



# MICHIGAN A - Z UNDERWRITING GUIDE

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# A

## **ACKNOWLEDGMENTS**

### **What is the General Rule for acknowledgements?**

- All documents that are to be recorded must be acknowledged by a notary public. A county will not record documentation (deeds, mortgages, POAs, etc.) that is not acknowledged by a notary public. See [MCL 565.47](#)

### **Do all Affidavits need to be notarized?**

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

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

- A notary stamp/seal is not required for a valid acknowledgement, but it is preferred.
- **NOTE:** If the document is being recorded in another state, the lack of a seal may affect the acceptability of a document in other states, or the presumptions given to that notarization.

## **ADVERSE POSSESSION**

### **How is Adverse Possession established?**

- To establish adverse possession, an individual must demonstrate possession of the real property for a period of 15 years and that the possession has been actual, visible, open, notorious, exclusive, continuous, hostile and under a cover or claim of right. See [MCL 600.5801\(4\)](#). Also, numerous notable cases on adverse possession exist. A few include: [Rose v. Fuller \(1970\)](#), [Rozmarek v. Plamondon \(1984\)](#), [Mackinac Island Development Co. v. Burton Abstract & Title Co. \(1984\)](#), [Macqueen v. Black \(1988\)](#), [Davids v. Davis \(1989\)](#), and, [Beach v. Twp of Lima \(2010\)](#)

### **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. See [MCR 3.411](#) and [MCL 600.2932\(1\)](#)

## **AFTER-ACQUIRED TITLE**

### **Is the doctrine of After-Acquired Title recognized for vesting?**

- Yes. If grantor by Warranty Deed conveys what grantor does not own and subsequently acquires title, it inures to the benefit of the grantee. A QCD cannot operate to convey after acquired title. See [Richards v. Tibaldi, 272 Mich.App. 522](#).

### **Is the doctrine of After-Acquired Title recognized for mortgage validity?**

- Yes. Where a mortgage is executed by borrower before they have acquired title it is a valid lien once they acquire title, subject to intervening issues. See [MLTS 16.1](#)

## **ASSESSMENTS**

### **Are there special assessment liens?**

- Yes, a lien of special assessment has the same effect as a property tax lien and must be addressed. These are not recorded and are sometimes paid through the taxes, but not always. Must check with the municipality. See [MCL 41.721, et seq.](#) and [MCL 41.428](#)
- Some notable special assessments are included in [MCL 41.288, MCL 41.801, et seq., MCL 41.271, et seq.,](#) and [MCL 41.411, et seq.](#)

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

- Yes, there are PACE liens in Michigan. See [Lean & Green Michigan™ - Michigan's Energy Finance Marketplace™ \(leanandgreenmi.com\)](#)

### **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 Schedule and Discharge
  1. Michigan specific rule under [MCL 600.2809](#)
  2. Must record a copy of both the Schedule from the bankruptcy petition showing the judgment creditor/debt and a copy of the bankruptcy discharge in the county records.

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

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

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

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

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

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

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

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

### **What if the bankruptcy has been dismissed?**

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

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

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

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

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

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

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

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

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

# **C**

## **CHILD SUPPORT LIENS**

### **What is the statute of limitations for Child Support Liens?**

- There is no statute of limitations. Once a lien for delinquent child support is recorded the lien needs to be addressed. See [MCL 552.625](#)

## **COMMITMENT**

### **Where can you find WFG's commitment form?**

- <https://wfgunderwriting.com/michigan>
- In 2021, ALTA issued a new version of the Commitment for Title Insurance. New forms should be available in 2022.

## **CONDOS**

### **What are the statutes that govern condominiums?**

- Condominiums in Michigan are governed by the Condominium Act 59 of 1978. They are established via Master Deed per [MCL 559.101, et seq.](#) Also, See [MLTS XXVIII](#)

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

- There is no statute of limitations on a Condominium lien in Michigan. See [MCL 559.208](#)

### **Do Condominium Liens have a “super priority”?**

- Yes and no. A condominium lien has priority over all other liens, with the exception of a first mortgage of record or tax lien.
- However, pursuant to [MCL 559.208](#), a condominium lien has priority over a first mortgage of record if it was recorded before the first mortgage was recorded.
  - **NOTE:** A condominium lien loses its priority over junior mortgages and judgment liens if the association accepts a deed in lieu of foreclosure.

