courthouse. There are various title search standards depending on the property. All land titles are checked back at least forty years (Mich. Comp. Laws § 565.101). The State Bar of Michigan publishes a volume known as the Michigan Land Title Standards.

Title insurance policies and endorsements are in most instances the American Land Title Association forms. Special rates are given in cases of reissue or refinance. Minimum charge is \$150.00.

Title insurance rates do include search and examination. Title insurance agents are licensed by the Division of Insurance. Title insurance rates are filed with the Division of Insurance.

Certified copies of death certificates can be obtained from the State Registrar or Local Registrar.

VESTING:

Michigan recognizes joint tenancies, tenancies in common, and tenancies by the entirety. The non-titled spouse of homestead property must sign the security instrument. Husband and wife must both agree to sever the tenancy by the entireties in favor of some other estate in land.

Dower and Curtesy was abolished in 2017. See Mich. Comp. Laws Serv. § 558.30)

Michigan is not a community property state. Homestead laws are in force in Michigan. Homestead rights require both spouses to sign a mortgage on a refinance of their principal residence, even if the principal residence is owned by only one spouse. A spouse is not required to sign a mortgage to secure the payment of the purchase money or a portion of the purchase money. See Mich. Comp. Laws Serv. § 600.6023(1)(g)(i).

Conveyances are made by warranty deeds, quit claim deeds, or covenant deeds. The deed must include full consideration unless the required affidavit is submitted along with the document. The acknowledgment of any married woman to a deed of conveyance or other instrument affecting real property, may be taken in the same manner as if she were sole (Mich. Comp. Laws Serv. § 565.281).

Conveyance instruments executed and recorded before April 6, 2017 must contain marital status, if male grantor (see Mich. Comp. Laws Serv. § 565.221), name of person printed or typed directly beneath the signature and his or her address printed or typed on face of instrument, two witnesses with their names printed or typed beneath their signatures, notary statement with notary's name printed or typed beneath the signature, name and business address of preparer, legal description, and date. If an instrument has been recorded in the office of a register of deeds without the instrument showing the marital status as required by this section, an affidavit stating the facts, executed in conformity with 1915 PA 123 , MCL 565.451a to 565.453, may be recorded in the register's office. Additional language exists for such recordings where 10 years have elapsed.

Conveyances made to two or more persons are construed as tenancies in common, unless expressly declared to be a joint tenancy, except in the case of devises or grants made in trust or made to a personal representative or to husband and wife or to mortgagees. See Mich. Comp. Laws Serv. §§ 554.43, 554.44, 554.45.

If the contract does not exclude minerals, then whether they can be excluded from the transfer instrument must be analyzed on a case-by-case basis.

In the absence of an intention to the contrary, a transfer of the mortgage or mortgage debt to the owner or other person having an interest in the mortgaged premises may result in a merger of the two estates and preclude the mortgage from being kept alive as a subsisting lien, unless such owner or other person is under no obligation to pay the debt (Michigan Land Title Standards: 16.4; *First National Bank of Utica v. Ramm*, 240 N.W. 32 (Mich. 1932); *Volimer v. Coenis*, 15 N.W.2d 654 (1944); *Anderson v. Thompson*, 195 N.W. 689 (1923)).

Statutes related to foreign corporations or partnerships holding title to land include: Uniform Partnership Act, Michigan Corporation Act and Michigan Limited Liability Company Act.

DECEDENTS' ESTATES:

Michigan no longer imposes an inheritance tax or an estate tax (otherwise known as a "pick up tax" or "sponge tax").

In the absence of administration, the decedent's heirs and devisees are entitled to the estate in accordance with the terms of a probated will or the laws of intestate succession. A devisee may establish title by the probated will to devised property. An individual entitled to property by homestead allowance, exemption, or intestacy may establish title to the property by proof of the decedent's ownership, the decedent's death, and the individual's relationship to the decedent (Mich. Comp. Laws Serv. § 700.3901).

Upon death of spouse, the decedent's interest reverts to the surviving spouse unless otherwise indicated in the conveyance instrument. A certified death certificate is required.

[Please note: Michigan's Probate Code has been moved to Chapter 700 Estates And Protected Individuals]

MORTGAGES, LIENS, AND FORECLOSURE:

Michigan is a lien theory state. Judgment liens are valid for a period of seven years.

Sellers who finance part of the sale price for the buyer receive a purchase-money mortgage. A purchase money mortgage generally takes precedence over all other existing and subsequent claims and liens of every kind against the mortgagor to the extent of the land purchased (Mich. Comp. Laws Serv. § 600.2807). A purchase-money mortgagee who promptly records both conveyances will not be affected by any previous conveyances or liens that have been placed on record without his or her knowledge (*Fecteau v. Fries*, 234 N.W. 113 (Mich. 1931)).

A discharge of mortgage is used to discharge a mortgage lien that has been paid in full; see Mich. Comp. Laws Serv. § 565.41. The mortgagee must file discharge within the allotted time referenced in Mich. Comp. Laws Serv. § 565.44; if mortgagee refuses after being requested, he or she shall be liable to mortgagor for \$1,000.00 statutory damages plus all actual damages.

Adverse-possession claims require the common law elements of open, continuous, exclusive, adverse, and notorious for a period of fifteen years.

A claimant who has provided an improvement to the real property has ninety days from the date materials or labor were last provided to the property to file a lien (Mich. Comp. Laws Serv. § 570.1111). Once a construction lien has been filed, the lien holder has one year from the filing date to bring an action to enforce the lien through foreclosure (Mich. Comp. Laws Serv. § 570.1117).

A quiet title action may be filed to confirm the title to property purchased for taxes.

Foreclosure is by either judicial or non-judicial means. The time for the foreclosure process is approximately nine months in judicial foreclosure (see Mich. Comp. Laws Serv. § 600.6052), and approximately two months in non-judicial foreclosure (see Mich. Comp. Laws Serv. § 600.3208). There is a six-month redemption period after foreclosure sale. If the amount claimed to be due on the mortgage at the date of foreclosure is less than 2/3 of the original indebtedness, the redemption period is 12 months. The redemption period for an abandoned property is one month from the date of sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Michigan Tax Liens	7 years plus 7 years
Federal Tax Liens	10 years
Mechanics Lien	1 year
Homeowners Association	15 years

REAL ESTATE CLOSINGS:

Title agents may prepare deeds, settlement statements, affidavits, HUD forms, and escrow agreements under the supervision of an attorney. Title companies, attorneys, or real estate agents can conduct closings. Michigan does not require licenses for those individuals conducting closings. Michigan is a wet funding state.

Closing costs are usually paid by the seller. Using a power of attorney is permitted and it should designate acts specifically authorized. However, strict interpretation should not be used to destroy the very purpose of the document. The agent cannot use power to acquire or use the principal's property. If the agent executes a document to be recorded, then the power of attorney must also be recorded. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Michigan is a race-notice recording state.

Requirements for recording deeds can be found in Mich. Comp. Laws Serv. § 565.201. The following are required for recording an instrument:

Signatures: All party, witness, and notary names must be typed, printed, or stamped beneath original signatures. Names must be consistent within a document.

Addresses: All documents must include the addresses of the grantor and grantee. Marital status of grantee(s).

Notarization/Acknowledgment: Notarial certificate, including date of expiration and county, required on all instruments. Certificates prepared in another state should be completed in accordance with the statutes of that state.

Witnesses: Two are required. One may be the notary public who acknowledges. The instrument must include the name and address of the preparer.

Many recording offices request all previously recorded document references be included on subsequent related documents.

PROPERTY TAXES:

Michigan has two separate taxes that are collected each year. Summer taxes are due on July 1st of each year. They usually can be paid from July 1 to September 14th without penalty. However some municipalities have different due dates. They may be earlier or later than September 14th according to the community's charter. If they are not paid on the due date interest is charged and they become a lien on the property. Michigan's summer property taxes run from July 1st of this year to June 30th of the next year. Winter taxes are due on December 1st of each year. Winter taxes are due without interest December 1 through February 14. Michigan winter property taxes run from December 1st of this year to November 30th of next year.

MICHIGAN CALLOUTS

- A search is conducted, depending on the locale, in the county courthouse. There are various title search standards depending on the property. All land titles are checked back at least forty years (Mich. Comp. Laws § 565.101). The State Bar of Michigan publishes a volume known as the Michigan Land Title Standards.
- Title insurance rates do include search and examination
- Michigan recognizes joint tenancies, tenancies in common, and tenancies by the entirety. The non-titled spouse of homestead property must sign the security instrument. Husband and wife must both agree to sever the tenancy by the entireties in favor of some other estate in land.
- Conveyance instruments executed and recorded before April 6, 2017 must contain marital status, if male grantor (see Mich. Comp. Laws Serv. § 565.221).
- Foreclosure is by either judicial or non-judicial means. The time for the foreclosure process is approximately nine months in judicial foreclosure (see Mich. Comp. Laws Serv. § 600.6052), and approximately two months in non-judicial foreclosure (see Mich. Comp. Laws Serv. § 600.3208).
- Title agents may prepare deeds, settlement statements, affidavits, HUD forms, and escrow agreements under the supervision of an attorney.
- Title companies, attorneys, or real estate agents can conduct closings. Michigan does not require licenses for those individuals conducting closings.
- Michigan is a wet funding state.
- Closing costs are usually paid by the seller. Michigan is a lien theory state.
- Michigan is a race-notice recording state.

MINNESOTA

TITLE SEARCHES AND EXAMINATIONS:

Land titles are generally examined back to patent, or at least forty years, or are as shown on the Certificate of Title if registered land. See Minn. Stat. Ann. § 541.023. Title insurance examination practices vary by company.

Generally, title examinations are conducted from an updated abstract or a search of the courthouse records. However, some title companies do have title plants. Currently, some of the counties are becoming computerized and the tract information may soon be available to the public directly from the courthouse. Registered property requires either a registered property abstract or a courthouse search at the registrar of titles' office.

Title insurance policies and endorsements are issued in most mortgage transactions (to nearly all lenders and an increasing number of owners). In addition, contracts for deed and leasehold transactions often involve title insurance. Special rates are given in cases of reissue, subdivision, commercial, limited-coverage loans, and substitution loans. Filed title insurance rates are for premium only and do not include fees for search, examination, or closing services.

Title insurance agents are licensed and regulated by the Department of Commerce, pursuant to Minn. Stat. Ann. § 60K.31-60K.57.

All title insurance rates and changes to rates are to be filed with the Commissioner of Commerce, no later than their proposed use date. The Commissioner may require such supporting statistical data and explanatory information as deemed appropriate (Minn. Stat. Ann. §§ 70A.03-70A.06).

Certified copies of death certificate may be obtained from Minnesota Department of Health, 625 Robert St N, St Paul, MN 55164.

VESTING:

Minnesota recognizes joint tenancies and tenancies in common. Conveyances made to two or more persons are construed as tenancies in common, unless grantees are designated as joint tenants (Minn. Stat. Ann. § 500.19). Minnesota is a homestead state and requires that the non-titled spouse sign all conveyances and mortgages.

A husband and wife can hold property as joint tenants in Minnesota. The joint tenancy can be severed by a recorded instrument of severance, by an instrument of severance executed by all of the joint tenants, by an order of the court of competent jurisdiction, and by the bankruptcy of joint tenant (id. § 500.19).

Minnesota does not recognize community property or tenancies by the entirety. The statute abolishing dower and curtesy was replaced, leaving in effect, a fifteen-year statute of limitations on the enforcement of any such inchoate interests. See Minn. Stat. Ann. § 519.101.

Conveyances are made by warranty deed, guardian's deed, limited warranty deed, quitclaim deed, conservator's deed, trustee's deed, personal representative's deed, mortgage or contract for deed.

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. The doctrine of merger is followed in abstract, and may or may not be followed for registered land.

Statutes related to aliens holding title to land include Minn. Stat. Ann. § 500.221.

Statutes related to foreign corporations or partnerships holding title to land include Minn. Stat. Ann. § 303.04 et seq.

DECEDENTS' ESTATES:

Minnesota has adopted the Uniform Probate Code, which can be found in Chapter 524 of the Minnesota Statutes. The procedures are set forth in Chapter 525 of the Minnesota Statutes. Minnesota does require an ancillary administration for out-of-state fiduciaries. Minnesota imposes estate and inheritance taxes on estates (Minnesota Statutes Chapter 291).

MORTGAGES, LIENS, AND FORECLOSURE:

Minnesota is a lien theory state. Judgment liens expire after ten years, unless renewed by commencement of action by judgment creditor. See Minn. Stat. Ann. § 548.09.

Adverse-possession requirements: fifteen-year statute of limitations that requires payment of taxes for the last five years of the fifteen years being claimed. See Minn. Stat. Ann. § 541.02.

Builder warranties provided by statute include Minn. Stat. Ann. § 327A.01 et seq.

Limitations applicable to actions arising from deficiencies in construction, or improvement to real property: Minn. Stat. Ann. Sections 327A.08 and 541.051.

A satisfaction of mortgage, partial release of mortgage, certificate of release of mortgage, or uniform conveyancing blank form nos. 50-M, 51-M, 51 1/2-M, and 131-M may be used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full within 45 days, a civil penalty of up to \$500.00 in addition to all actual damages caused by mortgagee's failure to satisfy, may be imposed. See Minn. Stat. Ann. § 47.208.

Foreclosure is usually by non-judicial means. The time for the non-judicial foreclosure process is a minimum of ten weeks, exclusive of the applicable redemption period. The general statutory redemption period after foreclosure sale is six months or one year (Minn. Stat. Ann. § 580.23). The redemption period is two months in the case of a voluntary foreclosure sale (Minn. Stat. Ann. § 582.32). The redemption period can be shortened to five weeks in the case of vacant and abandoned property.

Statute of Limitations for Liens	
Liens	15 years from maturity date
Mortgages	15 years from date of mortgage
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Minnesota Tax Liens	10 years
Federal Tax Liens	11 years
Mechanics Lien	120 days
Financing Statements	5 years

REAL ESTATE CLOSINGS:

Real estate closing services may be provided by lawyers, real estate brokers, real estate salespersons, real estate closing agents, lenders, and title companies. Closing costs are usually not negotiated.

Title insurance companies generally conduct closings for Minnesota property. State law and local customs require good funds at settlement. The customary land security agreement is a mortgage.

A power of attorney is permitted for the closings. However, the preferred form is the Minnesota Statutory Short Form. A power of attorney between spouses created before January 1, 1996, remains invalid. A power of attorney between spouses created after January 1, 1996, is valid.

RECORDING REGULATIONS:

The Minnesota recording act is a race-notice act. Documents are recorded in the office of the county recorder or the registrar of titles.

REQUIREMENTS FOR RECORDINGS:

The document shall consist of one or more individual sheets measuring no larger than 8.5 inches by 14 inches.

The form of the document shall be printed, typewritten, or computer generated in black ink, and the form of the document shall not be smaller than 8-point type.

The document shall be on white paper of not less than 20-pound weight with no background color, images, or writing, and shall have a clear border of approximately one-half inch on the top, bottom, and each side.

The first page of the document shall contain a blank space at the top measuring three inches, as measured from the top of the page. The right half is to be used by the county recorder for recording information or registrar of titles for filing information; the left half is to be used by the county auditor or treasurer for certification.

The title of the document shall be prominently displayed at the top of the first page below the blank space referred to above.

A document presented for recording or filing must be sufficiently legible to reproduce a readable copy using the county recorder's or registrar of titles' current method of reproduction.

[Standards for Document Recording, see Minn. Stat. Ann. § 507.093]

PROPERTY TAXES:

Property taxes are levied on January 1 and are due the following year. Property taxes can be paid in two installments due on May 15 and October 15.

See Minn. Stat. Ann. § 510.01 et seq. for detailed treatment of homestead laws.

The homestead may include any quantity of land not exceeding 160 acres. The exemption per homestead, whether the exemption is claimed by one or more debtors, may not exceed \$ 390,000 or, if the homestead is used primarily for agricultural purposes, \$ 975,000, exclusive of the limitations set forth in section 510.05 (Minn. Stat. Ann. § 510.02).

MINNESOTA CALLOUTS

- Land titles are generally examined back to patent, or at least forty years, or are as shown on the Certificate of Title if registered land. See Minn. Stat. Ann. § 541.023. Title insurance examination practices vary by company.
- Filed title insurance rates are for premium only and do not include fees for search, examination, or closing services.
- Minnesota recognizes joint tenancies and tenancies in common. Minnesota does not recognize community property or tenancies by the entirety.
- Minnesota has adopted the Uniform Probate Code, which can be found in Chapter 524 of the
- Minnesota Statutes. The procedures are set forth in Chapter 525 of the Minnesota Statutes.
- Real estate closing services may be provided by lawyers, real estate brokers, real estate salespersons, real estate closing agents, lenders, and title companies.
- Minnesota is a lien theory state.
- The Minnesota recording act is a race-notice act.

MISSISSIPPI

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back at least thirty-two years, to cover a possible gestation period, twenty-one years of minority; plus ten years for potential adverse-possession claims (Miss. Code Ann. § 15-1-13). Minority is waived for an eighteen-year-old married individual for the purpose of purchasing a homestead (Miss. Code Ann. § 93-3-11). In suits to confirm title, title is checked back seventy-five years (see Miss. Code Ann. § 11-17-35).

The agent will conduct a grantor/grantee search in the courthouse of the county wherein the property is situated using the indices in the chancery clerk's office. There is also a tract index which is maintained by the clerk. Generally, the attorney agents are required to perform a 60-year search, although in some areas of the state, it is customary to only do a 35-year search.

Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in cases of reissue or large policies. Title insurance rates do not include search and examination. Title insurance agents are licensed by the Insurance Department. Title insurance companies are not required to file formal rates in Mississippi (Miss. Code Ann. § 83-2-1). Title insurance rates are not regulated.

Certified copies of death certificates can be obtained from the Mississippi State Department of Health, Ridgeland Office at 222 Marketridge Dr, Jackson, Mississippi 39215-1700.

VESTING:

Mississippi recognizes joint tenancies, tenancies in common (presumed), and tenancies by the entirety. Mississippi is not a community property state. A conveyance made to two or more persons is construed as a tenancy in common, unless expressly declared to be a joint tenancy or tenancy by the entirety (Miss. Code Ann. § 89-1-7).

A conveyance is by warranty deed, special warranty deed, quitclaim deed, bargain-and-sale deed, or leasehold assignment (see Miss. Code Ann. §§ 89-1-33, 89-1-35, 89-1-39, 89-1-41). A conveyance requires specific words of conveyance. If the instrument is sufficient to make known the transaction between the parties and uses statutorily required words, no form will invalidate it (Miss. Code Ann. § 89-1-61).

If the contract includes minerals, they must be included in the transfer instrument (*Brent v Corbin*, 252 Miss 464, 173 So 2d 430 [1965]).

In the absence of a specified intention to the contrary, a contract will merge into the deed. However, collateral or independent agreements are not merged into the deed (*Knight v McCain*, 531 So 2d 590 [Miss 1988]).

Statutes related to aliens holding title to land: nonresident individual aliens are not permitted to hold land for longer than twenty years, except 320 acres for industrial development and 5 acres for residential purposes (Miss. Code Ann. § 89-1-23).

Miss. Code Ann. § 27-7-308 provides that in a sale of real property (not an exchange), which results in gross proceeds greater than \$100,000.00 paid to a nonresident seller, the buyer shall withhold and pay to the state Tax Commission an amount equal to 5 percent of the amount realized by the seller on the sale. If the amount required to be withheld exceeds the total net proceeds due the seller, then all the seller's proceeds shall be sent to the Tax Commission. Special forms must be used.

If the tax sale is not redeemed at the end of two years (Miss. Code Ann. § 27-45-3), the buyer may get a tax deed from the chancery clerk. If there is a question about the validity of the tax sale, the buyer must go into possession to perfect the void tax sale. In a direct sale to an individual, the buyer must occupy the land for three years, after two years from the sale, to perfect title by possession (Miss. Code Ann. § 15-1-15).

If the land is sold to the state and the buyer gets a patent from the state, the former owner has two years after the period of redemption expires to attack the sale. If he or she does not attack it within that time, he or she cannot overturn the sale later (Miss. Code Ann. § 15-1-17 (1995)).

DECEDENTS' ESTATES:

Section 91-7-223 provides that executors or administrators may make deeds of conveyances. Estate taxes are imposed and constitute a lien against real property for four years from the date of the estate tax return. Where no return is filed, the period is 10 years from the due date of the return (Miss. Code Ann. § 27-9-35).

The non-titled spouse of homestead property must sign the security instrument. If property is held with survivorship, the decedent's interests revert to surviving spouse upon proof of death.

MORTGAGES, LIENS, AND FORECLOSURE:

Mississippi follows the intermediate title theory (*Anderson v. Kimbrough*, 741 So.2d 1041, (Miss.1999)). Judgment liens expire after seven years from the rendition thereof, unless renewed by filing a court action before the expiration of such time (Miss. Code Ann. § 15-1-47).

A claim for adverse possession requires that the act of possession be open, continuous, exclusive, adverse, and notorious for a period of ten years (Miss. Code Ann. § 15-1-13).

Authority to cancel, release, and partial release forms are used to cancel mortgage liens of record. Also, a trustee can make a marginal notation of cancellation (Miss. Code Ann. § 89-1-51).

The mortgagee must file a discharge within one month after written request; if the mortgagee fails after being requested, he or she shall be liable to the mortgagor for \$200.00 statutory damages plus all actual damages. See Miss. Code Ann. § 89-5-21.

There is a three-year statute of limitations on lawyer's certificate of title (Miss. Code Ann. § 15-1-49; *United Companies Mortgage of Mississippi v. Jones*, 465 So. 2d 1083 (Miss. 1985)).

Miss. Code Ann. § 15-1-41 provides a six-year statute of limitations from written acceptance or actual occupancy, whichever occurs first for builders warranties (see *New Home Warranty Act* at Miss. Code Ann. § 83-58-1 et seq. (1997)).

Laborers, contractors, or material persons who have provided labor, service, or material are granted liens on the property to secure payment. The notice of the lien must be filed, and suit must be instituted within 90 days after the claimant's last work performed (Miss. Code Ann. § 85-7-405).

Foreclosure is usually by non-judicial means. See Miss. Code Ann. §§ 89-1-55, 1-3-69, 1-15-99. The time for the process is approximately four months for a judicial foreclosure, and approximately one month for a non-judicial foreclosure. See Miss. Code Ann. §§ 89-1-55, 1-3-69. There is no statutory redemption period after foreclosure sale.

A purchase money deed of trust will take precedence over all judgments and other debts of the mortgagor. (Miss. Code Ann. § 89-1-45).

Statute of Limitations for Liens	
Mortgages	10 years from maturity date
Judgment liens in favor of the United States	20 years
All other Judgment Liens	7 years
All State of Mississippi Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	90 days from last day work performed

REAL ESTATE CLOSINGS:

Section 73-3-55 indicates only licensed attorneys shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract, or last will and testament, or shall make or certify to any abstract of title to real estate other than his own or in which he may own an interest. This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this state from making abstract or certifying titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi with a paid-up capital of Fifty Thousand Dollars (\$50,000.00) or more from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company. A lender may prepare loan documents. A licensed broker may prepare contract forms (see Miss. Code Ann. § 73-35-21). The standard ALTA closing protection letter is used in Mississippi.

Closings costs may be negotiable within lending regulations. It is permissible to use a power of attorney in a closing. The power of attorney is valid only if original is recorded in the Chancery Clerk's office. A power should be strictly interpreted and only acts specifically authorized if the power can be recognized. A spouse cannot convey homestead rights by a power of attorney (Miss. Code Ann. § 87-3-1 et seq.).

The customary security agreement is a deed of trust. For statutory forms please see: General Warranty Deed (id. § 89-1-33), Quit Claim Deed (id. § 89-1-39), and Special Warranty Deed (id. § 89-1-35).

RECORDING REGULATIONS:

Mississippi is a race-notice state.

The deed or deed of trust must be properly acknowledged before it will be accepted for recording. An improperly acknowledged instrument does not impart notice to a third party (Miss. Code Ann. § 89-5-1). In addition to a proper acknowledgement, any instrument to be recorded must show the name, address, and telephone number of the grantor/mortgagor and the grantee/mortgagee; must contain instructions as to how the instrument is to be indexed; and the name, address, and telephone number of the person, firm, or entity preparing the document.

PROPERTY TAXES:

Property taxes are levied and due on February 1, in arrears for the preceding year. See Miss. Code Ann. § 27-41-1. After February 1, there is a 1 percent per month penalty added (id. § 27-41-9).

Property taxes can be paid in three installments, with one-half due on February 1, one-fourth due on May 1, and one-fourth due on July 1. There is a monthly 1% interest rate on installment plans.

Homestead laws provide that 160 acres, not to exceed the value of \$75,000.00, are exempt from seizure or sale under execution or attachment (Miss. Code Ann. § 85-3-21). A surviving spouse is entitled to occupy the homestead, and heirs of a deceased spouse cannot partition the homestead (*Dickerson v. Leslie*, 47 So. 659 (Miss. 1908)). Except for state and federal tax liens, an exempt homestead is not liable for the debts of a decedent who leaves a surviving spouse, child, or grandchild (Miss. Code Ann. §§ 91-1-7, 91-1-19, 91-1-21); (*Weaver v. Blackburn*, 294 So. 2d 786 (Miss. 1974)).

Both spouses must join in any conveyance of a homestead (deeds or deeds of trust), unless the non-signing spouse has been adjudged insane (Miss. Code Ann. § 89-1-29; *Welborn v. Lowe*, 504 So. 2d 205 (Miss. 1987)). The only exception to this is the case of one spouse conveying to the other spouse. A tax exemption exists for the head of household, in the maximum amount of \$7,500.00 of assessed value (Miss. Code Ann. § 27-33-3 et seq.).

MISSISSIPPI CALLOUTS

- All land titles are checked back at least 32 years, to cover a possible gestation period, 21 years of minority plus 10 years for potential adverse-possession claims (Miss. Code Ann. § 15-1-13 (1995)).
- Mississippi recognizes joint tenancies, tenancies in common (presumed), and tenancies by the entirety.
- Mississippi is not a community property state.
- Section 91-7-223 provides that executors or administrators may make deeds of conveyances. Estate taxes are imposed and constitute a lien against real property for four years from the date of the estate tax return.
- Mississippi follows the intermediate title theory (*Anderson v. Kimbrough*, 741 So.2d 1041, (Miss.1999)). Judgment liens expire after seven years from the rendition thereof, unless renewed by filing a court action before the expiration of such time (Miss. Code Ann. § 15-1-47).
- Foreclosure is usually by non-judicial means. See Miss. Code Ann. §§ 89-1-55, 1-3-69, 11-5-99. The time for the process is approximately four months for a judicial foreclosure, and approximately one month for a non-judicial foreclosure. See Miss. Code Ann. §§ 89-1-55, 1-3-69. There is no statutory redemption period after foreclosure sale.
- Section 73-3-55 indicates only licensed attorneys shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract, or last will and testament, or shall make or certify to any abstract of title to real estate other than his own or in which he may own an interest. This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this state from making abstract or certifying titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi with a paid-up capital of Fifty Thousand Dollars (\$50,000.00) or more from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company. A lender may prepare loan documents. A licensed broker may prepare contract forms (see Miss. Code Ann. § 73-35-21).
- Real estate closings are conducted by attorneys.
- Closings costs may be negotiable within lending regulations.
- Mississippi follows the intermediate title theory.
- Mississippi is a race-notice state.

MISSOURI

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back between forty-five and fifty years by custom. Title examinations are conducted through the use of title plants. Missouri has a title plant law that requires records to be kept for the immediate past 45 years. The Missouri Bar Association has published title standards. See Chapter 442. Title Examination Standards of the Missouri Bar.

Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in transactions exceeding \$1 million. Title insurance rates do not include search and examination. Title insurance agents and rates are regulated under Mo. Ann. Stat. § 381.011 et seq. Rates must be filed by the underwriter with the Missouri Department of Insurance. If the filings are not disapproved within thirty days, they are deemed approved. Forms must be filed by the underwriter with the Missouri Department of Insurance.

Name and address of state agency from which certified copies of death certificates are secured:
Bureau of Vital Statistics, 930 Wildwood Dr, Jefferson City, MO 65109.

The offices of the County Recorder, the County Assessor, and the Clerk of the Circuit Court are where records are filed which impart constructive notice.

VESTING:

Missouri recognizes tenancies in common, tenancies in partnership, joint tenancies, and tenancies by the entirety (Mo. Rev. Stat. § 442.025). Missouri is not a community property state. Homestead laws are limited to \$15,000.00. See Mo. Ann. Stat. § 513.475. Dower and curtesy have been abolished.

A deed to a married couple as "husband and wife" creates a tenancy by the entirety. Every interest in real estate granted or devised to two or more persons, other than executors and trustees and husband and wife, shall be a tenancy in common, unless expressly declared, in such grant or devise, to be in joint tenancy (Mo. Rev. Stat. § 442.450).

A married individual can hold property in his/her name individually. However, a conveyance without the spouse's signature is presumed to be in fraud of marital rights. The marital right involved is a right of inheritance and can only be asserted by a surviving spouse. As a result, the company requires that the deed conveying property held in the name of one spouse must also have the other spouse's signature in order to be insurable.

A separate waiver instrument can be executed to satisfy this requirement. The non-titled spouse of homestead property must sign the security instrument, regardless if he or she holds title.

Conveyance is by warranty deed and quit claim deed. A valid conveyance must include the names of the parties, specific words of conveyance, legal description of the property, signatures, and an acknowledgment.

A valid acknowledgment requires the following: signer must be a person known to the taker; marital status, date of term expiration and instrument, title and signature of officer making the certificate, and location of the act must be included (Mo. Rev. Stat. §442.210).

If the contract does not exclude minerals, they can be excluded from the transfer instrument.

The state's interpretation of the doctrine of merger looks to the intent of the parties.

To confirm title to property purchased for taxes, see Mo. Rev. Stat. § 140.450.

DECEDENTS' ESTATES:

Probate of a will is barred unless presented for probate within six months from the date of the first publication of notice granting letters testamentary; or of administration; or within thirty days from the commencement of an action to contest the validity of a will, whichever is later (Mo. Rev. Stat. § 473.050).

Missouri has an estate tax, which is set forth in Chapter 145 of Missouri Revised Statutes. A tax is imposed on the transfer of every decedent's estate. The tax is defined as the maximum credit for state death taxes allowable to the estate of the decedent against the federal estate tax by Section 2011, or any other provision of the laws of the United States (Mo. Rev. Stat. § 145.011).

Liens for state estate taxes pass to the proceeds of the sale of property out of the estate.

MORTGAGES, LIENS, AND FORECLOSURE:

Missouri is a lien theory state. Judgment liens expire after ten years (Mo. Rev. Stat. § 516.110).

A release deed is used to cancel a mortgage. If a lender fails to cancel lien of record within 45 days the secured debt is paid in full, there is a penalty for the lesser amount of either \$300.00/day, for each day, after the 45 days, or 10 percent of the loan amount in addition to damages (Mo. Rev. Stat. § 443.130).

