

INDEX

ABBREVIATIONS.

Abstracts, 3-6.
Measurements of land, 2-15.
Name variances, 4-25.

ABSTRACTS.

See also **Title Examinations.**
Abbreviations, 3-6.
Attorneys, abstracting by, 3-11.
Definition of, 3-4.
Generally, 3-4.
Standards for title examination, 3-57.
Title reports, 3-4.
Vocabulary, 3-6.

ACCESS.

See also **Easements.**
Certificate of title, exception in,
6-127.1.
Definition, 4-32.
Driveways—
Encroachment agreement, 6-111.
Joint driveway agreement, 6-111.1.
Seller's warranty that all
improvements are within
property lines and setback lines,
6-52.
Survey certification letter, 6-112.
Easement—
Checklist, 4-32.1.
Necessary when, 4-31, 4-32.
Petition to county board of supervisors,
4-31.
Private easement necessary, when, 4-31,
4-32.
Roads, 5-10.
Public, access to, 4-31, 4-32.
Undedicated, presence of, 4-31.
Termite inspection, 4-16.

ACKNOWLEDGMENT.

Corporate documents, 3-41.
Forms—
Armed forces of United States,
acknowledgment before
commissioned officers of, 6-136.6.
Attorney in fact, 6-139.7.
Corporations, 6-139.1.
Executor, 6-139.9.

ACKNOWLEDGMENT —Cont'd.

Forms—Cont'd.
Foreign country, in, 6-139.5.
Husband and wife, 6-139.4.
Natural persons acting in their own
right, 6-139.
Notary affidavit, 6-139.10 —
6-139.13.
Partnership, limited, by general
partner, 6-139.8.
Representative capacity, persons
acting in, 6-139.2.
Subscribing witness, 6-139.3.
Generally, 4-66.
Recording statutes, general, 3-8. See
also **Recording.**
Signatures, instructions for, 4-67.

ACREAGE.

See also **Legal Descriptions.**
Acreage contract, form, 6-22.
Aliens, limitations on, 5-4.
Legal description, 1-9, 2-4.17.
Measurements of land, 2-15.
Per-acre price, 4-50.
Survey checklist, 4-31.
Survey clause, form, 6-54.

ADMINISTRATORS.

Conveyances by—
Administrator's deed, conveyance by,
private sale under court order,
6-68.
Title examination, 3-47.
Sale contract, administrator's, 6-69.

ADVERSE POSSESSION.

Affidavit of, form, 6-174.
Generally, 5-2.

AFFIDAVITS.

Adverse possession, affidavit of, 6-174.
Closing affidavit, 6-182.
Contractor's affidavit, 6-142.1 —
6-142.4.
Corporate name, 6-138.
Deeds, affidavits in, 4-63.
Generally, 4-79.
Heirship affidavit, 6-146.

AFFIDAVITS —Cont'd.

IRS, non-foreign status affidavit, 6-175.
 Lien affidavit, 6-144.
 Name affidavit, 6-145.
 Notary affidavit, 6-139.10 — 6-139.13.
 Owner's affidavit, 6-140 — 6-142.1,
 6-142.3, 6-142.4.
 Partnership affidavit, 6-143.
 RICO lien clause for affidavit of title,
 6-179.

AGENTS.

See also **Brokers.**

Escrow agent, 4-85.
 Escrow agreements, 6-161 — 6-166.
 Power of attorney, 3-35, 5-9. See also
Powers of Attorney.
 Signature and acknowledgment of agent
 of corporation, 3-8.

ALCOHOLIC BEVERAGES.

Tax liens, 3-55.

ALIENS.

Acknowledgment in foreign country,
 6-139.5.
 Holding of land by aliens, 5-4.

ANGLES.

Legal descriptions, 2-4.5.

ARBITRATION.

Forms—
 Arbitration clause, 6-86.
 Earnest money, submit dispute to
 arbitration, 6-41.

ARCS.

Legal description, 2-4.13.

ARMED FORCES.

Acknowledgment before commissioned
 officers of United States Armed
 Forces, 6-139.6.

ASSIGNMENTS.

Contract language regarding, 1-27, 1-37.
 Deeds of trust, assignments of, 4-56.
 Forms—
 Assignability clause, 6-55.
 Consent of seller to assignment, 6-94.
 Contract, assignment of, 6-93.
 Deed of trust, assignment of, 6-118.
 Lease assignment, 6-134.

ASSIGNMENTS —Cont'd.

Forms—Cont'd.
 Rents, conditional assignment of,
 6-119.

ASSUMPTION.

Cash control contract, 1-10.
 Closing, 4-5. See also **Closing.**
 Closing package, 4-34.
 Contract provision regarding, 1-10.
 Escrow account balance, transfer of in
 lieu of proration, 4-51.
 Forms—
 Cover letter—
 Lender, to, 6-169.
 Multipurpose, 6-167.
 Purchase price, payment of, 6-35.
 Warranty deed, assumption, 6-133.
 Insurance considerations at closing,
 4-44.
 Price control contract, 1-10.
 Purchase price, determination of, 4-50.

ATTORNEYS.

Abstracting by, 3-11.
 Broker, representation of, 4-2.4.
 Buyer, representation of, 4-2.2.
 Closing—
 Authority to close, 4-11.
 Broker, representation of, 4-2.4.
 Buyer, representation of, 4-2.2.
 Ceremony of closing, 4-38.
 Communication with parties, 4-10.
 Conflict of interest overview, 4-2.
 Deed of trust, cancellation of, 4-89.
 Deed, preparation of, 4-61.
 Defects in title—
 Communication with previous
 attorney, 3-7.
 Curing defects, 4-20.
 Generally, 4-20.
 Waiver of defects, 4-20.
 Disbursements by, 4-87.
 Disclosure, 4-3.
 Disposition of documents, final, 4-91.
 Education, 4-3.
 Escrow or trust account, 4-8.
 Fees, 4-46.
 Filing, 4-7, 4-37.
 Gross proceeds, determination of,
 4-40.
 Initial information, 4-9.
 IRS, reporting information to, 4-82.
 Lender, representation of, 4-2.3.
 Loan package, review of, 4-34.

ATTORNEYS —Cont'd.**Closing—Cont'd.**

Oral contracts, 4-12.

Organization, 4-7.

Proration problems, 4-40.

Record title holder, determination of, 4-28.

Recording by, 4-87.

RESPA and Reg X, responsibilities under, 4-69.

Responsibilities of, generally, 4-11.

Sales contract, responsibilities regarding, 4-12.

Seller—Nonresident, reporting information to State Tax Commission, 4-82.1.
Form, 6-153.2, 6-153.3.

Representation of, 4-2.1.

Survey—

Checklist, 4-31.

Ordering, 4-30.

Waiver of survey, 4-30.1.
Form, 6-112.1.**Taxes—**

Due, determination of, 4-51.

Proration problems, 4-40.

Title examination, ordering of, 4-17.

Title report—

Checklist, 4-19.

Name variances, 4-25.

Review of, 4-18.

Truth-in-Lending and Reg Z, closing attorney's responsibilities under, 4-75.

Unmarketable title, 4-29.

Usury, 5-14.

Waiving title defects, 4-20.

Commingle escrow funds, 4-8.

Conflict of interest overview, 4-2.

Defective title, 3-7, 4-20.

Drafting of contracts, see **Contracts**.

Escrow or trust account, 4-8.

Fees, 4-46.

Forms—

Acknowledgment, 6-139.7.

Cash payments over \$10,000, report of, 6-153.1.

Disbursement sheet, 6-113.

Earnest money payment clause, paid to attorney, 6-36.

Referral thank you letter, 6-173.

Representation letter, 6-101.

Shared fee representation letter, 6-102.

Lender, representation of, 4-2.3.

ATTORNEYS —Cont'd.

Seller, representation of, 4-2.1.

Standard of care, 1-3.

Title examinations, points to remember, 3-3. See also **Title Examinations**.**BANKRUPTCY.**

Automatic stay, 3-44.

Title examinations, 3-44.

BEARINGS.

Legal description, 2-4.4.

BLANKET DESCRIPTION.See also **Legal Descriptions**.

Generally, 2-6.

BROKERS.**Closing—**

Listing agent, 4-11.

Parties involved in, 4-11.

Representation of broker, 4-2.4.

Selling agent, 4-11.

Commission—

Contract language regarding, 1-15.

Settlement statement (HUD-1), under, 4-42.

Conflict of interest overview, 4-2.

Contracts, right to prepare, 1-2.

Disclaimers, 1-28.

Disclosure of agency, 1-6.

Earnest money, responsibility for, 1-12.

Forms—

Buyer's agent, letter to, 6-103.2.

Commission clause—

Co-op commission, 6-47.

General, 6-46.

Disclosure to buyer, 6-5.

Dual agency information, 6-8.1.

Exclusive buyer agency agreement, 6-17.

Earnest money—

Deposit into account clause, 6-37.

Payment clause, paid to broker, 6-36.

Indemnification agreement, 6-10.

Independent contractor agreement, 6-12.

Listing agreement, exclusive right to sell, 6-2.

Property management agreement, 6-13.

Referral thank you letter, 6-173.

Seller's agent, letter to, 6-103.3.

Listing agent, 4-11.

BROKERS —Cont'd.

Names and identities of parties—
 Contract provision regarding, 1-31.
 Letter requesting information from
 agent, form, 6-103.2, 6-103.3.
 Prepare contracts, right to, 1-2.
 Professional skill and care required, 1-3.
 Representation of broker by attorney,
 4-2.4.
 Representations of, contract language
 regarding, 1-26.
 Rules and regulations of real estate
 commission governing, 1-6.
 Selling agent, 4-11.
 Settlement statement (HUD-1),
 commission under, 4-42.

BUYER.

Acceptance of risks by, 4-29.
 Borrower's transaction, summary of on
 settlement statement (HUD-1),
 Section J, 4-52.
 Breach of contract, contract language
 regarding, 1-20.
 Closing—
 Communication of attorney with
 parties, 4-10.
 Parties involved in, 4-11.
 Representation of buyer, 4-2.2.
 Transactions involved, 4-6.
 Conditions and other obligations of
 grantee, 3-56.
 Costs, payment of, 1-11.
 Executory contracts, see **Contracts;**
Executory Contracts.
 First refusal, right of, see **Contracts;**
First Refusal, Right of.
 Forfeitures, 3-56.
 Forms—
 Agency agreement, exclusive, 6-17.
 Agent's disclosure to, 6-5.
 Certification of survey, 6-112.
 Closing affidavit, 6-182.
 Costs, estimated, 6-6.
 Cover letter, 6-167, 6-172.
 Earnest money, default of purchaser,
 liquidated damages, disbursement,
 6-39.
 Financial status certification, 6-158.
 Gender clause, 6-76.
 Hazardous substances certificate and
 indemnity for purchaser, 6-155.
 Information request from buyer's
 agent, 6-103.2.
 Inspection by buyer, 6-159.1.