## **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. A transaction specific Order is required for a conservator to conduct real property transactions on the incapacitated individual's behalf. See [MCL 700.5423](#)



## **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.

### **Where can I find additional information on covenants and restrictions?**

- Chapter 30 of the [MLTS](#)

## **D**

### **DECEDENT'S ESTATES**

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

- Titleholder dies testate (with a will).
  - a. Will needs to be submitted to probate. Executor/Personal Representative needs to be appointed and Letters of Authority should be issued.
- Titleholder dies intestate (without a will).
  - a. Estate needs to be probated. Personal Representative needs to be appointed and Letters of Authority should be issued.
  - b. Intestate Succession references can be found under [MCL 700.2102 Intestate Share-Spouse](#) and [MCL 700.2103 Intestate Share Other Than Spouse](#)

#### **What documentation should be obtained for an estate review?**

- At minimum, the Petition for Probate, Will (if there is one), Letters, and Inventory need to be reviewed. Confirm Letters of Authority are not restricted and don't require an additional court order to distribute the property. The powers and duties of the Personal Representative/ Executor can be found in [MCL 700.3701, et seq.](#)

#### **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.
  - **Exception:** If the sale is self-serving with the PR as the buyer, the heirs/devisees need to join on the deed or a court order to sell is needed. See [MCL 700.3713](#)

## What are Alternate Avenues to Probate?

- A Petition and Order of Assignment under [MCL 700.3982](#) is an option if the estate meets the requirements.
  - The approved Order and evidence of value of the estate being 15k or less should be reviewed.
    - A Certified Order would need to be recorded.
- In rare circumstances, Affidavits of Heirship can be relied upon. Contact underwriting to review.
- A Small Estate Affidavit under [MCL 700.3983](#) **cannot** be used to transfer real property.

## Is there estate or inheritance tax?

- No, there is no state estate or inheritance tax in Michigan.
- **NOTE:** Estates are still subject to federal estate tax if they meet the amount threshold.

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

- Creditors have 4 months from the Notice to Creditors publication to file claims against the estate. See [MCL 700.3803](#)
- If a claim is filed against the estate it will need to be addressed to insure the transaction.

## Can creditors still make a claim against the estate if Notice to Creditors is not published?

- Yes, creditors have 3 years from the date of the decedent's death to file a claim against the estate if they are not given notice.

## DEEDS

### What are some common types of Deeds?

1. Warranty Deed
2. Quitclaim Deed
3. Ladybird Deed
4. Sheriff's Deed
5. Deed in fulfillment of a land contract
6. Personal Representative/Fiduciary Deed

### Where can I find more information on specifics for Warranty Deeds or Quitclaim Deeds?

- For Warranty Deeds, See [MCL 565.151](#) & [MCL 750-275](#)
- For Quitclaim Deeds, See [MCL 565.152](#)

## DIVORCE

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

- Yes. A Judgment of Divorce or Separate Maintenance can be recorded in lieu of a deed in Michigan. It must clearly identify the property, clearly award the subject property to a party, and contain language authorizing the Judgment of Divorce or Separate Maintenance to be operate as a conveyance. See [MCL 552.104](#), [MCL 552.401](#) & [MCL 552.402](#)

## **Is a legal description required for a judgment of divorce to transfer an interest in lieu of a deed?**

- No. A legal description, while preferred, is not required for the judgment of divorce to operate as a conveyance in Michigan.

## **Does a divorce sever a joint tenancy or TBE held between spouses?**

- Yes. A divorce severs a joint tenancy or tenancy by the entirety held between spouses, creating a tenancy in common between them. See [MLTS 6.14](#) & [MCL 552.102](#).