Claims for adverse possession require the common law elements of open, continuous, exclusive, and notorious for a period of ten years (Mo. Rev. Stat. § 516.010).

Foreclosure can be both by judicial and non-judicial means. The time for the foreclosure process is a minimum of twenty-one days. There is a one-year (if notice and bond) redemption period after sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Missouri Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	6 months
Estate Tax	10 years
Financial Statement	5 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by closing companies, title insurance companies, lawyers, and real estate agents. Documents can be prepared by lawyers, parties, real estate companies, and title companies.

Title insurance companies, which conduct closings normally, prepare the deed, affidavit, and the HUD-1 closing statements. Title company closers need to have a title insurance license issued by the Department of Insurance. No license is required for attorneys and closers for independent closing companies. Missouri has a "good funds" law (Mo. Rev. Stat. § 381.412).

Closing costs are paid as agreed between the parties. Use of a power of attorney in a closing: must be less than a year old (unless durable), give power to deal with real property, be acknowledged, and be recorded.

A general warranty deed is customary to convey title. A deed of trust is the standard form of security instrument. However, a mortgage is recognized as a valid security instrument.

RECORDING REGULATIONS:

Missouri is a notice recording statute jurisdiction.

Requirements for recording deeds, real estate security instruments, and releases can be found in Section 59.330 Missouri Revised Statutes.

Such instruments must be acknowledged according to law and contain a legal description. The mailing address of the grantee must be contained within the instrument.

PROPERTY TAXES:

Property taxes are levied annually against tangible personal property and due upon receipt of the tax bill, but no later than December 31 each year. Taxes are assessed on personal property owned on January 1 but taxes are not billed until November of the same year. Taxes are due for the entire amount assessed.

Real estate taxes become a lien on the first day of the year in which they are to be paid. The lien of general tax judgments is a continuing lien and is not barred by lapse of time or limitation special tax bills, such as those for trash pick-up and weed cutting are a lien on real property. Charges for sewer and sidewalk improvements and street assessments are a lien as well. The State of Missouri has a lien on real estate for sales tax, income tax, unemployment tax, and workmen's compensation. These liens become effective at the time they are recorded in the recorder's office.

MISSOURI CALLOUTS

- All land titles are checked back between forty-five and fifty years by custom.
- Title examinations are conducted through the use of title plants. Missouri has a title plant law that requires records to be kept for the immediate past 45 years.
- The Missouri Bar Association has published title standards. See Chapter 442. Title Examination Standards of the Missouri Bar.
- Missouri recognizes tenancies in common, tenancies in partnership, joint tenancies, and tenancies by the entirety (Mo. Rev. Stat. § 442.025).
- Missouri is not a community property state. Homestead laws are limited to \$15,000.00. See Mo. Ann. Stat. § 513.475.
- Dower and curtesy have been abolished.
- Probate of a will is barred unless presented for probate within six months from the date of the first publication of notice granting letters testamentary; or of administration; or within thirty days from the commencement of an action to contest the validity of a will, whichever is later (Mo. Rev. Stat. § 473.050).
- Real estate closings are conducted by closing companies, title insurance companies, lawyers, and real estate agents.
- Missouri is a lien theory state.
- Missouri is a notice recording statute jurisdiction.

MONTANA

TITLE SEARCHES AND EXAMINATIONS:

Most title examinations in Montana are made from title plants owned by independent agents, of which there are 2-4 on average per county. A complete search in Montana goes back to the U.S. patent or a base file or series of files going back to patent. Court decisions have imposed abstractor liability under commitments and policies of title insurance.

Title insurance policies and endorsements are American Land Title Association and FHA forms. Special rates are given in cases of reissue (lenders, 50 percent of base rate; subdivider rate 60 percent; construction credit all \$40.00). Title insurance rates do include search and examination.

Title insurance rates are regulated by the Montana Insurance Department. All-inclusive title insurance rates are required to be filed with the Department of Insurance. Montana is a file and use jurisdiction with respect to rates.

Title insurance agents are regulated by the Montana Insurance Department. Additionally, policy forms and endorsements must be filed and approved in Montana. The department has at least 60 days to approve forms. If the Department approves form filing prior to 60 days after filing, the remainder of the 60-day period is waived.

Name and address of state agency from which certified copies of death certificates are secured:
Bureau of Records and Statistics, State Department of Health & Environmental Services, 111 N Sanders Rm 6, P.O. Box 4210, Helena MT 59604.

VESTING:

Montana recognizes joint tenancies, partnership interests, and tenancies in common (Mont. Code Ann. § 70-1-306). Tenancy by the entireties and community property are not recognized. Homestead laws are limited to \$250,000.00 in value. See Mont. Code Ann. § 70-32-104. Dower and curtesy have been abolished. A voluntary transfer by the owning spouse alone is sufficient to divest title without joinder of the non-owning spouse, unless the property constitutes the homestead of the parties as evidenced by a recorded declaration of homestead.

Mont. Code Ann. § 40-2-105 recognizes that a husband and wife may hold property jointly or in common. A joint tenancy may be created by designating in the conveyance the names of the joint tenants without the necessity of deeding to a straw party (Mont. Code Ann. § 70-20-105). A joint tenancy may be terminated by the voluntary act of one of the joint tenants (and by the felonious killing by one tenant of another). The non-owning spouse must sign all the deeds and mortgages even if they are not on title. A Release of Homestead Rights may be signed contemporaneously with the mortgage and must be specific to the mortgage transaction.

A conveyance is by warranty deed or quitclaim deed. A valid conveyance requires the same elements as a general contract, such as it must be acknowledged and include information of the parties as well as a legal description of the property. Although a statement of the consideration given/received is not required, it is recommended.

Conveyances made to two or more persons is construed as a tenancy in common, unless language of the conveyance specifies a joint tenancy with the right of survivorship.

If the contract does include minerals, they must be included in the transfer instrument.

See Mont. Code Ann. §§ 15-18-411, 15-18-412 for the procedure to confirm title to property purchased for taxes.

Statutes related to foreign corporations or partnerships holding title to land: no prohibition or special requirements, but see Mont. Code Ann. §§ 35-1-1026, 35-1-1027.

DECEDENTS' ESTATES:

Montana imposes an estate tax (Mont. Code Ann. § 72-16-904) and a generation-skipping transfer tax (Mont. Code Ann. § 72-16-1002) in order to afford the maximum state benefit credit allowable under the federal estate tax laws.

The estate tax lien arises at date of death and continues as a lien upon the property for 10 years unless sooner paid (Mont. Code Ann. § 72-16-911). The tax imposed by the generation skipping transfer tax is a lien on the property subject to the tax for a period of ten years from the time of the generation-skipping transfer (Mont. Code Ann. § 72-16-1005). (Application Tax commonly referred to as form "INH 4").

MORTGAGES, LIENS, AND FORECLOSURE:

Montana is a lien theory state. Judgment liens expire after ten years (Mont. Code Ann. § 27-2-201).

Adverse possession claims are outlined by Mont. Code Ann. §§ 70-19-401 to 70-19-421; which requires five years of open, hostile, continuous, and exclusive possession and payment of all taxes.

Purchase-money mortgage protection is available for sellers who finance part of the sale price for the buyer. See Mont. Code Ann. §§ 71-1-232, 71-3-114.

A satisfaction of mortgage or reconveyance for trust indenture is used to cancel mortgage liens of record. If a lender fails to cancel lien of record 90 days after secured debt is paid in full, there is a \$500.00 fine plus damages (Mont. Code Ann. § 71-1-212).

Actions arising from deficiencies in construction, or improvements to real property must be commenced within ten years from the date of the filing of the lien.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of 120 days. There is a one-year redemption period after foreclosure (Mont. Code Ann. § 25-13-802).

Statute of Limitations for Liens	
Mortgages	8 years after maturity of the entire debt or obligation
Judgment liens in favor of the United States	10 years
All other Judgment Liens	10 years
All State of Montana Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	90 days
Estate Tax	10 years
Financial Statement	5 years unless continuation statement is filed prior to lapse

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by title companies, lawyers, and lenders.

Documents are usually required to be prepared by lawyers, but in some areas of the state, title companies may prepare deeds. Transaction documents can be prepared by the title company except for the loan documents. Generally, documents prepared would include deeds, mortgages, or trust indentures/deeds of trust and notes, closing statements, and realty transfer certificate.

Closing costs are usually split between the seller and buyer. A power of attorney is permitted in a closing. The customary security agreement is a trust indenture (see Small Tract Financing Act).

Closings must be conducted in compliance with Mont. Code Ann. § 33-25-211 and id. § 33-25-201 "Escrow, Closing, or Settlement Services" Montana Administrative Rules. Section 6.6 2202 (10) requires cleared or collected funds.

Trust indentures (elsewhere commonly known as deeds of trust) as provided for under the Small Tract Financing Act of Montana (Title 71 Chapter 1 Part 3 MCA) are the most frequently used form of security instrument on all types of properties not exceeding 40 acres in size. Mortgages are used on tracts of land exceeding 40 acres.

RECORDING REGULATIONS:

Montana has a race-notice recording statute (Mont. Code Ann. § 70-21-304).

The following statutes apply to the recording of deeds and, except for the realty transfer certificate, also apply to the recording of certain other documents, including security instruments: Mont. Code Ann. §§ 7-4-2613; 7-4-2617; 15-18-211; and, the Realty Transfer Certificate id. § 15-7-301.

It is also critical to be aware of the Montana Subdivision and Platting Act when attempting to transfer title to any parcel of land less than 160 acres in size. See Mont. Code Ann. § 76-3-101 et. seq. (Rocky Mountain Timberlands Inc. v. Lund, 877 P.2d 1018 (Mont 1994). Elk Park Ranch. Inc. v Park County, 935 P.2d 1131 (Mont. 1997)).

PROPERTY TAXES:

Property taxes are levied annually and are due on November 30. Property taxes can be paid in two installments, due on November 30 and on May 31 of the following year. Real estate taxes become a lien January 1 of each year. Personal property taxes may also become a lien upon the real property of the owner thereof pursuant to Mont. Code Ann. § 15-16-402.

MONTANA CALLOUTS

- Most title examinations in Montana are made from title plants owned by independent agents, of which there are 2-4 on average per county.
- A complete search in Montana goes back to the U.S. patent or a base file or series of files going back to patent.
- Court decisions have imposed abstractor liability under commitments and policies of title insurance..
- Montana recognizes joint tenancies, partnership interests, and tenancies in common (Mont. Code Ann. § 70-1-306).
- Tenancy by the entireties and community property are not recognized.
- Homestead laws are limited to \$250,000.00 in value. See Mont. Code Ann. § 70-32-104.
- Dower and curtesy have been abolished.
- Real estate closings may be conducted by title companies, lawyers, and lenders.
- Documents are usually required to be prepared by lawyers, but in some areas of the state, title companies may prepare deeds. Transaction documents can be prepared by the title company except for the loan documents. Generally, documents prepared would include deeds, mortgages, or trust indentures/deeds of trust and notes, closing statements, and realty transfer certificate.
- Closing costs are usually split between the seller and buyer.
- Closings must be conducted in compliance with Mont. Code Ann. § 33-25-211 and id. § 33-25-201 "Escrow, Closing, or Settlement Services" Montana Administrative Rules. Section 6.6 2202 (10) requires cleared or collected funds.
- Montana is a lien theory state.
- Montana has a race-notice recording statute.

NEBRASKA

TITLE SEARCHES AND EXAMINATIONS:

Nebraska title searches are conducted by an examination of the courthouse records. Nebraska does not use title plants. All land titles are checked back to patent. Traditionally, Nebraska required its agents to search a minimum of 40 years unless there existed a prior owner's policy to search from.

Title insurance policies and endorsements are filed with the Nebraska Department of Insurance. Special rates are sometimes given in cases of refinance, subdivider, and construction loans. Title insurance rates include search and examination. The rates are established by the title underwriters individually, who then must have the rates submitted to the insurance department and pre-approved by the state. There is a 30-day waiting period.

Title insurance agents are regulated by the Nebraska Department of Insurance. Forms in Nebraska are filed and approved with the Department of Insurance.

Name and address of state agency from which certified copies of death certificates are secured:
Nebraska Vital Records, P.O. Box 95065, Lincoln, Nebraska 68509-5065.

VESTING:

Nebraska recognizes tenancies in common and joint tenancies. They are severed by joint conveyance, partition, and divorce. Nebraska is a homestead state and the non-titled spouse must sign all deeds and mortgages. Nebraska does not recognize community property or tenancy by the entireties. Dower and curtesy have been abolished. See Neb. Rev. Stat. Ann § 30-104.

Whenever an interest in the fee title, a mortgage or other lien affecting the same interest becomes vested in the same person, and such person subsequently conveys title by deed, then it shall be conclusively presumed in favor of subsequent purchasers and encumbrances for value and without notice, that such lien interest merged with the fee and was conveyed by such deed and that such lien was thereby released from the fee interest so conveyed. See Neb. Rev. Stat. Ann § 76-274.

The most common deeds used in Nebraska is the general warranty deed and joint tenancy warranty deed. A valid conveyance shall identify the grantor, grantee, "grant, bargain and sell" or "quitclaim," legal description of the property, date, signature of parties, acknowledgment, and recording data.

When any conveyance of a present interest in real estate is made to more than one person and the grantees are named in the disjunctive, the conveyance shall be conclusively presumed to create co-tenancy in all the named grantees (Neb. Rev. Stat. Ann §§ 76-275.07, 76-118).

Aliens and corporations not incorporated under the laws of Nebraska are prohibited from acquiring title to, or taking or holding, any land, real estate, leasehold interest, extending for a period of more than five years, or any other greater interest less than fee in any land or real estate in Nebraska by descent, devise, purchase, except as provided in Neb. Rev. Stat. Ann. §§ 76-402—76-405; id. § 76-219. To confirm title to property purchased for taxes, see Neb. Rev. Stat. Ann. §§ 77-1901—77-1917.

DECEDENTS' ESTATES:

Nebraska imposes state inheritance tax liens and state estate tax liens. Inheritance tax rates and exemptions can be found in Neb. Rev. Stat. Ann §§ 77-2004—77-2006. Interests passing to the surviving spouse by will shall not be subject to tax. Estate tax amount: Neb. Rev. Stat. Ann § 77-2101.01. Generation-skipping transfer tax amount: Neb. Rev. Stat. Ann § 77-2101.02.

MORTGAGES, LIENS, AND FORECLOSURE:

Nebraska is a lien theory state. Judgment liens expire after five years. If suit is not filed within five years from the date of any judgment, or if five years intervenes between the date of the last execution issued on such judgment and the time of suing out another writ of execution, such judgment, and all taxable costs in the action in which such judgment was obtained, shall become dormant and shall cease to operate as a lien on the estate of the judgment debtor. See Neb. Rev. Stat. Ann § 25-1515. If a judgment becomes dormant, it may be revived in the same manner as is prescribed for reviving actions before judgment; provided, that no judgment shall be revived unless an action to revive the same be commenced within ten years after such judgment becomes dormant. See Neb. Rev. Stat. Ann § 25-1420.

Homestead property is exempt from judgment liens and from execution or forced sale according to the following general definitions. Property not inside any incorporated city or village is exempt up to \$60,000.00 in value and 160 acres in size. Or, at the option of the claimant, property inside an incorporated city or village is exempt up to \$60,000.00 in value and the quantity of land is limited to two lots. See Neb. Rev. Stat. Ann § 40-101.

Nebraska does not recognize a vendor's lien. A vendor may foreclose the land contract as a mortgage.

A release or a deed of reconveyance is used to cancel a deed of trust and mortgage liens of record. Form and content for proper satisfaction must conform to standards outlined pursuant Neb. Rev. Stat. Ann § 76-2805. A lender who fails to record a deed of reconveyance or satisfaction of mortgage within 60 days is liable for the greater of \$500.00 or actual damages caused by such failure, plus reasonable attorney's fees and costs (Neb. Rev. Stat. Ann § 76-2803).

Adverse-possession claims require actual, continuous, exclusive, notorious, and adverse possession under claim of ownership for ten-year period (Neb. Rev. Stat. Ann § 25-202).

The statute of limitations for actions arising from deficiencies in construction, or improvements to real property, is four years after any alleged act or omission constituting such breach of warranty or deficiency. If such cause of action is not discovered and could not be reasonably discovered within such four-year period, or within one-year preceding the expiration of such four-year period, then the cause of action may be commenced within two years from the date of such discovery or from the date of discovery of facts that would reasonably lead to such discovery, whichever is earlier. In no event may any action be commenced more than ten years beyond the time of the act giving rise to the cause of action (Neb. Rev. Stat. Ann § 25-223).

Foreclosure is usually by judicial proceedings. However, deeds of trust are usually foreclosed by non-judicial means. The time for the foreclosure process with judicial proceedings is six to eighteen months; with non-judicial proceedings, it is from three to five months. The redemption period after sale in a judicial foreclosure is extinguished upon confirmation of sale. In a non-judicial foreclosure, redemption is extinguished upon the recordation of the trustee's deed.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Nebraska Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	2 years
Estate Tax	10 years

REAL ESTATE CLOSINGS:

The state of Nebraska requires licenses for persons conducting closings and escrows. Generally, real estate closings are conducted by brokers, title agents, and lawyers. Documents can be prepared by closing agents and lawyers. Nebraska Department of Insurance also governs the licensing of title agents. See Section 29-46 of Legislative Bill 53.

Nebraska state requires “Wet Funds” at settlement (Neb. Rev. Stat. Ann § 76-2122). Closing costs are usually governed by the terms of the purchase contract. All closing costs are negotiable. The closing costs are usually split between the buyer and the seller unless agreed upon otherwise. A power of attorney is generally permitted, but must be approved by the title company and the lender. It must also be recorded.

Deeds of trust and mortgages are the security instruments used in Nebraska. Deeds of trust are the most commonly used security instruments and are released by having the trustee execute a deed of reconveyance, to be filed in the land records in the county where the land secured by the deed of trust is located.

RECORDING REGULATIONS:

Nebraska is a race-notice jurisdiction. The requirements for recording deeds and other instruments affecting real property can be found in Neb. Rev. Stat. Ann. §§ 76-237—76-257. A real estate transfer statement must be filed with all deeds.

PROPERTY TAXES:

Property taxes in Nebraska are due and become a lien if not paid by December 31 (Neb. Rev. Stat. Ann. § 77-203). On April 1 & August 1, First half and second half real and personal property taxes for prior assessment year become delinquent, if unpaid, in counties with a population greater than 100,000 (Douglas, Lancaster, & Sarpy Counties). On May 1 & September 1, first half and second half real and personal property taxes for prior assessment year become delinquent if unpaid in counties with a population less than 100,000 (all counties excluding Douglas, Lancaster, and Sarpy Counties). Penalties are assessed on delinquent taxes.

NEBRASKA CALLOUTS

- Nebraska title searches are conducted by an examination of the courthouse records.
- Nebraska does not use title plants.
- All land titles are checked back to patent. Traditionally, Nebraska required its agents to search a minimum of 40 years unless there existed a prior owner's policy to search from.
- Title insurance policies and endorsements are filed with the Nebraska Department of Insurance.
- Nebraska recognizes tenancies in common and joint tenancies. They are severed by joint conveyance, partition, and divorce.
- Nebraska is a homestead state and the non-titled spouse must sign all deeds and mortgages.
- Nebraska does not recognize community property or tenancy by the entireties.
- Dower and curtesy have been abolished. See Neb. Rev. Stat. Ann § 30-104.
- The state of Nebraska requires licenses for persons conducting closings and escrows.
- Generally, real estate closings are conducted by brokers, title agents, and lawyers. Documents can be prepared by closing agents and lawyers.
- Nebraska Department of Insurance also governs the licensing of title agents. See Section 29-46 of Legislative Bill 53.
- Nebraska state requires "Wet Funds" at settlement (Neb. Rev. Stat. Ann § 76-2122).
- Closing costs are usually governed by the terms of the purchase contract. All closing costs are negotiable. The closing costs are usually split between the buyer and the seller unless agreed upon otherwise.
- A power of attorney is generally permitted, but must be approved by the title company and the lender. It must also be recorded.
- Nebraska is a lien theory state.
- Nebraska is a race-notice recording jurisdiction.

NEVADA

TITLE SEARCHES AND EXAMINATIONS:

Title insurance policies and endorsements are American Land Title Association and California Land Title Association policy forms; also issue limited coverage policies on second mortgages up to \$150,000.00.

In the larger counties, title companies have title plants which are adequate for most title searches. In the smaller counties, searches are done at the county recorder's office. Generally, a complete search would be from the patent to date of search.

Title insurance agents are regulated by the Commissioner of Insurance; see Nev. Rev. Stat. Ann. Title. 57, Ch. 692A et. seq. Title insurance rates do include search and examination. Special rates are given on a case-by-case basis, but usually none are. Title insurance rates must be filed with the insurance division for thirty days before instituted. Title evidence and insurance forms must also be filed with the Nevada Department of Insurance. The Commissioner has 30 days to approve or reject.

The name and address of state agency from which certified copies of death certificates are secured: Office of Vital Records, 4150 Technology Way, Suite 104, Carson City, Nevada 89706.

VESTING:

Conveyance is by deed (grant, bargain-and-sale, or joint tenancy deed). A conveyance must include the grantor(s) name(s); assessor's parcel number (APN); grantee's name, marital status, and tenancy address of grantor(s); legal description of the property; and acknowledgment of signatures. A conveyance made to two or more persons is construed as a tenancy in common. If the contract does not exclude minerals, they can be excluded from the transfer instrument.

The state's interpretation of the doctrine of merger focuses on the intent of the parties. The mortgagee intent is presumed to correspond with his or her interest (*Fowler v. Carter*, 425 P2d 737 (N.M. 1967), cited in *Alladin Heating v. Trustees, Central States*, 563 P2d 82 (Nev. 1977)).

Nevada is a community property state. Homestead laws provide for an exemption of \$500,000.00 (Nev. Rev. Stat. Ann. § 115.010). Dower and curtesy have been abolished.

Nevada recognizes tenancies in common, community property, and joint tenancies. The non-titled spouse has to sign the security instrument, unless a separate and valid interest has been created. All real property purchased after marriage is presumed to be community property, unless otherwise set forth in the conveyance (Nev. Rev. Stat. Ann. § 123.220). Community property or joint tenancy rights can be severed by a deed that states the property is to be held in a different form. Nevada does not recognize tenancy by entirety.

A grant, bargain-and-sale, joint tenancy, or quit claim deed (Declaration of Value Affidavit must be included with deed at recording) is used for transferring ownership on real property.

A mortgage or alienation of any kind, made for the purpose of securing a loan or indebtedness upon the homestead property, is not valid for any purpose, unless the signature of both spouses, when that relationship exists, is obtained to the mortgage or alienation and their signatures are properly acknowledged (Nev. Rev. Stat. Ann. § 115.040).

Any nonresident alien, person or corporation may take, hold and enjoy any real property or any

interest in lands, tenements or hereditaments within the State of Nevada as fully, freely, and upon the same terms and conditions as any resident citizen, person or domestic corporation (Nev. Rev. Stat. Ann. § 111.055).

A tax deed and a two- year right of redemption will confirm title to property purchased for taxes (Nev. Rev. Stat. Ann. § 361.600).

DECEDENTS' ESTATES:

A personal representative of a decedent's estate may convey real property only after notice and hearing, even in summary probates (Nev. Rev. Stat. Ann. § 145.070). Except for certain personal property matters, all sales of property must be reported to the court, and confirmed by the court, before the title to the property passes (Nev. Rev. Stat. Ann. § 148.060).

Nevada imposes an estate tax equal to the portion, if any, of the maximum allowable amount of the credit for state death taxes allowable under the applicable federal estate tax law, which is attributable to property located in Nevada (Nev. Rev. Stat. Ann. § 375A.100).

MORTGAGES, LIENS, AND FORECLOSURE:

Nevada is a lien theory state. Judgment liens expire after six years and may be renewed by refiling. A full reconveyance or partial reconveyance is used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, they can be fined \$1,000.00 plus reasonable attorneys' fees. The lender must deliver documents to trustee within forty-five days (Nev. Rev. Stat. Ann. § 107.077).

Claims for adverse possession require the common law requirements of exclusive, open, hostile, and continuous for a period of five years, as well as payment of all property taxes and assessments on the property.

See Nev. Rev. Stat. Ann. § 40.459 for limitations applicable to actions arising from deficiencies in construction, or improvements to real property.

Foreclosure is usually by non-judicial means, but may be done judicially. The time for the foreclosure process is a minimum of 180 days. There is no redemption period after sale on non-judicial foreclosures, however, there is a one year right of redemption if a foreclosure is obtained by judicial means.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	6 years
All State of Nevada Tax Liens	6 years
Federal Tax Liens	10 years
Mechanics Lien	6 months
Estate Tax	10 years
Financing Statement	5 years
Homeowner's Association	3 years

REAL ESTATE CLOSINGS:

Nevada allows escrow agents to prepare deeds, notes, and closing statements for residential transactions. Attorneys generally prepare the closing statements for commercial transactions, with the rest of the documentation being prepared by escrow agents. Closing costs are customarily split between the buyer and seller.

Deeds of trust are the commonly used form of real property security instrument. A power of attorney is permitted to be used if it is recorded.

The standard ALTA form is generally acceptable to use for closing protection. Nevada requires all escrow officers to be individually licensed. Regulations issued by the State Department of Insurance require collected funds prior to close of escrow.

RECORDING REGULATIONS:

Nevada is a race-notice state (see Nev. Rev. Stat. Ann. § 111.320). Nevada statute states that the county recorder may require a copy suitable for recording by a method used by the recorder to preserve his records (Nev. Rev. Stat. Ann. § 247.120). All documents must be properly acknowledged, contain the mailing address of the grantee, and contain the assessor's parcel number, if one has been assigned (Nev. Rev. Stat. Ann. § 111.312).

The Uniform Notarial Acts; Nev. Rev. Stat. Ann. § 241.001 et seq.; see also Nev. Rev. Stat. Ann. § 111.001 et seq. outlines the specific requirements for acknowledgments.

PROPERTY TAXES:

Property taxes are levied annually by the counties and are due on or before the third Monday of August (Nev. Rev. Stat. Ann. § 361.483). Property taxes can be paid in quarterly installments, due on the first Monday in August, October, January, and March.

Taxes begin getting delinquency assessments if they are not paid within 10 days of the due date. There are incremental penalty rates on taxes imposed at the end of each quarter. Real estate taxes become a lien on July 1 of the year for the year for which the taxes are levied (id. § 361.450).

NEVADA CALLOUTS

- A complete search would be from the patent to date of search.
- In the larger counties, title companies have title plants which are adequate for most title searches. In the smaller counties, searches are done at the county recorder's office. Generally, a complete search would be from the patent to date of search.
- Title insurance agents are regulated by the Commissioner of Insurance; see Nev. Rev. Stat. Ann. Title. 57, Ch. 692A et. seq.
- Title insurance rates do include search and examination. Special rates are given on a case-by-case basis, but usually none are.
- Title insurance rates must be filed with the insurance division for thirty days before instituted.

(continued...)

- Nevada recognizes tenancies in common, community property, and joint tenancies. The non-titled spouse has to sign the security instrument, unless a separate and valid interest has been created. All real property purchased after marriage is presumed to be community property, unless otherwise set forth in the conveyance (Nev. Rev. Stat. Ann. § 123.220).
- Community property or joint tenancy rights can be severed by a deed that states the property is to be held in a different form.
- Nevada does not recognize tenancy by entirety.
- Nevada allows escrow agents to prepare deeds, notes, and closing statements for residential transactions.
- Attorneys generally prepare the closing statements for commercial transactions, with the rest of the documentation being prepared by escrow agents.
- Nevada is a lien theory state.
- Nevada is a race-notice recording statute.

NEW HAMPSHIRE

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back at least thirty-five years to the recording of a deed with warranty covenants (N.H. Standard 2-2). This is an arbitrary period approved by the Board of Governors of the Bar Association to include the twenty-year statute of limitations period for real estate actions.

Title insurance companies shall comply with the investment requirements for other insurance companies, under the laws of this state, but, in addition, may invest in a title plant (N.H. Rev. Stat. Ann. § 416-A:14). The only title search statute in New Hampshire pertains to payment. It states that the petitioner should be responsible for such a payment (N.H. Rev. Stat. Ann. § 231:10-a).

Title insurance policies and endorsements are not required to be filed with the New Hampshire Insurance Department. Title insurance agents and rates are regulated by the State Insurance Department. Title insurance rates do not include search and examination. Special rates are given in cases of special circumstances, but are very rare.

Under N.H. Rev. Stat. Ann. 477:3-a and N.H. Rev. Stat. Ann. 477:7, all purchasers or creditors are held to be constructively notified of any properly recorded interest, whether or not the purchaser or creditor actually performs a title search. Even if no recording of a prior interest is made, a subsequent purchaser or creditor cannot have a claim to the real estate if he or she has actual notice of the prior interest at the time the subsequent claim is recorded.

Certified copies of death certificates may be obtained from the State of New Hampshire Division of Public Health Services, Vital Records Bureau, 6 Hazen Drive, Concord, NH 03301.

VESTING:

New Hampshire recognizes tenancies in common and joint tenancies. New Hampshire is a homestead state. Homestead laws provide that every person is entitled to \$120,000.00 worth of his or her homestead or interest therein, as a homestead. See N.H. Rev. Stat. Ann. § 480:1.

New Hampshire does not recognize community property. Dower and curtesy have been abolished. See N.H. Rev. Stat. Ann. § 560:3. The non-titled spouse is required to sign the security instrument.

Conveyance is by warranty deed, quitclaim deed, fiduciary, or foreclosure deed. A valid conveyance must include the name of the grantor and grantee, their respective addresses, words of conveyance, type of covenants, a legal description of the property, signatures, marital status, and acknowledgments for the signatures.

A conveyance made to two or more persons is construed as a tenancy in common. See N.H. Rev. Stat. Ann. § 477:18.

If the contract includes minerals, they cannot be excluded from the transfer instrument. The parties are bound by the contract. Acquisition of fee-simple interest by the mortgagee creates merger unless an intent to not create merger is clear on the face of the document (NH Common Law).

Chapter 80 of N.H. Rev. Stat. sets forth the statutory scheme for property tax sales.

For statutes related to aliens and non-resident sellers holding title to land, see N.H. Rev. Stat. Ann. § 477:20.

For statutes related to foreign corporations or partnerships holding title to land, see N.H. Rev. Stat. Ann. § 293-A:15; N.H. Rev. Stat. Ann. § 305-A et. seq.

DECEDENTS' ESTATES:

The judge may make to the widow of the person deceased, intestate, or testate, a reasonable allowance out of the personal estate, for her present support; and, in the decree of distribution of the personal estate, the whole, or such part thereof as the judge may deem reasonable, shall be accounted as part of her distributive share; and shall be so accounted when she elects to take one third or one half of the real estate, under the provisions of RSA 560:10." (N.H. Rev. Stat. Ann. § 560:1).