BUYER —Cont'd.

Forms—Cont'd.
 Notice of availability of survey,
 6-112.1.
 Number clause, 6-76.
 Occupancy—
 Agreement to occupy—
 After closing, 6-15.
 Prior to closing, 6-14.
 Statement, 6-157.
 Title search, grantee's waiver of,
 6-130.
 Withholding on sale by nonresident,
 6-153.2.
 Affidavit of seller, 6-153.3.
 Gross amount due from, 4-40.
 Installment sale contracts, see
Contracts; Installment Sale
Contracts.
 Insurance premiums, 4-44. See also
Insurance.
 Names and identities of parties,
 contract provision regarding, 1-31.
 Nonresident seller, reporting information
 to State Tax Commission, 4-82.1.
 Form, 6-153.2, 6-153.3.
 Obligations of grantee, 3-56.
 Options, see **Contracts; Options.**
 Representation of, 4-2.2.
 Reversions, 3-56.
 Statement of in contract, 1-28.

CALLS.

See **Legal Descriptions.**

CAPACITY.

Acknowledgment of person acting in
 representative capacity, form,
 6-139.2, 6-139.7, 6-139.9.
 Contract, capacity to, 1-4.
 Certificate of title, exception in, form,
 6-127.1.
 Execution of deeds, 4-65.

CERCLA.

See also **Hazardous Substances.**
 Environmental concerns, 4-83.

CHAIN OF TITLE.

See **Title Examinations.**

CHANCERY COURT.

Charges for recording and transferring
 documents, 4-47.
 Claims against estate, register of, 3-27.

CHANCERY COURT —Cont'd.

Construction liens, notice of, 3-30.
Destruction of old records, 3-33.
Docket, 3-23.
General recording statutes, 3-8.
Minority, petition to remove disability of, 1-4.
Minute books, 3-24.
Newspaper files, 3-28.
Other records kept in clerk's office, 3-32.
Recently filed instruments, 3-34.
Recording documents, 4-87.
Charges for, 4-47.

CHECKLISTS.**Closing—**

Initial checklist, 4-15.
Post-closing checklist, 4-92.
Pre-closing checklist, 4-16.
Deed checklist, 4-64.
Hazard insurance checklist, 4-35.
Promissory note, checklist regarding, 4-54.
Sales contract checklist, 1-7.
Settlement statement (HUD-1) checklist, 4-39.
Survey checklist, 4-31.
Termite certificate checklist, 4-36.
Title report checklist, 4-19.

CHORDS.

Legal description, 2-4.13.

CIRCUIT COURT.

Docket, 3-39.
Judgment roll, 3-38.
Other records at clerk's office, 3-40.

CLOSING.

Acceptance of risks by purchaser, 4-29.
Access to and from property, 4-32.
Acknowledgment of instruments, 4-66.
Action log, 4-14.
Advance reserve deposits, 4-45.
Affidavits, 4-79.
Assumption closing, 4-5.
Attorney—
Authority to close, 4-11.
Ceremony of closing, 4-38.
Communication with parties, 4-10.
Deed of trust, cancellation of, 4-89.
Deed, preparation of, 4-61.

CLOSING —Cont'd.**Attorney—Cont'd.****Defects in title—**

Communication with previous attorney, 3-7.
Curing defects, 4-20.
Generally, 4-20.
Waiver of defects, 4-20.
Disbursements by, 4-87.
Disclosure, 4-3.
Disposition of documents, final, 4-91.
Education, 4-3.
Escrow or trust account, 4-8.
Fees, 4-46.
Filing, 4-7, 4-37.
Gross proceeds, determination of, 4-40.
Initial information, 4-9.
IRS, reporting information to, 4-82.
Loan package, review of, 4-34.
Oral contracts, 4-12.
Organization, 4-7.
Prorating problems, 4-40.
Record title holder, determination of, 4-28.
Recording by, 4-87.
Representation—
Broker, 4-2.4.
Buyer, 4-2.2.
Lender, 4-2.3.
Seller, 4-2.1.
RESPA and Reg X, responsibilities under, 4-69.
Responsibilities of, generally, 4-11.
Sales contract, responsibilities regarding, 4-12.
Survey—
Checklist, 4-31.
Ordering, 4-30.
Waiver of survey, 4-30.1.
Form, 6-112.1.
Taxes—
Due upon closing, determination of, 4-51.
Nonresident seller, reporting information to State Tax Commission, 4-82.1.
Form, 6-153.2, 6-153.3.
Proration problems, 4-40.
Title examination, ordering of, 4-17.
Title report—
Checklist, 4-19.
Name variances, 4-25.
Review of, 4-18.

CLOSING —Cont'd.**Attorney—Cont'd.**

Truth-in-Lending and Reg Z, closing attorney's responsibilities under, 4-75.

Unmarketable title, 4-29.

Usury, 5-14.

Waiving title defects, 4-20.

Borrower—

Disclosures to, 4-76, 4-77.

Monthly payment, computation of, 4-80.

Rescission, right of under Truth-in-Lending and Reg Z, 4-78.

Broker, representation of, 4-2.4.

Buyer—

Nonresident seller, reporting information to State Tax Commission, 4-82.1.

Form, 6-153.2, 6-153.3.

Representation of, 4-2.2.

Cash closing, 4-5.

Ceremony of, 4-38.

Certificate of title, 4-59.

Chancery court—

Charges for recording and transfer of documents, 4-47.

Recording documents, 4-87.

Checklists—

Deed checklist, 4-64.

Documents to be prepared, 4-13.1.

Initial checklist, 4-15.

Post-closing checklist, 4-92.

Pre-closing checklist, 4-16.

Promissory note, checklist regarding, 4-54.

Title report checklist, 4-19.

Closing statement, see **Settlement Statement (HUD-1)**.

Commingling escrow funds, 4-8.

Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 4-83.

Conditions, 3-56.

Condominiums, 4-27.

Conflict of interest overview, 4-2.

Copies, conformed or certified, 4-86.

Costs—

Attorney's fees, 4-46.

Definition, 1-11.

Government recording and transfer charges, 4-47.

Lender's charges, 4-43.

Pest inspection charges, 4-48.

CLOSING —Cont'd.**Costs—Cont'd.**

RESPA and Reg X, prohibited fees and kickbacks, 4-70.

Settlement statement (HUD-1), line 1400, 4-49.

Special assessments, 4-51.1.

Survey charges, 4-48.

Title charges, 4-46.

Date of, contract language regarding, 1-13.

Deeds—

Affidavits and recitals in, 4-63.

Checklist, 4-64.

Execution of, 4-65.

Form of, 4-62.

Generally, 4-61.

Deeds of trust—

Assignments of, 4-56.

Cancellations of, 4-89.

Generally, 4-55.

Power of sale, 4-57.

Release provisions, 4-58.

Defects in title, generally, 4-20.

Definition of, 4-4.

Disposition of documents, final, 4-91.

Documents to be prepared, 4-13.1.

Earnest money, disposition of, 4-52. See also **Earnest Money**.

Education and disclosure, 4-3.

Environmental concerns, 4-83.

Errors in deeds—

Curative instruments, other, 4-24.

Existing deeds of trust or liens, errors in, 4-23.

Obvious errors, 3-53.

Prior recorded deeds, errors in, correction deeds, 3-54, 4-22.

Escrow, see also **Escrow**.

Agreements, 4-85.

Generally, 4-8.

Extension of sales contracts, 4-21.

File for, 4-37.

Forfeitures, 3-56.

Forms—

Affidavit, 6-182.

Attorneys—

Buyer's agent, letter to, 6-103.2

Representation letter, 6-101.

Seller's agent, letter to, 6-103.3.

Shared fee representation letter, 6-102.

Authorization, 6-11.

Buyers' inspection, 6-159.1.

Checklist, 6-104.

CLOSING —Cont'd.**Forms—Cont'd.**

- Control sheet, 6-103.1.
- Cover letter, multipurpose, 6-167.
- Date of closing, 6-44.
 - Contingency satisfied, after, 6-43.
- Escrow closing agreement, 6-162.
- Information sheet, 6-103.
- Names to run, 6-100.
- Nonresident seller, report to State Tax Commission, 6-153.2, 6-153.3.
- Occupy, agreement to—
 - After closing, 6-15.
 - Prior to closing, 6-14.
- Possession, 6-45.
- Referral thank you letter, 6-173.
- Take-off, 6-99.
- Hazard insurance checklist, 4-35.
- Information—
 - Buyer's agent, letter to, form, 6-103.2
 - Seller's agent, letter to, form, 6-103.3.
 - Sheet, 4-13.
- Initial checklist, 4-15.
- Instructions for, 4-33.
- Insurance, considerations for, 4-44.
- Introduction, 4-1.
- IRS, reporting information to, 4-82.
- Lender—
 - Additional lender documents, 4-84.
 - Charges for closing, 4-43.
 - Disclosures required of, 4-76, 4-77.
 - Instructions from, general, 4-33.
 - Package, lender's, 4-88.
 - Representation of, 4-2.3.
 - RESPA and Reg X, prohibited fees and kickbacks, 4-70.
- Listing agent, 4-11.
 - Letter to, requesting information, 6-6-103.3.
- Loan package—
 - Lender's, 4-88.
 - Review of, 4-34.
- Loss, risk of, 1-25.
- Miscellaneous considerations, 5-1 et seq.
- More than one county, property located in, 4-26.
- Name variances on deed, 4-25.
- New loan closing, 4-5.
- Obligations of grantee, other, 3-56.
- Parties involved, 4-11.
- Possession granted on date different from closing date, 1-14.
- Post-closing checklist, 4-92.
- Pre-closing checklist, 4-16.

CLOSING —Cont'd.