## **What about liens? Appeals?**

- A divorce decree should be reviewed to confirm there were no liens granted on the property by the court. If so, release of lien is needed.
  - Generally, a general grant of alimony or child support does not create a lien, unless there is specific language stating it's a lien against the paying party.
- If there's money owed to an ex-spouse for their interest in the property or a general equitable distribution payment, then proof of payment to the ex-spouse should be confirmed.
- The appeal period for a Judgment of Divorce is 21 days. This is more of an issue when the divorce is contested. It's less of an issue in divorces where there is a property settlement agreement and both parties have consented to the divorce.

# **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. See [MLTS Chapter XIV](#)

## **ENDORSEMENTS**

### **Where can I find what endorsements are available?**

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

## **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 Michigan, The Department of Licensing and Regulatory Affairs (LARA) governs entities. See [LARA Entity Search](#)

### **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 [MCL 450.1101, et seq.](#) & [MLTS Chapter X](#)

- LLC
  - Generally, look to a combination of Articles of Organization, Operating Agreement, and Resolution signed by all members. See [MCL 450.4101, et seq.](#) & [MLTS 29.1](#)
- General or Limited Partnership
  - Review of Partnership Agreement. See [MCL 449.1](#) and [MCL 449.1011, et seq.](#) & [MLTS Chapter XI](#)

## **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**

### **Where can you find the standard Exceptions?**

- See Guideline “Michigan Standard Exceptions” at [WFG Underwriting- Michigan](#)

### **What is required to delete Standard Exceptions?**

- See Guideline “Michigan Requirements to Delete Standard Exceptions” at [WFG Underwriting- Michigan](#)

# 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.

### **Where can I find more information on Federal Tax liens regarding attachment, TBE held property, etc.?**

- See [Chapter 20 of the MLTS](#) for various scenarios relating to Federal Tax Liens.

## **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 [MCL 440.9515](#)

### **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 an option?**

- Both Judicial foreclosures and (Non-Judicial) Sheriff's Sale foreclosures are an option in Michigan. Sheriff's Sale foreclosures are the most common.

### **What is a Sheriff's Sale Foreclosure?**

- Also known as Foreclosure by Advertisement. Applicable statutory provisions can be found in [MCL 600.3201, et seq.](#)

### **What is the redemption period on a property sold at Sheriff's Sale?**

- General redemption period is 6 months from date of Sheriff's Sale. See [MCL 600.3240](#)
  - Exception: If the Sheriff's Deed is recorded more than 20 days after the Sheriff's Sale the redemption period runs from the date of recording of the Sheriff's Deed. See [MLTS 16.28](#)
- Can be shortened by the mortgagee to 30 days from the Sheriff's Sale if the property is deemed abandoned under [MCL 600.3241](#) or [MCL 600.3241a](#)
- Can be shortened by a third party purchaser via the procedure under [MCL 600.3238](#) if the property meets the requirements under the statute.
- If property is properly redeemed, a Certificate of Redemption is recorded.

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

- Sheriff's Sale purchaser takes title subject to any interests senior to the foreclosed mortgage.

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

- Yes, IRS must be given specific notice of foreclosure. See [https://www.irs.gov/irm/part5/irm\\_05-012-004](https://www.irs.gov/irm/part5/irm_05-012-004)

**What if there is a Condo/HOA lien? Does the Association need notice?**

- No, however notice must be sent by first class mail to the last known address of the co-owner at least 10 days in advance of commencement of the foreclosure proceeding. See [MCL 559.208\(3\)\(c\)](#).

**Is a Mortgage Foreclosure Guarantee and Commitment for Title Insurance an available product?**

- Yes. See [WFG Underwriting- Michigan](#) for forms and rates

**FORMS**

**Where can you find common WFG Forms?**

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

**G**

**H**

**HOMEOWNER ASSOCIATIONS (HOAs)**

**What section of Michigan law governs HOAs?**

- The Michigan Nonprofit Corporation Act. See [MCL 450.2101, et. seq.](#)

**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?**

- There is no statute of limitations on a HOA lien in Michigan. All Claims of Lien will need to be addressed.