The taxes and interest shall be a lien on the property subject to the taxes until the same are paid; however, commencing with the date of decedent's death, there shall be a 20-year statute of limitations for said lien. (N.H. Rev. Stat. Ann. § 87:29).

MORTGAGES, LIENS, AND FORECLOSURE:

This is a title theory state. The title remains with the lender until the mortgage is paid in full. Judgment liens expire after twenty years, unless renewed. A claim for adverse-possession requires the common law requirements of open, continuous, exclusive, adverse, and notorious use of property in excess of twenty years.

A discharge is used to cancel mortgage liens of record mortgage. See N.H. Rev. Stat. Ann. § 479:7. If a lender fails to cancel lien of record after secured debt is paid in full, N.H. Rev. Stat. Ann. § 479:8 prescribes remedies.

Foreclosure is usually by non-judicial means. See N.H. Rev. Stat. Ann. § 479:25. The time for the foreclosure process is a minimum of twenty-six days.

See N.H. Rev. Stat. Ann. § 479:25. There is no redemption period after sale.

Damages from construction provided by statute: eight years; NH Rev. Stat. Ann. § 508:4-b.

A lawyer's certificate of title falls under the statute of limitations for breach of contract and is three years.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
Federal Tax Liens	10 years
Manufacturers Housing	30 years
Estate Tax	10 years
Homeowner's Association	6 years
Pre-judgment liens	10 years
Post-Judgment liens	6 years

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by lawyers, as well as title insurance companies. Closing costs are usually paid by the buyer. A power of attorney is acceptable to use in a closing; except for deeds, notes, and mortgages. "Every power of attorney to convey real estate must be signed and acknowledged, and may be recorded as required for a deed, and a copy of the record may be used in evidence whenever a copy of the deed so made is admissible" (N.H. Rev. Stat. Ann. § 477:9). The customary security agreement is a mortgage.

RECORDING REGULATIONS:

New Hampshire follows the notice statute for recordings.

An instrument presented for recording must include the mailing address of grantee, municipality of property in first sentence of legal description, grantor's name typed under his or her signature, and black ink preferred (N.H. Rev. Stat. Ann. § 478:4-a).

"No deed of bargain and sale, mortgage, or other conveyance of real estate, nor any lease for more than 7 years from the making thereof, shall be valid to hold the same against any person but the grantor and his heirs only, unless such deed or lease be acknowledged and recorded..." (N.H. Rev. Stat. Ann. § 477:7).

"Every deed or other conveyance of real estate and every court order or other instrument which affects title to any interest in real estate, except probate records and tax liens which are by law exempt from recording, shall be recorded at length in the registry of deeds for the county or counties in which the real estate lies and such deed, conveyance, court order or instrument shall not be effective as against bona fide purchasers for value until so recorded" (N.H. Rev. Stat. Ann. § 477:3-a).

The first paragraph of all instruments must include the name of the city or town where the property is located; Grantees mailing address to be included in all documents; all names must be typed or printed under signatures; a notary must include date of acknowledgement, date of expiration, and seal.

"Acknowledgments may be taken outside the United States before an ambassador, minister, envoy or charge d'affaires of the United States in the country to which he is accredited, or before any consular officer of the United States, a notary public, or a commissioner or other agent of this state having an official seal and power to take acknowledgments at such place" (N.H. Rev. Stat. Ann. § 477:4).

"A deed not acknowledged by the grantor, but in other respects duly executed, may be recorded, and

for 60 days thereafter it shall be as effectual as if duly acknowledged” (N.H. Rev. Stat. Ann. § 477:10).

“A person interested in a deed or lease recorded in one county may cause the same, with the certificate of record, to be recorded in the registry of any other county, and an attested copy of such record shall be of the same validity as a copy from the original registry” (N.H. Rev. Stat. Ann. § 477:8).

“Every estate or interest in lands created or conveyed without an instrument in writing signed by the grantor or his attorney shall be deemed an estate at will only, and no estate or interest in lands shall be assigned, granted or surrendered except by writing signed as aforesaid or by operation of law” (N.H. Rev. Stat. Ann. § 477:15).

PROPERTY TAXES:

Property tax bills are issued by the municipality, where the property is located on either an annual, semi-annual or quarterly basis. Due dates vary based upon the issue date of the bill. Check with each town. Effective April 4, 2019: “Interest at 8 percent per annum shall be charged upon all taxes except resident taxes, except as otherwise provided by statute, not paid on or before December 1 after their assessment, which shall be collected from that date with the taxes as incident thereto, except in the case where a tax bill sent to the taxpayer on or after November 2 and before April 1 of the following year interest shall not be charged until 30 days after the bills are mailed” (RSA 76:13).

NEW HAMPSHIRE CALLOUTS

- All land titles are checked back at least thirty-five years to the recording of a deed with warranty covenants (N.H. Standard 2-2). This is an arbitrary period approved by the Board of Governors of the Bar Association to include the twenty-year statute of limitations period for real estate actions.
- Under N.H. Rev. Stat. Ann. 477:3-a and N.H. Rev. Stat. Ann. 477:7, all purchasers or creditors are held to be constructively notified of any properly recorded interest, whether or not the purchaser or creditor actually performs a title search. Even if no recording of a prior interest is made, a subsequent purchaser or creditor cannot have a claim to the real estate if he or she has actual notice of the prior interest at the time the subsequent claim is recorded.
- New Hampshire recognizes tenancies in common and joint tenancies. New Hampshire is a homestead state. Homestead laws provide that every person is entitled to \$120,000.00 worth of his or her homestead or interest therein, as a homestead. See N.H. Rev. Stat. Ann. § 480:1. Real estate closings may be conducted by lawyers, as well as title insurance companies.
- New Hampshire does not recognize community property. Dower and curtesy have been abolished. See N.H. Rev. Stat. Ann. § 560:3. The non-titled spouse is required to sign the security instrument.
- Chapter 80 of N.H. Rev. Stat. sets forth the statutory scheme for property tax sales.
- Real estate closings may be conducted by lawyers, as well as title insurance companies. Closing costs are usually paid by the buyer.
- This is a title theory state.
- New Hampshire follows the notice statute for recordings.

NEW JERSEY

TITLE SEARCHES AND EXAMINATIONS:

Title searches are performed in the County Clerk's (or Register of Deeds') office. All land titles are checked back to date of policy if back title (owner's policy); if no back title, then back sixty years; if unusual title or high liability, then to sovereign. This procedure is based on custom and usage, and not on any legal theories.

Tax and assessment searches are obtained from the municipality, or from one of several independent tax and assessment search companies. New Jersey Superior Court and United States District Court (including United States Bankruptcy Court) searches are commonly obtained from an independent "higher court" search company. Corporate status and franchise tax searches are obtained from the State treasurer's office or from an independent search company.

State courts have interpreted the Recording Act (found in Title 46 of New Jersey Statutes Annotated) to require a "reasonable duty of searching." As a general rule, this period is sixty (60) years to a warranty deed. It is recommended to order a search through Tideland concurrently with the title search.

Title insurance policies and endorsements are American Land Title Association forms. Title companies are required to file their rates and forms with the Department of Insurance (as to rates N.J. Stat. § 17:46B-42, as to form id. § 17:46B-54). Such rates and forms must be approved by the Department of Insurance before they are used by the title company. The insurance rating organizations are authorized and regulated under N.J. Stat. § 17:46B-46. Title insurance rates do not include search and examination. These charges are included in the premium charges. Search charges, for the county search, are regulated. Other search charges-including, but not limited to, judgments, chancery proceedings, tax and special assessments, municipal liens, riparian claims, corporate standing, and corporate franchise tax-are "passed through" on the actual costs incurred in obtaining the search. Special, negotiated rates, which may not exceed the manual rates, may be used when the state of New Jersey or the United States government is the buyer, or when an entity with 501(c)(3) status is the buyer or undertakes the financing.

Title insurance agents are licensed by the state. The passing of an examination is required. New Jersey has continuing education requirements to maintain one's license.

Certified copies of death certificates should be requested from the New Jersey State Registrar of Vital Statistics, State Health Department 140 East Front Street, Trenton, New Jersey 08625-0370.

VESTING:

New Jersey recognizes tenancies in common, tenancies by the entirety, and joint tenancies. The non-titled spouse is required to sign the security instrument. New Jersey is not a community property state. There is, however, equitable distribution in divorce. Homestead laws provide that a statutory possessory interest in the spouse of a real estate owner attaches to the principal matrimonial residence.

Dower and curtesy have been abolished.

A conveyance is customarily by special warranty deed. New Jersey's terminology defines it as "a bargain-and-sale deed, with covenants against grantor's acts".

A valid conveyance instruments must include the granting clause, the recital of actual consideration or attachment of affidavit of consideration, a legal description of the property, tax lot identifier, habendum clause, signatures, acknowledgment including recital of actual consideration, and "prepared by," together with signature, on the first page of the deed. All instruments to be recorded must have the names of all signatories printed or typed under the signature(s).

Conveyances made to two or more persons are construed as tenancies in commons. Property conveyed to husband and wife create a tenancy by the entirety (N.J. Stat. § 46:3-17.2).

The inclusion or exclusion of minerals in the transfer instrument is not dependent on the terms of the contract, to the extent that the parties are willing to alter the terms of the conveyance from their contractual obligations. The state's interpretation of merger looks to the intent of the parties. It is generally assumed that the interests have merged if none of the documents reflect otherwise.

DECEDENTS' ESTATES:

Each county has a surrogate office, which is a quasi-judicial office appointed to handle all matters related to estates. The surrogate accepts wills or probate, grants letter of administration letters.

The New Jersey Transfer Inheritance Tax is imposed on transfers of estate assets to devisees or heirs (N.J. Stat. § 54:33-1 et seq.) Estate Tax (id. § 54:38-1 et seq.). Upon the transfer of the estate of each resident decedent dying on or after January 1, 2017, whether or not subject to an estate tax payable to the United States under the provisions of the federal Internal Revenue Code, the amount of the taxable estate shall be subject to tax pursuant to the schedule under N.J. Stat. § 54:38-1(3)(a).

MORTGAGES, LIENS, AND FORECLOSURE:

New Jersey is considered an "intermediate theory" state, meaning that the mortgagee holds an interest in the affected real estate but is not considered the owner thereof. For most purposes, New Jersey follows the lien theory of mortgages. Judgment liens expire after twenty years, unless renewed by revival (N.J. Stat. § 2A:14-5).

Purchase-money mortgages have priority over other liens against the grantee (N.J. Stat. § 46:9-8).

A claim for adverse-possession requires the common law elements of open, notorious, exclusive, continuous, and hostile for a period of thirty (30) years, depending on the type of property. Adverse possession claims against government land is valid as long as the land is not used for governmental purposes (N.J. Stat. § 2A:14-30).

A satisfaction endorsed on the mortgage itself, discharge of mortgage by mortgagee, or release of part of mortgaged lands, may be used to cancel mortgage liens of record. N.J. Stat. §§ 46:18-11.2, 46:18-11.3 prescribes penalties if a lender fails to cancel lien of record after the secured debt has been paid in full.

Foreclosure is by judicial means only. The time for the foreclosure process depends on the court's current caseload, but generally the time frame is from one-year to eighteen months from filing, if the foreclosure is not contested. There is a ten-day redemption period after the sale (see N.J. Stat. § 2A:50-58), unless it is extended by an action for a deficiency judgment. The "taxes" may then be purchased for the ownership of the property.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
All State of New Jersey Tax Liens	20 years
Federal Tax Liens	10 years
Mechanics Liens	120 days
Estate Tax	No expiration
New Jersey Inheritance Tax	15 years

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by attorneys or title insurance agents. Documents can be prepared by either party, or, more commonly, by the party's attorneys.

Transactional documents such as deeds, notes, and mortgages must be prepared by attorneys or the parties to the transaction themselves. A closing statement may be prepared by title companies and agents. Closing costs are usually paid by the party who incurs them. Title insurance premiums and charges are customarily paid by the buyer. A power of attorney may be used in a closing, but it must be recorded. The customary security agreement is a mortgage.

New Jersey statutes provide for a short form deed and covenants (N.J. Stat. § 46:4-1 et seq.). The most customary form of deed used in New Jersey is the Bargain and Sale deed, with covenants against grantor's acts. Other forms of deeds used in New Jersey include Bargain and Sale deed without covenants, General Warranty deed (id. § 46:4-7), Special Warranty deed (id. § 46:4-8), Quitclaim deed (id. § 46:5-1 et seq.), and Executor's deed. New Jersey statutes provide for a short form mortgage and covenants (id. § 46:9-1 et seq.).

A disclosure statement needs to be prepared and signed for all files. A notice of settlement must be filed prior to the closing.

In 1997, New Jersey enacted a "Good Funds Law" (N.J. Stat. § 17:46B-10.1). Under this law, idle producers acting as settlement agents may only disburse against "good funds," which are defined as cash, wire transfer certified, cashier's, tellers, or bank checks, a New Jersey licensed attorney's trust account check, a trust or escrow account check from a New Jersey licensed insurance producer, or other collected funds. The law permits disbursement of up to \$1,000.00 against other funds.

A Closing Service Letter is an amended form of its predecessor, the Closing Protection Letter. Adopted in 1994, the Closing Service Letter protection is limited to a lender's instructions relating to title and the lien of the subject mortgage.

RECORDING REGULATIONS:

New Jersey's Recording Act is a race-notice act.

N.J. Stat. § 46:26A-3 provides that in order for an instrument to be recorded, the following prerequisites must be met: the instrument must be in English or accompanied by an English translation; the instrument must be signed (under id. § 46:14-4.2, a signature includes "any mark made on a document by a person who thereby intends to give legal effect to the document ...").

Seals are no longer required from any party including corporations: the instrument must be acknowledged; the names of the signatories and the officer taking the acknowledgment must be typed or printed underneath each respective signature; and the recording fee must be paid. The acknowledgment must be taken by a person authorized by law to take acknowledgments. Note: New Jersey lawyers have extraterritorial authority to take acknowledgments affecting New Jersey subjects.

Special deed recording requirements: a statement as to consideration for transfer tax purposes, the name and signature of the preparer on the first page, and the municipal tax lot and block designation of the property being conveyed. For deeds conveying real property on which there has been new construction, the words "NEW CONSTRUCTION" must be printed clearly at the top of the first page of the deed in upper case lettering (N.J. Stat. § 46:15-6).

The Realty Transfer Fee (RTF) (N.J. Stat. § 46:15-5, et seq.), which replaced the Federal Revenue Stamp Tax, is imposed on deeds conveying "freehold estates" (which include fee simple conveyances and life estates) and leases for a term of 99 years or more. Proprietary leases (and assignments thereof) of cooperative units are also included.

As a supplemental fee to the RTF, id. 46:15-7.2 imposes a fee on the recording of the deed for the sale of real property when the consideration paid is more than \$1,000,000. While the seller pays the RTF, the buyer pays this supplemental fee of one percent of the consideration recited in the deed. This additional fee applies to all deeds where the land conveyed is classified as follows: Class 2 residential; Class 3A where the property is a farm (but only if the farmland contains a building or structure intended or suited for residential use); Class 4A commercial (other than industrial or apartment); and Class 4C cooperative units. New Jersey recognizes certain exemptions from the supplemental fee. Information on the exemptions is in Box (2)(B) of the Form RTF-1EE.

RTF-1EE is the Affidavit of Consideration for Use by Buyers and must be annexed to every deed for consideration over \$1,000,000 and with every commercial property transfer.

PROPERTY TAXES:

Property taxes are payable in quarterly installments on February 1, May 1, August 1, and November 1. Tax bills for the first half of the year are estimated and based on the prior year's taxes. Actual bills are sent during the second quarter, affecting payments for the second half. Second half payments adjust for changes in rate. Prorations during the second half are customarily based on the bill for the full year. Delinquent tax payments are charged interest set by each municipality, not to exceed 8 percent on the first \$1,500.00 and 18 percent on any amount in excess of \$1,500.00. There are further penalties that can make the interest rate go past 24 percent if the total delinquency exceeds \$10,000 in a year.

Municipal real property taxes become a lien on the property as of January 1 of the tax year. Real estate taxes, as well as utility charges (water, sewer, electric, etc.), owed to a municipality or other governmental authority become paramount liens if they are unpaid (N.J. Stat. § 54:5-9 and N.J. Stat. § 40.62.79).

NEW JERSEY CALLOUTS

- Title searches are performed in the County Clerk's (or Register of Deeds') office. All land titles are checked back to date of policy if back title (owner's policy); if no back title, then back sixty years; if unusual title or high liability, then to sovereign. This procedure is based on custom and usage, and not on any legal theories.
- Title insurance rates do not include search and examination. These charges are included in the premium charges. Search charges, for the county search, are regulated.
- New Jersey recognizes tenancies in common, tenancies by the entirety, and joint tenancies.
- The non-titled spouse is required to sign the security instrument. New Jersey is not a community property state. There is, however, equitable distribution in divorce.
- Homestead laws provide that a statutory possessory interest in the spouse of a real estate owner attaches to the principal matrimonial residence.
- Dower and curtesy have been abolished.
- Real estate closings may be conducted by attorneys or title insurance agents. Documents can be prepared by either party, or, more commonly, by the party's attorneys.
- In 1997, New Jersey enacted a "Good Funds Law" (N.J. Stat. § 17:46B-10.1). Under this law, idle producers acting as settlement agents may only disburse against "good funds," which are defined as cash, wire transfer certified, cashier's, tellers, or bank checks, a New Jersey licensed attorney's trust account check, a trust or escrow account check from a New Jersey licensed insurance producer, or other collected funds. The law permits disbursement of up to \$1,000.00 against other funds.
- As a supplemental fee to the RTF, id. 46:15-7.2 imposes a fee on the recording of the deed for the sale of real property when the consideration paid is more than \$1,000,000.
- For most purposes, New Jersey follows the lien theory of mortgages.
- New Jersey's Recording Act is a race-notice act.

NEW MEXICO

TITLE SEARCHES AND EXAMINATIONS:

All title examinations throughout the State of New Mexico are conducted from a title plant. N.M. Stat. Ann. § 59A-12-13 requires that each title company operating as an agent of an underwriter or as a direct operation must have a twenty-year title plant. All land titles are checked back for thirty years of recorded title for ownership and liens, or, the search may be based upon a previously issued policy where the search has already been done back to the patent.

Title insurance policies and endorsements are American Land Title Association forms as promulgated by the New Mexico Department of Insurance. Title insurance agents and rates are regulated by the New Mexico Department of Insurance. Title insurance rates include search and examination. Special rates are given in cases of owner's reissue, subdivider, abstract retirement, replacement policy, and limited search policy.

Certified copies of death certificates may be requested from Department of Vital Records, 1105 S. St. Francis Drive, Santa Fe, NM 87505.

VESTING:

New Mexico recognizes joint tenancies, tenancies in common, and community property. The non-titled spouse must sign the security instrument regardless if he/she holds title.

New Mexico is a community property state. Property acquired during marriage by either husband or wife, or both, is presumed to be community property (N.M. Stat. Ann. § 40-3-12). The community property of a couple may be converted to the separate property of one of the spouses by a sole and separate agreement. Tenancy by the entirety is not recognized in New Mexico.

New Mexico homestead laws allow \$60,000.00 per person. If the homestead is owned jointly by two persons, each joint owner is entitled to an exemption of \$60,000.00 (N.M. Stat. Ann. § 42-10-9). Dower and curtesy have been abolished.

Conveyance is by warranty deed and quitclaim deed. Conveyance instruments must include the names of the grantor and grantee, a legal description of the property, any exceptions to warranties, and acknowledgment.

Conveyances made to two or more persons are construed as tenancies in common (N.M. Stat. Ann. § 47-1-15); absent clear language intending joint tenancies.

If the contract does not include minerals, they can be excluded from the transfer instrument. Easement interests generally merge, while mortgage liens generally do not.

Aliens have the power to hold title the same as citizens. Foreign corporations may hold title to property in the state, but must be registered to conduct business in the state.

A quiet title action will generally confirm title to property purchased for taxes.

DECEDENTS' ESTATES:

Upon appointment by the court, the personal representative has complete authority to deal with the decedent's property, unless the powers are restricted in the order of appointment (N.M. Stat. Ann. § 45-3-715). The personal representative may acquire, sell, convey, or encumber all of the estate's interest in real property. A bona fide purchaser takes title free of any unrecorded claims against the

estate, except for federal and state estate tax liens (N.M. Stat. Ann. § 45-3-910).

New Mexico requires the filing of an estate tax return if a federal estate tax return is required (see N.M. Stat. Ann. § 7-7-5).

Estate tax liens attach to real property, and a certificate of no tax due or a receipt that all taxes are paid is required to insure title and/or close an estate (N.M. Stat. Ann. § 7-7-8).

MORTGAGES, LIENS, AND FORECLOSURE:

New Mexico is a lien theory state, with respect to mortgages and deeds of trust (N.M. Stat. Ann. § 47-1-39). Judgment liens are valid for fourteen years (N.M. Stat. Ann. § 39-1-6).

A claim for adverse-possession requires the common law elements of exclusive, open, hostile, and continuous possession for ten years under color of title, and payment of property taxes. See N.M. Stat. Ann. § 37-1-22.

A release of mortgage and warranty deeds (for real estate contracts) can be used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, there is a fine, and lender may be liable for costs and attorneys' fees incurred in clearing title.

The time for the foreclosure process is a minimum of thirty days following entry of judgment. There is a nine-month redemption period after sale (N.M. Stat. Ann. § 39-5-18). The redemption period may be reduced to one month by agreement; it cannot be waived completely.

A mortgage is not void for failure of one spouse to sign, even if property is community property.

There is a ten-year statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property (N.M. Stat. Ann. § 37-1-27). Fifteen-year statute of limitations on defects to title (N.M. Stat. Ann. § 37-1-28).

Statute of Limitations for Liens	
Mortgages/Deeds of Trust	6 years
Judgment liens in favor of the United States	20 years
All other Judgment Liens	14 years
All State of New Mexico Tax Liens	10 years
Federal Tax Liens	10 years + 30 days
Mechanics Liens	2 years to foreclose, 120 days to file
Estate Tax	Same as Federal
Financing Statement	5 years

REAL ESTATE CLOSINGS:

New Mexico title companies and escrow officers are required to have in escrow what is considered to be good funds (N.M. Stat. Ann. § 59A-30-5.1). That is, funds that can be immediately disbursed by cash or cashier's check.

The customary security agreement is a mortgage or New Mexico Real Estate Contract. The use of a power of attorney is permitted for a closing but it must be specific for the transaction, and the property involved in the transaction must be described.

Title insurers around the state prepare deeds and real estate contract forms, which are customarily used around the state. With respect to security instruments and notes, a title company's authority under case law is limited to filling the statutory forms. Closing statements, sole and separate agreements, sellers/'borrowers' affidavits, surviving spouse affidavits, and similar documents can be prepared by the title insurer.

Conveyancing Forms: Warranty Deed (N.M. Stat. Ann. § 47-1-44(1)); Warranty Deed - Joint Tenants (id. § 47-1-44(1)); Quitclaim Deed (id. § 47-1-44(3)); Quitclaim Deed - Joint Tenants (id. § 47-1-44(4)); and, Special Warranty Deed (id. § 47-1-44(5)).

RECORDING REGULATIONS:

New Mexico is a notice statute jurisdiction.

The recording statute (see N.M. Stat. Ann. § 14-9-1) requires that for documents to impart constructive notice, they must be properly acknowledged and recorded with the County Clerk in the county in which the real estate is situated.

PROPERTY TAXES:

Property taxes are levied when mailed, approximately November 1, and are due thirty days from notice, with a ten-day grace period. Property taxes can be paid in two installments, due on December 10 and May 10. There is an interest rate of 1 percent per month, with a maximum penalty of 5 percent for delinquent taxes.

Real property taxes which are delinquent for more than two years may be subject to a tax sale (N.M. Stat. Ann. § 14-9-1).

NEW MEXICO CALLOUTS

- All title examinations throughout the State of New Mexico are conducted from a title plant. N.M. Stat. Ann. § 59A-12-13 requires that each title company operating as an agent of an underwriter or as a direct operation must have a twenty-year title plant.
- All land titles are checked back for thirty years of recorded title for ownership and liens, or, the search may be based upon a previously issued policy where the search has already been done back to the patent.
- New Mexico recognizes joint tenancies, tenancies in common, and community property. The non-titled spouse must sign the security instrument regardless if he/she holds title.
- New Mexico is a community property state. Property acquired during marriage by either husband or wife, or both, is presumed to be community property (N.M. Stat. Ann. § 40-3-12). The community property of a couple may be converted to the separate property of one of the spouses by a sole and separate agreement.
- Tenancy by the entirety is not recognized in New Mexico.
- New Mexico title companies and escrow officers are required to have in escrow what is considered to be good funds (N.M. Stat. Ann. § 59A-30-5.1). That is, funds that can be immediately disbursed by cash or cashier's check.
- New Mexico is a lien theory state.
- New Mexico is a notice statute jurisdiction.

NEW YORK

TITLE SEARCHES AND EXAMINATIONS:

While there are no established statewide title standards, a 40-year search is the customary search period. The New York State Land Title Association has released "Recommended Practices" which most of the industry adheres to.

Title insurance policies and endorsements are American Land Title Association forms. Special rates are given in cases of refinances within ten years of last policy. New York requires insurance companies to file their rates with the New York State Insurance Department. No title insurance policy or endorsement may be issued until it has been filed with the Insurance Department. Title insurance rates (downstate only) include search and examination. Do not charge a search fee in the zones in which the fee is included in the premium. When reissuing title insurance, it is important to confirm the accuracy of the reissue rate on all applicable files.

In counties which have a Register (Bronx, Kings, New York, and Queens), deeds, mortgages, UCC-1s indexed against real property and federal liens are recorded/filed in the Register's Office of the county in which the property is located. In all other counties, deeds, mortgages, UCC-1s indexed against real property and Federal Liens, are recorded/filed in the County Clerk's Office of the county in which the property is located. In all counties, judgments, notices of pendency, mechanic's liens, and UCC-1s against personal property, are docketed/filed in the County Clerk's office.

VESTING:

New York State recognizes joint tenancies, tenancies in common, and tenancies by the entirety. The non-titled spouse is not required to join in the execution of the security instrument. Property, real or personal, may be held by spouses as tenants in common or as joint tenants.

Unless stated to the contrary, real property obtained by spouses is taken as tenants by the entirety. A tenancy by the entirety may be severed by the spouses by a conveyance to themselves as tenants in common or joint tenants. In addition, upon a divorce or annulment, the tenancy by the entirety is converted by operation of law into a tenancy in common. Dower and curtesy have been abolished.

Conveyance is by bargain-and-sale deed without covenant. Bargain-and-sale deeds with covenant are used for transferring ownership of real property. The conveyance instrument must include the names and addresses of parties, the legal description of the property, the tax designation of land, and an acknowledgment. See N.Y. Real Prop. Law § 258.

A conveyance made to two or more persons is construed as a tenancy in common. If the conveyance is to husband and wife, a tenancy by the entirety is presumed unless otherwise intended. See N.Y. Est. Powers & Trusts Law § 6-2.2.

If the contract includes minerals, they cannot be excluded from the transfer instrument.

The states interpretation of the doctrine of merger, absent provision or clear language, looks to the intent of the parties.

Deed transfers must be submitted with an Equalization & Assessment Report (EA-5217 or RP-5217). The property transfer tax return (Form NYC-RPT) is used in the five counties in New York City. Transfer

Tax Affidavit (TP-584, TP-584.1) must be used to comply with the real estate transfer tax requirements. An estate tax affidavit may be required upon the death of a spouse should title be held as joint

tenants. A copy of the death certificate must accompany the security instrument.

A quiet title action will confirm title to property purchased for taxes.

DECEDENTS' ESTATES:

New York State imposes an estate tax. The New York State Estate tax is a lien that is valid for 15 years from the date of death (N.Y. Tax Law § 982). The New York State Estate Tax computation table can be found in N.Y. Tax Law § 952. There is also an applicable credit amount available against the imposed tax subject to the total amount of the taxable estate.

MORTGAGES, LIENS, AND FORECLOSURE:

New York is a lien theory state. Judgment liens are valid for ten years and may be renewed by re-filing.

Sellers who finance part of the sale price for the buyer receive a lien that takes priority over other liens filed against the buyer.

A certificate of discharge (N.Y. Real Prop. Law § 275) or a partial release from lien of mortgage (N.Y. Real Prop. Acts. Law § 1921-a) is to be given to the mortgagor upon payment of the principle and interest due to the mortgagee. Failure by a mortgagee to present a certificate of discharge for recording shall result in the mortgagee being liable to the mortgagor in the amount of \$500.00 if he or she fails to present such certificate within 30 days, shall result in the mortgagee being liable to the mortgagor in the amount of \$1,000.00 if he or she fails to present a certificate of discharge for recording within 60 days and shall result in the mortgagee being liable to the mortgagor in the amount of \$1,500.00 if he or she fails to present a certificate of discharge for recording within 90 days.

A claim for adverse possession requires the common law elements of open, notorious, continuous, and exclusive possession for a period of ten years (N.Y. Real Prop. Acts. Law § 511).

There is a six-year statute of limitations for actions arising from deficiencies in construction, or improvements to real property (N.Y. C.P.L.R. <rule no.> Law § 213(2)).

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of 180 days. There is no redemption period after sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years , can be extended
All State of New York Tax Warrants	20 years
Federal Tax Liens	10 years
UCC (excluding co-ops)	5 years (unless continued)
Mechanics Liens	1 year , can be extended
Estate Tax	15 years
UCC (co-ops)	50 years if a Cooperative Addendum is also filed

REAL ESTATE CLOSINGS:

The state requires licenses for those conducting closings, escrows, or settlements. New York is a wet funds state. Generally, real estate closings are conducted by attorneys. Title insurance companies are authorized by Section. 495 of the Judiciary Law to prepare deeds.

Closing costs are usually paid by the purchaser/borrower. A power of attorney is permitted to be used in a closing. The statutory power of attorney form is preferred. The customary security agreement is a mortgage.

Commonly used deeds include the bargain and sale deed with covenant against grantor's acts; the bargain and sale deed without covenant against grantor's acts; quitclaim deed; warranty deed with full covenants; executor's deed; and administrator's deed. See N.Y. Real Prop. Law § 258.

RECORDING REGULATIONS:

New York is a race-notice recording state.

All instruments must be acknowledged. All instruments must in their entirety be in the English

language, including the acknowledgment and certificate of authentication. If required, the address of all parties must be set forth.

In all counties, for a transfer of an interest in real property subject to NYS Real Property Transfer Tax, the TP-584 must be filed. This form may be obtained from the website of the NYS Department of Taxation and Finance.

For New York City, only for a transfer of an interest in real property subject to NYC Real Property Transfer Tax, the NYC Real Property Transfer Tax Return must be filed. This form may be obtained from the website of the NYC Department of Finance at www.tax.state.ny.us.