- Prepayments due at, 4-45.
- Promissory note, 4-54.
- Purchase price, determination of, 4-50.
- Purpose of chapter, 4-1.
- Record title holder, 4-28.
- Refinance closing, 4-5.
- RESPA and Reg X—
 - Closing attorney's responsibilities, 4-69.
 - Controlled business arrangements, 4-70.
 - Examiner's responsibilities, 4-69.
 - Generally, 4-68.
 - Inspection right, one-day, 4-72.
 - Prohibited fees and kickbacks, 4-70.
 - Settlement statement (HUD-1) form, 4-73.
 - Title insurance companies, 4-71.
- Reversions, 3-56.
- Risk of loss—
 - Possession granted on date different from closing date, 1-14.
- Sale contract—
 - Checklist, 1-7.
 - Provision regarding, 1-25.
 - Form, 6-7, 6-18, 6-20, 6-21, 6-75.
- Seller—
 - Affidavit required from, 4-79.
 - Nonresident seller, reporting information to State Tax Commission, 4-82.1.
 - Form, 6-153.2, 6-153.3.
 - Representation of, 4-2.1.
- Selling agent, 4-11.
- Settlement statement (HUD-1)—
 - Balancing HUD-1, 4-53.
 - Broker's commission, 4-42.
 - Checklist, 4-39.
 - Example, 4-94.
 - Government recording and transfer charges, 4-47.
 - Inspection right, one-day, 4-72.
 - Interest and insurance, prepaid, 4-44.
 - Introduction, 4-40.
 - Lender's charges, 4-43.
 - Line 1400, 4-49.
 - Purpose, 4-40.
 - Reductions in amount due seller (series 500), 4-51.
 - Reserves, 4-45.
 - RESPA and Reg X, 4-72, 4-73.
 - Sale price, 4-50.

CLOSING —Cont'd.

Settlement statement (HUD-1)—Cont'd.

Section J, summary of borrower's transaction, 4-52.

Section K, line 401, sale price, 4-50.

Section L, 4-41.

Special assessments, 4-51.1.

Survey, pest inspections, etc., 4-48.

Title charges, 4-46.

Signatures, instructions for, 4-67.

Survey inspection report and certificate, 4-93.

Termite certificate checklist, 4-36.

Title—

Insurance, 4-81.

Update, 4-90.

Trust account, 4-8. See also **Escrow**.

Truth-in-Lending and Reg Z—

Closing attorney's responsibilities, 4-75.

Disclosure—

Form of, 4-76.

Receipt of, 4-76.

Specific disclosures, 4-77.

Timing of, 4-76.

Examiner's responsibilities, 4-75.

Generally, 4-74.

Rescission, right of, 4-78.

Two distinct transactions, 4-6.

Types of, 4-5.

Waiver of title defects, 4-20.

What is a closing, 4-4.

CLOSURE.

Legal description, 2-4.9.

CO-TENANCY.

Generally, 5-6.

COMMERCIAL PROPERTY.

Commission, payment of, 1-15.

Contract for, form, 6-21.

Contract language regarding, 1-35.

Deposit, 1-12.

Environmental concerns, 4-83.

Inventory of property to be conveyed to buyer, 1-9.

Seller/lessor disclosure statement, form, 6-4.2.

COMMISSION.

See **Brokers**.

COMPREHENSIVE

**ENVIRONMENTAL RESPONSE
COMPENSATION AND
LIABILITY ACT (CERCLA).**

Generally, 4-83.

CONDEMNATION.

Warranty as to, seller's, 6-56.

CONDOMINIUMS.

Closing, 4-27.

Warranty deed clause, 6-133.12.

CONFLICT OF INTEREST.

Closing, overview of, 4-2.

Commingle escrow funds, 4-8.

CONSIDERATION.

See also **Price**.

Generally, 1-8.

CONSTRUCTION.

Dwelling, of—

Change in work, contract provision regarding, 1-33.

Contract for, 6-20.

Costs of contract for, 1-11.

Forms—

Contractor's affidavit, 6-142.1 — 6-142.4.

Escrow agreement, 6-163.

Liens, notice of, 3-30.

Limitation of action for deficient construction, design, planning, supervision, or observation of construction, 5-5.

Warranties, builder, 5-5.

CONTINGENCIES.

Sale of present property contingency, 6-84.

Waiver of contingency election, 6-85.

CONTRACTS.

Access to and from property, 4-32.

Addendum, 1-32.

Agency disclosure, 1-6.

Assumption of loan, language regarding, 1-10.

Breach of contract, language regarding, 1-20.

Brokers, see also **Brokers**.

Commission of, 1-15.

Disclaimers, 1-28.

CONTRACTS —Cont'd.**Brokers—Cont'd.**

Prepare contract, broker's right to, 1-2.

Representations of, language regarding, 1-26.

Buyer's statement, 1-28.

Capacity to contract, 1-4.

Certificate of title, 4-59.

Changes in construction work, contract provision regarding, 1-33.

Checklist, 1-7.

Closing, see also **Closing**.

Attorney, responsibilities regarding sales contract, 4-12.

Costs, 1-11.

Date, 1-13.

Commercial property, language regarding, 1-35.

Commission of broker, 1-15.

Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 4-83.

Condition of property, language regarding, 1-22.

Consideration, 1-8.

Construction of dwelling, costs attendant to contract for, 1-11.

Contents, checklist, 1-7.

Costs, 1-11. See also **Costs**.

Covenants and restrictions, contract provision regarding, 1-19.

Date, time and place of offer and acceptance, language regarding, 1-30.

Expiration of offer, language regarding, 1-34.

Deed, title and form of, contract language regarding, 1-19. See also **Deeds; Deeds of Trust**.

Deposits, 1-12.

Description of property, legal, 1-9. See also **Legal Descriptions**.

Down payment, language regarding, 1-10.

Drafting of, generally, 1-1.

Earnest money, 1-12.

Easements, language regarding, 1-19.

Environmental concerns, 4-83.

Equipment, condition of, language regarding, 1-23.

Essentials of, 1-4.

Executory, 1-5.

Expiration of offer, contract language regarding, 1-34.

CONTRACTS —Cont'd.

Extension of, 4-21.

Farmland, legal description of, 1-9. See also **Legal Descriptions**.

Federal Housing Administration (FHA) loan, language regarding, 1-10.

First refusal, right of, 1-5.

Fixtures, inclusion in legal description, 1-9. See also **Legal Descriptions**.

Forms—

Acreage contract, 6-22.

Addendum, 6-8.

Administrator's sale contract, 6-69.

As is condition, 6-72.

Assignments—

Assignability clause, 6-55.

Assignment of contract, 6-93.

Consent of seller to assignment, 6-94.

Back-up contract clause, 6-88.

Benefit clause, 6-77.

Binding clause, 6-77.

Commercial property contract, 6-21.

Construction of dwelling, contract for, 6-20.

Contingencies—

Sale of present property contingency, 6-84.

Waiver of contingency election, 6-85.

Entire agreement clause, 6-79.

Exchange clause, tax-free—

Long form, 6-98.

Short form, 6-97.

Executor's sale contract, 6-67.

Extension of contract, 6-92, 6-106.

First refusal, right of, 6-23.

Gender clause, 6-76.

Governing law, 6-78.

Installment sale contract, 6-26.

Leaseback, contract to sell with, 6-26.1.

Modification of contract, 6-91.

Number clause, 6-76.

Offer clause, 6-89.

Option contract, 6-5.1, 6-24, 6-25.

Purchase of real estate, contract for, 6-18.

Release of contract, 6-9.

Risk of loss clause, 6-75.

Sale contract, 6-7, 6-95.

Severability, 6-78.

Stipulations clause, special, 6-90.

Survival clause, 6-71.

Time is of the essence, 6-57.

CONTRACTS —Cont'd.

Forms—Cont'd.

- Vacant lot contract, 6-19.
- Wrap-around contract clauses, 6-26.2.
- General terms, 1-27.
- Generally, 1-1.
- Information contract should provide, 4-12.
- Installment sale, 1-5.
- Insurance, provision regarding, 1-16.
- Introduction, 1-1.
- Liquidated damages, contract providing for earnest money as, 1-20.
- Loans or mortgages, provision in contract regarding, 1-10.
- Loss, risk of, until closing, 1-25.
- Merger, 1-21.
- Mineral reservations, language regarding, 1-19.
- Mortgages or loans, provision in contract regarding, 1-10.
- Names and identities of parties, language regarding, 1-31.
- Offer and acceptance, date, time and place of, language regarding, 1-30.
- Expiration of offer, language regarding, 1-34.
- Options, 1-5.
- Oral, 4-12.
- Personal property, inclusion in legal description, 1-9. See also **Legal Descriptions.**
- Possession date, 1-14.
- Pre-printed form contracts, 4-12.
- Preparation of by brokers, 1-2.
- Price, 1-10.
- Professional skill and care required for drafting of, 1-3.
- Prorations, provisions regarding, 1-17.
- Recordation of, 3-50.
- Repairs, language regarding, 1-22.
- Representations of broker, language regarding, 1-26.
- Rescission, right of under Truth-in-Lending and Reg Z, 4-78.
- Risk of loss, until closing, 1-25.
- Rules and regulations of real estate commission governing, 1-6.
- Seller's statement, 1-29.
- Special provisions, 1-18.
- Standard of care in drafting of, 1-3.
- Survival of, 1-21.
- Termite inspection clause, 1-24.
- Timber contract, recordation of, 3-51.
- Time is of the essence clauses, 1-18.

CONTRACTS —Cont'd.

- Title examinations, language regarding, 1-19. See also **Title Examinations.**
- Title search, waiver of, 4-60.
- Types of, 1-5.
- Vacant land—
 - Language regarding, 1-36.
 - Legal description of, 1-9. See also **Legal Descriptions.**
- Veterans Administration (VA) loan, language regarding, 1-10.
- Warranties, builder, 5-5.
- Wetlands, 5-15.
- Zoning, language regarding, 1-19.

CONVEYANCES.

Forms—

- Administrator's deed, conveyance by, private sale under court order, 6-68.
- Executor's deed, conveyance by, 6-66.
- General warranty deed, conveyance by, 6-63.
- Quitclaim deed, conveyance by, 6-65.
- Special warranty deed, conveyance by, 6-64.
- Trustee's deed, conveyance by, 6-70.
- Measurements of land, 2-15.
- Partial, see **Partial Conveyance.**

COPIES.

- Documents, conformed or certified copies of, 4-86.

CORNERS.

- Curved, legal description, 2-4.16.

CORPORATIONS.

