



WISCONSIN A - Z UNDERWRITING GUIDE

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A

ACKNOWLEDGMENTS

What is the General Rule for acknowledgements?

- All documents that are to be recorded must be acknowledged by a notary public, or properly authenticated as described in [WI ST 706.06](#). A county will not record documentation (deeds, mortgages, POAs, etc.) that is not properly acknowledged, or authenticated.

Do all Affidavits need to be notarized?

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

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

- Yes. See [WI Dept of Financial Institutions Notary Public Guide](#)

Are there short form notary block templates?

- Yes. See [WI ST 706.07\(8\)](#)

ADVERSE POSSESSION

How is Adverse Possession established?

- Generally, to establish adverse possession, an individual must demonstrate possession of real property for a period of 20 years, which is actual, hostile, open and notorious, continuous, and exclusive. See [WI ST 893.25](#)
- Shorter periods may apply if color of title, or color of title + payment of real estate taxes. See [WI ST 893.26](#) and [893.27](#)
- Periods of adverse possession can be interrupted via Affidavit of Interruption. See [WI ST 893.305](#)

How to insure title on a claim of adverse possession?

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

ASSESSMENTS

Are there special assessment liens?

- Yes, and special assessments are liens from date of levy. See [WI ST 66.0701](#) and [66.0703](#)

Where can I find more information about special assessments?

- [League of WI Municipalities Special Assessments FAQs](#) & [League of WI Municipalities Manual](#)

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

- Yes, there are PACE liens in Wisconsin. Find more information at: [PACE - Property Assessed Clean Energy | Legacy Communities | Wisconsin DNR](#)

How should PACE liens be addressed?

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

B

BANKRUPTCY

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

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

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

- Avoidance
 1. Order to Avoid obtained from the bankruptcy court specifically stating the judgment has been avoided and/or is no longer a valid lien. Avoidance is not effective until discharge.
- Recording Certificate/Order of Satisfaction of Judgment Due to Bankruptcy Discharge
 1. Wisconsin specific rule. See [WI ST 806.19](#) for specific steps necessary to obtain. Bankruptcy attorney should help assist with this process v. title agent.
 2. This process is used in lieu of obtaining avoidance or release. With this option, a debtor who has received a bankruptcy discharge presents the discharge, the judgment schedule from the bankruptcy reflecting judgment in question, and the relevant notice to judgment creditor from the bankruptcy to the Circuit Court to have them issue a Certificate/Order of Satisfaction of Judgment to record with transaction.

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

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

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

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

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

- Order Stripping a junior mortgage lien
 1. Order entered by the bankruptcy court specifically stating the junior mortgage lien is stripped/avoided/void as a lien.
 2. Generally, an Order only stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. The Order MUST also state that the lien is stripped/avoided/void.
 3. Best practice is to record the Order to avoid future clearance issues.
- Chapter 13 Plan

1. If a Motion to strip the junior mortgage lien is referenced in the Chapter 13 Plan and the Plan is confirmed, the Confirmation of Plan acts as the Order to Strip the mortgage lien.
2. Language in the Plan stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. It must state that the lien is stripped/avoided/void.

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

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

What if the bankruptcy has been dismissed?

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

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

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

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

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

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

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

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

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

What is a chapter 128.21 proceeding in Wisconsin?

- A state law procedure for repayment of debts, which is an alternative to filing bankruptcy in federal court. See [WI ST 128.21](#) and contact your WFG underwriter if this proceeding is involved in your transaction.

C

CHILD SUPPORT LIENS

What is the statute of limitations for Child Support Liens?

- Lien is effective for five years from when entered on the docket. Can be extended for additional five year periods. See [WI ST 49.854](#) & [Child Support Liens \(wisconsin.gov\)](#) & [Lien Expiration \(wisconsin.gov\)](#)

Where can I search the lien docket?

- See [Lien Docket Welcome \(wisconsin.gov\)](#)

COMMITMENT

Where can you find WFG's commitment form?

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

CONDOS

What are the statutes that govern condominiums?

- Condominiums in Wisconsin are governed by [Chapter 703 of WI ST](#) & [WI ST Chapter 181](#)

What is the statute of limitations for Condo Claims of Lien?