For all counties outside of the City of New York: a deed must be accompanied by the Real Property Transfer Report (form RP-5217) issued by the NYS Office of Real Property Services. This is a multi-part form and cannot be downloaded from their website.

Mount Vernon, Yonkers, Broome County, and Erie County have their own transfer tax and a return is required. The five towns of East Hampton, Riverhead Shelter Island, Southampton, and Southold in Suffolk County require the payment of the Peconic Bay Region Transfer Tax, and a return is required.

Special requirements for recording conveyance of lands in towns in Chautauqua county, see Real Property Law, section 291-a; and for Cattaraugus County see Real Property Law, section 291-b.

Requirements for recording real estate security instruments: a mortgage must be acknowledged; a mortgage must in its entirety be in the English language, including the acknowledgment and certificate of authentication, if required; and the address of all parties must be set forth. The appropriate mortgage recording tax must be paid at the time of recording. The tax varies in New York.

PROPERTY TAXES:

Property taxes are levied yearly and are due on January 1 and July 1. Property taxes can be paid in two or four installments, depending on property's total assessed value. The interest rate for installment plans varies by municipality. See New York State Department of Taxation's website for additional requirements.

NEW YORK CALLOUTS

- While there are no established statewide title standards, a 40-year search is the customary search period.
- Title insurance rates (downstate only) include search and examination. Do not charge a search fee in the zones in which the fee is included in the premium
- New York State recognizes joint tenancies, tenancies in common, and tenancies by the entirety.
- Conveyance is by bargain-and-sale deed without covenant. Bargain-and-sale deeds with covenant are used for transferring ownership of real property. The conveyance instrument must include the names and addresses of parties, the legal description of the property, the tax designation of land, and an acknowledgment. See N.Y. Real Prop. Law § 258.
- Generally, real estate closings are conducted by attorneys.
- Title insurance companies are authorized by Section. 495 of the Judiciary Law to prepare deeds.
- The state requires licenses for those conducting closings, escrows, or settlements.
- New York is a wet funds state. Generally, real estate closings are conducted by attorneys.
- Closing costs are usually paid by the purchaser/borrower.
- New York is a lien theory state.
- New York is a race-notice recording state.

NORTH CAROLINA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back thirty to forty years, as required by the Marketable Title Act (N.C. Gen. Stat. § 47B-2).

Records and conveyances are recorded in the Office of the Register of Deeds of the county in which the property is located. Title examinations are conducted from a search of the courthouse, including the Offices of the Register of Deeds and the Clerk of Superior Court.

Title insurance policies and endorsements are American Land Title Association forms. The ALTA policy forms are filed by the North Carolina Land Title Association on behalf of all of its members including Lawyers Title Insurance Corporation. Title insurance agents are licensed by the Commissioner of Insurance.

Title insurance rates must be filed with the Commissioner of Insurance. Title insurance rates do not include search and examination. Special rates are given in cases of reissue, temporary construction, and certain commercial construction.

Certified copies of death certificates can be obtained from the Register of Deeds of the county in which the death occurred.

VESTING:

North Carolina recognizes joint tenancies, tenancies in common, and tenancies by the entirety (N.C. Gen. Stat. § 39-13.6(b)). North Carolina is not a community property state. Homestead laws are found in N.C. Const. art. X, § 2, and N.C. § IC-1601 et seq. (1995), and N.C. Gen. Stat. § 6-28 and 29 (1986). Both spouses must execute a conveyance or deed of trust and provide due proof or acknowledgment thereof in order to convey fee title free of the potential marital interests. The requirements for acknowledgment are outlined in N.C. Const. art. X, § 2§ 47-37.1.

With regard to interests in property held by one spouse only, or by both spouses, not as tenants by the entirety contingent statutory marital interests are held by the other spouse requiring joinder of both spouses in any conveyance or mortgage. This is true even if the property interest was already owned by one spouse prior to their marriage and even if the other spouse quitclaimed their interest (but did not also waive their marital interest) to the owning spouse. The only exceptions to this requirement of joinder of the non-owning spouse is a divorce without a filing of equitable distribution of claim that the particular property is marital property. Satisfactory recorded agreement of the spouses specifically waiving these marital rights, given for adequate consideration after full disclosure of assets, executed under seal, signed by both spouses acknowledged and recorded in the real estate records. This can be either a premarital agreement, or between married persons. As long as the agreement is executed, sealed, acknowledged, and recorded separation agreement waiving these rights. Instantaneous seism under a 'purchase money' mortgage given at time of purchase by one spouse solely for proceeds to the purchase the property to be insured (exception to marital rights should still be included in the owner's policy) (N.C. Gen. Stat. §§ 39-13 and 29-30(g)(2)) by joinder of the guardian or trustee of an incompetent (non-owning) spouse.

Conveyance is usually by warranty deed. Conveyances made to two or more persons are construed as tenancies in common. If the conveyance is to husband and wife, they hold interest as tenants by the entirety.

If the contract does include minerals, they cannot be excluded from the transfer instrument. The contract will not merge into the deed if the contract limits the agreement to its own terms.

Non-resident aliens have the right to hold and transfer title to land (N.C. Gen. Stat. § 64-1; N.C. Gen. Stat. § 29-11).

Foreign corporations or partnerships may hold title to land, but as a practical matter, they should register to do business in North Carolina. A certificate of authority is required to use the North Carolina court system (N.C. Gen. Stat. § 55-15-02).

A deed given at sale is sufficient to confirm title to property purchased for taxes. See N.C. Gen. Stat. § 105-374.

DECEDENTS' ESTATES:

Title to real estate of the decedent passes immediately upon death to intestate heirs unless otherwise determined by the title itself (N.C. Gen. Stat. § 28A-15-2 (b)). The title is subject, however, to debts and claims of the estate.

For a will to effectively pass title to real estate, it must be filed in the county in which the property is located; no matter when the decedent died, it must comply with laws of North Carolina with regard to execution. If a will is not probated and filed in the county in which the property is located within the earlier of two years from date of death of the decedent or filing of the Final Account in the estate, all conveyances to bona fide purchasers' or value by the heirs and fiduciaries as determined prior to the will filing are binding upon the devisees under the will. See N.C. Gen. Stat. § 28A-17-12.

The North Carolina legislature repealed the state's estate tax in July 2013. The legislation made the repeal effective retroactively, for deaths on January 1, 2013 or later. All property passing to the surviving spouse is free of tax under the marital deduction. There's one exception to the rule, for federal estate tax; noncitizen spouses cannot take advantage of the unlimited marital deduction. If the estate is large enough, the executor must file a federal estate tax return and pay any tax due nine months after the death.

MORTGAGES, LIENS, AND FORECLOSURE:

North Carolina is a title theory state. Judgment liens are valid for ten years and may be renewed.

Sellers who finance part of the sales price for the buyer obtain a purchase money mortgage which has priority over other liens.

A claim for adverse possession requires the common law elements of exclusive, open, hostile, and continuous for a period of seven years with color of title. In the alternative, twenty years of solely physical possession without color of title requires a period of twenty years (N.C. Gen. Stat. § 1-40).

Original documents exhibited with satisfaction entry, trustee cancellation, or release deeds are used to cancel mortgage liens of record. If a lender fails to cancel lien of record after 60 days secured debt is paid in full, penalties may be imposed (N.C. Gen. Stat. § 45-36.3).

North Carolina recognizes the Uniform Land Transactions Act (ULTA). North Carolina has codified provisions for warranties on condominiums, which parallel the ULTA warranties on new construction. See N.C. Gen. Stat. § 47C-4-113 et seq.

For actions arising from deficiencies in construction, or improvements to real property, there is a statute of limitations of six years. See N.C. Gen. Stat. § 1-50(a)(5).

The statute of limitations on lawyer's certificate of title is three years; see N.C. 1 Gen. Stat. § 1-52.

Foreclosure is usually by non-judicial means, or by judicial means when no power of sale is present. The time for the foreclosure process is a minimum of sixty days. There is a ten-day redemption period after sale.

Statute of Limitations for Liens	
Mortgages	15 years maturity date
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of North Carolina Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Liens	10 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by licensed attorneys who also handle the title searches, certifications, escrows, document preparation, and recordings.

Non-attorney agents are to refrain from anything that involves the practice of law. By statute, the practice of law includes "vie preparation or aiding in the preparation of deeds, mortgages, abstracting or passing upon titles, or assisting by advice, counsel or otherwise in any legal work, and to advise or give opinion upon the legal rights of any person, firm or corporation" (N.C. Gen. Stat. § 84-2.1).

A power of attorney is permitted to be used in a closing, but it must be under seal, like a deed. The customary security agreement is a deed of trust. Closing costs are generally paid by the buyer.

By statute, under the Good Funds Settlement Act (N.C. Gen. Stat. § 45A-1 et. seq.), a closing or settlement agent cannot disburse funds until they have received all collected funds.

RECORDING REGULATIONS:

North Carolina follows the race recording statute.

A deed must contain a competent grantor, an existing grantee capable of taking title, a granting or conveyance clause, an identifiable description of the property to be insured, the requisite execution, and seal of the grantor satisfactory acknowledgment by a notary or authorized officer, and delivery to and acceptance by the grantee.

Documents must be executed and acknowledged in strict compliance with the North Carolina statutory requirements for acknowledgments. Documents are refused for noncompliance with this state's mandatory forms.

Some counties require affidavits of consideration or value or payment in full of taxes. In a form designed by the particular city or county, in order to record conveyances, local counsel should be consulted for current forms and information.

Documents must identify on their face who and by whom they were drawn or prepared (with address), and to whom they should be returned (with address). Some Registers of Deeds require that postage prepaid self-addressed envelopes be delivered with the documents for their return after recording. Corporate conveyances must have the official seal of the corporation clearly affixed (N.C. Gen. Stat. § 47-14).

PROPERTY TAXES:

Property taxes are due and payable September 1st of the current year. The last day to pay before interest occurs is January 7th.

Ad valorem taxes are levied by the county and/or city where the real property is located. The local government sets the rate, appraises the property, and issues the annual bills.

Real property taxes are superior to all other liens, even pre-existing liens, including deeds of trust (N.C. Gen. Stat. § 105-356(a)). This lien is a claim against the real property, not just the named person, and is thus, not affected by transferring title (N.C. Gen. Stat. § 105-356(a)(3)). Real property taxes are a lien like any other judgment. Personal property taxes are a lien on all real property of the owner in the city or in the county where the personal property is located.

NOTE: In North Carolina, town tax records are often not in the same location as the county tax records.

NORTH CAROLINA CALLOUTS

- All land titles are checked back thirty to 40 years, as required by the Marketable Title Act.
- North Carolina recognizes joint tenancies, tenancies in common, and tenancies by the entirety (N.C. Gen. Stat. § 39-13.6(b)). North Carolina is not a community property state. Homestead laws are found in N.C. Const. art. X, § 2, and N.C. § IC-1601 et seq. (1995), and N.C. Gen. Stat. § 6-28 and 29 (1986). Real estate closings are conducted by licensed attorneys who also handle the title searches, certifications, escrows, document preparation, and recordings.
- Title to real estate of the decedent passes immediately upon death to intestate heirs unless otherwise determined by the title itself (N.C. Gen. Stat. § 28A-15-2 (b)). The title is subject, however, to debts and claims of the estate.
- Real estate closings are conducted by licensed attorneys who also handle the title searches, certifications, escrows, document preparation, and recordings.
- Non-attorney agents are to refrain from anything that involves the practice of law. By statute, the practice of law includes "vie preparation or aiding in the preparation of deeds, mortgages, abstracting or passing upon titles, or assisting by advice, counsel or otherwise in any legal work, and to advise or give opinion upon the legal rights of any person, firm or corporation" (N.C. Gen. Stat. § 84-2.1).
- North Carolina is a title theory state.
- North Carolina follows the race recording statute.

NORTH DAKOTA

TITLE SEARCHES AND EXAMINATIONS:

Records and conveyances are recorded in the office of the Register of Deeds of the county in which the property is located (N.D. Cent. Code § 47-19.1-06). All land titles are checked back to patent or congressional grant, as required by North Dakota Title Standard (NDTS) 1-01.

Title examinations are conducted from a search of the courthouse, including the Offices of the Register of Deeds and the Clerk of Superior Court. North Dakota has a thirty (30)-year customary search and a twenty (20)-year minimum statutory requirement (N.D. Cent. Code § 47-19.1-01). The title search is paid for by the seller and the examination is paid for by the buyer.

Title insurance policies and endorsements are standard American Land Title Association forms. North Dakota is a "file and use" state. North Dakota requires both rate-filings and form-filings. Title insurance agents and rates are regulated by the North Dakota Insurance Department. Title insurance rates do not include search and examination. Special rates are given in cases of reissuance, subdivision, and limited loan coverage.

Certified copies of death certificates should be requested from Department of Health, Division of Vital Records, 600 E. Boulevard Ave., Dept. 301, Bismarck, ND 58505-0200.

VESTING:

North Dakota recognizes tenancies in common and joint tenancies (N.D. Cent. Code § 47-02-05). The non-titled spouse must sign the security instrument, regardless if he/she holds title. North Dakota is not a community property state. North Dakota is a homestead state. Homestead laws allow for up to \$100,000.00 equity (see N.D. Cent. Code § 47-18-01). Dower and curtesy have been abolished.

Conveyance is by warranty deed. A conveyance instrument should include the names of the grantor(s) and grantee(s), addressee(s), and the legal description of the property.

Conveyances made to two or more persons are presumed to be tenancies in common (N.D. Cent. Code § 47-02-08). Joint tenancies must be specifically declared in the conveyance.

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. If not excluded, minerals are presumed to be included.

Statutes related to aliens holding title to land: see N.D. Cent. Code § 47-10.1-01 et seq.

The abstract plus a title opinion, and curative action would confirm the title to property purchases for taxes.

DECEDENTS' ESTATES:

North Dakota does not have an inheritance tax levied against individual heirs. If an instrument transferring an interest on property after a person dies, it must be filed and recorded or it will not be considered valid in North Dakota.

The property on the instrument in question may be transferred to more than one person and written on the Deed (N.D. Cent. Code § 30.1-32.1-02). The requirements on death deed are that it must contain the essential elements of a recordable property deed (N.D. Cent. Code § 30.1-32.1-06).

The wife may be joined with the husband as a joint plaintiff, even though the legal title is held in the husband's name (*Sexton v. Sutherland*, 37 N.D. 500 (N.D. 1917)).

MORTGAGES, LIENS, AND FORECLOSURE:

North Dakota is a title theory state. Judgment liens are valid for ten years, unless renewed by filing an affidavit (N.D. Cent. Code § 28-20-23) within the last ninety days of the original ten-year period. The affidavit is filed in the county in which the judgment was first docketed.

A standard contract for deed or mortgage is allowed for sellers who finance part of the sale price for the buyer, for protection purposes.

Satisfactions and releases are used to cancel mortgage liens of record.

A claim for adverse possession requires the common law elements of open, exclusive, hostile and continuous for a period of 20 years (N.D. Cent. Code § 28-01-04). Payment of property taxes may reduce the period to ten years.

There is a two-year statute of limitations for actions arising from deficiencies in construction, or improvements to real property (N.D. Cent. Code § 28-01-44).

The statute of limitations on lawyer's certificate of title is two years from the date of discovery.

Foreclosure is usually by judicial means. Although both are permitted, non-judicial foreclosure is for state mortgages. The time for the foreclosure process is a minimum of 90 days. There is a 60-day redemption period after sale.

Statute of Limitations for Liens	
Mortgages	10 years after the later of the maturity date shown of record or the recording date, unless extended under N.D. Cent. Code § 35-03-15. For collateral real estate mortgages, the lien expires on the earlier of the maturity date stated therein, or 5 years after the date of recording, unless extended under id. § 35-03-17.
Judgment liens in favor of the United States	20 years unless extended (NDCC 28-20-13)
All other Judgment Liens	10 years
All State of North Dakota Tax Liens	Until paid
Federal Tax Liens	10 years
Mechanics Liens	3 years after filing of Notice of Intent to file
Estate Tax	10 years after date of death
Financing Statement	5 years unless continuation filed

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by lenders, title companies, attorneys and realtors. Documents are generally prepared by attorneys. A title or escrow company usually handles the closing. A personal representative may close on an estate by filing with the court a verified statement (N.D. Cent. Code, § 30.1-21-03). Closing costs are usually paid by the buyer.

A power of attorney is permitted as long as an original is recorded. The customary security agreement is a mortgage. Deeds of trust are not authorized. A private power of sale is permitted for mortgage purpose.

RECORDING REGULATIONS:

North Dakota follows a race-notice recording statute.

Requirements for Recording: Deeds must contain grantor and grantee; Address for grantee is required on the document; A certificate of value must be filed with all deeds; Full consideration is required on the deed or the Board of Equalization form is required; All original signatures must have the name printed beneath signature lines; The notary's seal or stamp must be imprinted on all documents; Documents must reference book and page on subsequent recordings.

The affidavit should include recitals as to the marital status of parties to the instrument, or as to the homestead status of the property, or as to the identity of parties named in instruments in the chain of title; in any conveyance or other instrument affecting title to real estate in this state, which has been, or hereafter shall be, recorded in the office of the register of deeds for the county in which the land is situated, or the record of the instrument, or a certified copy of the record, shall be prima facie evidence of the truth of such recitals.

When a conveyance has been recorded and no spouse has joined therein, evidence should be required that the grantor was unmarried at the time of the execution of the conveyance; or if married, that the premises conveyed did not constitute the grantor's homestead and that neither the grantor nor any member of the grantor's family reside thereon should be considered sufficient evidence.

PROPERTY TAXES:

Property taxes are levied annually and due semi-annually. Property taxes can be paid in two installments, due on March 1 and October 15. Taxes become delinquent if they are not paid by March 2nd. If taxes remain delinquent on October 15th, the judicial process begins (N.D. Cent. Code, § 57-22-01).

Property taxes are due January 1st and there is a grace period until March 1st to pay without incurring penalties. If a property owner pays the property taxes before February 15th, there is a 5% rebate applied to the tax bill.

Mobile homes used as a residence are considered for property tax and are due January 10th or ten (10) days after the mobile home is purchased or first moved into the state. If paid within thirty (30) days of purchase or moving in, a 5% rebate is applied.

There are no transfer taxes or fees in North Dakota. There are also no mortgage taxes in North Dakota.

North Dakota has an estate tax based on a decedent's total gross estate and limited to the credit for state death taxes allowed on the Federal 706 estate tax return. North Dakota estate tax returns and tax payments are due no later than 15 months of the date of the decedent's death. Interest of 1% per month applies to all estate taxes not paid within 15 months (N.D. Cent. Code § 57-37.1-07).

“The legislative intent is to not tax property transferred upon death. It is the intent of the legislative assembly to repeal the state estate tax to the extent possible, without jeopardizing that portion of federal estate taxes which is allowed as a credit for state estate taxes. It is recognized that, if the state estate tax were totally repealed, the amount of federal estate taxes due would be increased by the amount of credit at no savings to the people of North Dakota” (id. § 57-37.1-02).

NORTH DAKOTA CALLOUTS

- All land titles are checked back to patent or congressional grant, as required by North Dakota Title Standard (NDTS) 1-01.
- Title examinations are conducted from a search of the courthouse, including the Offices of the Register of Deeds and the Clerk of Superior Court.
- North Dakota has a thirty (30)-year customary search and a twenty (20)-year minimum statutory requirement (N.D. Cent. Code § 47-19.1-01).
- The title search is paid for by the seller and the examination is paid for by the buyer.
- The non-titled spouse must sign the security instrument, regardless if he/she holds title.
- North Dakota is not a community property state.
- North Dakota is a homestead state. Homestead laws allow for up to \$100,000.00 equity (see N.D. Cent. Code § 47-18-01).
- Dower and curtesy have been abolished.
- Real estate closings may be conducted by lenders, title companies, attorneys, and realtors. Documents are generally prepared by attorneys. A title or escrow company usually handles the closing.
- North Dakota is a title theory state.
- North Dakota follows a race-notice recording statute.
- “The legislative intent is to not tax property transferred upon death. It is the intent of the legislative assembly to repeal the state estate tax to the extent possible, without jeopardizing that portion of federal estate taxes which is allowed as a credit for state estate taxes. It is recognized that, if the state estate tax were totally repealed, the amount of federal estate taxes due would be increased by the amount of credit at no savings to the people of North Dakota” (id. § 57-37.1-02).

OHIO

TITLE SEARCHES AND EXAMINATIONS:

The extent to which land titles are checked back varies, depending on the area of the state and whether mineral interests are involved; but sixty years is generally prudent. The Marketable Title Act does not extinguish easements.

Deeds and mortgages are recorded in the office of the County Recorder of the county in which the property is located. All rates and forms must be filed and approved by the Ohio Department of Insurance Rates and forms are deemed approved and effective 30 days from filing.

Title examinations are conducted from a search in the courthouse records and/or from plant records. A refinance search varies from one area of the state to another. The time frame may range from a one-owner search to 21-year search. A search on a resale or a commercial project should be searched back to at least 60 years unless some form of back title is provided.

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents and rates are regulated by the Department of Insurance. Title insurance rates do not include search and examination. Special rates are given in cases of simultaneous issue, reissue, and refinance policies.

Certified copies of death certificates are secured at the local health department in the county of the decedent's death. Ohio Department of Health Office of Vital Statistics, 225 Neilston Street, Columbus, OH 43215.

VESTING:

Ohio recognizes tenancies in common, tenancies by the entirety, and survivorship tenancies that transfer at death. A conveyance or encumbrance during lifetime of a vested spouse requires a joinder or a waiver of dower by the other. Separate instruments for this purpose are permitted. Dower interests are terminated by divorce. Ohio is not a community property state. Dower applies to interest of both the husband and wife. Curtesy has been abolished by merging with dower to include the interests of both spouses.

When title is held in the name of only one spouse and the title holding spouse dies, the surviving spouse is entitled to a dower interest or one-third interest for life in the deceased spouse's real estate. Dower is conveyed when the non-owning spouse conveys title along, with the owning spouse to a third party. Dower cannot be terminated by conveyance to the title-owning spouse by the non-title-owning spouse.

Fee simple estates can be held jointly by husband and wife. Marital rights held jointly by husband and wife are created by a joint and survivorship deed. Marital rights held jointly by husband and wife are severed by divorce or conveyance of the property to a third party by both husband and wife.

Conveyance is by warranty deed, limited warranty deed, or quitclaim deed (see Ohio Rev. Code Ann. §§ 5302.05, 5302.07, and 5302.11). Conveyance instruments must include the names of grantor and grantee and their marital status, a legal description of the property, and acknowledgment. A valid acknowledgement must include the name and marital status of the grantee(s). Conveyances made to two or more persons are presumed to be tenancies in common.

If the contract includes minerals, they can be excluded from the transfer instrument.

Easements merge if they are acquired by the same party. The mortgagee acquires title to the merger.

A tax deed and examination of foreclosure proceedings is used to confirm title to property purchased for taxes.

Statutes related to aliens holding title to land: Ohio Rev. Code Ann. § 5301.254; If the property is larger than three acres or \$100,000.00 in value, or if there are mineral rights valued at over \$50,000.00, non resident aliens must register with the Secretary of State (Ohio Rev. Code Ann. § 5301.254).

Corporations must register with the Secretary of State to conduct business in Ohio (Ohio Rev. Code Ann. § 5733.16).

DECEDENTS' ESTATES:

An executor with power of sale under the will has authority to contract and sell the real property belonging to the estate, except for specifically devised real estate. Where the will does not contain a power of sale, an executor may sell the property at public or private sale pursuant to the statutory sale procedure of Ohio Rev. Code Ann. § 2127.011; provided the surviving spouse all of legatees and devisees in the case of testacy, or all the heirs at law in the case of intestacy consent in writing to the sale and the consent filed with the probate court.

The sale must be for a price of at least eighty percent (80%) of the appraised value. None of the heirs, legatees, devisees, or surviving spouse can be a minor.

For spouses dying on or after July 1, 1993, a full unlimited marital deduction is allowed to the surviving spouse.

The Ohio Estate Tax was repealed effective January 1, 2013. There will be no estate tax on estates of individuals with a date of death on or after January 1, 2013. This legislative change occurred with the passage of the 2012-2013 Budget Bill, House Bill 153.

MORTGAGES, LIENS, AND FORECLOSURE:

Ohio is a lien theory state. Judgment liens generally expire after five years, and may be renewed by before expiration. If the lienholder is the state of Ohio, it is valid for ten years. If the lienholder is the United States, it is valid for twenty years. See Ohio Rev. Code Ann. § 2329.07.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of twenty-one years (Ohio Rev. Code Ann. § 2305.04), in addition to a quiet title action.

Liens against one tenant by the entirety do not attach to any interest in the property unless that tenant is vested with the entire interest in the property while the lien is still enforceable, except federal tax liens. However, under joint and survivorship tenancies, liens will attach to the interest held by the party against whom the lien is filed.

A release of mortgage is used to cancel mortgage liens of record. If a lender fails to cancel a lien of record after secured debt is paid in full, there is a fine of \$250 after 90 days. A lawsuit for additional damages may be filed (Ohio Rev. Code Ann. § 5301.36).

The statute of limitations on lawyer's certificate of title is one year from the date of discovery of the title defect.

Actions arising from deficiencies in construction, or improvements to real property have a ten-year statute of limitations based on contract theory (Ohio Rev. Code Ann. § 2305.131).

Foreclosure is by judicial means. The time for the foreclosure process is a minimum of five months. The debtor may redeem any time before the confirmation of sale (Ohio Rev. Code Ann. § 2329.33).

Statute of Limitations for Liens	
State Court Judgments	5 years from the date of entry or most recent renewal or execution
Judgments in favor of the State of Ohio	15 years from the date of filing
Judgments in favor of the United States	20 years
Federal Tax Liens	10 years from the date of filing
Federal Estate Tax Liens	10 years from the date of decedent's death. Said lien is a secret lien; attaches without a need or filing
Mechanics' Lien	6 years
Homeowner's Association	5 years from the date of entry or most recent renewal or execution

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by banks, attorneys, and title insurance companies. Documents are usually prepared by attorneys or grantors.

A Reissue Disclosure Statement needs to be prepared for each file. Closing costs are often split, but the terms may be negotiable. The use of power of attorney in a closing is acceptable, but it must be specific, recorded, and acknowledged like a deed.

Ohio does not require a license for those conducting closings, escrows, or settlements. Ohio requires "good" funds at disbursement. If closing through an escrow account, the account must be exclusively for Ohio transactions.

The customary security instrument used in Ohio is a mortgage. The statutory form of mortgage is provided in Ohio Rev. Code Ann. § 5302.12. Mortgage covenants are defined in id. § 5302.13, and id. § 5302.14 defines statutory conditions.

RECORDING REGULATIONS:

Ohio is a race-notice state; however, for mortgages, Ohio follows the race statute.

A deed, mortgage, land contract, power of attorney, or lease of any interest in real property and a memorandum of trust must be signed by the grantor, mortgagor vendor, or lessor, or by the setter and trustee in the case of a memorandum of trust. The signature must be acknowledged before a notary public. Ohio also provides that all deeds, mortgages, powers of attorney, and other instruments of writing for the conveyance or encumbrance of real property, executed and acknowledged or proved in any other state, territory or country in conformity with the laws of that state, territory, or country, are as valid as if executed within Ohio.

PROPERTY TAXES:

Each county in Ohio sets its own schedule for collecting property taxes. For example, in Cuyahoga County, the first tax installment of the year is due in either December or January, and the second payment is due in either June or July, as determined by the county. The county also allows taxes to be paid one time per year or on a monthly basis. Delinquencies can be spread over five or ten payments. If the taxes on the property are delinquent, an interest rate of 5 percent for the first 10 days followed by 10% applies.

Real estate taxes become a lien on the property as of January 1 of the current year. Special assessments become a lien against the real estate upon the enactment of an ordinance, although they do not appear in the public records until certified by the county auditor.

OHIO CALLOUTS

- The extent to which land titles are checked back varies, depending on the area of the state and whether mineral interests are involved; but sixty years is generally prudent. The Marketable Title Act does not extinguish easements.
- Title examinations are conducted from a search in the courthouse records and/or from plant records. A refinance search varies from one area of the state to another. The time frame may range from a one-owner search to 21-year search. A search on a resale or a commercial project should be searched back to at least 60 years unless some form of back title is provided.
- Ohio recognizes tenancies in common, tenancies by the entirety, and survivorship tenancies that transfer at death. A conveyance or encumbrance during lifetime of a vested spouse requires a joinder or a waiver of dower by the other. Separate instruments for this purpose are permitted.
- Dower interests are terminated by divorce. Ohio is not a community property state. Dower applies to interest of both the husband and wife. Curtesy has been abolished by merging with dower to include the interests of both spouses.
- Real estate closings may be conducted by banks, attorneys, and title insurance companies. Documents are usually prepared by attorneys or grantors.
- A Reissue Disclosure Statement needs to be prepared for each file
- Ohio is a lien theory state.
- Ohio is a race-notice state; however, for mortgages, Ohio follows the race statute.

OKLAHOMA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to sovereignty or inception to include all easements or encumbrances on the subject property, and due to Indian land titles and their restrictions. However, Oklahoma does have a Marketable Record Title Act, which provides for a thirty-year root of title (Okla. Stat. tit. 16, § 71).

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents are regulated by the state Department of Insurance. Title insurance rates, including any special rates, are not promulgated. Title insurance rates do not include search and examination, as Oklahoma is an abstract state. The abstract is charged separately. Every title insurance policy must be based upon an opinion of title rendered by an attorney licensed to practice in Oklahoma, following the examination of a certified abstract of title to the property.

Abstracts may only be prepared by abstractors licensed in accordance with Oklahoma Abstractors Law. Oklahoma title examination standards adopted by the Oklahoma Bar Association are set forth in Appendix to Chapter 1, Title 16.

Certified copies of death certificates can be obtained from the Vital Records Division of the Oklahoma Department of Health, 1000 NE Tenth Street, Oklahoma City, OK 73117.

VESTING:

Oklahoma recognizes tenancies in common, joint tenancies, and tenancies by the entirety. Oklahoma is not a community property state. Homestead laws are found in Okl. Const. Art. XII, §§ 1-2. See also Okla. Stat. tit. 31, § 1 on exemption, Okla. Stat. tit. 58, § 311 et seq. on probate, and Okla. Stat. tit. 16, §§ 1, 4 on conveyance. The non-titled spouse of homestead property must sign the security instrument. Dower and curtesy have been abolished.

Conveyance is by warranty deed, quitclaim deed, special warranty deed, or court decree or order. A valid conveyance instrument should include the names of grantor and grantee, state the consideration, a legal description of the property, valid signatures, and acknowledgment. Conveyances made to two or more persons are construed as tenancies in common, unless the language clearly indicates an intent for joint tenancy with the right of survivorship (Okla. Stat. tit. 60, § 74). A tenancy by entirety can only be created between husband and wife.