**I**

# J

## JUDGMENTS

### **What is the statute of limitations for judgments?**

- Judgments are a lien on real property for 5 years from the date of recording. See [MCL 600.2809](#)
  - Judgments in Michigan technically have a 10 year statute of limitations, but are only a lien on real property once recorded in the land records.
    - That lien lasts for either 5 years from the date of recording or the end of the 10 year period, whichever comes first.
      - Example: A judgment is entered by the court in 2000. If the judgment is recorded in 2008, the judgment lien will expire in 2010, not 2013.

### **Can Judgment liens be renewed?**

- Yes, Judgment liens can be renewed once by re-recording the judgment. Extends the judgment either an additional 5 years or until the end of the 10 year period, whichever comes first.

### **Does an active bankruptcy toll the statute of limitations on a judgment?**

- No, aside from the federal tolling under [Bankruptcy Code USC 108\(c\)](#), there is no additional tolling granted in Michigan during an automatic bankruptcy stay.

### **Is there TBE judgment protection?**

- Yes. If spouses take title as TBE and a judgment against only one spouse is recorded, that judgment does not attach as long as the parties continue to hold title as TBE.
  - If the parties divorce or the non-debtor spouse dies, the judgment attaches.

# K

# L

## LADYBIRD DEEDS

### **What is a ladybird deed?**

- If a deed conveys a life estate interest with a recital specifically giving the life estate holder the right to mortgage/sell/convey etc. then the life tenant can mortgage/sell/convey without joinder of the remaindermen. A ladybird deed is also referred to as an enhanced life estate deed. See [MLTS 9.3](#)

### **How should title be vested if there's a ladybird deed?**

- If a ladybird deed is the last deed of record then only the life estate holder should be vested on Schedule A via the ladybird deed. The remaindermen should not be shown on vesting.

## **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. See [MCL 565.351](#)
- Ideally, at minimum, a Memorandum of LC should be recorded.

### **Does a lien against the land contract purchaser attach to the property?**

- Yes. A lien against the land contract purchaser does attach to their equitable interest.

### **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.

## **LEASES**

### **Are leaseholds recognized?**

- Yes. Leasehold estates are recognized, but not very common in Michigan. Additional information can be found in [Chapter 27 of the MLTS](#)
- A memorandum of lease can be recorded in lieu of the full lease.

## **LEGAL DESCRIPTIONS**

### **What legal description system is used?**

- 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 called the Michigan meridian. Michigan meridian runs through the center of the Lower Peninsula.

### **What types of legal descriptions are there?**

1. Metes & Bounds
  - Describes property with courses and distances that begin at a certain point and follow back to point of beginning.
2. Lot & Block
  - Property may be described by reference to plat. See [MCL 560.101, et seq.](#)
3. Condominiums
  - Reference unit number and master deed.

## **LICENSING**

### **Who handles title insurance licensing?**

- Title insurance licensing is handled by the Michigan Department of Financial and Insurance Services. <https://www.michigan.gov/difs/>



## Where can I find guidelines on title agency licensing?

- [DIFS-Title Agency Licensing](#)

## Where can I find guidelines on individual title producer licensing?

- [DIFS- Title Producer Licensing](#)

## LIENS

### What are the statute of limitations for common liens?

- Durations for various liens can be found at [WFG Underwriting-Michigan Real Estate Lien Guide](#)

## LIS PENDENS

### What is the statute of limitations for a Lis Pendens?

- 3 years from recording, can be extended if necessary. See [MCL 600.2715](#)

# M

## MANUFACTURED/MOBILE AND MODULAR HOMES

### What are the basic characteristics?

- Manufactured or Mobile Home:** 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 are issued a certificate of title. Mobile home is defined in [MCL 125.2302](#)
- Modular Home:** 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 [SOS - Mobile Home Titles & https://www.michigan.gov/lara/0,4601,7-154-89334\\_10575\\_17394\\_81070---,00.html](#)

### How do you evidence affixture?

- Affix the manufactured/mobile home to real property by:
  - Removing the home's wheels, towing hitches and running gear;
  - Setting the home on a foundation or other permanent support system; and,
  - Connecting the home to utilities.
- If a certificate of title exists, it is to be cancelled via filing application for affidavit of affixture of mobile home. Once the application is approved, it is to be recorded with the Register of Deeds. See [Michigan Affidavit of Affixture of Mobile Home Application](#)