- 3 years from filing. See [WI ST 703.165](#)

CONSERVATORSHIP

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

- Yes. See [WI ST 786.10](#)

COVENANTS & RESTRICTIONS

How are covenants and restrictions addressed on policies?

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

Can covenants expire?

- Yes. There is a 40 year SOL to enforce a recorded covenant, but they can be extended for additional 40 year periods by filing notice. See [WI ST 893.33\(6\)](#)

D

DECEDENT'S ESTATES

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

- Titleholder dies testate (with a Will). Will needs to be submitted to probate. Personal Representative needs to be appointed and Letters of Administration should be issued. See [WI ST Chapter 853 on Wills](#) and [WI ST Chapter 856 on Opening Estates](#)
- Titleholder dies intestate (without a Will). Estate needs to be probated. Personal Representative needs to be appointed and Letters of Authority should be issued. See [Chapter 852 WI ST](#)

What documentation should be obtained for an estate review?

- At minimum, the Application/Petition for Administration, Will (if there is one), Letters granted to Personal Representative, and Inventory need to be reviewed. Confirm Letters of Administration are not restricted and don't require an additional court order to distribute the property. The powers and duties of the Personal Representative can be found in [WI ST 857.03](#)
- For further reference, See [Standard WI probate forms](#)

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

- A deed out of the estate to the party taking title to the property. The Personal Representative and all heirs will all need to sign the deed to confirm all interests have been accounted for. If there was a Will with a specific devise of the property, the PR is free to convey to the devisee only without the other heirs needing to join.

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

- If there was a Will with specific devise of the property we generally require the devisee to join on the deed out of the estate from the PR/Executor to buyer.
- If there was no specific devise or no Will then the PR/Executor is free to convey to the buyer.

What are Alternate Avenues to Probate?

- Termination of Decedent's Interest (HT-110 form) for certain scenarios. See [HT110](#), [WI ST 867.045](#) and [WI ST 867.046](#)
- Transfer by Affidavit with estates less than \$50k. See [WI ST 867.03](#) & [Wisconsin Register of Deeds Association - Forms](#)

Is there an estate or inheritance tax?

- No, there is no state estate or inheritance tax in Wisconsin.
- **NOTE:** Estates are still subject to federal estate tax if they meet the amount threshold. See [WI ST 72.02](#)

What about creditor claims against the estate? Do they need to be addressed?

- Creditors have up to four months from date of notification to file claims. See [WI ST 859.01](#) However, Personal Representative can sell, mortgage, or lease free of unsecured creditor claims. See [WI ST 860.05](#)

DEEDS

What are some common types of Deeds?

1. Warranty Deed
2. Quitclaim Deed
3. Land Contract Deed
4. Fiduciary Deed: Via Guardian/PR/Trustee
5. Special Warranty Deed
6. Condominium Deed

DIVORCE

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

- It's considered rare that a WI divorce would be sufficient to convey property without need for a deed.

Does a divorce sever a joint tenancy between spouses?

- It's possible, but not absolute. The answer depends on the language in the divorce decree. See [Nichols v. Nichols](#)

What about liens? Appeals?

- Liens may be granted in a divorce decree in favor of parties or attorneys. See [WI ST 767.23](#)
- Lien attachment occurs upon docketing and have no expiration.
- Appeal period can vary, but is generally 45 to 90 days.

E

EASEMENTS & RIGHTS OF WAY

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

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

Can easements expire?

- Yes. There is a 40 year SOL to enforce a recorded easement, but they can be extended for additional 40 year periods by filing notice. See [WI ST 893.33\(6\)](#)

ENDORSEMENTS

Where can I find what endorsements are available?

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

ENTITIES

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

- An entity selling or refinancing must be active, in good standing, and able to provide the applicable documentation showing who has authorization to sign on its behalf.
- In Wisconsin, The Department of Financial Institutions governs entities. See [WDFI Corporations FAQ](#)

Where can you search for registered entities?