If the contract includes minerals, they can be excluded from the transfer instrument; however, the contract should be amended to reflect the exclusion. No merger occurs in title unless it is specifically stated in the document.

Statutes related to aliens holding title to land: see Okl. Const. Art. XXII, § 1. See also Okla. Stat. tit. 60, § 121—127.

To assure the marketability of title to property that was purchased in a tax sale, a quiet title suit would need to be filed. The reason for the quiet title suit is that the notice requirements and procedures by the county treasurer who issues the certificate tax deed or tax resale deed may not meet notice and due process requirements that are required in a judicial proceeding. Therefore, an interest in the property purchased for taxes may still be outstanding, causing a marketability defect. However, the Simplification of Land Titles Act, Title 16 Oklahoma Statutes § 62(d), provides that a purchaser for value, with or without actual or constructive notice, from one claiming under a conveyance or decree recorded or entered for ten (10) years or more in the county, is protected as against adverse claims arising out of certificate tax deeds or resale tax deeds executed by the county treasurer, as against any person, or the heirs, devisees, personal representatives, successors or assigns of such person who was an owner or claimant of land subject to the tax deeds, unless the claimant is in possession of the land, either personally or by a tenant.

DECEDENTS' ESTATES:

If directed or authorized by the will, estate property may be sold by the executor without court order, although the executor must make return of such a sale. In others cases, sale of real property by the personal representative of an estate must be done by court order (Okla. Stat. tit. 58, § 462).

The State of Oklahoma no longer imposes an estate tax on decedents' estates.

MORTGAGES, LIENS, AND FORECLOSURE:

Oklahoma is a lien theory state. Judgment liens are valid for five years (see Okla. Stat. tit. 12, § 735), and may be renewed by the issuance of a garnishment, summons, or execution.

Sellers who finance part of the sale price for the buyer obtain a vendor's lien. See Okla. Stat. tit. 42, § 26.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of fifteen years (Okla. Stat. tit. 12, § 93).

A release of mortgage or a quitclaim deed is used to cancel mortgage liens of record. Okla. Stat. tit. 46, § 15 provides that the mortgage shall be released by the holder within thirty days of the payment of the debt. If the holder fails to do so, the mortgagor may ask the holder, in writing, to release the mortgage and shall give the holder ten days. If the holder fails to release the mortgage by that time period, he or she shall pay a penalty of 1 percent of the principal debt, not to exceed \$100.00 per day, each day the release is not recorded. The total penalty shall not exceed 100% of the total principal debt and shall be recovered in a civil action.

The statute of limitations on builders warranties are typically one year. The statute of limitations for actions arising from deficiencies in construction, or improvements to real property is 2 years from the time of discovery under tort law theory. The statute of limitations on a lawyer's certificate of title is a two-years period (Okla. Stat. tit. 12, § 95(A)(3)). The statute of limitations for an action brought against an abstractor for negligence is five years.

Foreclosure is usually by judicial means, although a power of sale mortgage is provided by statute (see Okla. Stat. tit. 46, § 43). There is no redemption period after sale; however, some courts say the property may be redeemed up until confirmation of sale. Okla. Stat. tit. 42, §§ 18-20 provides that a mortgagor may bring an action for redemption.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Oklahoma Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	4 months

REAL ESTATE CLOSINGS:

Real estate closings are conducted by attorneys, abstract companies, title insurance companies, and independent closing companies. Documents are usually prepared by attorneys, but may be prepared by closers. An escrow agent routinely prepares closing statements and escrow instructions. These are within the scope of escrow activity. The escrow agent typically completes the deed, using a statutory form consistent with the sale and purchase agreement.

Closing costs are negotiable. Although Oklahoma statutes provide for the use of a power of attorney for the sale of real property, customary practice avoids using powers of attorney. If it is used, it must give full authority to the attorney-in-fact to convey the property. It must also be executed pursuant to statute Okla. Stat. tit. 16, § 20, and the durable power of attorney form is preferred. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Oklahoma is a notice recording statute jurisdiction.

Generally, all instruments to be recorded with an office of the county clerk are required to be properly acknowledged, contain a legal description of the property, contain a mailing address of grantee, mortgagee, assignee, or other designed party to which the instrument is to be delivered after recording, be clearly legible, and be no larger than 8.5 inches by 14 inches (Okla. Stat. tit. 19, § 298).

A seal is required, along with the date of expiration, unless the expiration date is put on the seal. Okla. Stat. tit. 16, § 33 states that an acknowledgment must substantially follow the statutory form.

PROPERTY TAXES:

Tax collection starts around November 1 when tax bills go out. Taxpayers have until December 31 to pay the first half of their taxes. The second half must be paid before April 1. On April 1, penalty and interest charges begin accumulating on unpaid tax bills.

Regular penalty charges may be as high as 18 percent, per year, depending on how long the tax remains unpaid. Interest is charged at the rate of 1.5 percent per month. There is no maximum amount of interest.

Other taxes which become due to the state, including personal property ad valorem sales taxes, municipal taxes, etc., upon delinquency may also have a lien perfected to secure payment of the tax; which lien generally arises upon the docketing or recording the county where the real property is located of the certificate or notice required by the applicable tax section of Title 68 of the Oklahoma Statutes.

OKLAHOMA CALLOUTS

- All land titles are checked back to sovereignty or inception to include all easements or encumbrances on the subject property, and due to Indian land titles and their restrictions. However, Oklahoma does have a Marketable Record Title Act, which provides for a thirty-year root of title (Okla. Stat. tit. 16, § 71). Oklahoma recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- Abstracts may only be prepared by abstractors licensed in accordance with Oklahoma Abstractors Law. Oklahoma title examination standards adopted by the Oklahoma Bar Association are set forth in Appendix to Chapter 1, Title 16.
- Real estate closings are conducted by attorneys, abstract companies, title insurance companies, and independent closing companies.
- Documents are usually prepared by attorneys, but may be prepared by closers.
- An escrow agent routinely prepares closing statements and escrow instructions. These are within the scope of escrow activity. The escrow agent typically completes the deed, using a statutory form consistent with the sale and purchase agreement.
- Closing costs are negotiable.
- Oklahoma is a lien theory state.
- Oklahoma is a notice recording statute jurisdiction.

OREGON

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to the patent from the United States government. Encumbrances affecting the property could appear in any document subsequent to the patent in the chain of title. Although title companies may use some shortcuts in their examinations, at least in theory, that examination will try to cover all matters affecting the title subsequent to the issuance of the patent.

Title insurance policies and endorsements are filed with and must be approved for use by the Insurance Division, Department of Consumer and Business Services. Title insurance agents are regulated by the Insurance Division, Department of Consumer and Business Services. Title insurance rates are regulated by the Insurance Division and are required to be filed and approved by the Department of Consumer and Business Services before use. Title insurance rates do include search and examination. Title insurance rates do include search and examination. Special rates are given in cases of builders (residential builders), reissue of title insurance on property within three years of prior insurance, and lenders' discounts on properties following foreclosure when a foreclosure guarantee has been purchased.

Examiners examine titles from their title company's title plant. A title plant must meet or exceed the standards established by the Oregon Insurance Code and related administrative rules. A title plant covering a period of at least the immediately preceding 50 years except years before 1960 and consisting of a general index, adequate maps and currently posted tract or geographic indexes for all the lands in the county in which title insurance policies or other title services are to be issued or provided shall be maintained (Or. Rev. Stat. Ann. § 731.438).

Certified copies of death certificates can be requested from the Oregon Health Division, Vital Records, P.O. Box 14050, Portland, Oregon 97214-0050.

VESTING:

The following tenancy types are recognized: tenancy by the entirety, tenancy in common, and joint tenancies with the right of survivorship. The estate cannot be destroyed by the actions of one owner. The non-titled spouse of real property is not required to sign the security instrument.

Oregon is not a community property state. Homestead laws provide for a homestead exemption of \$40,000.00 for a person or \$50,000.00 for a couple, and provide that equity in the homestead will be exempt from execution from the lien of any involuntary judgment up to that amount. The homestead must be the actual abode and occupied by the owner or the owner's spouse, parent, or child (Or. Rev. Stat. Ann. § 18.395). The homestead exemption is automatic and need not be filed or recorded. The homestead may not apply in connection with child support judgments (Or. Rev. Stat. Ann. § 18.398). Dower and curtesy have been abolished.

Or. Rev. Stat. Ann. § 91.020 provides classification of tenancies as follows: Tenancy at sufferance, tenancy at will, tenancy for years, tenancy from year to year, tenancy from month to month, tenancy by entirety and tenancy for life.

The concurrent estates available to a husband and wife are tenancy by the entirety, tenancy in common, and a right of survivorship tenancy. In this last tenancy, neither tenant may terminate the others survivorship right. Marital rights held jointly by husband and wife are created by conveyance. In addition, a form of marital right may arise upon the filing of a petition for dissolution of marriage. Marital rights held jointly by husband and wife are severed by conveyance or by decree of dissolution

of marriage. A decree of separation will not sever a tenancy by the entirety unless the decree expressly changes the estate of the parties.

Conveyance is by warranty deed. All conveyance must include a statutory warning statement (Or. Rev. Stat. Ann. § 93.040), return address for mailing of documents and tax statements and the consideration of the transaction (id. § 93.030). A survivorship estate between two or more persons can be created by conveyance to "Joint Tenants with Right of Survivorship." Common law provides that conveyance to two or more persons is generally construed as tenancy in common, unless otherwise stated; or unless the two individuals are married, in which case the presumption is a tenancy by the entirety.

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument. Generally, merger is presumed unless a contrary intention is expressed in the document.

DECEDENTS' ESTATES:

Unless restricted by the probate court, the personal representative may sell property of the estate upon issuance of the letters testamentary or letters of administration.

Estate transfer tax is imposed for dates of death on or after January 1, 2012. The tax return and payment are due nine months after the estate owner's date of death. The table of tax rates imposed can be found in Or. Rev. Stat. Ann. § 118.010. If the department of revenue finds that the value of the gross estate has been undervalued on the estate tax return by an amount greater than 25 percent, notice of deficiency may be given at any time within five years after the date that the return is filed (Or. Rev. Stat. Ann. § 118.165).

The tax is a lien of unspecified duration on property of the estate. The Department of Revenue may issue a warrant after failure to pay the tax. Recording of the warrant creates the equivalent of a judgment lien on the named taxpayer's real property in the same county (id. § 118.230). This lien is valid until paid.

MORTGAGES, LIENS, AND FORECLOSURE:

Oregon is a lien theory state. Judgment liens are valid for a period of ten years (Or. Rev. Stat. Ann. § 18.180).

Mortgage satisfactions, trust deeds, deeds of reconveyance, and contract- fulfillment deeds are used to cancel mortgage liens of record. If a lender fails to cancel a lien of record after secured debt is paid in full there is a \$500.00 penalty or actual damages; see Or. Rev. Stat. Ann. § 86.140.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile for a period of 10 years (Or. Rev. Stat. Ann. § 105.620).

Foreclosure is usually by non-judicial means. Contracts of sale in the past have been foreclosed judicially although a statutory procedure for forfeiture has been used with increasing frequency. The time for the foreclosure process is typically 180 days. There is a six-month redemption period after sale in a judicial foreclosure, and no redemption period after a non-judicial trust deed foreclosure.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
Federal Tax Liens	10 years
Judgement Liens	10 years , may be renewed
Mechanic's Lien	120 days , must be filed within 75 days since labor was last performed, materials were furnished, or completion of project.
Child Support Liens	5 years

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by attorneys, title insurance companies, and escrow companies. Documents can be prepared by escrow departments, acting as a scrivener (routine documents). More complicated documents, such as a contract of sale or other documents containing non-routine clauses, are drafted by lawyers.

Closing costs are usually paid by both parties equally unless otherwise stated in the earnest money agreement. Generally, the seller will provide an owner's title insurance policy to the buyer and the buyer will purchase any mortgagee's or lender's policy for his or her lender. Recording costs will be charged to the party who is having the document recorded.

Powers of attorney are sometimes used, but the power must be explicit in conferring the authority to the agent. Some forms used in other states, which rely on either that state's statutory or case law, may not be satisfactory for use in this area. Title companies will not generally accept a power of attorney that was executed too far in the past, unless they feel comfortable that the power has not been revoked by the principal. However, they cannot be rejected on the basis of age of power only (Chapter 395 Oregon Laws (2001)). The most commonly used real estate security instrument is the trust deed. A trust deed is governed by the Oregon trust deed act. A trustee for an Oregon trust deed must be an attorney who is an active member of the Oregon State Bar, a financial institution or trust company authorized to do business under the law of Oregon or the U.S. title insurance company authorized to insure titles in Oregon, its subsidiary, agent or branch, the United States or any federal agency, or a licensed Oregon escrow agent (Or. Rev. Stat. Ann. § 86.713). The beneficiary cannot serve as the trustee except when the beneficiary is the United States or a federal agency.

The four statutory forms are the warranty deed (Or. Rev. Stat. Ann. § 93.850); the special warranty deed (id. § 93.855); the bargain and sale deed (id. § 93.860); and the quitclaim deed (id. § 93.865).

State law does not require collected funds at settlement, however, disbursement from escrow customarily occurs after recording. The Oregon Escrow Law precludes disbursement of funds from an escrow until that escrow has "a sufficient credit balance" to cover the disbursement.

RECORDING REGULATIONS:

Oregon has a race-notice statute for recordings.

All instruments presented for recording must contain the names and addresses of the grantees and grantors, a legal description of the property, original signatures of all parties involved, and valid acknowledgments. In addition to the indexing information, the first page should contain the return address. An instrument creating a lien must contain the property's tax account number.

A conveyance or contract to convey must have: a statement of the actual consideration paid on the first page; a statutory land use warning (prescribed by Or. Rev. Stat. Ann. § 93.040); and an addressee and address for tax statements, which should also be on the first page. The document should be 14 inches long and 8 1/2 inches wide and must be of sufficient quality for photographic recording. The text must be at least 8 point type (Or. Rev. Stat. Ann. § 205.232).

PROPERTY TAXES:

Property taxes are assessed in October and become a lien as of July 1 (prior) of that year. The official tax year is from July 1 through June 30. Property taxes are due on November 15. Property taxes can be paid in three installments, due on November 15, February 15, and May 15. See Or. Rev. Stat. Ann. § 311.505. There is a 1.33% per or a fraction of a month until paid. Taxes are payable when the tax collector certifies the tax rolls. This usually occurs during to first half of October, but varies somewhat from year to year and county to county. The tax year runs from July 1 of the same year to June 30 of the following year.

OREGON CALLOUTS

- All land titles are checked back to the patent from the United States government. Encumbrances affecting the property could appear in any document subsequent to the patent in the chain of title. Although title companies may use some shortcuts in their examinations, at least in theory, that examination will try to cover all matters affecting the title subsequent to the issuance of the patent.
- Examiners examine titles from their title company's title plant. A title plant must meet or exceed the standards established by the Oregon Insurance Code and related administrative rules. A title plant covering a period of at least the immediately preceding 50 years except years before 1960 and consisting of a general index, adequate maps and currently posted tract or geographic indexes for all the lands in the county in which title insurance policies or other title services are to be issued or provided shall be maintained (Or. Rev. Stat. Ann. § 731.438).
- Oregon is not a community property state.
- The following tenancy types are recognized: tenancy by the entirety, tenancy in common, and joint tenancies with the right of survivorship. The estate cannot be destroyed by the actions of one owner. The non-titled spouse of real property is not required to sign the security instrument.
- Homestead laws provide for a homestead exemption of \$40,000.00 for a person or \$50,000.00 for a couple, and provide that equity in the homestead will be exempt from execution from the lien of any involuntary judgment up to that amount. The homestead must be the actual abode and occupied by the owner or the owner's spouse, parent, or child (Or. Rev. Stat. Ann. § 18.395). The homestead exemption is automatic and need not be filed or recorded.
- Dower and curtesy have been abolished.
- Real estate closings may be conducted by attorneys, title insurance companies, and escrow companies. Documents can be prepared by
 - escrow departments, acting as a scrivener (routine documents).
- Oregon is a lien theory state.
- Oregon has a race-notice statute for recordings.

PENNSYLVANIA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years, which is the recognized, standard search period established by custom and case law. However, searches for lesser time periods are acceptable, provided they tie into a search or searches that together cover the required sixty-year period.

Title insurance policies and endorsements are American Land Title Association 1992 policy forms (and "Enhanced" policy alternatives) and local endorsements that have been filed with, and approved for use by, the Pennsylvania Insurance Department.

Title insurance agents are licensed by the Insurance Department after passing a written examination and being approved. Lawyers are required to sit for the written exam. Title insurance rates are regulated by the Department of Insurance. With the exception of bid rates, which must be filed with the Insurance Department within thirty days of closing, all rates and forms must be filed and approved by the Insurance Department before use.

Title insurance rates include search, examination, settlement, and policy. With the exception of transactions in excess of \$30 million, the filed rates set forth above in are all-inclusive. A charge for such services cannot be made unless there are multiple chains of title or other especially difficult title searches required. Special rates are given in cases of leasehold policies issued with fee policies, lot development, operative builder or condominium developer, equitable title, refinance loans, mortgage modification, and assignment of mortgage.

Certified copies of death certificates should be requested from the Pennsylvania Department of Health, Division of Vital Records, PO. Box 1528, New Castle, PA.

VESTING:

Pennsylvania recognizes tenancies in common, joint tenancies, and tenancies by the entirety. Conveyances made to two or more persons without express words intending to create a survivorship, a tenancy in common is created. A conveyance to husband and wife will create a tenancy by the entirety, unless an intent to create a tenancy in common is clearly expressed. Pennsylvania is not a community property state. Homestead laws are not applicable. Dower and curtesy statutory rights have been abolished as of July 1978. The non-titled spouse of real property is required to sign the security instrument, unless divorce action is pending. A finalized divorce severs marital rights to property.

In the event of death of the spouse, a copy of the death certificate is required when the property is held as tenants by the entirety. The following verbiage is required on the front of the page under the legal description: "Mary Smith spouse of John Smith died on _____, thereby vesting title in Mike Smith, surviving tenant by the entireties."

Conveyance is most often made by special warranty deed but, in some areas of the state, general warranty deeds are used. The conveyance instrument must identify the grantor and grantee; actual consideration, nominal in cases of gifts; description sufficient to identify and locate real estate, usually metes and bounds or courses and distances are used (many recorders' offices also require the inclusion of a property or tax parcel identifier); operative words "grant" and/or "convey" in the granting clause; language for special or general warranty; and execution by grantor; and acknowledgement to a notary public; subsidence notice in those counties where bituminous coal has been and/or is found.

If the contract includes minerals, they cannot be excluded from the transfer instrument.

The state's interpretation of the doctrine of merger: Merger is a matter of intent and should be clearly expressed.

Alien land ownership is limited by Pa. Stat. Ann. Tit. 68, § 41, et seq. (1993), which prohibits the acquisition by an alien of an interest in agricultural land that exceeds one hundred acres. This act does not prohibit any acquisition of such land by devise or inheritance, or as may be held as security for a debt.

Statutes related to foreign corporations or partnerships holding title to land: Subject to the provisions set forth immediately above concerning agricultural lands, foreign partnerships, and/or corporations are allowed by statute to acquire and hold title to real estate in the same manner and to the same extent as domestic partnerships and/or corporations. See Pa. Stat. Ann. Tit. 15, §§ 8102, 8313 (Supp. 2001) for general partnerships; Pa. Stat. Ann. Tit. 15, §§ 8587, 8589 (Supp. 2001) for limited partnerships; Pa. Stat. Ann. Tit. 15, §§ 4141, 4142, 4143, 1502(4) (Supp. 2001) for corporations; and Pa. Stat. Ann. Tit. 15, §8901 et seq. (Supp. 2001) for limited liability companies.

An action to quiet title should be filed pursuant to Pa. R. Civ. P 1061-68.

DECEDENTS' ESTATES:

The Commonwealth of Pennsylvania does impose a tax on transfers by inheritance. The estate pays the tax and files an inheritance tax waiver. The tax is currently 6% for immediate family members, and 15% for extended family members and non-family members (72 PS 9106. See 72 PS 9107 for Transfers Subject to Tax. See 72 PS 9111 for Transfers Not Subject to Tax).

Property held in tenancy by the entirety is exempt from tax at the death of the first tenant. When the surviving spouse dies, inheritance tax is imposed.

Property conveyed within a year before death is subject to tax (72 PS §9600 et seq.). Since January 1994, property held in the name of one spouse who then passes title to the other spouse by will or by intestacy, is also exempt from inheritance tax.

The duration for an unfiled lien is 20 years after the tax becomes delinquent. The lien may be revived for additional five-year periods by filing with the Clerk of Orphan's Court.

MORTGAGES, LIENS, AND FORECLOSURE:

Pennsylvania is a lien theory state. Judgment liens expire after five years, unless renewed by an order of revival of judgment.

Sellers who finance part of the sale price for the buyer receive a purchase money mortgage lien. The priority of a purchase-money mortgage lien dates from the date of the delivery, if it is recorded within 10 days thereof, while other mortgages have priority from recording. A mortgage given to a party other than the seller, such as an institutional lender, may gain purchase money mortgage lien priority; as long as the loan that the mortgage secures is made for the purpose of purchasing the real estate and contains a clear statement that it is intended to be a purchase money mortgage lien.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile for a period of twenty-one years or more.

Actions arising from deficiencies in construction, or improvements to real property have a twelve-year limitation. See Pa. Stat. Ann. Tit. 42, § 5536 [Supp. 2001].

The mortgage satisfaction piece is the document used to discharge completely the lien of a mortgage, while a release of mortgage is used to release a portion of the real estate from the mortgage lien. To record a mortgage satisfaction piece, it is necessary to produce with it the original recorded mortgage (or a certified copy thereof) that is to be satisfied or discharged. If the mortgagee fails to discharge the mortgage within forty-five days after a request and the payment of all the lender's charges, then the party aggrieved may bring an action to recover "any sum not exceeding the mortgage-money." See Pa. Stat. Ann. Tit. 21, § 682 (1955 & Supp. 2001).

Once the mechanics' lien claim is filed, the plaintiff has a period of 2 years to have the claim converted to a mechanics lien. This lien then retains its lien status for a period of 5 years. By statute, open-end mortgages and purchase money mortgages (as long as each falls within the definition under the statute) are superior to mechanics' liens, even though mechanics liens relate back to the date the work was done, not the date of entry of the claim or lien.

Foreclosure is usually by judicial means, in accordance with the Pennsylvania Rule of Civil Procedure 1141-1150; however, it should be noted that all parties in interest, such as lien holders, are not required by the rules to be made parties to the action, but are instead to provide notice of the sale of any real estate before the time of execution sale. The mortgagor and the "real owner" (that is, a party who claims an interest in the land, such as a subsequent owner of the land) must be named as defendants to the foreclosure action. The time for the foreclosure process is a minimum of six months (average). There is no redemption period after sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All State Court Judgment Liens	5 years
Commonwealth of Pennsylvania Tax Liens	Indefinite in duration
Federal Tax Liens	10 years
Mechanics Lien	5 years; lien must be filed within 6 months from the date the work was completed.
Estate Tax	20 years
Inheritance Tax	20 years, 9 months from date of death

NOTE: Generally, judgments in PA do not attach to after-acquired property, but some liens fall within an exception and do attach to after-acquired property. 1) Federal Tax Liens; 2) Commonwealth of Pennsylvania Unemployment Compensation liens; 3) Support Obligations; and 4) Federal Judgments entered under the Effective Death Penalty and Antiterrorism Act of 1996. Note: Criminal judgments (typically the plaintiff will appear as "Adult Probation" or "Clerk of Quarter Sessions") are indefinite in duration with no need for revival.

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by attorneys, title companies, or their agents. Title agents or employees of the underwriter typically conduct closings. The attorney for the seller, purchaser, or borrower generally prepares the deeds needed for closing. The title company, on occasion (and only at the request of the parties), may prepare a deed for closing. This practice is not encouraged and is performed on a case-by-case basis since deed preparation may in some instances constitute the unauthorized practice of law.

Closing costs, including title insurance premiums, are usually paid by the borrower unless otherwise specified in the agreement of sale. However, the seller generally pays half the expense of transfer taxes.

A power of attorney is permitted. The power must be in recordable form; and it must clearly appoint the person or persons (Agents) to whom the power is granted and the acts they are authorized to perform. Before relying on the use of the power, it must be established by affidavit that the power has not been revoked by the person granting it, nor terminated by law in the event of the death of the grantor or by mental incapacity of the grantor, if the power is a nondurable power. (Powers of Attorney created in Pennsylvania after April 12, 2000 must contain a special "Notice," signed by the principal, and an acknowledgement signed by the Agent).

The customary security agreement is a mortgage. Although deeds of trust are permitted, they are rarely used. Pennsylvania requires collected funds at settlement ("Collected funds (wet settlement)" act).

RECORDING REGULATIONS:

Pennsylvania's recording statute is a race-notice statute. However, for recording mortgages, Pennsylvania follows the race statute.

All instruments presented for recording must be acknowledged and notarized, and contain the address of the grantee or mortgagee. No document will be accepted for recording if the date of the acknowledgment predates the date of the instrument. Use of the term "as of" or similar language will not alter this result. Documents having multiple executions that occur on different days should be dated by the party signing first.

Pennsylvania has adopted the Uniform Acknowledgments Act (See Pa. Stat. Ann. Tit. 21, § 291.1 (1955)), which requires acknowledgments to contain the venue and date.

There is no longer any statute requiring the statewide registration of deeds, with the repeal of Section 321 of Title 21 of Pennsylvania Statutes in 1988. However, a number of municipalities in suburban Philadelphia counties require registration of title documents prior to the recordation of the document in the Recorder of Deeds office. Title documents for property located within one of these townships or boroughs will be refused for recording if not properly registered by that township or borough. This practice is customary rather than statutory, and a current list of these municipalities is as follows: Townships of Abington, Cheltenham, East Norriton, Lower Merion, Montgomery, Springfield, Plymouth, Upper Merion, Buckingham and New Britain; Boroughs of Conshohocken, West Conshohocken, Doylestown, Morrisville, New Britain, Perkasie, Quakertown and Sellersville and the City of Chester.

All deeds require execution by grantor; acknowledgment of grantor; names and addresses of grantor and grantee, municipal location (i.e., city, borough, township) of property; uniform parcel identifier; and consideration.

PROPERTY TAXES:

Real estate taxes generally consist of three property taxes described as follows: (a) county taxes are levied annually on a calendar year and are due and payable by mid-March for the tax year in question; (b) township or borough taxes are the same as county taxes; and (c) school taxes are levied annually on a fiscal year beginning July 1, and are due and payable at the end of August. Exceptions are for the Cities of Pittsburgh and Philadelphia, where school taxes are levied on a calendar year basis.

Payment of real estate taxes is done in one of two ways. County and township taxes have a lien date of January 1 of the tax year. School taxes are paid on a fiscal year basis, July 1 to June 30 of the following year. Prorations for taxes should be made on this basis. The taxes operate as liens until the last day of the third calendar year; after which they were payable.

Real estate taxes constitute the primary lien on the property upon such a sale, subject only to the costs of the sale and any tax liens in favor of the Commonwealth, which have statutory priority over real estate taxes. The real estate tax remains a lien until paid or sold at tax sale.

PENNSYLVANIA CALLOUTS

- All land titles are checked back sixty years, which is the recognized, standard search period established by custom and case law. However, searches for lesser time periods are acceptable, provided they tie into a search or searches that together cover the required sixty-year period.
- Title insurance rates include search, examination, settlement, and policy. With the exception of transactions in excess of \$30 million, the filed rates set forth above are all-inclusive. A charge for such services cannot be made unless there are multiple chains of title or other especially difficult title searches required.
- Pennsylvania recognizes tenancies in common, joint tenancies, and tenancies by the entirety. Conveyances made to two or more persons without express words intending to create a survivorship, a tenancy in common is created.
- The Commonwealth of Pennsylvania does impose a tax on transfers by inheritance. The estate pays the tax and files an inheritance tax waiver.
- Property conveyed within a year before death is subject to tax (72 PS §9600 et seq.).
- Real estate closings may be conducted by attorneys, title companies, or their agents. Title agents or employees of the underwriter typically conduct closings.
- Pennsylvania is a lien theory state.
- Pennsylvania's recording statute is a race-notice statute. However, for recording mortgages, Pennsylvania follows the race statute.
- There is no longer any statute requiring the statewide registration of deeds, with the repeal of Section 321 of Title 21 of Pennsylvania Statutes in 1988. However, a number of municipalities in suburban Philadelphia counties require registration of title documents prior to the recordation of the document in the Recorder of Deeds office.

RHODE ISLAND

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back fifty years, in accordance with Rhode Island Title Standards (27 R.I. Gen. Laws § 2.6-17). Searches of title are performed at each town or city hall.

Title insurance policies and endorsements are American Land Title Association forms. Title insurance rate and agents are regulated by Department of Business regulations, Insurance Commissioner. Rhode Island is a rate and form filing state. All filings must contain three copies and a self-addressed stamped return envelope. Title insurance rates do not include search and examination. Special rates are given in cases of refinances.

Certified copies of death certificates should be requested from the Rhode Island Department of Health, Office of Vital Records, 3 Capitol Hill, Providence, R.I.

VESTING:

Rhode Island recognizes tenancies in common, joint tenancies, and tenancies by the entirety. Conveyances made to two or more persons, absent a contrary provision, are construed as tenancies in common. (See 34 R.I. Gen. Laws § 3-1) Rhode Island is not a community property state. Dower and curtesy have been abolished. Rhode Island has a significant limit on homestead exemptions in the amount of \$500,000 (9 R.I. Gen. Laws § 26-4.1).

A joint tenancy can be severed by a conveyance or a mortgage made by one of the spouses. A tenancy by the entirety cannot be severed in that manner, but may be voluntarily severed by a conveyance by the spouses to each other as tenants in common. A divorce will sever both a joint tenancy and a tenancy by the entirety.

Conveyance is by warranty deed, quitclaim deed, or bargain-and-sale deed. Conveyance requirements are outlined by R.I. Gen. Laws § 34-11-1 et seq. The deed must be in writing, acknowledged, delivered, and recorded. The word "grant" is sufficient to convey interest.

An attachment and a levy of execution against one tenant by the entirety creates a lien on the land. No sale can be forced under either lien unless, and until, the non-debtor spouse predeceases the debtor spouse.

If the contract does not exclude minerals, they can be excluded from the transfer instrument; if specifically excluded in the transfer instrument.

Merger requires an overt act (for example; conveyance by warranty deed).

State statutes that affect nonresident sellers: 44 R.I. Gen. Laws § 30-71.3 provides for withholding of proceeds by nonresident sellers. Also, when tangible, personal, and realty are sold by a nonresident, the buyer must deduct 6 percent of the total amount paid or gain to the seller if the seller is a nonresident individual, estate, partnership, or trust. If the nonresident seller is a corporation, the buyer

must deduct 9 percent. The buyer is responsible for paying the withheld amount to the Department of Taxation.