- Acknowledgment of documents, 3-41.
- Affidavit required at closing, 4-79.
- Forms—
 - Acknowledgment, 6-139.1.
 - Affidavit corporate name, 6-138.
 - Identity of party, 6-81.
 - Name, corporate affidavit, 6-138.
 - Release of deed of trust, 6-171.
 - Resolution, corporate, 6-135, 6-136, 6-137.
- Franchise tax liens, 3-55.
- Incorporations and charters, record of, 3-41.
- Legal entity other than natural person, title examination, 3-49.

COSTS.

- Buyer's, estimated, 6-6.
- Construction of dwelling, contract for, 1-11.
- Contract provision regarding, 1-11.
- Definition of, 1-11.
- Discount points, 1-11.
- Generally, 4-48.
- Government recording and transfer charges, 4-47.
- Pest inspections, for, 4-48.
- Points, 1-11.
- Proration of, contract language regarding, 1-17.
- RESPA and Reg X, prohibited fees and kickbacks, 4-70.
- Settlement statement (HUD-1), line 1400, 4-49.
- Special assessments, 4-51.1.
- Survey, for, 4-48.
- Title charges, 4-46.

COUNTY.

- Legal description, statement of county in, 2-4.12.
- More than one county, property located in, 4-26.

COURSES AND DISTANCES.

- Courses, 2-4.3.
- Legal description, 2-4.
- Measurements of land, 2-15.
- Omitted courses and distances, 2-4.8.

COURTS.

- Chancery court, see **Chancery Court**.
- Circuit court, see **Circuit Court**.
- Title examinations, court proceedings affecting, 3-46.

COVENANTS AND RESTRICTIONS.

- Conditions, 3-56.
- Contract provision regarding, 1-19.
- Forfeitures, 3-56.
- Forms—
 - Deed provision, 6-133.7.
 - Waiver of protective covenants, 6-109.
- Obligations of grantee, other, 3-56.
- Reversions, 3-56.
- Subdivisions, regarding, 3-16.

CREEKS.

- Legal descriptions—
 - "Following the meanderings thereof," 2-4.15.
- Problems attendant to, 5-10.
- Traverse lines, 2-4.14.

CURVATURE.

- Legal description, 2-4.15

DATES.

- Closing date, contract language regarding, 1-13.
- Offer and acceptance, date, time and place of, contract language regarding, 1-30.
- Expiration of offer, language regarding, 1-34.
- Possession date, contract language regarding, 1-14.
- Undated instruments, 3-52.

DEEDS.

- Acknowledgment, 4-66.
- Affidavits and recitals in, 4-63.
- After-acquired title, 5-3.
- Checklist, 4-64.
- Conditions, 3-56.
- Correction deeds, 3-54, 4-22.
- Errors—
 - Curative instruments, other, 4-24.
 - Existing deeds of trust or liens, errors in, 4-23.
 - Obvious errors, 3-53.
 - Prior recorded deeds, errors in, correction deeds, 4-22.
- Execution of, 4-65.
- Forfeitures, 3-56.
- Form of, 1-19, 4-62.
- Forms—
 - Conveyance by deed—
 - Administrator's deed, private sale under court order, 6-68.
 - Executor's deed, 6-66.
 - General warranty deed, 6-63.
 - Quitclaim deed, 6-65.
 - Special warranty deed, 6-64.
 - Trustee's, deed, 6-70.
 - Cover letters—
 - Multipurpose, 6-167.
 - Purchaser, to, 6-172.
- Escrow deed, receipt of holder for, 6-165.

DEEDS —Cont'd.**Forms—Cont'd.****Provisions of deed, miscellaneous—**

Assumption warranty deed, 6-133.

Covenants, restrictive and protective, 6-133.7.

Easement, 6-133.3.

Gift deed, 6-133.11.

Homestead, 6-133.4.

Joint tenant survivor, 6-133.5.

Life estates, 6-133.6.

Quitclaim, 6-133.1.

Single person acquired title, married and sells, 6-133.8.

Special warranty, 6-133.2.

Title search, without, 6-133.10.

Vendor's lien, 6-133.9.

Warranty deed—

Assumption warranty deed, 6-133.

Correction warranty deed clauses, 6-117.7.

General warranty deed, 6-132.

Special warranty deed, 6-133.2.

Various clauses, 6-133.12.

General warranty, 4-61.

Generally, 4-61.

Indices—

General, 3-12.

Sectional, 3-11.

Measurements of land, 2-15.

Name variances, 4-25.

Obligations of grantee, other, 3-56.

Perpetuities, rule against, 5-7.

Points of beginning in legal

descriptions, different, deeds using, 2-4.2.

Quitclaim—

Deed provisions, 6-133.1.

Errors in existing deeds of trust or liens, 4-23, 4-24.

Form clauses, 6-65.

Generally, 4-61.

Recorded contract or option not expired, 3-50.

Signer of sale contract not record title holder, 4-28.

Waiver of title search, 4-60.

Record title holder, 4-28.

Recording statutes, 3-8. See also

Recording.

Reversions, 3-56.

Sixteenth section lands, 5-11.

Title of, 1-19.

Trust, deeds of, see **Deeds of Trust.****DEEDS —Cont'd.**

Unrecorded, 5-13.

DEEDS OF TRUST.See also **Deeds.**

Assignments of, 4-56.

Bankruptcy, avoidance of deed of trust in, 3-44.

Cancellations of, 4-89.

Correction deeds, 3-54, 4-22.

Due-on-sale clauses, 3-13.

Errors in, 3-14, 4-23.

Foreclosure, 3-43.

Forms—

Assignment of deed of trust, 6-118.

Cancel, authority to, individual, 6-170.

Cover letter, multipurpose, 6-167.

Due on sale provision, 6-124, 6-125.

Hazardous substances clause, 6-156.

Language for various clauses—

Homestead deed of trust, 6-117.

Non-recourse, 6-117.6.

Purchase money deed of trust, 6-117.1.

Remedies cumulative, 6-117.5.

Second deed of trust, 6-117.2.

Loan repayment language, provision in note secured by wrap-around deed of trust, 6-116.5.

Modification agreement, 6-121.

Release—

Corporation, 6-171.

Partial, 6-126.

RICO lien clause for, 6-180.

Security agreement and deed of trust, 6-117.3, 6-117.4.

Subordination agreement, 6-122, 6-123.

Wrap-around deed of trust rider, 6-118.1.

Future advance clause valid, 3-13.

Generally, 4-55.

Legal description, erroneous, 3-14. See also **Legal Descriptions.**

Power of sale, 4-57.

Purchase money, 3-13.

Recording statutes, 3-8. See also

Recording.

Release provisions, 4-58.

DEFINITIONS.

Abstracts, in, 3-4.

Access, 4-32.

DEFINITIONS —Cont'd.**Assumption contracts—**

Cash control, 1-10.

Price control, 1-10.

Closing, 4-4.

Closing costs, 1-11.

Costs, 1-11.

Environmental pollutant, 6-156.

Hazardous substances, 6-154, 6-155.

Legal descriptions, 2-1.

Legal hours of foreclosure sale, 3-43.

Measurements of land, 2-15.

DEPOSIT.See **Earnest Money.****DESCRIPTION OF PROPERTY.**See **Legal Descriptions.****DISCLOSURE.**See also **Truth-in-Lending and Reg Z.**Agency relationships and dual agency,
1-6.**Forms—**

Agent's disclosure to buyer, 6-5.

Dual agency information, 6-8.1.

Lead-based paint disclosure—

Lessor's, 6-4.4.

Seller's, 6-4.3.

Seller/lessor disclosure statement,
6-4.2.Seller's disclosure statement, 6-4,
6-4.1.Transfer of dwelling by, or with aid of,
real estate agent, 1-2.**DISCOUNT POINTS.**

Lender's charges, 4-43.

Payment of, 1-11.

DISTANCES.

Legal descriptions, 2-4.6.

Measurements of land, 2-15.

DOWN PAYMENT.Commission in commercial transactions,
measure of, 1-15.

Contract provision, 1-10.

Loan assumption considerations, 4-15,
4-50.**DRIVEWAYS.**See also **Easements.**

Encroachment agreement, 6-111.

Joint driveway agreement, 6-111.1.

DRIVEWAYS —Cont'd.Seller's warranty that all improvements
are within property lines and
setback lines, 6-52.

Survey certification letter, 6-112.

DUE-ON-SALE CLAUSES.

Deeds of trust, in, 3-13.

Forms, 6-124, 6-125.

EARNEST MONEY.

Contract language regarding, 1-12.

Disposition of earnest money at closing,
4-52.**Forms—**

Arbitration, submit dispute to, 6-41.

Default of purchaser, liquidated
damages, disbursement, 6-39.

Deposit into account clause—

Broker, 6-37.

Non-broker, 6-38.

Disbursement, default of purchaser,
liquidated damages, 6-39.

Interpleader, 6-40.

Liability limited to, 6-42.

Liquidated damages, default of
purchaser, disbursement, 6-39.

Payment clause, 6-36.

Generally, 1-12.

Liquidated damages, 1-20.

EASEMENTS.

Access to and from property, 4-32.

Checklist, 4-32.1.

Contract provision regarding, 1-19.

Form, deed provision, 6-133.3, 6-133.12.

Joint driveway agreement, 6-111.1.

Petition to county board of supervisors,
4-32.

Private easement, 4-32.

Title and form of deed, 1-19.

ENCROACHMENTS.Encroachment agreement, 6-110 —
6-111.**ENVIRONMENT.**Closing, environmental concerns at,
4-83.

Generally, 4-83.

Hazardous substances, see **Hazardous
Substances.**

Wetlands, 5-15.

EQUIPMENT.

Condition of, contract provision regarding, 1-23.

ESCROW.

Agreements, 4-85.

Assumption contract, transfer of escrow balance in lieu of proration, 4-51.

Commingle funds, 4-8.

Distribution of, 1-17.

Forms—

Agreement, 6-160, 6-164, 6-164.1.

Clearances, escrow for, 6-166.

Closing agreement, 6-162.

Construction escrow agreement, 6-163.

Cover letter, multipurpose, 6-167.

Disbursement sheet, 6-113.

Divorce, pending, 6-161.

Letter, escrow, 6-147.

Receipt of holder for escrow deed, 6-165.

Generally, 4-8.

Insurance, for, 4-45.

Taxes, for, 4-45.

ESTATES IN PROPERTY.