- See [WI Corporate Records Search \(wdfi.org\)](http://wdfi.org)

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

- Corporation
 - Generally, look to a combination of Articles of Incorporation, Bylaws, and Corporate Resolution to show who has the authority to sign. See [WI ST Chapter 180](#)
- LLC
 - Generally, look to a combination of Articles of Organization, Operating Agreement, and Resolution signed by all members. See [WI ST 183.0702](#)
- General or Limited Partnership
 - Review of Partnership Agreement. See [WI ST 178.06](#) and [178.07](#)

ESCROW

What should be included in an escrow agreement?

An Escrow Agreement should include the following provisions:

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

EXCEPTIONS

Can blanket exceptions be used in owner's policies?

- No. See Guideline "Wisconsin Blanket Exceptions in Owners Policies" at [WFG Underwriting](#)

F

FEDERAL TAX LIENS

What is the general rule for a federal tax lien?

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

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

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

Can Federal Tax Liens be renewed?

- Yes, Federal Tax Liens can be renewed.

FINANCING STATEMENTS

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

- UCC-1 Financing Statements are a lien for 5 years from the date of recording unless a subsequent continuation is recorded, extending the lien an additional 5 years. See [WI ST 409.515](#)

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

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

How is a UCC Financing Statement addressed on a transaction?

- A UCC-1 Fixture Filing will need to be excepted out, terminated, or subordinated to insure.

What about UCCs on manufactured homes?

- 30 years from date of filing under [UCC Code 9-515\(2\)](#)

Any special considerations for UCCs for solar panels?

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

FORECLOSURE

What kind of foreclosures are available?

- Judicial foreclosure, which requires recording a lis pendens. Foreclosure judgment cannot be entered before at least 20 days from lis pendens. See [WI ST Chapter 846](#)

Is there a redemption period?

- Yes, generally 6 months, but the length of the redemption period depends on several factors and may be shortened in some cases. See [WI ST 846.10](#)

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

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

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

- Yes, IRS must be given specific notice of foreclosure. See [IRS Regulation 5.12.4 et seq.](#)

Where is there more information about the process?

- See [WI Bar Article](#): "Advising Clients Facing Foreclosure"

FORMS

Where can you find common WFG Forms?

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

What authority is there on form filings?

- See [WI ST 631.20](#)

G

Is there a good funds requirement?

- Yes. See [WI ST 708.10](#)

H

HOMEOWNER ASSOCIATIONS (HOAs)

What statutes govern HOAs?

- See [WI ST 710.18](#) & [WI ST Chapter 181](#)

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

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

What is the statute of limitations for an HOA lien?

- HOAs are not regulated under [Chapter 703 of WI ST](#) in the way condo associations are. For questions on HOA claim clearance, see your underwriter.

HOSPITAL LIENS

Do these generally attach to real property?

- No. Read language of lien to see if it references the statute indicating it's not a lien on real property and make sure it doesn't otherwise claim to be a lien on real property. Note, a judgment lien in favor of a hospital is not the same as a hospital lien as filed under [WI ST 779.80](#)

I

J

JUDGMENTS

What is the statute of limitations for judgments?

- 10 years from judgment entry. Lien once docketed. See [WI ST 806.10](#) and [806.15](#)

Can Judgment liens be renewed?

- No.

Is there homestead debt protection?

- Yes. Generally, for an individual \$75k in equity is shielded, and for a couple \$150k is shielded. The amount of equity and amount of judgment are key in determining if homestead clearance can be used. Contact your WFG underwriter to confirm this clearance method is proper. See [WI ST 815.20](#)

Do PMM take priority to judgment liens against buyer?

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

K

L

LAND CONTRACTS

What happens when parties enter into a land contract?

- When a land contract is executed, the land contract purchaser is given an equitable interest in the subject property, while the land contract seller retains the legal interest.
- Ideally, at minimum a Memorandum of LC should be recorded.

Is there a standard land contract form?

- Yes, State Bar of WI Form 11-2003.

What should be used to convey an equitable interest?

- An Assignment of Land Contract Purchaser interest should be used to convey a LC purchaser interest in lieu of a QCD. A standard assignment form is: State Bar of WI Form 15-2003.

LEGAL DESCRIPTIONS

What legal description system is used?

- The Public Land Survey System (PLSS)/rectangular survey system:
- Section, Township & Range: townships that are 6 miles square, divided into 36 sections, and referenced in relation to a north-south line. See [Legal Description | Wisconsin DNR](#)

What types of legal descriptions are there?