To confirm title to property purchased for taxes, file a petition to foreclose (44 R.I. Gen. Laws § 9-25).

DECEDENTS' ESTATES:

Pursuant 33 R.I. Gen. Laws § 25-2, the surviving spouse takes a life estate in all of the deceased spouse's real estate upon the death intestate of the decedent spouse, when the property is not jointly held.

MORTGAGES, LIENS, AND FORECLOSURE:

Rhode Island is a title theory state. Judgment liens expire after varying lengths of time depending on the type of lien. See 10 R.I. Gen. Laws §§ 5-44—46; 9 R.I. Gen. Laws § 25-23; id. § 26-33; 28 R.I. Gen. Laws § 43-20; 34 R.I. Gen. Laws § 28-4; 6A R.I. Gen. Laws § 9-403.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of ten years (34 R.I. Gen. Laws § 7-1).

The statute of limitations for builder warranties is six years.

The statute of limitations on lawyers' certificates of title is three years from the time of discovery.

A "discharge" may be used to cancel mortgage liens of record (34 R.I. Gen. Laws § 26-3). If a lender fails to cancel lien of record after secured debt is paid in full, they may be liable for costs plus damages; see 34 R.I. Gen. Laws § 26-5.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of forty-two days. There is no redemption period available to debtors following a nonjudicial foreclosure in Rhode Island. If the foreclosure is by another method, such as by peaceable and open entry (which is rare), the redemption period is three years (34 R.I. Gen. Laws § 23-3).

REAL ESTATE CLOSINGS:

Real estate closings are conducted by lawyers or title companies. Documents can be prepared by lawyers or title companies.

Closing costs are usually paid by the buyer; but the seller pays for documentary stamps and deed preparation, and for the preparation of the release and recording for releases.

The use of a power of attorney in a closing is generally not common. However, a specific power of attorney with the same requirements as a deed is permitted. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

Rhode Island is a notice recording statute jurisdiction.

All documents presented for recording must include the names and addresses of the grantee and grantor. All original signatures must have the names typed or printed under the signature line. A notary seal or stamp must be imprinted on all documents acknowledging signatures. The acknowledgment must state the city/county/state where the grantor appeared, that the grantor did personally appear

before the notary (or other appointed official), that the grantor was known by the official and known by the official to be the person executing the document, and that the grantor's act was his or her free act and deed. If acknowledged outside Rhode Island, but inside the United States, the acknowledgment will be considered valid if valid in the place where the acknowledgment took place.

On all transfer instruments from out-of-state grantors, there is a 6% (individual) or 9% (corporation) state capital gains tax withholding (44 R.I. Gen. Laws § 30-71.3).

PROPERTY TAXES:

Property taxes are levied on December 31. The due dates vary in each city. Taxes become a lien on December 31st. Other taxing authorities may create liens on real property (Water and Fire Districts, Sewer and Water Commissions, etc.) Property taxes can be paid in four installments with varying due dates.

44 R.I. Gen. Laws § 9-1(a) states that a tax lien arises and attaches to real estate as of the date of assessment of the tax, which is defined in 44 R.I. Gen. Laws § 5-1 as the thirty-first day of December in each year at twelve (12) o'clock midnight.

44 R.I. Gen. Laws § 9-1(b) states that the lien terminates at the expiration of three (3) years after the assessment date if the estate has, in the meantime, been alienated and the instrument alienating the estate has been recorded. Otherwise, the lien continues until a recorded alienation of the estate.

Various provisions of the general laws create liens on real estate in favor of the State of Rhode Island arising out of the failure to pay certain taxes. Additionally, taxes imposed by independent fire districts and lighting districts create liens on real estate, as do water charges and sewer charges (although these are not technically taxes).

RHODE ISLAND CALLOUTS

- All land titles are checked back fifty years, in accordance with Rhode Island Title Standards (27 R.I. Gen. Laws § 2.6-17). Searches of title are performed at each town or city hall.
- Rhode Island recognizes tenancies in common, joint tenancies, and tenancies by the entirety.
- State statutes that affect nonresident sellers: 44 R.I. Gen. Laws § 30-71.3 provides for withholding of proceeds by nonresident sellers. Also, when tangible, personal, and realty are sold by a nonresident, the buyer must deduct 6 percent of the total amount paid or gain to the seller if the seller is a nonresident individual, estate, partnership, or trust. If the nonresident seller is a corporation, the buyer must deduct 9 percent. The buyer is responsible for paying the withheld amount to the Department of Taxation.
- Real estate closings are conducted by lawyers or title companies.
- Documents can be prepared by lawyers or title companies.
- Closing costs are usually paid by the buyer; but the seller pays for documentary stamps and deed preparation, and for the preparation of the release and recording for releases.
- Rhode Island is a title theory state.
- Rhode Island is a notice recording statute jurisdiction.

SOUTH CAROLINA

TITLE SEARCHES AND EXAMINATIONS:

A title search consists of identifying applicable title documents and excerpting pertinent information. An examination of the information is deemed the practice of law and is generally performed by lawyers.

All land titles are checked back forty years, based on the forty-year lapse statute. See S.C. Code Ann. § 15-3-380. County land record title searches are conducted at the office of the Clerk of the Court or Register of Deeds.

Abstract companies furnish title information to law firms in a wide variety of forms, and the law firm then performs the examination of the reported documents.

Title insurance policies and endorsements are required to be filed with the Insurance Department. Title insurance agents are licensed by the state and subject to all rules and regulations of the South Carolina Insurance Department. Title insurance rates are filed with, and approved by, the Insurance Department. Title insurance rates do not include search and examination. Only filed commitment and policy forms and endorsement forms (such as the ALTA genes), which have been approved by DOI can be used in South Carolina.

Certified copies of death certificates should be requested from: Vital Statistics, 2600 Bull Street, Columbia, South Carolina 29201.

VESTING:

South Carolina recognizes tenancies in common and joint tenancies. Joint tenancies must indicate a right of survivorship if that is the intent of the conveyer (S.C. Code Ann. § 27-7-40). Tenancy by the entirety is not recognized in South Carolina.

The non-titled spouse of real property is not required to sign the security instrument. South Carolina is not a community property state. Homestead laws are found in S.C. Code Ann. §§ 12-37-245, 12-37-250. Dower and curtesy have been abolished.

Either spouse may own property individually, in his or her own name, and can convey it, mortgage it, or otherwise dispose of it without joinder by their spouse

For statutory language regarding the filing of notice of lis pendens during a divorce proceeding and how it affects real property, see S.C. Code Ann. § 20-3-670.

Fee simple interests and related easements are frequently held in joint tenancy by spouses (or others). There is no authority prohibiting other estates from being held jointly.

Conveyance is by deed form, pursuant to S.C. Code Ann. § 27-7-10. All conveyance instruments should be executed before two witnesses. South Carolina has enacted the Uniform Recognition of Acknowledgments Act; see S.C. Code Ann. § 26-3-10. A conveyance made to two or more persons is construed as a tenancy in common by default, absent clear language conveying the property to joint tenants.

If the contract includes minerals, they may be excluded from the transfer instrument.

When the holder of a mortgage acquires equity of redemption or legal title, merger will take place, unless the parties intend otherwise (*Thompson v. Hudgens*, 161 S.C. 450, 159 S.E. 807 (1931)).

Statutes related to aliens and foreign corporations holding title to land: see S.C. Code Ann. § 27-13-30.

A suit to clear tax titles will confirm title to property purchased for taxes; see S.C. Code Ann. § 12-61-10.

DECEDENTS' ESTATES:

See applicable code sections (S.C. Code Ann. § 12-16-510, et. seq.) on inheritance taxes on estates. State liens expire ten years after death (S.C. Code Ann. § 12-16-1510).

MORTGAGES, LIENS, AND FORECLOSURE:

South Carolina is a lien theory state. Judgment liens expire after ten years; see S.C. Code Ann. § 15-35-810.

A seller who finances part of the sale price for the buyer receives a purchase-money mortgage lien.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile, with color of title for a period of ten years (S.C. Code Ann. § 15-67-210).

To cancel mortgage liens of record, the original mortgage may be satisfied by four methods: (1) on the face of the original mortgage in the presence of the register of deeds; (2) on the face of the mortgage in the presence of two witnesses; (3) via document with substantially the form set out in the statute; or (4) by affidavit of a South Carolina licensed attorney who can provide proof of payment and certifies he or she was given written payoff information, made the payoff, and is in possession of the canceled check or wire confirmation. See S.C. Code Ann. § 29-3-330. If a lender fails to cancel lien of record after secured debt is paid in full, there is a penalty equivalent to 50 % of the debt or \$25,000, whichever is less, plus damages. See S.C. Code Ann. § 29-3-320.

There is an eight-year statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property (S.C. Code Ann. § 15-3-640).

Foreclosure is usually by judicial means. The time for the foreclosure process is a minimum of four to six months. There is no redemption period after foreclosure.

Statute of Limitations for Liens	
Mortgages	20 years from date of maturity
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of South Carolina Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	6 months from last date of work
Estate Tax	10 years
Financing Statement	5 years plus 60 days

REAL ESTATE CLOSINGS:

Lawyers conduct closings, and by bar ethics advisory opinions, collected funds must be available at or before closing. Law firms cannot use trust funds belonging to other clients to fund a closing.

Title insurance companies are prohibited from closing transactions, preparing title documents, furnishing legal advice of any type to anyone, or providing title services to one who is not a licensed South Carolina lawyer. A title insurer can record a document only upon direction of a licensed South Carolina attorney. Case law strongly suggests that a title insurer (or an independent abstractor) can furnish a title report only to a licensed South Carolina lawyer. There is no state regulation of "closing protection letters."

Closing costs are usually paid by the buyer. Powers of attorney can be used for closings. Durable powers are preferred, as set forth in S.C. Code Ann. § 62-5-501. They must be in recordable form, signed in the presence of two witnesses, and acknowledged just like a will and recorded like a deed. The customary security agreement is a mortgage.

RECORDING REGULATIONS:

The South Carolina recording act is notice statute recording act. The priority is determined by the time of filing for record (S.C. Code Ann. § 30-7-10).

All instruments presented for recording must be signed by two witnesses, signed by the party whose interest is being conveyed, and notarized. Deeds and mortgages must contain a statutory derivation clause, tax parcel (TMS) identification number, and mailing address of the grantee or mortgagee.

PROPERTY TAXES:

Property taxes are levied in arrears and are due generally by January 15. Property taxes cannot be paid in installments.

Property taxes are due and payable September 30 of the year for which they are assessed and may be paid not later than January 15 of the following year. Taxes become delinquent on January 16 of the following year, or 30 days after taxes are mailed.

Property taxes become the primary lien on January 1 of the year for which they are assessed, e.g. taxes for the year 2018 will become a lien on January 1, 2019. Currently, there are no limitations on enforcement of real estate tax liens..

SOUTH CAROLINA CALLOUTS

- A title search consists of identifying applicable title documents and excerpting pertinent information. An examination of the information is deemed the practice of law and is generally performed by lawyers.
- All land titles are checked back forty years, based on the forty-year lapse statute. See S.C. Code Ann. § 15-3-380. County land record title searches are conducted at the office of the Clerk of the Court or Register of Deeds.
- Abstract companies furnish title information to law firms in a wide variety of forms, and the law firm then performs the examination of the reported documents.
- South Carolina recognizes tenancies in common and joint tenancies.

(continued...)

- The non-titled spouse of real property is not required to sign the security instrument. South Carolina is not a community property state.
- Real estate closings are conducted by lawyers. Documents are also prepared by lawyers because it is deemed the practice of law.
- Lawyers conduct closings, and by bar ethics advisory opinions, collected funds must be available at or before closing. Law firms cannot use trust funds belonging to other clients to fund a closing.
- Title insurance companies are prohibited from closing transactions, preparing title documents, furnishing legal advice of any type to anyone, or providing title services to one who is not a licensed South Carolina lawyer. A title insurer can record a document only upon direction of a licensed South Carolina attorney. Case law strongly suggests that a title insurer (or an independent abstractor) can furnish a title report only to a licensed South Carolina lawyer. There is no state regulation of "closing protection letters."
- Closing costs are usually paid by the buyer
- South Carolina is a lien theory state.
- The South Carolina recording act is notice statute recording act.

SOUTH DAKOTA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to patent.

Title insurance policies and endorsements are filed with the State Insurance Director. Title insurance agents and rates are regulated by the South Dakota Insurance Office. Any filing of rates or policies need to be approved by the director of insurance. As soon as reasonably possible after the filing has been made, the director shall, in writing, approve or disapprove of the same; provided, however, that if the filing has not been disapproved by the director within fifteen days from the date of filing, or within thirty days if such period is extended in writing by the director during the first fifteen days, the filing is deemed approved.

Any filing must be made pursuant to S.D. Codified Laws §§ 58-25-7 through 9. Title insurance rates sometimes include search and examination, but it depends on the underwriter. Special rates are given in cases of government contracts, subdivider rate.

Certified copies of death certificates should be requested from the Registrar of Deeds in the county where the death occurred.

VESTING:

South Dakota recognizes joint tenancies and tenancies in common; see S.D. Codified Laws § 43-2-11. A husband and wife may hold property either as joint tenants or as tenants in common. South Dakota is not a community property state. Homestead laws allow creation of homestead without a recorded declaration. The non-titled spouse of homestead property must sign the security instrument. If within a town plat, the exemption is limited to the house property used as a homestead; along with qualifying buildings appurtenant to the home, along with a lot not to exceed one acre (S.D. Codified Laws § 43-31-31). If not within a town plat, the acreage claimed cannot exceed 160 acres. Dower and curtesy have been abolished.

Conveyance is by warranty deed or quitclaim deed. The content requirements for conveyance instruments are outlined in S.D. Codified Laws §§ 43-25-5, 43-25-7.

Conveyances made to two or more persons are construed as tenancies in common, unless explicit reference and intent to joint tenancy.

If the contract includes minerals, they cannot be excluded from the transfer instrument.

The doctrine of merger will apply when there is an intent by the parties to merge, prior negotiations and agreements, and upon acceptance of an unambiguous deed. Exceptions include situations involving fraud, mistake, or the existence of prior contractual negotiations evidencing a lack of intent for merger to occur.

Statutes related to aliens holding title to land: only as related to agricultural lands; see S.D. Codified Laws § 43-2A-7.

Statutes related to foreign corporations or partnerships holding title to land: only as related to agricultural lands; see S.D. Codified Laws § 47-9A-1.

A quiet title action is used to confirm title to property purchased for taxes, unless twenty years has elapsed; then affidavit of possession would suffice. See S.D. Codified Laws § 15-3-1.

DECEDENTS' ESTATES:

South Dakota has adopted the Uniform Probate Code. An Ancillary Probate will require if the Probate has not been commenced in the State of South Dakota. See S.D. Codified Laws § 29A-1-101 et seq. The state does not impose inheritance taxes.

MORTGAGES, LIENS, AND FORECLOSURE:

South Dakota is a lien theory state. Judgment liens expire after ten years, unless renewed before the end of the tenth year.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile for a period of twenty years (S.D. Codified Laws § 15-3-1).

A satisfaction of mortgage is used to cancel mortgage liens of record.

There is a ten-year statute of limitations for actions arising from deficiencies in construction, or improvements to real property. The ten-year period begins to run once there is "substantial performance." See S.D. Codified Laws § 15-2A-1 et seq.

There is a three-year statute of limitations on lawyer's certificate of title (S.D. Codified Laws § 15-2-14.2).

Foreclosure is usually by judicial means, but there are provisions for non-judicial foreclosure. There is a redemption period after sale. The normal redemption period is one year if forty acres or less; if using short-term redemption mortgage, it is 180 days. A provision regarding abandonment by mortgagor can be added; if abandoned, the time can be reduced to sixty days.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of South Dakota Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	6 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by attorneys, title companies, and real estate agents. Title insurance companies generally conduct closings for residential property. In South Dakota, title companies handle all aspects of the closing transaction; from receiving the order, to producing the title commitment, to performing the closing. Documents are prepared by attorneys or parties to the closing.

Local custom and company policy requires collected or good funds at settlement. Closing costs are usually negotiable. A power of attorney may be used in a closing. The original must be recorded. A spousal power of attorney is acceptable if it is in proper form. A mortgage is the main form of security interest used in South Dakota. The statutory form is S.D. Codified Laws § 44-8-3.

RECORDING REGULATIONS:

The South Dakota recording act is a race-notice act.

Special recording requirements for all instruments to be recorded: must re cite "prepared by" (name, address, phone); must be notarized with seal and commission expiration date; and must have legal description, unless the document itself does not require it (for example, a power of attorney). See S.D. Codified Laws § 7-9-7.

Any mortgage, deed, or mineral lease must include the post office address of the grantee or lessee, and a legal description of the property conveyed or leased.

Any deed or contract for deed dated after July 1, 1988, used in purchase, exchange, transfer, or assignment of interest in real property must be accompanied by a certificate of value containing the name and address of the buyer and seller, the legal description of the real property, the actual consideration exchanged for the real property, the relationship of the seller and buyer, if any, and the terms of payment if other than payment in full at the time of sale.

PROPERTY TAXES:

Property taxes are levied on January 1 of the following year and are due and payable on the same date (S.D. Codified Laws § 10-21-4). Property taxes can be paid in ten equal monthly installments (S.D. Codified Laws § 10-21-7.1). The first payment shall be made on January first and the final payment shall be made by October first in the year the taxes are payable (S.D. Codified Laws § 10-21-7.1).

SOUTH DAKOTA CALLOUTS

- All land titles are checked back to patent.
- South Dakota recognizes joint tenancies and tenancies in common; see S.D. Codified Laws § 43-2-11. A husband and wife may hold property either as joint tenants or as tenants in common.
- South Dakota is not a community property state.
- Homestead laws allow creation of homestead without a recorded declaration. The non-titled spouse of homestead property must sign the security instrument.
- In South Dakota, title companies handle all aspects of the closing transaction; from receiving the order, to producing the title commitment, to performing the closing. Documents are prepared by attorneys or parties to the closing.
- There is a three-year statute of limitations on lawyer's certificate of title (S.D. Codified Laws § 15-2-14.2).
- Foreclosure is usually by judicial means, but there are provisions for non-judicial foreclosure. There is a redemption period after sale.
- South Dakota is a lien theory state.
- The South Dakota recording act is a race-notice act.

TENNESSEE

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back until the examiner is satisfied that the seller has good title, or to a prior title. This is done to determine whether there are unreleased deeds of trust. The traditional search standard is 30 years.

Searches are through courthouse records, however, title underwriters and agents in the larger metropolitan areas usually utilize computerized plants and/or starter files.

Title insurance policies and endorsements are available. Title insurance agents are regulated in connection with title insurance rates. Title insurance rates are filed with the Insurance Commission. Title insurance rates do not include search and examination. Special rates are not given.

Certified copies of death certificates should be requested from the Health Department in each county.

VESTING:

Tennessee recognizes tenancies in common; tenancies by the entirety, which is presumed in a deed to husband and wife unless otherwise stated; and joint tenancies, however, the right of survivorship has been abolished (Tenn. Code Ann. § 66-1-107). The non-titled spouse must sign the security instrument.

A tenancy by the entirety may be created (or severed) by direct conveyance from one spouse to the other, stating the intention to create or sever such an estate (Tenn. Code Ann. § 66-1-109). Tennessee is not a community property state. Homestead laws under Tenn. Code Ann. § 26-2-301 allow \$5,000.00 for individuals and \$7,500.00 for joint. Homestead exemption amounts are higher for individuals and couples who are 62 years of age and older. Dower and curtesy have been abolished.

Conveyance is by warranty deed or quitclaim deed. In addition to the recording requirements (date, acknowledgment, notarization), all deeds must contain an affidavit concerning the purchase price and loan amount. Conveyances made to two or more persons are construed as tenancies in common. If the conveyance is made to husband and wife, it is construed as a tenancy by the entirety.

If the contract includes minerals, they cannot be excluded from the transfer instrument.

Tennessee recognizes the doctrine of merger.

Non-resident aliens may hold title to land, but may not claim a homestead exemption.

Statutes related to foreign corporations or partnerships holding title to land: Except for property obtained by foreclosure, they must register with the Secretary of State and record a certificate in the county where the property is located. See Tenn. Code Ann. § 48-11-101 et seq.; Tenn. Code Ann. § 48-25-101 et seq.

To confirm title to property purchased for taxes, check the tax sale suit to make sure the owner was included in the notice of sale, and that the taxes are delinquent.

If the provisions of the sale are in accordance with the law found at Tenn. Code Ann. §§ 67-1-1414 to 67-1-1418, the deed given at the tax sale shall be considered a conveyance of all rights, title, and interests the delinquent party had to the property.

DECEDENTS' ESTATE:

The personal representative of a decedent may execute a deed to the purchaser under an executory contract of a decedent (Tenn. Code Ann. § 66-4-101). The title of the purchaser who receives such a deed is not subject to the claims of creditors, nor to the liens of Estate and Inheritance taxes.

Tennessee imposes an Estate Tax (Tenn. Code Ann. § 67-8-204 et seq.), and an Inheritance Tax which is only applied to decedents who died before 2016 (Tenn. Code Ann. § 67-8-301 et seq.). The assets of a decedent's estate, whether testate or intestate, are subject to the State's lien for Estate and Inheritance taxes. The liens exist in favor of the State without recordation and continues for up to ten years from the date of assessment of the tax (Tenn. Code Ann. §§ 67-1-1403; 67-1-1501; 67-8-419).

MORTGAGES, LIENS, AND FORECLOSURE:

Tennessee is a title theory state, but in practice, security instruments (i.e. deeds of trust) are treated under the lien theory of mortgages. Judgment liens are valid for ten years.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of seven years with color of title (Tenn. Code Ann. § 28-2-101).

A release deed is used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, there is a \$100.00 penalty after the initial request. Thirty days after the second demand, there is a \$1,000.00 penalty. If a suit is filed, the plaintiff is entitled to attorney's fees and court costs. See Tenn. Code Ann. § 66-25-102.

The statute of limitations on lawyer's certificate of title is one year from date of discovery.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of twenty-one days. Upon foreclosure, the court may order that the property be sold on a credit no less than six months nor more than two years. When the sale is made, reported and confirmed, no right of redemption exists (Tenn. Code Ann. § 21-1-803).

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Tennessee Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	1 year
Homeowner's Association	10 years

REAL ESTATE CLOSINGS:

Real estate closings and documents may be conducted and prepared by attorneys. Attorneys must prepare deeds, mortgages, and other closing documents of a legal nature. Closing statements and related documents may be prepared by closing service companies.

No state licensing is required for those conducting closings, escrows, or settlement services. Tennessee enacted the "Residential Closing Funds Distribution Act of 2005" (Tenn. Code Ann. § 47-32-101). Closing costs are usually paid by both buyer and seller.

The use of a power of attorney in a closing is permitted. Tennessee has a durable power of attorney form that must specify the authority of the holder of the power (for example, a deed or mortgage). The customary security agreement is a deed of trust.

RECORDING REGULATIONS:

Tennessee follows a notice statute recording act.

The requirements for deeds presented for recording include the designation of grantor's source of title, name and address of property owner and person responsible for payment of real estate taxes, and name and address of preparer of instrument. On the first page, name, address, and license number of surveyor who prepared the current legal description is required. If no survey, the source of the description must be stated. The tax assessor's parcel number should also be on the first page.

PROPERTY TAXES:

Property taxes are levied for the current year and are due on October 1 of the current year for state and county taxes; city taxes vary from city to city. Property taxes must be paid on October 1 for the county. On the first day of each month beginning March 1, interest of 1.5 percent (18 percent annually) is added to your base tax amount if tax payment deadlines are missed.

County taxes are due and payable from the first Monday in October of the year of assessment through the last day of February of the following year (Tenn. Code Ann. § 67-5-1804).

All real estate taxes, county, and municipal become the primary lien on January 1, of the year for which they are assessed (Tenn. Code Ann. § 67-5-2101). Real estate taxes assessed by municipalities become due and payable at different times, depending on the particular city or town. The limitation on enforcement of real estate tax liens, whether county or municipal, is ten years from April 1 of the year following the year which such taxes become delinquent (Tenn. Code Ann. § 67-5-1806).

TENNESSEE CALLOUTS

- All land titles are checked back until the examiner is satisfied that the seller has good title, or to a prior title. This is done to determine whether there are unreleased deeds of trust. The traditional search standard is 30 years.
- Tennessee recognizes tenancies in common; tenancies by the entirety, which is presumed in a deed to husband and wife unless otherwise stated; and joint tenancies, however the right of survivorship has been abolished.
- Real estate closings and documents may be conducted and prepared by attorneys.
- Tennessee is a title theory state, but in practice, security instruments (i.e. deeds of trust) are treated under the lien theory of mortgages.
- Tennessee follows a notice statute recording act.

TEXAS

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to the sovereign due to oil, gas, and mineral reservations in deeds. Subject to the period of time covered by the title plant of the issuing entity, a generally accepted period for title search in Texas is to the warranty deed or at a minimum, thirty years prior to the effective date of the title plant.

Title insurance policies and endorsements are available in Texas. Title insurance agents and rates are regulated by the Department of Insurance. Title insurance rates do include search and examination. Special rates are sometimes given in cases of refinance or construction.

Certified copies of death certificates should be requested from the Texas Department of Health, Bureau of Vital Statistics, P.O. Box 149347, Austin, Texas 77871.

VESTING:

Texas recognizes tenancies in common and joint tenancies. Texas is a community property state (see Tex. Fam. Code § 3.003). The non-titled spouse is required to join in a mortgage/deed of trust to waive homestead rights regardless if he or she holds title. Homestead laws prohibit liens on homesteads except for purchase money, improvements, and real estate taxes. Dower and curtesy have been abolished.

Spouses may hold community property as joint tenants with right of survivorship (Tex. Fin. Code § 65.103), however, such estate cannot be created by deed alone; it requires a separate agreement executed by the spouses creating the estate (Tex. Est. Code § 112.052).

Conveyance of homestead property requires joinder of both spouses, whether community property or individual property of a spouse (Tex. Fam. Code § 5.001). Non-homestead property may be conveyed by the owning spouse without joinder of the other spouse. Community property may be either subject to one spouse's sole management, control and disposition (that spouse alone can convey non-homestead property); or subject to joint management, control and disposition of both spouses (both spouses must join in any conveyance of the property). The method of taking title usually controls whether property is one or the other. The community estate is dissolved upon death or divorce. Upon death of a spouse, the surviving spouse has a statutory right to a life estate in the homestead, regardless of whether it is community or separate.

Conveyance is by general warranty deed or special warranty deed.

If the contract includes minerals, they can be excluded from the transfer instrument. According to Texas' doctrine of merger, a lien and title may merge.

DECEDENTS' ESTATES:

Texas does not impose an estate tax.

MORTGAGES, LIENS, AND FORECLOSURE:

Texas is a lien theory state. Judgment liens are valid for ten years and may be renewed for an additional period of ten years.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and

hostile for a period of ten years (Tex. Civ. Prac. & Rem. Code § 16.026). If the adverse possessor has a deed and proof of paid property taxes, the period is reduced to five years.

A release is used to cancel mortgage liens of record that have been paid in full.

A judicial determination or a two-year right of redemption will usually confirm title to property purchased for taxes.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of twenty-one days. There is a two-year redemption period for residential homestead properties and agricultural properties. Other types of properties have a 180-day (six-month) redemption period (Tex. Tax Code § 34.21).

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Texas Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	2 years

REAL ESTATE CLOSINGS:

Real estate closings may be conducted by attorneys or title companies. Deeds, notes, and other legal documents must be prepared by attorneys. The title company usually prepares the settlement statements and certain other forms, such as debts and lien affidavits, which facilitate the issuance of title insurance.

An individual performing a closing, as defined in the regulations, on behalf of a title company, must be licensed as an escrow officer. An audit of escrow accounts on state promulgated forms is required to be filed by all licensed agents, direct operations, and escrow offices.

Closing costs are usually divided between the parties. A power of attorney is permitted to be used for a closing, but it must be specific and identify the property. The customary security agreement is the deed of trust. Texas has a "good funds" statute: Tex. Ins. Code § 2651.202.

RECORDING REGULATIONS:

The recording act in Texas is a race-notice act.

An instrument conveying real property or concerning real or personal property may not be recorded unless it is signed and acknowledged or sworn to by the grantor in the presence of two or more credible subscribing witnesses, or acknowledged (or sworn to will) a proper jurat before and certified by an officer authorized to take acknowledgments or oaths. A financing statement does not require an acknowledgment or jurat for recording (Tex. Prop. Code § 12.001).

An instrument relating to real or personal property may not be recorded unless it is in English or otherwise complies with id. § 11.002 of the Texas Property Code, requiring authenticated correct English translations of any non-English portion of the original instrument.

Tex. Loc. Gov't Code § 191.007 prescribes the specifications for filing or recording legal papers. A

legal paper must have pages no wider than 8 1/2 inches and no longer than 14 inches; be legible and otherwise suitable for reproduction; have a clearly identifying heading at the top of the first page, which identifies the type or kind of legal paper; have the names legibly typed or printed beneath each signature on the instrument; and have riders and attachments, which are consistent with the size of the main legal paper. Although a legal paper fails to comply with some aspect of this statute, a county clerk may not refuse to record the legal. However, the filing fee or recording fee will be twice the regular filing fee.

Acknowledgments must be taken by a notary public or authorized hires of the state, must be signed and sealed, and must keep record of acknowledgment.

PROPERTY TAXES:

Property taxes are levied in October and are due on February 1 of the following year (Tex. Tax Code §§ 31.01, 31.02). In certain counties, if half of the property taxes owed are paid before December 1, the remaining half of taxes due may be paid without penalty before July 1 (Tex. Tax Code § 31.03).

Ad valorem taxes have a lien superior to all homestead rights, and to all other lienholders on real property on which taxes are assessed from January 1 of the year in which the taxes are due (Tex. Tax Code § 32.01). The statute of limitations for filing tax suit is twenty (20) years (Tex. Tax Code § 33.05).

Although Texas does not have a state income tax, there are a number of state tax liens which have priority on real property from the filing of notice of lien in the County Official Public Records of Real Property, e.g. sales, excise and use tax, franchise tax, cement production tax, and oil production tax. These have a three (3)-year limitation period for filing suit after the lien is recorded (Tex. Tax Code § 111.202).

TEXAS CALLOUTS

- All land titles are checked back to the sovereign due to oil, gas, and mineral reservations in deeds. Subject to the period of time covered by the title plant of the issuing entity, a generally accepted period for title search in Texas is to the warranty deed or at a minimum, thirty years prior to the effective date of the title plant.
- Texas recognizes tenancies in common and joint tenancies.
- Texas is a community property state (see Tex. Fam. Code § 3.003).
- The non-titled spouse is required to join in a mortgage/deed of trust to waive homestead rights regardless if he or she holds title. Homestead laws prohibit liens on homesteads except for purchase money, improvements, and real estate taxes.
- Dower and curtesy have been abolished.
- Spouses may hold community property as joint tenants with right of survivorship (Tex. Fin. Code § 65.103), however, such estate cannot be created by deed alone; it requires a separate agreement executed by the spouses creating the estate (Tex. Est. Code § 112.052).
- Real estate closings may be conducted by attorneys or title companies.
- Deeds, notes, and other legal documents must be prepared by attorneys. The title company usually prepares the settlement statements and certain other forms, such as debts and lien affidavits, which facilitate the issuance of title insurance.