### What happens if a certificate of title is lost?

- Effective June 13, 2022, if the certificate of title doesn't exist but the manufactured or mobile home title has been located on the property for at least 15 years, then recent Michigan law allows for an Affidavit of Missing Mobile Home title to be submitted if all conditions on Affidavit are met, with the Application for Affidavit of Affixture. See [MCL 125.2330k & Affidavit of Missing Home Title](#)

## 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 MI Endorsements at <https://wfgunderwriting.com/michigan>

## **MARIJUANA/CANNABIS PROPERTIES**

### Will WFG insure these properties?

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

## **MARITAL RIGHTS**

### What marital rights exist?

- Homestead, which is the surviving spouse's right to the homestead after spouse dies. Homestead is an estate of inheritance. See [MCL 600.6023](#) and [MLTS 5.1 & 5.2](#). Dower was abolished 4/7/17, so it only attaches to real property where a husband died before 4/6/17. See MI Bulletin MI 2017-02 at [WFG Underwriting-Michigan](#)

### Who is required to sign the mortgage on homestead property?

- Both spouses are required to sign a mortgage on a refinance of their homestead/primary residence, even if the residence is owned by only one spouse.

### 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?

- Generally, no. However, if the subject property is not the homestead of the non-titled spouse contact underwriting for an insurance risk decision.

## **MARKETABLE TITLE**

### What is the marketable record title period?

- Generally, an unbroken chain of record title for 40 years. At least 20 years for mineral interests defined in MCL 565.101(a). Cannot have anyone in hostile possession of the land. Pay close attention for recorded notices of interest that may impact these periods. See Marketable Record Title Act at [MCL 565.101 et seq.](#) and [MLTS Chapter 1](#).

## **MORTGAGES**

### What is the statute of limitations for a mortgage?

- 30 years from maturity. If no maturity date, 30 years from recording date. See [MCL 565.382](#), [MCL 565.44 \(2\)](#), and [MLTS 16.10](#).

### What mortgage theory is recognized?

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

## **MUTUAL INDEMNITY AGREEMENT**

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

- Yes. Check with your WFG underwriter on if it's applicable based on the underwriters and defects involved.

### **Where can I find a copy of the MIA?**

- See "MI 2019-02" bulletin at [WFG Underwriting- Michigan](#)

## **N**

### **NEW CONSTRUCTION**

### **What are the state new construction guidelines?**

- See Guideline "Michigan New Construction" at [WFG Underwriting- Michigan](#)

## **O**

### **OIL, GAS, & MINERAL RIGHTS**

### **Do oil, gas, and mineral rights issues arise?**

- Yes. Michigan has a dormant Oil & Gas lease law which may eliminate oil and gas (but not other mineral) interests if not of record or actively used for 20 years. Strict requirements apply. See [MCL 554.291](#) & [MLTS 15.4](#).

### **Is there a general exception?**

- Yes. Can be deleted with 40 year search in property tract index of oil/gas/mineral title showing no interests outstanding. If there is no property tract index, would require search Federal Loan Patent.

### **OVER THE LIMIT REQUESTS**

### **What is the process for submitting to WFG?**

- See WFG MI Bulletin at [WFG Underwriting- Michigan](#)

## **P**

### **PACA & PSA**

### **What is PACA?**

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

## What is PSA?

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

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

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

## Is a PACA/PSA exception necessary?

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

## PLATS

### What is a plat/plat map?

- A map dividing a parcel of land into lots (e.g. subdivision). See special plat considerations in [MLTS Chapter XIII](#)

### Where can I find plat maps/books?

- See [Michigan- General Land Office Plats](#) & [How to Search for the State of Michigan Plat Maps](#)

## POAs

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

- You may run into a general or limited/specific POA, an immediate or springing POA, a durable or non-durable POA, military, etc. See [https://www.michbar.org/public\\_resources/probate\\_dpoa](https://www.michbar.org/public_resources/probate_dpoa)

### Can durability be presumed?

- No. See [MCL 700.5501\(1\)](#) & [MCL 700.5502](#), and [MLTS 3.16](#)

### Are witnesses required?

- No. Only a notary acknowledgement is required.