- Common descriptions are done via: metes and bounds, plat/subdivisions, certified survey maps, condos, assessor's plats, and government lots. See [Description | wrdaonline](#)

What kind of curative process is there?

- See [WI ST 706.085](#)

LICENSING

Who handles title insurance licensing?

- Title insurance licensing is handled by the Wisconsin Office of the Commissioner of Insurance. See [OCI Insurance License Types and Fees \(wi.gov\)](http://www.wisconsin.gov/oci)

LIFE ESTATES

Is an enhanced life estate available?

- No. Alternatively, you'll see traditional life estates or Transfer on Death Deeds.

Are there any estate recovery issues in WI related to life estates?

- Yes. Life estates created on or after 8/1/2014 are subject to estate recovery by DHS for Medicaid benefits received. See [WI ST 49.849](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%2049.849)

LIS PENDENS

What is the statute of limitations for a Lis Pendens?

- Generally, one year. See [WI ST 840.10](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%20840.10)

M

MANUFACTURED/MOBILE AND MODULAR HOMES

What are the basic characteristics?

- a) **Manufactured or mobile:** Factory built, placed on site, typically steel frame, may or may not be placed on a permanent foundation, and required to meet HUD standards. These homes may be issued a certificate of title. See [WI ST 101.91](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%20101.91) & [WI ST 101.9203](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%20101.9203)
- b) **Modular:** Factory built, shipped in sections, assembled on site, typically on a permanent foundation, and not required to meet HUD standards, but must conform to local, state, and regional standards like stick-built homes. These homes are not issued a certificate of title.

See [Wisconsin DMV Official Government Site - Manufactured homes, mobile homes, RV trailers and camping trailers \(wisconsin.gov\)](http://www.wisconsin.gov/dmv), & [US HUD- Manufactured Housing FAQ](http://www.hud.gov/offices/hud-ohd/secretariat/pressroom/20110801.htm)

How do you evidence affixture?

- Affix the manufactured/mobile home to real property by:
 - Removing the home's wheels;
 - Setting the home on a foundation; and,
 - Connecting the home to utilities.
- If titled, file an [Acknowledgment of Manufactured Home Title Surrender](http://www.wisconsin.gov/dmv) with the Wisconsin Department of Safety & Professional Services, Manufactured Homes Unit. See [WI ST 70.043](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%2070.043) and [WI ST Tax 11.88](http://legis.wisconsin.gov/statutes/statute.do?statute=WI%20ST%20Tax%2011.88)

What are the common endorsements?

- ALTA 7-06 (owner's & loan policies), 7.1-06 (loan policy - conversion), and 7.2-06 (owner's policy - conversion). See these WI Endorsements at: [WFG Underwriting-Wisconsin](http://www.wfg.com)

MARIJUANA/CANNABIS PROPERTIES

Will WFG insure these properties?

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

MARITAL RIGHTS

What marital rights exist?

- Community Property rights. See [WI ST Chapter 766](#)
- Homestead rights. See [WI ST 706.02](#)

Who is required to sign the mortgage on homestead property?

- Both spouses are required to sign the mortgage if the property is the homestead of the titled spouse.

What are the exceptions?

- Purchase Money Mortgage.
 - If the spouse is not being added to title and the mortgage is a purchase money mortgage, the spouse does not need to join.
- Conveyances between spouses.
 - Both spouses do not need to join on the deed if one spouse is conveying to the other.

What if the non-titled spouse resides elsewhere?

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

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

- No. Spouse must sign.

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

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

MARKETABLE TITLE

What is the marketable record title period?

- 40 years for easements and covenants.
- 30 years for all other interests.
 - See [WI ST 893.33](#)

MECHANIC'S LIENS

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

- 6 months from the date the lien claimant last performed, furnished, or procured the last labor, services, materials, plans, or specifications. See [WI ST 779.06](#)

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

- 2 years from the date the Claim of Lien is filed. See [WI ST 779.06](#)

MORTGAGES

What is the statute of limitations for a mortgage?

- 30 years from the date of recording unless a notice of interest is recorded. See [WI ST 893.33](#)

What mortgage theory does Wisconsin recognize?