(continued...)

- An individual performing a closing, as defined in the regulations, on behalf of a title company, must be licensed as an escrow officer.
- An audit of escrow accounts on state promulgated forms is required to be filed by all licensed agents, direct operations, and escrow offices.
- Closing costs are usually divided between the parties. A power of attorney is permitted to be used for a closing, but it must be specific and identify the property. The customary security agreement is the deed of trust. Texas has a "good funds" statute: Tex. Ins. Code § 2651.202. Texas is a lien theory state.
- The recording act in Texas is a race-notice act.

UTAH

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back forty years, unless there was a policy reissue. Title production methods vary in Utah from courthouse searches to computerized private title plants, with online access to county recorder indexes.

Title insurance policies and endorsements are American Land Title Association forms, California Land Title Association forms, and First American form endorsements.

Title insurance and escrow rates are required to be filed. Each change or amendment must state an effective date that may not be less than 30 days after the date of filing. Title insurance forms and endorsements are required to be filed with the Department of Insurance. Title insurance agents are regulated by the Department of Insurance. Title agents must be licensed by the state. Any individuals conducting closings must be licensed. Title insurance rates include search and examination. Special rates are given in cases of reissue or subdivider developer.

Certified copies of death certificates should be requested from Vital Statistics, 288 North 1460 West, Salt Lake City Utah 84116.

VESTING:

Utah recognizes tenancies in common and joint tenancies (tenants by the entirety are considered to be joint tenants). Tenants holding title as community property are considered to be joint tenants. A joint tenancy may be severed by the voluntary act of one of the joint tenants. A joint tenancy may also be severed involuntarily through an execution sale.

In order for a principal residence to be considered "homestead" for execution purposes, the owner must record a Declaration of Homestead (Utah Code Ann. § 78B-5-504). Typically, such declarations are terminated before recording a first deed or mortgage. The non-titled spouse of homestead property is not required to sign the security instrument. A voluntary transfer by the owning spouse alone is sufficient to divest title without joinder of the non-owning spouse, unless the property constitutes the homestead of the parties as evidenced by a recorded declaration of homestead.

Beginning May 14, 2019, an individual is entitled to a homestead exemption consisting of property in this state in an amount not exceeding: \$5,000 if the property is not the primary resident; \$42,000 if primary personal residence. Jointly owned property provides each joint owner a homestead exemption not exceeding: \$10,000 if the property is not the primary resident; \$84,000 if primary personal residence. See Utah Code Ann. § 78B-5-503 [Note: Beginning in calendar year 2020, the state auditor shall calculate new dollar amounts for the homestead exemptions, the new amount for each dollar amount listed above is calculated by multiplying the exemption amount by the average index number, dividing the result by 251, and rounding to the nearest 100 dollars.] Dower and curtesy have been abolished.

Conveyance is by quitclaim deed, special warranty deed, or warranty deed. A valid conveyance must

include the names and addresses of the grantor and grantees, and a legal description of the property. Additionally, it must include words of conveyance. Section 57-1-12 UCA provides acceptable form language for a warranty deed and the effect thereof. Section 57-1-13 UCA provides acceptable form language for a quitclaim deed and the effect thereof.

Use of words "tenancy in common" or "with no rights of survivorship" or "undivided interest" or words of similar import declare a tenancy in common.

A conveyance made to husband and wife is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

If the contract includes minerals, they can be excluded from the transfer instrument.

Utah's interpretation of the doctrine of merger is a question of intent.

Statutes related to foreign corporations or partnerships holding title to land: Utah Const. art. 12, § 6.

A quiet title action will confirm title to property purchased for taxes.

DECEDENTS' ESTATES:

Utah imposes an inheritance tax upon transfer of the taxable estate of a decedent that is designed to afford Utah the maximum benefit of the federal credit allowed for estate death taxes (Utah Code Ann. § 59-11-103 et. seq.). The inheritance tax due is a lien from the date of death until paid.

A decedent's surviving spouse is entitled to a homestead allowance of \$22,500. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to \$22,500 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims of the estate. Unless otherwise provided by the will or governing instrument, the homestead allowance is chargeable against any benefit or share passing to the surviving spouse, minor, or dependent child, by the will of the decedent, by intestate succession, by way of elective share, and by way of nonprobate transfers (Utah Code Ann. § 75-2-402).

MORTGAGES, LIENS, AND FORECLOSURE:

Utah is a lien theory state. A judgment entered in the court of the State of Utah is valid for a period of eight (8) years (Utah Code Ann. § 78B-2-311). Under the Utah Exemption Act (Utah Code Ann. § 78B-5-501 et seq.), a person's homestead is exempt from judicial liens or forced sale, except for statutory liens for property taxes and assessments on the property; security interests in the property and judicial liens for debts created for the purchase price of the property; judicial liens obtained on debts created by failure to provide support or maintenance for dependent children; and consensual liens obtained on debts created by mutual contract. A homestead may consist of a dwelling or mobile home and the land surrounding it, not exceeding one acre, which is being used as his primary personal residence.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of seven years with payment of taxes. See Utah Code Ann. § 78B-2-208.

Procedures and forms used for reconveyance of trust deed or release of mortgage can be found in Utah Code Ann. § 57-1-40. If lender fails to cancel lien of record after secured debt is paid in full within 90 days, they are liable for the greater of \$1,000 or treble actual damages incurred, including all expenses incurred in completing a quiet title action, along with reasonable attorneys' fees and court costs.

Actions related to improvements in real property based on contract or warranty must be brought within six years of the date of completion of the improvement or abandonment of construction; see Utah Code Ann. § 78B-2-225.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of 120 days. There is no redemption period after non-judicial sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	8 years
Federal Tax Liens	10 years
Mechanics Lien	180 days
Estate Tax	Until paid

REAL ESTATE CLOSINGS:

Real estate closings are conducted by attorneys, title companies, and lenders.

Most residential property closings are conducted by title companies. Documents may be prepared by title companies.

Closing costs are usually split between the buyer and the seller. Utah enacted a good funds law. See sections cited for good funds law Utah Code Ann. § 31A-23a-406(5)(a).

A power of attorney is permitted to be used in a closing, but it must be approved beforehand. The customary security agreement is a trust deed. Trust deeds are defined and provided for in Utah Code Ann. §§ 57-1-19 through 57-1-38. A mortgage may also be used as a security agreement. Using a mortgage is uncommon, because of the inability to foreclose non-judicially.

RECORDING REGULATIONS:

Utah follows the race notice statute recording act.

All instruments presented for recording must be acknowledged following Utah notarial guidelines. See Utah Code Ann. §§ 57-34, and 46-1 et seq.

For specific requirements of acknowledgments, see Utah Code Ann. § 57-2a-1 et seq. For statutory short form: id. § 57-2a-7. Or, the form recognized by the laws or regulations where the acknowledgment is taken; ensure the certificate contains the words "acknowledged before me," or their substantial equivalent.

PROPERTY TAXES:

Property taxes are levied approximately on October 1, and are due on November 30. Property taxes cannot be paid in installments.

The lien for general real estate taxes attaches as of January 1 each year (Utah Code Ann. § 59-2-1325). Taxes become delinquent after November 30 of the year following the date of levy (id. § 59-2-1331). There is no time limit upon the enforcement of the lien for taxes.

UTAH CALLOUTS

- All land titles are checked back forty years, unless there was a policy reissue. Title production methods vary in Utah from courthouse searches to computerized private title plants, with online access to county recorder indexes.
- Utah recognizes tenancies in common and joint tenancies (tenants by the entirety are considered to be joint tenants). Tenants holding title as community property are considered to be joint tenants. A joint tenancy may be severed by the voluntary act of one of the joint tenants. A joint tenancy may also be severed involuntarily through an execution sale.
- In order for a principal residence to be considered "homestead" for execution purposes, the owner must record a Declaration of Homestead (Utah Code Ann. § 78B-5-504).
- Under the Utah Exemption Act (Utah Code Ann. § 78B-5-501 et seq.), a person's homestead is exempt from judicial liens or forced sale, except for statutory liens for property taxes and assessments on the property; security interests in the property and judicial liens for debts created for the purchase price of the property; judicial liens obtained on debts created by failure to provide support or maintenance for dependent children; and consensual liens obtained on debts created by mutual contract.
- Real estate closings are conducted by attorneys, title companies, and lenders. Most residential property closings are conducted by title companies. Documents may be prepared by title companies. Real estate closings are conducted by attorneys, title companies, and lenders.
- Closing costs are usually split between the buyer and the seller. Utah enacted a good funds law. See sections cited for good funds law Utah Code Ann. § 31A-23a-406(5)(a).
- Utah is a lien theory state.
- Utah follows the race notice statute recording act.

VERMONT

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back at least forty years, in accordance with the Vermont Marketable Title Act; Vt. Stat. Ann. tit. 27, § 601 et seq. Title searches and examinations in Vermont have traditionally been performed by attorneys. A typical title search in Vermont entails a trip to the Town Clerk's Office, which may have limited business hours and a remote location. Records must be searched manually.

The Vermont Bar Association formally introduced an initial set of Title Standards in early 1999. The most up to date versions of the Standards can be accessed through the Vermont Bar Association website (www.vtbar.org).

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents and rates are regulated by the Vermont Department of Banking, Insurance, and Securities. All rates and forms must be filed with and approved by the Insurance Division. Title insurance rates do not include search and examination. Special rates are given in cases of owners and loan policies in excess of \$2 million.

Certified copies of death certificates should be requested from the Town Clerk's Office in the town which the deceased resided or died.

VESTING:

Vermont recognizes joint tenancies, tenancies in common, and tenancies by the entirety. Joint tenancies require specific language intending the joint tenancy (see Vt. Stat. Ann. tit. 27, § 2). The non-titled spouse of a titleholder must sign the security instrument.

The marital rights of a husband or wife are inchoate rights that vest upon the death of a spouse. The common practice is to require that both the husband and wife be named as grantors in any conveyance of either person's property; to release the marital rights and to avoid the potential for a subsequent action to set aside a conveyance on the basis that it was a fraudulent attempt by one spouse to defeat the widow's or widower's interest. (See Vt. Stat. Ann. tit. 27, § 141; *Charter One Bank v. Estate of Spillane* (2002) 174 Vt. 490, 807 A.2d 452)

Conveyance made to two or more persons, shall be construed to create estates in common and not joint tenancy, unless it is expressed otherwise (Vt. Stat. Ann. tit. 27, § 2). This provision does not apply to devises, or conveyances made in trust, or made to husband and wife, or to conveyance in which it manifestly appears from the tenor of the instrument that it was intended to create an estate in joint tenancy.

A married woman can hold title to real property free of any marital rights of her husband if the granting clause in the deed into her contains the magic words of exclusion, "... to her sole and separate use..." She can convey or mortgage property held this way without having the husband join in the conveyance. If the property is the homestead, however, both the husband and wife must convey (Vt. Stat. Ann. tit. 15, § 64).

A tenancy by the entirety is severed by divorce or a deed from one spouse to the other for that purpose. Generally, property held as tenants by the entirety is not subject to attachment for the sole debts of one spouse; however, it can be attached for debt incurred by the husband for the "necessary upkeep" of the property (Vt. Stat. Ann. tit. 15, § 67).

Vermont is not a community property state. Homestead laws are applicable in Vermont and the amount of homestead interest is \$125,000.00 (Vt. Stat. Ann. tit. 27, § 101). By Vermont law, property owners whose homes meet the definition of a Vermont "homestead" must file a Homestead Declaration annually by the April due date. Dower and curtesy is addressed in Vt. Stat. Ann. tit. 13, § 43 et seq. (1974), which sets forth estates in lieu of dower and curtesy.

Conveyance is by warranty deed, and sometimes executor's/administrator's deed, limited warranty deed, or quitclaim deed. All conveyance instruments must include the names and addresses of the grantors and grantees; a legal description of the property; a recitation of consideration, signed by one witness, and acknowledged.

If the contract includes minerals rights, they cannot be excluded from the transfer instrument.

The doctrine of merger applies unless the document (that is, a deed in lieu of foreclosure) specifically indicates otherwise.

For statutes that affect nonresident sellers, see Vermont real estate withholding requirement-see Vt. Stat. Ann. tit. 32, § 5847.

DECEDENTS' ESTATES:

If a person dies without a will, title passes immediately at death by operation of law subject to any liens for administration. The estate must be probated to convey the title of the decedent by Administrator's Deed or Decree of Distribution. If the property is to be conveyed by Administrator's Deed, a license to sell must be obtained and recorded in the Land Records with the deed (See Vt. Stat. Ann. tit. 14, § 1652).

The statutes concerning Vermont estate taxes appear in Vt. Stat. Ann. tit. 32, § 7441 et. seq. Vt. Stat. Ann. tit. 32, § 7497 creates an inchoate lien for estate tax liability. A Notice of the lien must be filed in the Land Records for the lien to be valid against any subsequent mortgagee, pledgee, purchaser, or judgment creditor.

The statutes do not specifically state the duration of an estate tax lien, but it is the general position of the Vermont Department of Taxes that the lien remains for six years plus thirty days.

MORTGAGES, LIENS, AND FORECLOSURE:

Vermont is a title theory state. Judgment liens expire after eight years, unless renewed by the plaintiff in court and recorded. See Vt. Stat. Ann. tit. 12, § 2904.

Pursuant Vt. Stat. Ann. Tit. 9, § 1921 states that a lien shall not take precedence over a mortgage given by the owner upon property if such mortgage is recorded before such lien is filed in the office of the town clerk as hereinafter provided.

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open for a period of fifteen years.

A discharge by the entry on the margin of the record (see Vt. Stat. Ann. tit. 27, § 461), discharge on the original mortgage deed (see id. 27, § 462), or mortgage discharge by separate instruments (see id. 27, § 463) may be used to cancel mortgage liens of record.

If a lender fails to cancel lien of record after secured debt is paid in full, Vt. Stat. Ann. tit. 27, § 464 (1989) provides that failure to execute a discharge mentioned in Sections 4613 of tit. 27 within ten days after request and after payment of reasonable charges creates liability for damages occasioned

thereby to be recovered in an action on this statute; and such further relief in a superior court as is just.

There is a six-year statute of limitations on lawyer's certificate of title.

Foreclosure is usually by judicial means. The time for the foreclosure process is dependent upon the court's willingness to shorten the redemption period. There is a one-year redemption period from the date of tax sale, and after that period, the tax sale purchaser is entitled to a tax collector's deed if there has been no redemption (Vt. Stat. Ann. tit. 32, § 5263).

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	8 years
All State of Vermont Tax Liens	Infinite duration
Federal Tax Liens	10 years
Mechanics Lien	180 days
Estate Tax	10 years
Homeowner's Association	2 years

REAL ESTATE CLOSINGS:

The standard ALTA Insured Closing Protection Letter is prohibited in Vermont but a modified version has been approved by the State Insurance Department. Licensing is not required in Vermont for those conducting closings, escrows, or settlements.

Real estate closings are conducted by lawyers. Attorneys generally draft deeds and other

conveyancing documents in Vermont. Lenders usually prepare their own documents in-house or with the assistance of counsel or a document preparation service. Closing costs are usually paid by the buyer or refinancing borrower. A power of attorney is acceptable to use in a closing; however, the execution of the power of attorney must meet the same requirements as a deed execution. The customary security agreement is a mortgage deed.

RECORDING REGULATIONS:

Vermont is a notice recording state.

All instruments to be recorded must be delivered to the town clerk for the town in which the real estate is situated. Vermont does not use a county recording system.

Deeds and other conveyances of land must be signed by the grantor, have at least one witness, and be acknowledged by the grantor.

Beginning July 1, 2019, a deed or other conveyance of land that includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded (Vt. Stat. Ann. tit. 27, § 341(b)).

Beginning July 1, 2019, a lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed

and acknowledged as provided in Vt. Stat. Ann. tit. 27, § 341(a), is recorded in the land records of the town in which the leased property is situated.

PROPERTY TAXES:

Property taxes are levied by each town, city, or village, and are due as set by each town, city, or village. Property taxes can be paid in installments as set by each town, city, or village. Installment tax payment plans may impose an interest rate, however, it is not to exceed 1%.

Taxes should be made payable to the county. Taxes are assessed in arrears. The first half of the property taxes become delinquent if not paid by December 1st. The second half of property taxes become delinquent if not paid by June 1st. Delinquent taxes become a lien on January 1st.

VERMONT CALLOUTS

- All land titles are checked back at least forty years, in accordance with the Vermont Marketable Title Act; Vt. Stat. Ann. tit. 27, § 601 et seq. Title searches and examinations in Vermont have traditionally been performed by attorneys. A typical title search in Vermont entails a trip to the Town Clerk's Office, which may have limited business hours and a remote location. Records must be searched manually.
- Vermont recognizes joint tenancies, tenancies in common, and tenancies by the entirety.
- A married woman can hold title to real property free of any marital rights of her husband if the granting clause in the deed into her contains the magic words of exclusion, "... to her sole and separate use..." She can convey or mortgage property held this way without having the husband join in the conveyance. If the property is the homestead, however, both the husband and wife must convey (Vt. Stat. Ann. tit. 15, § 64).
- Real estate closings are conducted by lawyers. Attorneys generally draft deeds and other conveyancing documents in Vermont.
- Vermont is not a community property state. Homestead laws are applicable in Vermont and the amount of homestead interest is \$125,000.00 (Vt. Stat. Ann. tit. 27, § 101).
- Vermont is a title theory state.
- Vermont is a notice recording state.

VIRGINIA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years, or further if necessary, according to title insurance requirements.

Title examinations are conducted by a direct examination of the public records contained in the Clerk's office or Circuit Court for the jurisdiction in which the property is located. In addition, some clerk's offices are provide off-site access to either indices or images or both, but the information available varies by location.

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents must be licensed and maintain license through continuing education classes. Separate licensing is required to conduct settlements in Virginia. Title insurance rates and agents are regulated by the state Department of Insurance, which monitors the rates following statutory guidelines (Va. Code Ann. § 38.2-4608). Title insurance rates do not include search and examination. Special rates are given in cases of commercial transactions.

Certified copies of death certificates should be requested from the State Health Department, Division of Vital Records, 2001 Maywill St #101, Richmond, VA 23230.

VESTING:

Virginia recognizes tenancies in common, joint tenancies, and tenancies by the entirety. The non-titled spouse is not required to sign the mortgage. Virginia is not a community property state, though it has adopted the Uniform Disposition of Community Property Rights at Death Act (Va. Code Ann. § 64.2-315 et seq.). Tenancy must be created by deed or will. Homestead laws allow up to \$5,000.00 of exemption, plus an additional \$500 for each dependent. Debtors 65 and older, and certain disabled veterans can exempt up to \$10,000; see Va. Code Ann. § 34.-4. Virginia abolished dower and courtesy in 1990 (Va. Code Ann. § 64.2-301) in favor of the "augmented estate"-concept (Va. Code Ann. § 64.2-308.4). Any potential "augmented estate" claims can be eliminated by written joinder of the non-title-owning spouse in any conveyance.

Conveyance is by general warranty deed or special warranty deed. All conveyance instruments must include the names and addresses of the grantor and grantee; consideration; "grant and convey" language; a legal description of the property; signatures of all parties; and acknowledgments.

Conveyances made to two or more persons are construed as tenancies in common (Va. Code Ann. § 55.-20.1). If the contract includes materials, they can be excluded from the transfer instrument.

Virginia's interpretation of the doctrine of merger is that greater and lesser estate unite in the same person. The lesser estate merges with the greater estate.

The signature of the non-titled spouse is only required on a Deed of Gift, or as long as the mortgage represents a bonafide transaction. However, a Virginia title company may require both spouses to sign the security instruments because a spouse has the option to take a statutory interest in the property of the deceased spouse in lieu of taking under the decedent's will.

A quiet title action is used to confirm title to property purchased for taxes.

DECEDENTS' ESTATES:

Effective January 1, 2007, the General Assembly temporarily repealed the Virginia estate tax by basing the tax on the current amount of the federal credit allowable for state estate taxes, which had already been repealed by Congress. See 2006 Senate Bill 5019 (2006 Acts of Assembly, Chapter 5). Because the elimination of the federal credit for state estate taxes was not initially made permanent by Congress, Virginia's estate tax was scheduled to be reinstated in 2013. Once the elimination of the federal credit for state estate taxes was made permanent on January 1, 2013, the Virginia estate tax was effectively repealed. See. P.L. 112-240 § 101(a)(1).

MORTGAGES, LIENS, AND FORECLOSURE:

Virginia is a title theory state. Judgment liens expire after twenty years, unless renewed by the creditor filing a renewal (Va. Code Ann. § 8.01-251).

A claim for adverse possession requires the common law elements of exclusive, continuous, hostile and open possession for a period of fifteen years (Va. Code Ann. § 8.01-236).

A deed of release or a certificate of satisfaction, with proof of a paid and cancelled original note must be filed with the clerk to release a mortgage or lien of record that has been paid in full within 90 days (Va. Code Ann. § 55.-66.11). If a lender fails to cancel lien of record after secured debt is paid in full, there is a \$500.00 penalty with additional attorney's fees and court costs possible (Va. Code Ann. § 55.-66.3).

For builder warranties provided by statute, see *id.* § 55.70.1. Virginia has a six-month statute of limitations for an action on a mechanics lien.

There is a five-year statute of limitations that is applicable to actions arising from deficiencies in construction or improvements to real property based on contract theories.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of thirty days. There is a 240-day redemption period after foreclosure sale. The debtor must pay the purchaser of the foreclosed property the amount paid plus interest at the rate of 6% per centum per annum (Va. Code Ann. § 63.2-1935).

Statute of Limitations for Liens	
Mortgages	20 years from maturity date
Judgment liens in favor of the United States	20 years
All other Judgment Liens	20 years
All State of Virginia Tax Liens	20 years
Federal Tax Liens	10 years
Mechanics Lien	6 months if no suit filed
Financing Statement	5 years
HOA Liens and Condo Liens	3 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by lawyers, title companies, and escrow companies. Legal documents can be prepared only by lawyers. Virginia's Unauthorized Practice of Law Rules prohibit the preparation of legal instruments by anyone other than attorneys and the parties to the instrument. The statutory form of deed is contained in Va. Code Ann. § 55.-48.

Closing costs are usually shared by the buyer and seller. A power of attorney is permissible to use for a closing. It must be specific to transaction, include a legal description of the property, and be acknowledged. The customary security agreement is a deed of trust.

By statute, title companies, title agents, attorneys, real estate brokers, and financial institutions may close residential real estate transactions. Virginia Consumer Real Estate Settlement Protection Act (CRESPA) allows certain non-lawyers who are licensed title agents or real estate brokers, as well as title insurance companies and financial institutions, to conduct residential real estate closings for members of the public. This requires all real estate settlement agents conducting residential closings, lawyers and non-lawyers alike, to register with the Virginia State Bar; establishes certain public protection measures which must be put into place by non-institutional settlement agents to the satisfaction of their regulatory agencies; makes it clear that legal advice in connection with a real estate settlement can only be provided by a licensed Virginia attorney.

The Virginia State Bar (www.vsb.org) is the lead agency for registering and monitoring settlement agents. Each licensing agency also has monitoring obligations. CRESPA limited the categories of closers to attorneys (Virginia State Bar), title insurance companies and licensed agents (State Corporation Commission Bureau of Insurance), real estate brokers (Real Estate Board, a separate agency within the Department of Professional and Occupational Regulation), and financial institutions (State Corporation Commission Bureau of Financial Institutions).

Virginia has a wet funds law now referred to as the "Exchange Facilitators Act"; See Va. Code Ann. §§ 55-525.1 et seq. The Act applies to transactions involving loans made by lenders, which loans are secured by first deeds of trust, or mortgages on real estate. Title companies generally follow this practice on commercial cases.

A Reissue Disclosure Statement must be signed for each refinance file. It should include a Notice of Availability of Owner's Title Insurance for all residential purchases and include a reissue rate disclosure.

RECORDING REGULATIONS:

Virginia follows the race notice statute for recordings.

All writings, which are to be recorded or docketed in the clerk's office of courts of record in this Commonwealth, shall be an original or first generation printed form; or legible copy thereof, pen and ink or typed ribbon copy, and shall meet the standards for instruments; use of cover sheets on deeds or other instruments by circuit court clerks; all as fully amplified in Va. Code Ann. § 17.1-223 et seq. Circuit court clerks may require that any deed or other instrument conveying or relating to an interest in real property be filed with a cover sheet detailing the information contained in the deed, or other instrument necessary for the clerk to properly index such instrument. The cover sheet shall be developed in conjunction with the Supreme Court of Virginia.

All instruments should have one-inch margins. Additionally, all instruments should have the names and addresses of the grantor and grantee, tax map reference number, consideration, and acknowledgment. All recordation taxes and clerk's fees must be paid prior to recording.

An acknowledgment should indicate the state and county, signature, commission expiration date, "acknowledged or sworn to" language, and date of notarization.

PROPERTY TAXES:

Property taxes are levied and due at various times, depending on the jurisdiction. Property tax installment payments vary from jurisdiction to jurisdiction.

Each locality establishes due dates for real estate taxes, which vary depending on whether taxes are paid annually, semi-annually, or quarterly; and whether the tax year is a calendar or fiscal year. The most common due dates are June 5 and December 5 for semi-annual-calendar year jurisdictions; December 5 for calendar year jurisdictions; and September 30, December 5, March 31, and June 5 for quarterly fiscal year jurisdictions. Verify due dates with the local office prior to computing proration amounts. The lien for taxes attaches on the first day of the calendar or fiscal year for which the taxes are assessed (Va. Code Ann. §§ 58.1-3281 and 58.1-3011).

VIRGINIA CALLOUTS

- All land titles are checked back sixty years, or further if necessary, according to title insurance requirements.
- Title examinations are conducted by a direct examination of the public records contained in the Clerk's office or Circuit Court for the jurisdiction in which the property is located. In addition, some clerk's offices are provide off-site access to either indices or images or both, but the information available varies by location.
- Virginia recognizes tenancies in common, joint tenancies, and tenancies by the entirety. The non-titled spouse is not required to sign the mortgage.
- Virginia is not a community property state, though it has adopted the Uniform Disposition of Community Property Rights at Death Act (Va. Code Ann. § 64.2-315 et seq.).
- Tenancy must be created by deed or will.
- Homestead laws allow up to \$5,000 of exemption, plus an additional \$500 for each dependent.
- Real estate closings are conducted by lawyers, title companies, and escrow companies. Legal documents can be prepared only by lawyers.
- Closing costs are usually shared by the buyer and seller.
- A power of attorney is permissible to use for a closing. It must be specific to transaction, include a legal description of the property, and be acknowledged. The customary security agreement is a deed of trust.
- By statute, title companies, title agents, attorneys, real estate brokers, and financial institutions may close residential real estate transactions. Virginia Consumer Real Estate Settlement Protection Act (CRESPA) allows certain non-lawyers who are licensed title agents or real estate brokers, as well as title insurance companies and financial institutions, to conduct residential real estate closings for members of the public. This requires all real estate settlement agents conducting residential closings, lawyers and non-lawyers alike, to register with the Virginia State Bar; establishes certain public protection measures which must be put into place by non-institutional settlement agents to the satisfaction of their regulatory agencies; makes it clear that legal advice in connection with a real estate settlement can only be provided by a licensed Virginia attorney.
- Virginia is a title theory state.
- Virginia follows the race notice statute for recordings.

WASHINGTON

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to last title insurance policy, or patent if there was no prior insurance policy. In Washington State, title examinations are primarily conducted from the title company's title plants. It is not uncommon for a title plant to be comprised of more than one physical index (i.e., computer-based index microfiche records, geographic folders, or tract book plant).

In many counties, the examiner uses a computer-based plant to search back to the 1980s, then uses a microfiche plant for searches back to the 1940s or 1950s, and finally uses a tract book plant to search back to the patent.

The State of Washington has enacted title standards. Title insurance policies and endorsements are filed with the office of the Insurance Commissioner. Title insurance agents are regulated by the state Insurance Commissioner. Title insurance rates are promulgated by the state Insurance Commissioner and must be filed. Title insurance rates do include search and examination. Special rates are given in numerous situations.

Certified copies of death certificates are secured and may be requested from the Department of Health, 101 Israel Road SE Tumwater, WA 98501. Requests may also be made online.

VESTING:

Washington recognizes tenancies in common, joint tenancies, and community property. Washington does not recognize tenancies by the entirety. The non-titled spouse of homestead property must sign the security instrument.

In Washington, married persons may hold title to real property jointly or separately. Washington is a community property state, and married couples commonly hold title to real property as: "John and Jane Doe, a married couple" or "John and Jane Doe, husband and wife." Real property held by a husband and wife is presumed to be community property (Wash. Rev. Code Ann. § 64.28.020), unless evidence is presented which supports a finding that the property is the separate property of one spouse. For example, the community property presumption can be overcome if the couple records a separate property agreement signed by both parties; or one spouse buys real property with inherited funds and hold title to the property as "John Doe, a married person as his separate estate."

Homestead property includes real and personal property that the owner uses as a residence. Property included must be actually intended or used as the principal home for the owner. Exemption amounts vary. See Wash. Rev. Code Ann. § 6.13.030. Dower and curtesy have been abolished.

A married couple may also hold title to real property as joint tenants. For a joint tenancy to be created, the "four unities of time, title, interest and possession are essential." (Matter of Oney's Estate. 31 Wash App. 325. 382 (1982)). In addition, by statute a joint tenancy must be created by a written instrument which expressly declares that the interest created is to be a joint tenancy. Joint tenancies may be severed by the unilateral action of one joint tenant (Wash. Rev. Code Ann. § 64.28.010). A husband and wife may also hold title to real property as tenants in common. Following a Decree of Dissolution, if the Decree does not specify the ownership of a parcel of real property, the parties hold title as tenants in common.

Conveyance is by statutory warranty deed, bargain and sale deed, and quitclaim deed. Conveyance instruments should include the names and addresses of the grantor and grantee, consideration, conveyance language, a legal description of the property, signatures, and acknowledgments. Conveyances made to two or more persons is construed as a tenancy in common (Wash. Rev. Code Ann. § 64.28.020).

If the contract includes minerals, they can be excluded from the transfer instrument.

A real estate contract, and all prior negotiations and agreements, are merged into the deed executed in full execution of the contract (*Blake v. Evergreen Land Developers, Inc.*, 450 E2d 470 (Wash. 1969)).