### Is there a statutory POA form?

- No, but there is a statutory form of acknowledgement that agent is required to sign. See [MCL 700.5501\(4\)](#)

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

- Yes. See [MLTS 3.17](#)

**Should a POA be recorded?**

- Generally, yes, if using POA to sign recordable docs.

**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 [MCL 205.29](#)

**When are real property taxes typically due?**

- Summer taxes are due July 1, and to avoid penalty must be paid no later than September 14. Winter taxes are due December 1, and to avoid penalty must be paid no later than February 14. See [MCL 211.44, et seq.](#)

**Do any real property tax exemptions exist?**

- Yes. See [MCL 211.7](#), et seq.

**Where can I find more information on real property taxes?**

- See [The General Property Tax Act MCL 211.1 – 211.157](#)

**PUDs**

**What are the basics of PUDs?**

- See [MI PUD Basics](#) & [MCL 125.3503](#)

# Q

## QUIET TITLE

### Is quiet title an available action?

- Yes, this is an equitable action filed in Circuit Court. A Court Order quieting title should be carefully reviewed for insurability and ultimately recorded. See [MCL 600.2932](#)

# 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. See [Quinn v. Pere Marquette Ry.](#) (1931) and [Michigan Department of Natural Resources v. Carmody Lahti Real Estate Inc.](#) (2005). **Note, for railroad exam you will need to complete chain of title generally dating back as early as the 1830s. Documents can be very hard to read.**

### What happens if a railroad abandons a right of way?

- Federal law requires a railroad obtain permission from Surface Transportation Board. Also, they need to give notice of abandonment to MDOT or MDNR and state has first right of refusal to obtain the abandoned right of way. See [MCL 474.51, et seq.](#)

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

- Consult your WFG underwriter and See:
  - State Transportation Preservation Act: [Michigan Legislature - Act 295 of 1976 - MCL Act 295 of 1976](#)
  - Railroad Code: [MCL Act 354 of 1993](#)
  - [MLTS 9.13](#)
  - [Michigan Railroads](#)
  - [Michigan Railroad Association](#)
  - [Surface Transportation Board](#)
  - [US Department of Transportation](#)

## RATES

### How are rates regulated?

- Via the MI Department of Insurance and Financial Services. Michigan is a filed rate state. See [DIFS - Insurance Product Filing/Review \(michigan.gov\)](#)

### What are common commercial and residential rates?

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

## **REAL ESTATE BROKERS & SALESPERSONS**

### **How are real estate brokers and salespersons regulated?**

- Under the Occupational Code. See [MCL 339.2502, et seq.](#)

### **What are common associations that realtors may belong to?**

- a) Michigan Realtors®. See <https://www.mirealtors.com/>
- b) Greater Metropolitan Association of Realtors®. See <https://gmaronline.com/>
- c) National Association of Realtors. See <https://www.nar.realtor/>

## **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. See Receivership Act, Act 16, of 2018, [MCL 554.1011, et seq.](#)

### **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**

### **What recording indexes are common?**

- a) Grantor-Grantee: See <https://www.oakgov.com/clerkrod/property-and-land/units/Pages/grantor-grantee.aspx>
- b) Tract: See <https://www.oakgov.com/clerkrod/property-and-land/units/Pages/tract-index.aspx>

### **Where are documents recorded?**

- County Register of Deeds.

### **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 [MLTS 3.18](#)

### **What are common recording requirements?**

- See [MCL 565.201](#)

## RON

### **Has Michigan adopted RON?**

- Yes. See [WFG Underwriting- Michigan RON Bulletin](#) & [Michigan E-Notary and Remote Notarization Guide](#)

## S

### SEARCH STANDARDS

#### **Does WFG have guidelines on search standards?**

- Yes. See MI Search Standards at [WFG Underwriting- Michigan](#)

### 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

#### **What are the survey requirements?**

- See Guideline "Michigan Survey Requirements" at [WFG Underwriting- Michigan](#)

#### **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?**

- 7 years after date of attachment, but can be extended for another 7 years. See [MCL 205.29](#)

#### **Is there TBE debt protection?**

- Yes.