Generally, 5-7.

Perpetuities, rule against, 5-7.

EXECUTORS.

Acknowledgment, 6-139.9.

Conveyances by—

Executor's deed, 6-66.

Title examination, 3-47.

Sale contract, executor's, 6-67.

EXECUTORY CONTRACTS.

See also **Contracts.**

Definition of, 1-5.

Generally, 1-5.

FANNIE MAE.

Assignments of deeds of trust, 4-56.

FARMLAND.

See also **Legal Descriptions.**

Legal description of, 1-9.

**FEDERAL HOME LOAN
MORTGAGE CORPORATION
(FHLMC).**

Assignments of deeds of trust, 4-56.

FEDERAL HOUSING

ADMINISTRATION (FHA).

Costs, closing, 1-11.

Loans from—

Contract, provision in regarding, 1-10.

Costs, 1-11.

Mortgage insurance, 4-44.

**FEDERAL NATIONAL MORTGAGE
ASSOCIATION (FNMA).**

Assignments of deeds of trust, 4-56.

Closing costs, 1-11.

FENCES.

Artificial monuments, 2-4.10.

Legal description, references to fences in, 2-12.

FIRST REFUSAL, RIGHT OF.

Definition of, 1-5.

Form, 6-23.

Generally, 1-5.

FIXTURES.

Form, description of excluded fixtures, 6-31.

Legal description of property, inclusion in, 1-9. See also **Legal Descriptions.**

FORECLOSURE.

Notice of sale, 3-43.

Title examinations, 3-43.

FORMS.

Acknowledgments—

Armed forces of United States, acknowledgments before commissioned officers of, 6-139.6.

Attorney in fact, 6-139.7.

Corporations, 6-139.1.

Executor, 6-139.9.

Foreign country, in, 6-139.5.

Husband and wife, 6-139.4.

Natural persons acting in their own right, 6-139.

Partnership, limited, by general partner, 6-139.8.

Representative capacity, persons acting in, 6-139.2.

Witness, subscribing, 6-139.3.

Acreage contract, 6-22.

Additional advance and merger agreement, 6-120.

FORMS —Cont'd.**Administrators—**

Conveyance by administrator's deed,
private sale under court order,
6-68.

Sale contract, 6-69.

Adverse possession, affidavit of, 6-174.

Affidavits—

Adverse possession, of, 6-174.

Closing affidavit, 6-182.

Contractor's affidavit, 6-142.1 —
6-142.4

Corporate name, 6-138.

Heirship, 6-146.

IRS, non-foreign status affidavit, 6-175.

Lien affidavit, 6-144.

Name affidavit, 6-145.

Notary affidavit, 6-139.10 — 6-139.13.

Owner's affidavit, 6-140 — 6-142.1,
6-142.3, 6-142.4.

Partnership affidavit, 6-143.

RICO lien clause for affidavit of
title, 6-179.

Arbitration clause, 6-86.

As is condition, 6-72.

Assignment—

Assignability clause, 6-55.

Consent of seller to assignment, 6-94.

Deed of trust, assignment of, 6-118.

General assignment of contract
clause, 6-93.

Lease, assignment of, 6-134.

Rents, conditional assignment of,
6-119.

Assumption—

Cover letter to lender, 6-169.

Purchase price, payment of, assumed
loan, 6-35.

Warranty deed, 6-133.

Attorney—

Acknowledgment of attorney in fact,
6-139.7.

Buyer's agent, letter to, 6-103.2.

Cash payments over \$10,000, report
of, 6-153.1.

Earnest money, payment clause, paid
to attorney, 6-36.

Representation letter, 6-101.

Seller's agent, letter to, 6-103.3.

Shared fee representation letter,
6-102.

Authorization, 6-11.

Back-up contract clause, 6-88.

Benefit and binding clause, 6-77.

Bill of sale, 6-181.

FORMS —Cont'd.

Binding clause, 6-77.

Broker—

Authorization, 6-11.

Commission, 6-46.

Co-op commission, 6-47.

Dual agency information, 6-8.1.

Earnest money—

Deposit into account clause—

Broker, 6-37.

Non-broker, 6-38.

Payment clause, paid to broker,
6-36.

Exclusive buyer agency agreement,
6-17.

Indemnification agreement, 6-10.

Independent contractor agreement,
6-12.

Business purpose, statement of, 6-159.

Buyer—

Agency agreement, exclusive, 6-17.

Costs of, estimated, 6-6.

Cover letter to, 6-172.

Disclosure to by agent, 6-5.

Hazardous substances, certificate and
indemnity for, 6-155.

Cash payments over \$10,000, report of,
6-153.1.

Checklists, see **Checklists**.

Closing—

Action log, 4-14.

Affidavit, 6-182.

Checklist, 6-104.

Control sheet, 6-103.1.

Date, 6-44.

Contingency satisfied, after, 6-43.

Escrow closing agreement, 6-162.

Information sheet, 4-13, 6-103.

Occupy, agreement to—

After closing, 6-15.

Prior to closing, 6-14.

Commercial property contract, 6-21.

Construction—

Dwelling construction contract, 6-20.

Escrow agreement, 6-163.

Contingencies—

Rezoning contingency, 6-59.

Sale of present property contingency,
6-84.

Waiver of contingency election, 6-85.

Contracts—

Acreage contract, 6-22.

Addendum, 6-8.

Administrator's sale contract, 6-69.

Assignment of, 6-93.

FORMS —Cont'd.**Contracts—Cont'd.**

- Back-up contract clause, 6-88.
- Boundary line agreement, 6-107.
 - Consent of lienholder to boundary line agreement, 6-108.
- Commercial property contract, 6-21.
- Construction of dwelling, contract for, 6-20.
- Executor's sale contract, 6-67.
- Extension, 6-92, 6-106.
- First refusal, right of, 6-23.
- Independent contractor agreement, 6-12.
- Installment sale contract, 6-26.
- Leaseback, contract to sell with, 6-26.1.
- Modification of, 6-91.
- Offer clause, 6-89.
- Option contract, 6-5.1, 6-24, 6-25.
- Purchase of real estate, contract for, 6-18.
- Release of, 6-9.
- Sale contract, 6-7, 6-95.
- Survival clause, 6-71.
- Vacant lot contract, 6-19.
- Wrap-around contract clauses, 6-26.1.

Conveyance—

- Administrator's deed, by, private sale under court order, 6-68.
- Executor's deed, by, 6-66.
- General warranty deed, by, 6-63.
- Quitclaim deed, by, 6-65.
- Special warranty deed, by, 6-64.
- Trustee's deed, by, 6-70.

Corporations—

- Acknowledgment, 6-139.1.
- Identity of party, 6-81.
- Name of, affidavit, 6-138.
- Release of deed of trust, 6-171.
- Resolution, 6-135, 6-136, 6-137.

Costs, buyer's, estimated, 6-6.**Covenants, restrictive and protective, deed provisions, 6-133.7, 6-133.12.****Cover letter—**

- Assumption, cover letter to lender, 6-169.
- Buyer, to, 6-172.
- Multipurpose, 6-167.

Deeds—

- Administrator's, conveyance by, private sale under court order, 6-68.
- Assumption warranty deed, 6-133.
- Easement provision, 6-133.3.

FORMS —Cont'd.**Deeds—Cont'd.**

- Executor's deed, conveyance by, 6-66.
- General warranty deed, conveyance by, 6-63.
- Gift deed provision, 6-133.11.
- Homestead provision, 6-133.4.
- Joint tenant survivor provision, 6-133.5.
- Life estate provision, 6-133.6.
- Quitclaim, 6-133.1.
 - Conveyance by, 6-65.
- Restrictive and protective covenants, 6-133.7.
- Single person acquired title, married and sells, 6-133.8.
- Special warranty, 6-133.2.
 - Conveyance by, 6-64.
- Title search, without, 6-133.10.
- Vendor's lien provision, 6-133.9.
- Warranty deed, 6-132.
 - Various clauses, 6-133.12.

Deeds of trust—

- Assignment of, 6-118.
- Cancel, authority to, individual, 6-170.
- Hazardous substances clause, 6-156.
- Language for various clauses—
 - Homestead deed of trust, 6-117.
 - Non-recourse, 6-117.6.
 - Purchase money deed of trust, 6-117.1.
 - Remedies cumulative, 6-117.5.
 - Second deed of trust, 6-117.2.
- Modification agreement, 6-121.
- Release, corporation, 6-171.
- RICO lien clause for, 6-180.
- Security agreement and deed of trust, 6-117.3, 6-117.4.
- Wrap-around deed of trust rider, 6-118.1.

Disbursement sheet, 6-113.**Disclosure—**

- Buyer, agent's disclosure to, 6-5.
- Lead-based paint disclosure, 6-4.3, 6-4.4.
- Seller/lessor, statement of, 6-4.2.
- Seller, statement of, 6-4, 6-4.1.

Due on sale provision, 6-124, 6-125.**Earnest money—**

- Arbitration, submit dispute to, 6-41.
- Default of purchaser, liquidated damages, disbursement, 6-39.
- Deposit into account clause—
 - Broker, 6-37.

FORMS —Cont'd.**Earnest money—Cont'd.**

Deposit into account clause—Cont'd.

Non-broker, 6-38.

Disbursement, default of purchaser,
liquidated damages, 6-39.

Interpleader, 6-40.

Liability limited to, 6-42.

Liquidated damages, default of
purchaser, disbursement, 6-39.

Payment clause, 6-36.

Easement, deed provision, 6-133.3,
6-133.12.Encroachment agreement, 6-110,
6-110.1, 6-111.

Entire agreement clause, 6-79.

Escrow—

Agreement, 6-160, 6-164, 6-164.1.

Clearances, escrow for, 6-166.

Closing agreement, 6-162.

Construction escrow agreement,
6-163.

Disbursement sheet, 6-113.

Divorce, escrow pending, 6-161.

Letter, 6-147.

Receipt of holder for escrow deed,
6-165.**Executor—**

Acknowledgment of, 6-139.9.

Conveyance by executor's deed, 6-66.

Sale contract, executor's, 6-67.

Financial status certification, 6-158.

First refusal, right of, 6-23.

Fixtures, excluded, legal description of,
6-31.

Gender clause, 6-76.

Gift deed provision, 6-133.11.

Governing law, severability, 6-78.

Hazardous substances—

Certificate and indemnity—

Lender, for, 6-154.

Purchaser, for, 6-155.