For statutes related to aliens holding title to and selling land, see Wash. Rev. Code Ann. §§ 64.16.005, 64.16.140. Non-resident aliens have rights to buy and sell lands or any interest in them.

For statutes related to foreign corporations or partnerships holding title to land, see Wash. Rev. Code Ann. §§ 23B.15.010, 23B.18.010, 23B.18.020, 23B.18.030.

When a party purchases a property at a tax sale, they receive a tax deed, which confirms title to the property.

DECEDENTS' ESTATES:

Washington State imposes no inheritance taxes, but the legislature has enacted the Estate and Transfer Tax Act, codified at Wash. Rev. Code Ann. § 83.83.100 et seq. The tax amount is computed using the table found in Wash. Rev. Code Ann. § 83.100.040. If any property in the decedent's estate is located outside of Washington, the amount of tax is the amount determined on the table multiplied by a fraction. The estate tax is a stand-alone tax that incorporates only those provisions of the internal revenue code as amended or renumbered as of January 1, 2005, that do not conflict with the provisions of the statute. The tax imposed is independent of any federal estate tax obligation and is not affected by termination of the federal estate tax.

MORTGAGES, LIENS, AND FORECLOSURE:

Washington is a lien theory state. Judgment liens are valid for ten years and may be renewed by refileing.

A claim for adverse possession requires the common law elements of open, notorious, and hostile and continuous possession for a period of ten years.

A reconveyance or a deed of trust may be used to cancel mortgage liens of record.

Builder warranties provided by statute: see Wash. Rev. Code Ann. § 18.27.010 et seq. State requires general contractor to post \$12,000.00 bond and \$6,000.00 for specialty contractors to satisfy claims against the contractor for improper or negligent work (Wash. Rev. Code Ann. § 18.27.040).

The statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property is six years from "substantial completion of construction;" see Wash. Rev. Code Ann. § 4.16.310 et seq.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of 180 days. There is an 8-month redemption period after sale for properties not used principally for agriculture or farming purposes, and in which complaint the judgment creditor has expressly waived any right to a deficiency judgment, otherwise within one year after date of sale (Wash. Rev. Code Ann. § 6.23.020).

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Washington Tax Liens	10 years
Federal Tax Liens	10 years
Mechanics Lien	90 days
Estate Tax	10 years

REAL ESTATE CLOSINGS:

Real estate closings are conducted by limited practice officers or lawyers. Documents can be prepared by limited practice officers or lawyers. Closing costs are usually paid by the seller. A power of attorney is permitted to be used for a closing.

In most residential transactions and in many commercial transactions, the title insurer's limited practice officer (also known as an LPO) prepares documents.

The title insurance company escrow operations include Limited Practice Officers (LPOs), who may prepare 46 "standard" documents approved by the Limited Practice Board, plus Excise Tax Affidavit forms, Department of Licensing forms, and the Auditor's Cover Sheet in Washington State. The most commonly used form of security instrument is the deed of trust. Two other security instruments are also used: real estate contracts and mortgages. Following is a brief description of each type of real estate security instrument.

In Washington, the company uses the closing protection letter issued in 1987 by the Executive Committee of the American Land Title Association (ALTA). The Washington Insurance Commissioner does not allow title insurance companies to provide a closing protection letter unless the title company, or its agent, is conducting the closing.

The state requires licenses of escrow closers who conduct the limited practice of law by preparing certain legal documents (i.e. deeds, deeds of trust, mortgages, powers of attorney, etc.). To be licensed, escrow closers are required to pass an examination that tests their knowledge of English, math, real estate transactions, agency law, and real property encumbrances.

Unless exempted from the collected funds requirements under Wash. Rev. Code Ann. § 18.44.021, escrow agents are required to make settlement disbursements from collected funds (id. § 18.44.400). The customary security agreement is a deed of trust.

RECORDING REGULATIONS:

The Washington State recording act is a race-notice statute.

A deed must be acknowledged by the grantor and must meet the format and content requirements of the recording statutes (Wash. Rev. Code Ann. §§ 65.08.070; 65.04.045; 65.04.047). All instruments presented for recording must be notarized.

PROPERTY TAXES:

Property taxes are levied annually and are due in equal payments on April 30, and October 31. Property taxes can be paid in installments.

Tax statements are mailed to county taxpayers on approximately February 15. The first half of the current year's real estate taxes are due on April 30, and the second half of the current year's real estate taxes are due on October 31 (Wash. Rev. Code Ann. § 84.56.020(1) & (3)). However, the current year's taxes become a lien on the real property on January 1 of the prior year; the year in which the taxes are levied (*id.* § 84 60.020).

WASHINGTON CALLOUTS

- All land titles are checked back to last title insurance policy, or patent if there was no prior insurance policy. In Washington State, title examinations are primarily conducted from the title company's title plants. It is not uncommon for a title plant to be comprised of more than one physical index (i.e., computer-based index microfiche records, geographic folders, or tract book plant).
- Washington recognizes tenancies in common, joint tenancies, and community property.
- Washington does not recognize tenancies by the entirety.
- The non-titled spouse of homestead property must sign the security instrument.
- Married persons may hold title to real property jointly or separately.
- Real estate closings are conducted by limited practice officers or lawyers. Documents can be prepared by limited practice officers or lawyers.
- Closing costs are usually paid by the seller. A power of attorney is permitted to be used for a closing.
- In most residential transactions and in many commercial transactions, the title insurer's limited practice officer (also known as an LPO) prepares documents.
- The title insurance company escrow operations include Limited Practice Officers (LPOs), who may prepare 46 "standard" documents approved by the Limited Practice Board, Washington is a lien theory state.
- The Washington State recording act is a race-notice statute.

WEST VIRGINIA

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years. In some situations, it may be acceptable to search back only forty years to a general warranty deed.

Title examinations are conducted from the public records in the Office of the Clerk of the County Commission.

Title insurance agents are licensed by the Insurance Commissioner. Title insurance rates do not need to be filed. Rates are negotiable. Title insurance rates do not include search and examination. Special rates are given in cases of refinance and commercial transactions.

Certified copies of death certificates should be requested from the Vital Statistics Department, Room 165, 350 Capitol Street, Charleston, WV 25301, or available at the county clerk's office.

VESTING:

West Virginia recognizes tenancies in common and joint tenancies. The non-titled spouse of homestead property must sign the security instrument. West Virginia is not a community property state. West Virginia abolished dower and curtesy in 1992 and replaced it with the augmented estate scheme, which is found in W. Va. Code § 42-3-1 through § 42-3-7. It is advised that a certified copy of the death certificate is recorded concurrent with the new mortgage.

The amount of the elective share depends on the length of the marriage, and ranges from a supplemental amount only, for marriages of less than one year, to 50% of the augmented estate for marriages of 15 or more years. The election must be made by the surviving spouse by filing in the court and mailing or delivering to the personal representative a petition for the elective share within nine months of the decedent's death, or six months of probate of the decedent's will, whichever is later (W. Va. Code § 42-3-4).

Any potential augmented estate problem can be eliminated by the joinder of the spouse in any conveyance of the land. In addition, the right to make a claim for an elective share dies with the claimant spouse (W. Va. Code § 42-3-3).

Conveyance is by warranty deed. All conveyance instruments should be notarized, include a statement of consideration, contain "prepared by" language, "return to" language, and include a legal description of the property. Conveyance by attorney in fact; see W. Va. Code § 36-1-8.

When any joint tenant or tenant by the entireties of an interest in real or personal property dies, his share shall descent or be disposed of as if he had been a tenant in common (W. Va. Code § 36-1-19). Joint tenancies require clear language and intent to create a joint tenancy with the right of survivorship.

If the contract includes minerals, they may be excluded from the transfer instrument.

For statutes related to aliens holding title to land: see W. Va. Code § 36-1-21.

For details about the procedure to confirm title to property purchased for taxes, see W. Va. Code § 11-10-13c.

DECEDENTS' ESTATES:

The estate tax plan mirrors that of the federal government (W. Va. Code §§ 11-11-1 et seq.). Unless the estate tax has been paid in full, or becomes unenforceable due to lapse of time, there exists a lien for the tax, for a period of ten years from the date of the decedent's death, on all property, real and personal, owned by the decedent located in the state (W. Va. Code § 11-11-17). Any estate property transferred by a spouse, trustee, transferee, surviving tenant, person in possession or beneficiary, to a purchaser or holder of a security interest, shall be divested of the lien (W. Va. Code § 11-11-17(b)).

MORTGAGES, LIENS, AND FORECLOSURE:

West Virginia is a title theory state. Judgment liens are valid for ten years.

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile for a period of ten years.

A release of the deed of trust is used to cancel mortgage liens of record. If a lender fails to cancel lien of record after secured debt is paid in full, the debtor may be able to file suit for damages.

Actions arising from deficiencies in construction, or improvements to real property may not be brought more than 10 years, see W. Va. Code § 55-2-6a.

Foreclosure is usually by non-judicial means. The time for the foreclosure process is a minimum of thirty days. There is no redemption period after sale.

REAL ESTATE CLOSINGS:

Real estate closings are conducted by lawyers and lenders. Documents can be prepared by lawyers and lenders. The parties to a transaction may prepare their own documents as well. Loan documents are typically prepared by lenders or their counsel. Deeds, easements and other instruments are prepared by attorneys. It is the unauthorized practice of law for non-attorneys to prepare documents for third parties. Closing costs are usually paid by the buyer.

It is permissible to use a power of attorney for the purposes of a closing, but it must be recorded and specific to the property (W. Va. Code § 36-1-2). The customary security instrument used in West Virginia is a deed of trust. The statutory form of a deed of trust appears in W. Va. Code § 38-1-2.

The State Bar Committee on Unlawful Practice has indicated that a real estate closing involves the practice of law (Advisory Opinion 93-003).

The Good Funds Settlement (see W. Va. Code §§ 46A-6K-1 — 46A-6K-5) requires good funds at closing.

RECORDING REGULATIONS:

West Virginia follows the notice statute recording act.

For a deed to be recordable, it must be signed by the grantor and acknowledged; set forth legibly the name of the person who prepared the deed (W. Va. Code § 39-1-2a); and contain a declaration of consideration or value (W. Va. Code § 11-22-6). In addition, a Sales Listing Form must be presented to the clerk.

For security instruments, the grantor must sign and have his signature acknowledged; the name of the

preparer must appear, as for deeds; and the name and address of the beneficiary must appear, unless the deed of trust secures more than five notes or bonds payable to bearer, in which case only the name and address of the first person to whom the notes or bonds were negotiated must appear.

Acknowledgments requirements are outlined by W.Va. Code § 39-1-1 et seq. A Sales Listing Form and declaration of consideration must accompany all deeds.

PROPERTY TAXES:

Property tax bills are issued on or after July 15 of the property tax year by county sheriffs for all property except public utility operating property. Property taxes levied for the property tax year are payable in two installments. The first installment is due September 1 of the property tax year. The second installment is due March 1 of the next calendar year. Delinquent taxes accrue interest at the rate of 9 percent per year. First-half property taxes not paid become delinquent on October 1. Second-half property taxes not paid become delinquent April 1.

The lien for real property taxes arises on July 1 of the year prior to the year when taxes are payable (W. Va. Code § 11A-1-2). For example, taxes for the year 2019 became a lien as of July 1, 2018.

There are no limitations on enforcement of assessment liens. Delinquent land will be listed for sale by the sheriff W. Va. Code §§ 11A-2-1 — 11A-2-19.

WEST VIRGINIA CALLOUTS

- All land titles are checked back 60 years. In some situations, it may be acceptable to search back only forty years to a general warranty deed.
- West Virginia recognizes tenancies in common and joint tenancies. The non-titled spouse of homestead property must sign the security instrument.
- West Virginia is not a community property state. West Virginia abolished dower and curtesy in 1992 and replaced it with the augmented estate scheme, which is found in W. Va. Code § 42-3-1 through § 42-3-7.
- It is advised that a certified copy of the death certificate is recorded concurrent with the new mortgage.
- Real estate closings are conducted by lawyers and lenders. Documents can be prepared by lawyers and lenders.
- The parties to a transaction may prepare their own documents as well. Loan documents are typically prepared by lenders or their counsel. Deeds, easements and other instruments are prepared by attorneys. It is the unauthorized practice of law for non-attorneys to prepare documents for third parties. Closing costs are usually paid by the buyer.
- West Virginia is a title theory state.
- West Virginia follows the notice statute recording act.

WISCONSIN

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back sixty years, due to statute of limitations for easements and restrictions. Note: Wis. Stat. Ann. § 893.33(6) shortens the time to 40 years for documents recorded after July 1, 1980. Title insurance, abstracts of title, and title reports are prepared after a search and examination of the county's public land records. In some counties, commercial title insurers and title agencies maintain privately-owned title plants. There is no statutory requirement to the effect that property cannot be transferred, or that title insurance cannot be issued without a current abstract of title or unless a current land survey is prepared.

Title insurance policies and endorsements are American Land Title Association policies. Endorsements may be negotiated. Title insurance agents are regulated by the Insurance Commissioner. Title insurance rates are filed with the Insurance Commissioner. Title insurance rates do include search and examination. Special rates are given in cases of bid request, reissue of a prior policy (any underwriter), or substitution loans.

Certified copies of death certificates should be requested from the State of Wisconsin, Department of Vital Records, 1 West Wilson Street, Madison, Wisconsin 53703.

VESTING:

Wisconsin recognizes tenancies in common, joint tenancies, and marital property. Wisconsin became a community property state when it enacted the Marital Property Act. Chapter 766, effective January 1, 1986. Under the Marital Property Act, although the titleholder acting alone continues to hold the power to convey land as before, property rights in other contexts depend upon the potentially arduous task of classifying disputed property item by item.

Homestead laws provide that both spouses must sign any conveyance or conveyance is void. Wis. Stat. Ann. § 706.02(f). Under Wis. Stat. Ann. § 815.20, homestead limited to homestead dwelling and land, and limited to \$75,000.00 in value. The exemption extends to land owned by husband and wife jointly or in common or as marital property, and each spouse may claim a homestead exemption of not more than \$75,000.00. The land itself may consist of all land reasonably necessary for use of the dwelling as a home, but not less than one-quarter acre (if available) and not exceeding forty acres. Wis. Stat. Ann. § 990.01(13). Dower and curtesy have been abolished.

All property of spouses are presumed to be marital property (Wis. Stat. Ann. § 766.31(2)). All of the property of married persons, regardless of who hold title, are by statute required to be classified as either marital property, individual property, predetermination date property, or mixed property.

Conveyance is by deed or mortgage. Wis. Stat. Ann. § 706.02 requires that the names and addresses of the grantor and grantee, a legal description of the property, specific interests conveyed, and signatures of all parties be on all deeds and mortgages.

Conveyances made to two or more persons are presumed to be tenancies in common with equal undivided interests. If the individuals are married, an estate of marital property is presumed with equal shares, unless stated with the right of survivorship for marital property. Homestead of spouses is presumed to have survivorship rights.

If the contract does not exclude minerals, they cannot be excluded from the transfer instrument.

Wisconsin's interpretation of the doctrine of merger focuses on the intent of the parties. Delivery and

acceptance of an executed deed is considered, prima facie, to merge or supersede the provisions of an antecedent contract. Wisconsin recognizes an exception to the above rule for collateral provisions. "Collateral provisions" are those that permit an inference that the parties did not intend to extinguish them in the deed (*Oremus v. Wynhoff*, 123 N.W.2d 441 (Wis. 1963)).

For statutes related to aliens holding title to land, see Wis. Stat. Ann. §§ 710.01 to 710.03; limiting aliens to not more than 640 acres of Wisconsin land.

DECEDENTS' ESTATES:

Inheritance tax was repealed and does not apply to the estates of decedents dying after December 31, 1991. For those who died prior to this date, a release of inheritance tax lien by the Wisconsin Department of Revenue is required, unless the title of the decedent was conveyed by personal representative's deed, which serves to effectuate a transfer free from the lien of inheritance tax. Upon death of a spouse decedent's estate reverts to the surviving spouse.

Though Wisconsin does not have an estate tax, the federal estate tax may apply if your estate is large enough. The federal estate tax has an exemption of \$11.18 million in 2018, which will increase to \$11.40 million in 2019.

MORTGAGES, LIENS, AND FORECLOSURE:

Wisconsin is a lien theory state. Judgment liens are valid for ten years (Wis. Stat. Ann. § 806.15).

A claim for adverse possession requires the common law elements of exclusive, continuous, open and hostile for a period of twenty years (Wis. Stat. Ann. § 893.25). If the adverse possessor has a written instrument, such as a deed confirming ownership, the statutory period is reduced to ten years (*id.* § 893.26). In addition to the written deed, the payment of property taxes reduces the statutory period to seven years (*id.* § 893.27).

When sellers finance part of the sale for the buyer, the seller's mortgage is a purchase-money mortgage, having priority over judgments and liens of the purchaser (Wis. Stat. Ann. § 708.09).

A satisfaction of mortgage is used to cancel mortgage liens of record (Wis. Stat. Ann. § 706.05). If a lender fails to cancel a lien of record after secured debt is paid in full within thirty days, the lender will be liable to the land owner for \$500, plus any actual damages and reasonable attorney fees and court costs (Wis. Stat. Ann. § 708.15).

There is a seven-year statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property. However, if, as the result of a deficiency or defect in an improvement to real property, a person sustains damages during the period beginning on the first day of the 5th year and ending on the last day of the 7th year after the substantial completion of the improvement to real property, the time for commencing the action for the damages is extended for 3 years after the date on which the damages occurred. See Wis. Stat. Ann. § 893.89.

Foreclosure is by judicial means. The time for the foreclosure process follows Wis. Stat. Ann. § 846.01 et seq. The redemption period after judgment varies by date the mortgage was executed and the property type; see Wis. Stat. Ann. § 846.10. There is no redemption period after sale.

Statute of Limitations for Liens	
Judgment liens in favor of the United States	20 years
All other Judgment Liens	10 years
All State of Wisconsin Tax Liens	Infinite duration
Federal Tax Liens	10 years
Mechanics Lien	2 years
Financing Statement	5 years

REAL ESTATE CLOSINGS:

The State of Wisconsin does not require licenses for those conducting closings, escrows, or settlements. Real estate closings are usually conducted by title companies, lenders, lawyers, and real estate agents. Documents can be prepared by lawyers or parties to the transaction. The buyer pays the closing fee, and the seller pays the transfer taxes and title insurance. A power of attorney may be used in a closing but it must be specific to the property being closed on. The customary security agreement is a mortgage. Real estate transfer form must accompany all deeds and land contracts.

RECORDING REGULATIONS:

Wisconsin is a race-notice recording jurisdiction.

All instruments to be recorded must identify the drafter and provide a return address. Additionally instruments should include a legal description of the property and tax parcel numbers. All instruments must be notarized.

Conveyances are not valid unless they identify the parties; identify the land; identify the interest conveyed and any material term, condition, reservation, exception, or contingency upon which the interest is to arise, continue or be extinguished, limited or encumbered, and are signed by or on behalf of each of the grantors; and are signed by or on behalf of all parties, if a lease or contract to convey; and are signed or joined in by separate conveyance, by or on behalf of each spouse, if the conveyance alienates any interest of a married person in a homestead under Sec. 706.01(7) except conveyances between spouses, but on a purchase money mortgage pledging that property as security only the purchaser need sign the mortgage, and are delivered and are acknowledged or authenticated.

The document must have certain areas left blank for register of deeds' use. The document must contain a parcel identification number (PIN) in those counties in which PINs are required. The document must be of white paper of at least 20 lb. weight. The dimensions of the paper must be 8.5" by either 11" or 14", and multi-page document may not be hinged or joined completely. Document words must be sufficiently legible to be read and reproduced by an optical scanner. Document ink, except for signatures, must be black or red. The top margin of each page must be at least 1/2 inch. See Wis. Stat. Ann. § 59.43.

The register of deeds will continue to accept documents which do not conform with some of the requirements, provided the person seeking to record pays an additional recording fee of \$2. He or she must also manually complete and submit as the first page of the instrument a new blank form, which is available from the local register of deeds office. However, requirements relating to paper color and weight, dimensions, legibility, margins, and ink color, cannot be cured even with the blank page; and their violation will render the document permanently unrecordable.

PROPERTY TAXES:

Property taxes are levied on December 15 and are due on January 31. Property taxes can be paid in two installments, due on January 31 and July 31 (Wis. Stat. Ann. § 74.11). There is no interest rate on installment tax payment plans. However, if the taxes are delinquent there is an interest rate of 18%.

WISCONSIN CALLOUTS

- All land titles are checked back sixty years, due to statute of limitations for easements and restrictions. Note: Wis. Stat. Ann. § 893.33(6) shortens the time to 40 years for documents recorded after July 1, 1980.
- Wisconsin recognizes tenancies in common, joint tenancies and marital property.
- Wisconsin became a community property state when it enacted the Marital Property Act. Chapter 766, effective January 1, 1986. Under the Marital Property Act, although the titleholder acting alone continues to hold the power to convey land as before, property rights in other contexts depend upon the potentially arduous task of classifying disputed property item by item.
- The State of Wisconsin does not require licenses for those conducting closings, escrows, or settlements. Real estate closings are usually conducted by title companies, lenders, lawyers, and real estate agents. Documents can be prepared by lawyers or parties to the transaction.
- Inheritance tax was repealed and does not apply to the estates of decedents dying after December 31, 1991.
- The buyer pays the closing fee, and the seller pays the transfer taxes and title insurance.
- Wisconsin is a lien theory state.
- Wisconsin is a race-notice recording jurisdiction.

WYOMING

TITLE SEARCHES AND EXAMINATIONS:

All land titles are checked back to patent.

Title examinations are conducted from a title plant or from a search in the county clerk's office. A title policy may not be written unless it is based on adequate evidence certified by a person authorized to act as a title abstractor, or unless it is based on the opinion of an attorney who is authorized to practice law. Since one may not engage in the business of making or furnishing abstracts without first having a complete set of abstract records of real estate in the county, a hull title plant is required when policies are based on the certification of a person authorized to act as a title abstractor (Wyo. Stat. Ann. §§ 26-23-308 and 33-2-101).

Title insurance policies and endorsements are American Land Title Association forms. Title insurance agents and rates are regulated by the state Insurance Department. Title insurance rates do include search and examination. Special rates are given in cases of short term (three years), and refinance (up to five years).

Certified copies of death certificates should be requested from the Department of Vital Statistics, 2300 Capitol Ave, Cheyenne, WY 82002.

VESTING:

The following tenancy types are recognized: tenancy in common, tenancy by the entirety and joint tenancy. The non-titled spouse of homestead property must sign the security instrument (Wyo. Stat. Ann. § 34-2-121).

Wyoming Statute 2-5-102 provides, in part, that a waiver of "all rights" in the property or estate of a spouse, or a complete property settlement entered into after or in anticipation of separation or divorce, is a waiver of all rights to elective share, homestead allowance, exempt property and family allowance by each spouse in the property of the other and a renunciation by each of all benefits which would otherwise pass to one from the other by intestate succession.

In Wyoming, title may be held by a husband and wife as tenants in common, joint tenancy, or tenancy by the entireties. Unless otherwise stated in the vesting deed, a conveyance to a husband and wife is presumed to be as tenancy by the entireties (*Witzel v. Witzel*, 386 P.2d 103 (Wyo. 1963)).

Title held in tenancy by the entireties cannot be severed except the joint act of both husband and wife. (*Ward Terry and Co. v. Hensen*, 297 P.2d 213 (Wyo. 1956)). Wyoming is not a community property state. Homestead laws provide that value is not to exceed \$20,000.00. See Wyo. Stat. Ann. § 1-20-101. Dower and curtesy have been abolished.

Conveyance is by warranty deed or quitclaim deed.

To determine whether minerals can be excluded from the transfer instrument if the contract does not exclude them, see Wyo. Stat. Ann. § 34-1-135; minerals may be implied in conveyance.

All provisions in the contract are merged into the deed when executed and delivered, except those provisions deemed collateral. (*Bakker v. Price*, 613 P.2d 1222 (Wyo. 1980)).

For statutes related to foreign corporations or partnerships holding title to land, see Wyo. Stat. Ann. § 17-16-1501.

DECEDENTS' ESTATES:

Wyoming imposes a tax on the transfer of property constituting the Wyoming gross estate of every decedent. The amount of tax is the maximum state death tax credit allowed to a Wyoming estate as a credit against federal estate taxes under the laws of the United States for estate, inheritance, legacy, and succession taxes actually paid to the several states times the ratio which the Wyoming gross estate bears to the value of the federal gross estate, or the maximum state death tax credit allowable to a Wyoming gross estate, whichever is greater (Wyo. Stat. Ann. § 39-19-103).

According to Wyo. Stat. Ann. § 39-19-108, there are no specific applicable provisions for an inheritance tax lien, but the tax liability becomes a debt of the personal representative which may be recovered in an action brought by the state.

MORTGAGES, LIENS, AND FORECLOSURE:

Wyoming is a lien theory state. If execution on a judgment rendered in any court of record in this state or a transcript of which has been filed as provided in W.S. 1-17-306(a) is not issued within five (5) years from date of the judgment or if five (5) years intervene between the date the last execution issued on the judgment and the time of issuing another execution thereon, the judgment is dormant and ceases to operate as a lien on the estate of the judgment debtor (Wyo. Stat. Ann. § 1-17-307).

Adverse-possession requirements: actual, open, notorious, exclusive, and continuous possession of another's real property for the statutory period (ten years), which possession is hostile and under a claim of right or color of title, with the burden of proof resting on the party claiming adverse possession (Wyo. Stat. Ann. §§ 1-3-103, 104).

A release of mortgage is used to cancel mortgage liens of record. If lender fails to cancel lien of record after secured debt is paid in full penalties prescribed by Wyo. Stat. Ann. § 34-1-132, and id. §§ 34-1-145 thru 34-1-150 apply.

The statute of limitations on lawyer's certificate of title is ten years; see Wyo. Stat. Ann. § 1-3-101 et seq.

There is a ten-year statute of limitations applicable to actions arising from deficiencies in construction, or improvements to real property. The statute of limitations begins to run following "substantial completion of the construction or improvements (Wyo. Stat. Ann. § 1-3-111).

Foreclosure is by judicial and non-judicial means. The time for the foreclosure process varies. There is a three-month to one-year (depending on the size of the land) redemption period after sale for owner, then a 30-day creditor redemption period (Wyo. Stat. Ann. § 1-18-104).

Statute of Limitations for Liens	
Mortgages	Do not expire.
Judgment liens in favor of the United States	20 years
All other Judgment Liens	5 years , can be renewed.
All State of Wyoming Tax Liens	No time limit
Federal Tax Liens	See IRS Tax Code.
Mechanic's Lien	180 days after recording.
Estate Tax	Do not expire.
Financing Statement	5 years under the U.C.C.

REAL ESTATE CLOSINGS:

Real estate closings are conducted by bankers, real estate agents, and title agents. No person may act as a title agent unless he or she has obtained a license from the Insurance Department which will not be issued unless the person has passed an examination covering, among other matters, the fiduciary duties and procedures of escrows, closings, and settlements of real estate transactions (Wyo. Stat. Ann. § 26-23-316). Closing costs are usually split.

Using a power of attorney for a closing is acceptable as long as the powers are specific. Although state law does not require collected funds, the company expects voluntary compliance with generally understood "good funds" practices. The customary security agreement is a mortgage. Warranty deed and quitclaim deeds are commonly used in Wyoming. A statutory form of warranty deed is set out in Wyoming Statute 34-2-102. A statutory form of quitclaim deed is set out in Wyoming Statute 34-2-104. A statutory form of mortgage is set out in Wyoming Statute 34-2-107. A statutory form of deed of trust is set out in Wyoming Statute 34-3-101.

RECORDING REGULATIONS:

Wyoming is a race-notice recording jurisdiction; see Wyo. Stat. Ann. § 34-1-120. Deeds, mortgages, and other conveyances of lands must be acknowledged by the parties executing the same in order to be recorded (id. §§ 34-1-113 and 34-1-118). An affidavit, however, stating facts relating to matters that may affect the title to real estate may be recorded without a certificate of acknowledgement if it contains a jurat (id. § 34-11-101).

PROPERTY TAXES:

Effective July 1, 2019 (Wyo. Stat. § 39-13-107): Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year. If the entire tax is paid on or before December 31, no interest or penalty is chargeable. As between the grantor and grantee of any property where there is no express agreement in writing as to which party shall pay the taxes that may be assessed on the property, if the property is conveyed on or after January 1, the grantor shall pay the taxes for that year.

Property taxes which remain unpaid by May 11 become delinquent. The balance of any tax not

paid shall bear interest at eighteen percent (18%) per annum until paid or collected. Deferral for available, however, any deferral of collection of taxes granted by the board of county commissioners shall constitute a perpetual tax lien against the property pursuant to W.S. 39-13-108(d)(i) with priority over any other lien.

WYOMING CALLOUTS

- All land titles are checked back to patent.
- Title examinations are conducted from a title plant or from a search in the county clerk's office.
- A title policy may not be written unless it is based on adequate evidence certified by a person authorized to act as a title abstractor, or unless it is based on the opinion of an attorney who is authorized to practice law.
- Since one may not engage in the business of making or furnishing abstracts without first having a complete set of abstract records of real estate in the county, a hull title plant is required when policies are based on the certification of a person authorized to act as a title abstractor (Wyo. Stat. Ann. §§ 26-23-308 and 33-2-101).
- The following tenancy types are recognized tenancy in common,
 - tenancy by the entirety and joint tenancy.
- Real estate closings are conducted by bankers, real estate agents, and title agents.
- Wyoming is a lien theory state.
- Wyoming is a race-notice recording jurisdiction.

THE ULTIMATE

REAL ESTATE TRANSACTION COMPLIANCE MANUAL



The most significant area of risk and confusion in the real estate services industry is compliance liability. Real estate professionals must understand and comply with a myriad of laws, regulations, and customs governing the life cycle of a real estate transaction. The manual is written for those who work with real estate compliance related issues—the mortgage processor, the director of compliance, operations manager, title department manager, title professionals, real estate closing attorneys as well as a plethora of other professionals in the real estate services sector. This manual is designed to help these professionals hedge compliance risk. It will help identify the compliance requirements for a real estate transaction in all 51 jurisdictions. The manual is organized by state and then by compliance area and is designed to help reduce compliance risk by quickly identifying and providing answers to the questions needed to comply with those laws, regulations, and customs.

Allen Solomon, Steve Daigle, Sr. and **Roberto Abreu** created this book to fill a significant void in the real estate industry. It's an essential desk reference for executives and compliance officers, a cheat sheet for the entire operations staff, and a training tool proven to reduce the learning curve.

Since retiring from Linear Title & Closing, which Solomon co-founded and expanded into 46 states, he has spoken about process optimization and compliance at the ALTA Business Practices Convention and global outsourcing at The National Summit.

At System 2 Thinking, the nation's only management consulting firm devoted to the real estate service industry, Solomon is the chief consultant focusing on compliance, process improvement, outsourcing, licensing, and corporate strategic planning.