## TAX SALES

### What does a tax sale look?

- There's a 3 year process to collect delinquent property taxes. If the taxes are not paid, the process results in ownership to County via foreclosure Order, which is then subject to auction. See [MCL 211.78 et seq.](#)

### 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, and owner would obtain a redemption certificate as evidence. Note, owner can't redeem following completed foreclosure where 21 day appeal period has ran. See [MCL 211.78\(g\)](#)

### What are some helpful additional resources on tax sales?

- See [Michigan Dept of Treasury- Taxes](#) and [2021 Michigan Tax Foreclosure Timeline](#)

## TENANCIES

### What tenancies are common?

- a) **Tenancy in Common:** The default tenancy if no tenancy expressly stated and grantees are not married. See [MLTS 6.1](#)
- 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 [MLTS 6.1 & 6.2](#)
- c) **Joint Tenancy with Right of Survivorship:** This is different than Joint Tenancy. A tenancy that must be expressly stated, in which two or more persons hold title and does not allow for severance by one JTROS. In other words, to sever a JTROS requires an act of all co-owners. This tenancy essentially creates a joint life estate with a dual contingent remainder. See [MLTS 6.4](#)
- d) **Tenancy by the Entirety:** Tenancy held by married couple. TBE can be presumed, even when married couple take title with other grantees without other tenancy stated. See [MLTS 6.1, MLTS 6.5, and MLTS 6.7](#)

### 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?

- No. Instead you will commonly see ladybird deeds, which are essentially an enhanced life estate.

## TRANSFER TAX

### Does Michigan have deed property transfer tax (revenue stamps)?

- Yes. County transfer tax and State transfer tax. See [MCL 207.504](#) and [MCL 207.525](#)

### **What transfer tax exemptions exist?**

- a) County: See [MCL 207.505](#)
- b) State: See [MCL 207.526](#)

### **Is there a mortgage recording tax?**

- No, but there is a \$30 flat fee for recording a mortgage. See [MCL 600.2567\(1\)\(a\)](#).

## **TRUSTS**

### **Is a Certificate of Trust used?**

- Yes. See WFG Bulletin No. 2019-01 at [WFG Underwriting- Michigan](#) & [MCL 700.7913](#). Also generally, the [Michigan Trust Code/EPIC](#)

### **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**

### **What is UPL?**

- See <https://www.michbar.org/professional/upl>

### **Is it considered UPL to prepare deeds without an attorney?**

- No.

## **UNIFORM TRANSFER TO MINOR'S ACT**

### **Are there guidelines for transfers of property to minors?**

- Yes. See [MCL 554.521, et. seq.](#)

## **USURY**

### **What are the Usury guidelines re: interest rate?**

- Usury cap is 25% annually, or the equivalent rate for a longer or shorter period. See [MCL 438.41](#)

# 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 Michigan. 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. See [MLTS 24.4](#)

### **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. See [Glass v. Goeckel, 437 Mich. 667](#) (2005)

### **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

Is there any statutory authority on zoning?

- Yes. See the Michigan Zoning Enabling Act (MZEA) in [MCL 125.3101, et seq.](#)

### OTHER HELPFUL LINKS:

**WFG Michigan Underwriting Webinars:**

<https://wfgagent.com/webinars/?category=mi-ce-classes>

**Michigan Compiled Laws (MCL):**

[https://www.legislature.mi.gov/\(S\(5e2icvuve3oetk0fsll0paua\)\)/mileg.aspx?page=chapterindex](https://www.legislature.mi.gov/(S(5e2icvuve3oetk0fsll0paua))/mileg.aspx?page=chapterindex)

**Michigan Land Title Standards (MLTS):**

<https://connect.michbar.org/realproperty/publicresources/landtitle>

**Michigan Land Title Association (MLTA):**

<https://www.milta.org>

**NOTE: The information contained in this underwriting guide is current as of August 3, 2022. It contains general information and guidelines for issues that arise during title insurance transactions in the State of Michigan. 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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