Deed of trust, clause in, 6-156.

Indemnity for hazardous waste, 6-96.

Heirship affidavit, 6-146.

Homestead—

Deed of trust, 6-117.

Deed provision, 6-133.4.

Identity of party—

Corporation, 6-81.

Individual, 6-80.

Partnership—

General, 6-82.

Limited, 6-83.

Indemnification agreement, 6-10.

FORMS —Cont'd.

Independent contractor agreement, 6-12.

Inspection clause, 6-53.

Installment sale contract, 6-26.

Insurance—**Indemnity—**Agreement, 6-151, 6-151.1, 6-151.2,
6-151.3.

Letter of, 6-150.

Proration of property insurance, 6-50.

Title—

Attorney's final certificate, 6-148.3.

Attorney's first certificate, 6-148.2.

Commitment, 6-148, 6-148.1.

Owner's title insurance, notice of
availability of, 6-152.

Policy, 6-149, 6-149.1, 6-149.2.

Joint tenant survivor deed provision,
6-133.5.Lead-based paint disclosure, 6-4.3,
6-4.4.**Leases—**

Assignment of, 6-134.

Contract to sell with leaseback,
6-26.1.

Lead-based paint disclosure, 6-4.4.

Residential lease, 6-16.

Lease/purchase option addendum,
6-16.1.**Legal description—**Change of description after survey,
6-29.

Exhibit A clause, 6-27.

Fixtures, excluded, description of,
6-31.

Multiple tracts, 6-28.

Personal property, description of
included, 6-30.**Lender—****Assumption of loan—**Authorization to reveal
nonpayment, 6-114.3.

Cover letter to lender, 6-169.

Hazardous substances, certificate and
indemnity for, 6-154.**Payoff—**Amount, letter to lender
requesting, 6-114.

Cover letter, 6-114.1, 6-114.2.

Transfer of property, letter re
wrap-around note, 6-114.4.

Transmittal letter, new loan, 6-168.

Liens—

Affidavit, 6-144.

FORMS —Cont'd.**Liens—Cont'd.**

Boundary line agreement, consent of lienholder to, 6-108.

Vendor's lien, deed provision, 6-133.9.

Life estate deed provision, 6-133.6.

Listing agreement, exclusive right to sell, 6-2.

Loan repayment terms, language for—
Amortization language with balloon payments, 6-116.4.

Annual interest—

One installment of principal,
6-116.2.

Principal and interest installments,
6-116.3.

Balloon payments, amortization language with, 6-116.4.

One installment of principal and interest, 6-116.1.

Payable on demand, 6-116.

Wrap-around deed of trust, provision in note secured by, 6-116.5.

Merger—

Additional advance and merger agreement, 6-120.

Entire agreement clause, 6-79.

Mortgagee letter, 6-3.

Names—

Affidavit, 6-145.

Corporate name, affidavit, 6-138.

Notice provision, 6-87.

Number clause, 6-76.

Occupancy—

Agreement to occupy—

After closing, 6-15.

Prior to closing, 6-14.

Statement, 6-157.

Offer clause, 6-89.

Option—

Agreement, 6-24.

Contract, 6-25.

Partnerships—

Acknowledgment of limited partnership by general partner,
6-139.8.

Affidavit, 6-143.

Identity of party—

General partnership, 6-82.

Limited partnership, 6-83.

Payoff—

Amount, letter to lender requesting,
6-114.

Cover letter to lender, 6-114.1,
6-114.2.

FORMS —Cont'd.

Personal property included in legal description, 6-30.

Possession, 6-45.

Power of attorney—

General, 6-177.

Specific, 6-176.

Proceeds estimate, seller's, 6-1.

Promissory note, 6-115, 6-116.6.

Property management agreement, 6-13.

Proration—

Property insurance, 6-50.

Rent, 6-49.

Tax, 6-48.

Protective covenants, waiver of, 6-109.

Purchase money—

Deed of trust, language for, 6-117.1.

Loan from seller, payment of purchase price, 6-33.

Purchase price—

Assumed loan, 6-35.

Land improvements and/or personal property priced separately, 6-32.

Purchase money loan from seller,
6-33.

Subordination clause, 6-34.

Referral thank you letter, 6-173.

Release, partial, 6-126.

Rent—

Conditional assignment of, 6-119.

Proration, 6-49.

Residential lease, 6-16.

Lease/purchase option addendum,
6-16.1.

RICO lien clauses, 6-179, 6-180.

Risk of loss clause, 6-75.

Seller—

Assignment, consent to, 6-94.

Condemnation, seller's warranty as to, 6-56.

Condition, appliances and systems, seller's warranty as to, 6-73.

Disclosure statement, 6-4, 6-4.1,
6-4.2.

Earnest money, payment clause, paid to seller, 6-36.

Improvements are within property lines and set-back lines, seller's warranty that, 6-52.

Lead-based paint disclosure, 6-4.3.

Proceeds estimate, 6-1.

Purchase money loan from, payment of purchase price, 6-33.

Title objections, letter to seller regarding, 6-105.

FORMS —Cont'd.**Seller—Cont'd.**

Title, seller's warranty as to, 6-60.

Zoning, seller's warranty as to, 6-58.

Severability, 6-78.

Stipulations clause, special, 6-90.

Subordination—

Agreement, 6-122, 6-123.

Clause, payment of purchase price,
6-34.

Survey—

Boundary line agreement, 6-107.

Consent of lienholder to boundary
line agreement, 6-108.

Certification letter, purchaser's, 6-112.

Encroachment agreement, 6-110,
6-110.1, 6-111.

General clause, 6-54.

Legal description, change of, after
survey, 6-29.

Notice of availability of survey,
6-112.1.

Survival clause, 6-71.

Taxes—

Non-foreign status affidavit, IRS,
6-175.

Proration, 6-48.

Tax-free exchange clause—

Long form, 6-98.

Short form, 6-97.

Taxpayer ID number and
certification, request for, 6-153.

Termite certificate, notice of availability
of, 6-178.

Termite clause, 6-74.

Time is of the essence, 6-57.

Title—

Certificate of, 6-127 — 6-128.

Supplemental certificate of title,
6-129.

Exceptions clause, 6-61.

Insurance—

Attorney's final certificate, 6-148.3.

Attorney's first certificate, 6-148.2.

Commitment, 6-148, 6-148.1.

Notice of availability of, 6-152.

Policy, 6-149, 6-149.1, 6-149.2.

Marketable title, 6-62.

Objections, letter to seller regarding,
6-105.

Warranty as to, seller's, 6-60.

Title examination—

Names to run, 6-100.

Take off, 6-99.

FORMS —Cont'd.**Title examination—Cont'd.**

Waiver of title search—

Grantee's, 6-130.

Grantor's, 6-131.

Without title search, deed provision,
6-133.10.

Trustee, conveyance by trustee's deed,
6-70.

Utility bills, water and other, 6-51.

Vacant lot contract, 6-19.

Waiver—

Protective covenants, waiver of,
6-109.

Title search, waiver of—

Grantee's, 6-130.

Grantor's, 6-131.

Warranty—

As is condition, 6-72.

Condemnation, seller's warranty as
to, 6-56.

Condition, appliances and systems,
seller's warranty as to, 6-73.

Deeds—

Assumption warranty deed, 6-133.

Correction warranty deed clauses,
6-117.7.

General warranty deed, 6-132.

Special warranty deed, 6-133.2.

Various clauses, 6-133.12.

Improvements are within property
lines and set-back lines, seller's
warranty that, 6-52.

Title, seller's warranty as to, 6-60.

Zoning, seller's warranty as to, 6-58.

Water and other utility bills, 6-51.

Withholding on sale by nonresident,
6-153.2.

Affidavit, 6-153.3.

Wrap-around contract clauses, 6-26.2.

Zoning—

Rezoning contingency, 6-59.

Warranty as to, seller's, 6-58.

FRACTIONAL DESIGNATION.

Legal description, 2-2.

Sections, 2-2.

Townships, 2-2.

FRAUDS, STATUTE OF.

General terms of contract, 1-27.

Sales contract, oral, 4-12.

Writing, requirement that contract be
in, 1-4.

FREDDIE MAC.

Assignments of deeds of trust, 4-56.

FUTURE ADVANCES.

Validity in Mississippi, 3-13.

GENDER.

Gender clause, 6-76.

GIFTS.

Deed provision, 6-133.11.

GUARDIANS.

Conveyances by, title examination, 3-47.

HAZARDOUS SUBSTANCES.**Forms—**

Certificate and indemnity—

Lender, for, 6-154.

Purchaser, for, 6-155.

Deed of trust, clause in, 6-156.

Indemnity for hazardous waste, 6-96.

Insurance checklist, 4-35.

HOMESTEAD EXEMPTION.**Forms—**

Deed of trust, homestead language,
6-117.

Deed provision, 6-133.4.

Generally, 3-21.

IMPROVEMENTS.

Warranty of seller that all
improvements are within property
lines and set-back lines, 6-52.

INCOMPETENT PERSONS.

Deeds recorded by, 3-29.

INDEMNITY.

Agreement, indemnification, 6-10.

Forms—

Hazardous substances certificate and
indemnity—

Lender, for, 6-154.

Purchaser, for, 6-155.

Hazardous waste indemnity, 6-96.

Title insurance—

Agreement, 6-151, 6-151.1, 6-151.2,
6-151.3.

Letter of indemnity, 6-150.

INDICES.

General, 3-12.

Names, checking of, 3-17.

INDICES —Cont'd.

Sectional, 3-11.

Subdivision indices and plats, 3-16.

Tax sales, 3-20.

INSPECTION.

Form, inspection clause, 6-53.

INSTALLMENT SALE CONTRACTS.

See also **Contracts.**

Definition of, 1-5.

Form, 6-26.

Generally, 1-5.

INSTRUMENTS.

See also **Recording; Title Examinations.**

Acknowledgment, 3-8, 4-66.

Checking instruments, title
examinations, 3-13.

Errors, obvious, 3-53.

General recording statutes, 3-8.

Powers of attorney, see **Powers of
Attorney.**

Promissory note, 4-54.

Recently filed, 3-34.

Measurements of land, 2-15.

Signatures, instructions for, 4-67.

Stranger to chain of title, instrument
executed by, 3-48.

Undated, 3-52.

INSURANCE.

Assumption, considerations for, 4-44.

Closing—

Considerations at, 4-44.