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

MUTUAL INDEMNITY AGREEMENT

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

- No.

N

O

OIL, GAS, & MINERAL RIGHTS

Do oil, gas, and mineral rights issues arise?

- Yes.

Is there a general exception?

- Standard exceptions for oil, mineral, and gas rights are not available on an owner's policy. They are only available on a loan policy. See [WFGNTIC WI Bulletin 2014-1](#)

OVER THE LIMIT REQUESTS

What is the process for submitting to WFG?

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

P

PACA & PSA

What is PACA?

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

What is PSA?

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

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

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

Is a PACA/PSA exception necessary?

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

PLATS

What is a plat/plat map?

- A map dividing a parcel of land into lots (e.g. subdivision).

Where can I find plat maps?

- See [Platbooks and Land Ownership Maps – State Cartographer's Office](#) and [MPL Wisconsin Land Ownership Map/Plat Finding Tool](#)

POAs

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

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

Can durability be presumed?

- A POA created under the Uniform Power of Attorney for Finances and Property Act is presumed durable unless the POA expressly provides otherwise. See [WI ST 244.04](#)

Are witnesses required?

- No. Only a notary acknowledgment is required. See [WI ST 244.05](#)

Is there a statutory POA form?

- Yes. See [WI ST 244.61](#) for the statutory POA form for Wisconsin.

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

- If it's a POA created under the Uniform Power of Attorney for Finances and Property Act it does not need to expressly state the powers to convey and encumber for those powers to be exercised. Language granting general authority regarding real property allows the agent to exercise all powers under [WI Statute 244.44](#).

Should a POA be recorded?

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

Any WFG education on POAs?

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

POLICIES

What are common title insurance policies?

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

What happens when multiple policies are issued?

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

Are there WFG guidelines for replacement policies?

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

PROPERTY TAXES

What priority do real property taxes have?

- Generally, real property taxes have priority over recorded liens regardless of recording priority. See [WI ST 70.01](#)

When are real property taxes typically due?

- In Wisconsin, taxes need to be paid in one of two ways:
 - (a) In full on or before January 31; or,
 - (b) In 2 equal installments, with the first installment payable on or before January 31 and the 2nd installment payable on or before July 31. See [WI ST 74.11](#)

Do any real property tax exemptions exist?

- Yes. See [WI ST 70.11](#)

Where can I find more information on real property taxes?

- See [WI ST Chapter 70](#) and [WI ST Chapter 74](#)

Q

QUIET TITLE

Is quiet title an available action?

- Yes. See [WI ST 841.01](#)

R

RAILROAD TITLE

What kind of ownership does a railroad have?

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

What happens if a railroad abandons a right of way?

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

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

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

RATES

How are rates regulated?

- Rates are filed with the Wisconsin Office of the Commissioner of Insurance.

What are common commercial and residential rates?

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

REAL ESTATE BROKERS & SALESPERSONS

How are real estate brokers and salespersons regulated?

- Under The Real Estate Practice Code and the WI Department of Safety and Professional Services. See [WI ST Chapter 452](#) and [Department of Safety and Professional Services- Real Estate Broker](#)

RECEIVERSHIP

What is a real estate related receivership?

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

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

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

RECORDING

Where are documents recorded?

- The County Register of Deeds. See [Wisconsin Register of Deeds Association](#)

What are commonly recorded documents?

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

What type of recording priority is recognized?

- Race-notice, which gives priority to who records first, so long as that party lacked notice of prior unrecorded claims. See [WI ST 706.08](#)

What are the recording requirements?

- Every county in Wisconsin has different recording requirements. We recommend visiting the specific county's Register of Deeds website to view their specific requirements for recording. Also, See [Standard document format for Wisconsin real estate recordings](#)

Is there any statutory authority on corrective instruments?

- Yes. See [Wisconsin Legislature: 706.085](#)

RON

Has RON been adopted?

- Yes.

S

SEARCH STANDARDS

Does WFG have guidelines on search standards?

- Standard search for 1-4 residential is 60 years. Please see underwriter for additional questions.

SHORT SALES

Are there any WFG guidelines for short sales?

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

SPLIT CLOSINGS

Who facilitates what?

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

SURVEYS

Are there any specific survey requirements?

- Yes. See [WI Housing and Economic Development Authority- Land Survey Requirements](#)

Is a survey required to issue the ALTA 9 endorsement?

- Generally, yes.

T

TAX LIENS

What is the statute of limitations for state tax liens?

- 20 years. See [WI ST 71.91](#)

TAX SALES

What does a tax sale look like?

- On September 1st of each year the County Treasurer issues a Tax Certificate for any property delinquent on their property taxes. If the tax certificate is not paid within 2 years the county can foreclose on the property and sell it at public sale.
- The specific tax sale foreclosure procedure can be found in [WI ST 75.521](#)

How are tax sales insured?

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

Is there any way to redeem?

- Yes. The property owner has eight weeks from the first publication of the notice of tax foreclosure to redeem the property by paying the delinquent taxes and interest for the delinquent tax years. If full payment is received, a redemption certificate is filed with the Clerk of Courts. See [WI ST 75.521\(6\)](#)

TENANCIES

What tenancies are common?

- a) **Tenancy in Common:** The default tenancy if no tenancy expressly stated and grantees are not married. See [WI ST 700.17](#)
- b) **Joint Tenancy:** A tenancy that must be expressly stated, in which two or more persons hold equally a non-divided share in property, and upon the death of a joint tenant that tenant's interest passes automatically to the surviving joint tenant. See [WI ST 700.19](#)
- c) **Survivorship Marital Property:** A tenancy that must be expressly stated, in which spouses hold title. On the death of a spouse, the ownership rights of that spouse in the property vest solely in the surviving spouse by non-testamentary disposition at death.

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

- They are considered to be joint tenants. See [WI ST 700.19](#)

Any WFG education on tenancy?

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

TRANSFER ON DEATH DEEDS

Are they recognized?

- Yes. See [Wisconsin Legislature: 705.15](#)

TRANSFER TAX

Is there deed property transfer tax (revenue stamps)?

- Yes. See [WI ST 77.21 et seq.](#)

What transfer tax exemptions exist?

- See [WI ST 77.25 et seq.](#) for all transfer tax exemptions.

Is there a mortgage tax?

- No, Wisconsin does not have a mortgage tax.

TRUSTS

Is a Certificate of Trust used?

- Yes. See [WI ST 701.1013](#)

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

- Yes.

Any WFG education on Trusts?

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

U

UNAUTHORIZED PRACTICE OF LAW

Is there statutory authority on UPL?

- Yes. See [WI ST 757.30.](#)

Is it considered UPL to prepare deeds without an attorney?

- Yes. See [WI Bar Ethics Opinion E-97-1](#)

USURY

What are the Usury guidelines re: interest rate?

- See [WI ST 138.05](#) for WI Usury Guidelines.

V

W

WATER (RIPARIAN) RIGHTS

What kind of water rights exist?

- Riparian rights, related to land bordering a river, and Littoral rights, related to land abutting a lake. Riparian rights encompass both riparian and littoral rights in Wisconsin. An owner of property on one of the Great Lakes owns to the water's edge. Riparian rights are not alienable, severable, divisible, or assignable. Note, riparian rights apply to watercourse, but not surface waters. No riparian rights attach to land abutting artificial bodies of water.

Do water rights change?

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

What is the Public Trust Doctrine?

- Recognizes that large bodies of navigable water are natural resources for public use and enjoyment. It applies to the Great Lakes, so the public may walk along the shoreline below the ordinary high water mark.

Are there exceptions for water rights?

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

Any WFG education on water rights?

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

X

Y

Z

ZONING

Any helpful resources on zoning?

- See [WI State Law Library- Land Use/Zoning](#)

Other Helpful Links:

[Wisconsin Land Title Association](#)

[Real Property Law - Wisconsin State Law Library \(wilawlibrary.gov\)](#)

NOTE: The information contained in this underwriting guide is current as of August 15, 2022. It contains general information and guidelines for issues that arise during title insurance transactions in the State of Wisconsin. If you need clarification or have any questions regarding how these guidelines apply to your specific real estate transaction, please contact your WFG underwriter. This underwriting guide is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents, affiliates of its title insurance agents, and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

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