Possession granted on date different
from closing date, 1-14.

Contract provisions regarding, 1-16.

Escrow payments, 4-45.

Forms—

Contractor's affidavit, 6-142.1 —
6-142.4.

Cover letter, multipurpose, 6-167.

Indemnity—

Agreement, 6-151, 6-151.1, 6-151.2,
6-151.3.

Letter of, 6-150.

Owner's affidavit, 6-140 — 6-142.1,
6-142.3, 6-142.4.

Partnership affidavit, 6-143.

Proration of property insurance, 6-50.

Title insurance—

Attorney's final certificate, 6-148.3.

Attorney's first certificate, 6-148.2.

Commitment, 6-148, 6-148.1.

INSURANCE —Cont'd.**Forms—Cont'd.****Title insurance—Cont'd.**

Notice of availability of owner's title insurance, 6-152.

Policy, 6-149, 6-149.1, 6-149.2.

Hazard insurance checklist, 4-35.

RESPA and Reg X, title insurance companies, 4-71.

Risk of loss, contract provision regarding, 1-25.

Settlement statement, 4-44.

Title insurance, 4-81.

INTEREST.

Prepaid, 4-44.

Usury, 5-14.

INTERPLEADER.

Earnest money, form, 6-40.

JOINT TENANCY.

Form, joint tenant survivor deed provision, 6-133.5.

JOINT VENTURE.

Not a legal entity in Mississippi, 3-42, 4-65.

JUDGMENT ROLL.

Title examinations, 3-38.

JUDICIAL DISTRICT.

Legal description, statement of judicial district in, 2-4.12.

LAKES.

Natural monuments, 2-4.10.

LEASES.

Assignment of lease, 6-134.

Contract to sell with leaseback, 6-26.1.

Proration of rent, 6-49.

Recordation of, 3-50.

Rent, *see* **Rent**.

Residential lease, 6-16.

Lease/purchase option addendum, 6-16.1.

Timber lease, recordation of, 3-51.

Title examination, 3-50.

LEGAL DESCRIPTIONS.

Angles, 2-4.5.

Arcs, 2-4.13.

Bearings, 2-4.4.

LEGAL DESCRIPTIONS —Cont'd.

Blanket description, 2-6.

Chords, 2-4.13.

Closure, 2-4.9.

Contract for sale of property, in, 1-9.

County, statement of, 2-4.12.

Courses and distances, 2-4.

Courses, 2-4.3.

Distances, 2-4.6.

Omitted courses and distances, 2-4.8.

Creeks, 5-10.

Curvature, 2-4.15.

Curved corners, 2-4.16.

Definition of, 2-1.

Distances, 2-4.6.

Errors—

Deeds of trust, erroneous legal descriptions in, 3-14.

Obvious, 3-53.

Farmland, 1-9.

Fences, reference to, 2-12.

Fixtures, inclusion in, 1-9.

Forms—

Boundary line agreement, 6-107.

Consent of lienholder to boundary line agreement, 6-108.

Change of description after survey, 6-29.

Encroachment agreement, 6-110, 6-110.1, 6-111.

Exhibit A clause, 6-27.

Fixtures, excluded, description of, 6-31.

Multiple tracts, 6-28.

Personal property, description of included, 6-30.

Fractional designation, 2-2.

Introduction, 2-1.

Judicial district, statement of, 2-4.12.

Less and except clauses, 2-10.

Meanderings, 2-4.15.

Measurements of land, 2-15.

Metes and bounds, 2-3.

Methods of, generally, 2-1.

Monuments, use of, 2-4.10.

More or less calls, 2-4.7.

Name by which property is generally known, 2-7.

Omitted courses and distances, 2-4.8.

Part of tract, conveyance of, 2-8.

Personal property, inclusion in, 1-9.

Points of beginning, 2-4.1.

Different points of beginning, deeds using, 2-4.2.

Quantity of land, 2-4.17, 2-15.

LEGAL DESCRIPTIONS —Cont'd.

Range, statement of, 2-4.12.
 Reference, description by, 2-5.
 Roads, 5-10.
 Sections—
 Generally, 2-2.
 Statement of, 2-4.12.
 Sides, 2-4.11.
 Sixteenth section lands, 5-11.
 Street address, 2-11.
 Subdivision lot, 2-9.
 Surveys, see also **Surveys**.
 Minimum standards for land
 surveying, 2-14.
 References to, 2-13.
 Townships—
 Generally, 2-2.
 Statement of, 2-4.12.
 Traverse lines, 2-4.14.
 Vacant land, 1-9.
 Walls, reference to, 2-12.

LENDER.

See also **Loans**.

Closing—
 Charges for, 4-43.
 Instructions from lender, generally,
 4-33.
 Representation of lender, 4-2.3.
 Environmental concerns, 4-83.
 Representation of, 4-2.3.

LESS-AND-EXCEPT CLAUSES.

Legal description, 2-4.16, 2-10.

LIENS.

Alcoholic beverage taxes, 3-55.
 Consent of lienholder to boundary line
 agreement, 6-108.
 Construction, 3-30.
 Corporation franchise taxes, 3-55.
 Errors in, 4-23.
 Estate taxes, 3-55.
 Federal, 3-22.
 Forms—
 Affidavit, 6-144.
 Boundary line agreement, consent of
 lienholder to, 6-108.
 Vendor's lien, deed provision, 6-133.9.
 Income taxes, 3-55.
 Judgment roll, 3-38.
 Purchase money loans, 4-5.
 Release provisions of deed of trust,
 4-58.
 State tax liens, 3-55.

LIENS —Cont'd.

Title report—
 Checklist, 4-19.
 Review of, 4-18.
 Uniform Commercial Code, perfecting
 of security interest, 3-31.

LIFE ESTATES.

Deed provision, 6-133.6.

LIMITATION, STATUTE OF.

Defect in construction, design, planning,
 supervision, or observation of
 construction, for, 5-5.

LIMITED PARTNERSHIPS.

See **Partnerships**.

LIQUIDATED DAMAGES.

Earnest money, 1-20. See also **Earnest
 Money**.

LIS PENDENS.

Generally, 3-18.
 Title examination, 3-18.

LOANS.

See also **Lender; Mortgages**.

Assumption of, see also **Assumption**.
 Cash control contract, 1-10.
 Contract provision regarding, 1-10.
 Price control contract, 1-10.
 Borrower, 4-11.
 Closing, see **Closing**.
 Contract, provision in regarding, 1-10.
 Costs, closing, 1-11.
 Documents, additional lender, 4-84.
 Federal Housing Administration (FHA),
 see **Federal Housing Administration
 (FHA)**.
 Forms—
 Additional advance and merger
 agreement, 6-120.
 Business purpose, statement of, 6-159.
 Cover letter to lender, assumption,
 6-169.
 Financial status certification, 6-158.
 Hazardous substances certificate and
 indemnity for lender, 6-154.
 Payoff—
 Amount, letter to lender
 requesting, 6-114.
 Cover letter to lender, 6-114.1,
 6-114.2.
 Promissory note, 6-115, 6-116.6.

LOANS —Cont'd.**Forms—Cont'd.**

- Repayment terms, language for—
 - Amortization language with balloon payments, 6-116.4.
- Annual interest—
 - One installment of principal, 6-116.2.
 - Principal and interest installments, 6-116.3.
- Balloon payments, amortization language with, 6-116.4.
- Demand, note payable on, 6-116.
- One installment of principal and interest, 6-116.1.
- Wrap-around deed of trust, provision in note secured by, 6-116.5.
- Transmittal letter of lender, new loan, 6-168.
- Loan package—
 - Assumption closing package, 4-34.
 - Lender's, 4-88.
 - New loans, for, 4-34.
 - Review of, 4-34.
- Monthly payment, computation of, 4-80.
- Origination fee, 4-43.
- Veterans Administration (VA), see **Veterans Administration (VA).**

MEANDERINGS.

- Legal description, 2-4.15.

MERGER.

- Broker representations, contract language regarding, 1-26.
- Forms—
 - Additional advance and merger agreement, 6-120.
 - Entire agreement clause, 6-79.
- General terms of contract, 1-27.
- Survival of contract, 1-21.

METES AND BOUNDS.

- Legal description, 2-3.
- Measurements of land, 2-15.

MINERAL RESERVATIONS.

- Contract provision regarding, 1-19.
- Generally, 5-8.
- Recording statutes, 3-8.
- Title examination, 3-15.

MINORS.

- Capacity to contract, 1-4.
- Deeds recorded by, 3-29.
- Petition to remove disability of minority, 1-4.

MINUTE BOOKS.

- Chancery court, 3-24.
- Supervisors, 3-25.

MONUMENTS.

- Legal description, use of monuments in, 2-4.10.
- Name by which property is generally known, use in legal descriptions, 2-7.

MORTGAGES.**See also Lenders; Loans.**

- Contract, provision in regarding, 1-10.
- Federal National Mortgage Association (FNMA), see **Federal National Mortgage Association (FNMA).**
- Insurance, 4-44.
- Mortgagee letter, 6-3.
- Title examinations, see **Title Examinations.**

NAMES.

- Affidavit required at closing, 4-79.
- Corporations, 3-41.
- Forms—
 - Affidavit, 6-145.
 - Closing, names to run, 6-100.
 - Corporate name affidavit, 6-138.
 - Gender clause, 6-76.
 - Identity of party—
 - Corporation, 6-81.
 - Individual, 6-80.
 - Partnership—
 - General, 6-82.
 - Limited, 6-83.
- Legal description, reference to property by name by which it is generally known, 2-7.
- Recitals in deeds, 4-63.
- Title examination, 3-17.
- Variances on deed, 4-25.

NEWSPAPERS.

- Files of, 3-28.
- Foreclosure sale, notice of, 3-43.

NOTARY PUBLIC.

- Closing ceremony, 4-38.

NOTARY PUBLIC —Cont'd.

Costs, 1-11.

Forms—

Affidavit, 6-139.10 — 6-139.13.

Seal required, 3-8.

NOTES.See **Promissory Notes.****NOTICE.**

Actual possession as, 3-36.

Construction liens, notice of, 3-30.

Foreclosure sale, of, 3-43.

Form, notice provision, 6-87.

Reasonably prudent man, notice to, 3-37.

OFFER AND ACCEPTANCE.

Date, time and place of, contract provision regarding, 1-30.

Expiration of offer, contract provision regarding, 1-34.

Form, offer clause, 6-89.

OPTIONS.

Addendum to residential lease, lease/purchase option, 6-16.1.

Breach of contract, 1-20.

Definition of, 1-5.

Form, 6-5.1, 6-24, 6-25.

Generally, 1-5.

Limited liability company, powers of, 3-41.1.

Recordation of, 3-50.

Rights and duties of buyer, 1-5.

Seller's disclosure statement, 1-29.

Title examination, 3-50.

PAROL EVIDENCE.

Broker representations, contract language regarding, 1-26.

Entire agreement clause, 6-79.

General terms of contract, 1-27.

Merger, 1-21.

Sales contract, oral, 4-12.

PARTIAL CONVEYANCE.

Legal description, 2-8.

PARTNERSHIPS.

Affidavit required at closing, 4-79.

Forms—

Acknowledgment of limited partnership by general partner, 6-139.8.

PARTNERSHIPS —Cont'd.

Forms—Cont'd.

Affidavit of partnership, 6-143.

Identity of party—

General partnership, 6-82.

Limited partnership, 6-83.

Notary affidavit in case of corporate general partner of limited partnership, 6-139.11.

RICO lien clause for note and/or deed of trust, 6-180.

Joint venture not a legal entity in

Mississippi, 3-42, 4-65.

Legal entity other than natural person, title examination, 3-49.

Limited partnerships, 3-42.

Affidavits, 4-79.

Title examinations, 3-42.

PATENTS.See also **Title Examinations.**

Book of original entries, 3-10.

Tax patents—

Challenging of, 3-20.

Generally, 5-12.

PERPETUITIES, RULE AGAINST.

Generally, 5-7.

PERSONAL PROPERTY.

Form, description of included personal property, 6-30.

Legal description of property, inclusion in, 1-9.

PINS.

Artificial monuments, 2-4.10.

Encroachment agreement, form, 6-110, 6-110.1.

PLATS.See also **Surveys.**

Point of beginning required, 2-4.1.

Reference to plat in deed or instrument, 2-4.3, 2-9.

Subdivision plat—

Ratification of, 4-24.

Verification of, 3-16.

POINTS.See **Discount Points.****POINTS OF BEGINNING.**

Different, deeds using, 2-4.2.

POINTS OF BEGINNING —Cont'd.

Legal description, 2-4.1.

POLLUTION.

See **Hazardous Substances.**

POSSESSION.

Actual possession as notice, 3-36.

Adverse possession—

Affidavit of, 6-174.

Generally, 5-2.

Affidavit of possession, 4-63.

Date of, contract language regarding,
1-14, 6-45.

Deed of trust and security agreement,
6-117.3.

Installment sale contract, 6-26.

Tax sales, 3-20.

Types of real estate sale contracts, 1-5.

POSTS.

Artificial monuments, 2-4.10.

POWERS OF ATTORNEY.

Forms—

General, 6-177.

Specific, 6-176.

Generally, 3-35, 5-9.

Termination of, 3-35.

Title examinations, 3-35.

PRESCRIPTION.

Adverse possession, 5-2.

PRICE.

Contract, statement of price in, 1-10.

Forms—

Assumed loan, payment of purchase
price, 6-35.

Pricing land and improvements
and/or personal property
separately, 6-32.

Purchase money loan from seller,
payment of purchase price, 6-33.

Subordination clause, payment of
purchase price, 6-34.

Purchase price, determination of, 4-50.

Settlement statement (HUD-1), section
K, line 401, 4-50.

PROCEEDS.

Seller's proceeds estimate, 6-1.

PROMISSORY NOTES.

Checklist regarding, 4-54.

PROMISSORY NOTES —Cont'd.

Closing, execution at, 4-54.

Contents and terms of, 4-54.

Form, 6-115, 6-116.6.

Repayment terms, 6-116 — 6-116.5.

RICO lien clause for, 6-180.

Wrap-around note, 6-115.1.

PRORATION.

Assumption contract, transfer of escrow
balance in lieu of proration, 4-51.

Closing, problems associated with, 4-40.

Contract provision regarding, 1-17.

Forms—

Property insurance, 6-50.

Rent, 6-49.

Tax, 6-48.

PUBLICATION.

Foreclosures, 3-43.

Newspaper files in chancery clerk's
office, 3-28.

PURCHASE MONEY.

Closing, 4-5.

Deed of trust, 3-13.

Forms—

Deed of trust language, 6-117.1.

Purchase price, payment of, 6-33.

QUANTITY OF LAND.

Legal description, 2-4.17.

Measurements of land, 2-15.

QUITCLAIM DEED.

Deed provisions, 6-133.1.

Errors in existing deeds of trust or
liens, 4-23, 4-24.

Form clauses, 6-65.

Generally, 4-61.

Recorded contract or option not
expired, 3-50.

Signer of sale contract not record title
holder, 4-28.

Waiver of title search, 4-60.

RAILROADS.

Artificial monuments, 2-4.10.

Grants recorded in chancery clerk's
office, 3-32.

RANGE.

Legal description, statement of range
in, 2-4.12.

REAL ESTATE COMMISSION.

Earnest money, broker responsible for, 1-12.

Rules and regulations of, governing brokers, 1-6.

REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA).

See **RESPA** and **Reg X**.

RECITALS.

Deeds, in, 4-63.

RECORDING.

See also **Title Examinations**.

Closing attorney, by, 4-87.

Construction liens, 3-30.

Destruction of old records, 3-33.

Federal liens, 3-22.

General recording statutes, 3-8.

Government recording and transfer charges, 4-47.

Leases, 3-50.

Options, 3-50.

Recently filed instruments, 3-34.

Sales contracts, 3-50.

Timber leases and contracts, 3-51.

Title examination procedure, generally, 3-9.

Uniform Commercial Code, perfecting of security interest, 3-31.

Unrecorded deeds, 5-13.

Update of title, 4-90.

Wills, record of, 3-26.

REFERENCE, DESCRIPTION BY.

See also **Legal Descriptions**.

Generally, 2-5.

RENT.

Conditional assignment of rents, form, 6-119.

Deed of trust clause, 6-117.4.

Escrow closing agreement, form, 6-162.

Installment sale contract, form, 6-26.

Possession date, 1-14.

Clause, 6-45.

Proration, 1-17.

Clause, 6-49.

Security agreement clause, 6-117.4.

Settlement statement, 4-45, 4-50, 4-52.

Wrap-around note, form, 6-115.1.

REPAIRS.

Contract provision regarding, 1-22.

RESCISSION.

Truth-in-Lending and Reg Z, right of rescission under, 4-78.

RESPA AND REG X.

Closing attorney's responsibilities, 4-69.

Controlled business arrangements, 4-70.

Examiner, responsibilities of, 4-69.

Generally, 4-68.

Inspection right, one-day, 4-72.

Prohibited fees and kickbacks, 4-70.

Settlement statement (HUD-1) form, 4-73.

Title insurance companies, 4-71.

RICO.

Generally, 5-16.

Forms—

Affidavit, RICO lien clause for, 6-179.

Note or deed of trust, RICO lien clause for, 6-180.

RISK OF LOSS.

Possession granted on date different from closing date, 1-14.

Sale contract—

Checklist, 1-7.

Provision regarding, 1-25.

Form, 6-7, 6-18, 6-20, 6-21, 6-75.

ROADS.

Artificial monuments, 2-4.10.

Legal descriptions—

“Following the curvature thereof,” 2-4.15.

Problems attendant to, 5-10.

ROYALTY ESTATE.

See also **Mineral Reservations**.

Documentary tax stamps required, 4-46.

Title search, 3-15.

Warranty deed exception for royalty reservations and conveyances, 6-133.12.

SALES CONTRACTS.

See **Contracts**.

SCHOOLS.

Sixteenth section lands, 5-11.

SECRETARY OF STATE.

Corporate records kept by, 3-41.

SECTIONS.

Indices, sectional, 3-11.

Legal description, statement of section in, 2-4.12.

SELLER.

Affidavit required from, 4-79.

Breach of contract, contract language regarding, 1-20.

Closing—

Affidavit required from, 4-79.

Communication of attorney with parties, 4-10.

Parties involved in, 4-11.

Representation of seller, 4-2.1.

Transactions involved, 4-6.

Costs, payment of, 1-11.

Executory contracts, see **Contracts;**

Executory Contracts.

First refusal, buyer's right of, see

Contracts; First Refusal, Right of.

Forms—

Assignment, consent of seller to, 6-94.

Bill of sale, 6-181.

Closing affidavit, 6-182.

Cover letter, multipurpose, 6-167.

Disclosure statement, 6-4, 6-4.1, 6-4.2.

Earnest money payment clause, paid to seller, 6-36.

Gender clause, 6-76.

Lead-based paint disclosure, 6-4.3.

Number clause, 6-76.

Proceeds estimate, 6-1.

State Tax Commission, report to, 6-153.2, 6-153.3.

Title objections, letter to seller regarding, 6-105.

Title search, grantor's waiver of, 6-131.

Warranties of seller, see **Warranty.**

Withholding on sale by nonresident, 6-153.2.

Affidavit of seller, 6-153.3.

Gross proceeds due, 4-40.

Installment sale contracts, see

Contracts; Installment Sale Contracts.

Names and identities of parties,

contract provision regarding, 1-31.

SELLER —Cont'd.

Nonresident seller, reporting information to State Tax Commission, 4-82.1.

Form, 6-153.2, 6-153.3.

Options, see **Contracts; Options.**

Record title holder, 4-28.

Reductions in amount due, settlement statement (HUD-1), Series 500, 4-51.

Representation of, 4-2.1.

Statement of in contract, 1-29.

Warranties of, see **Warranty.**

SETTLEMENT STATEMENT (HUD-1).

Balancing HUD-1, 4-53.

Broker's commission, 4-42.

Checklist, 4-39.

Example, 4-94.

Government recording and transfer charges, 4-47.

Inspection right, one-day, 4-72.

Interest and insurance, prepaid, 4-44.

Introduction, 4-40.

Lender's charges, 4-43.

Line 1400, 4-49.

Purpose, 4-40.

Reductions in amount due seller (series 500), 4-51.

Reserves, 4-45.

RESPA and Reg X, 4-72, 4-73.

Sale price, 4-50.

Section J, summary of borrower's transaction, 4-52.

Section K, line 401, sale price, 4-50.

Section L, 4-41.

Special assessments, 4-51.1.

Survey, pest inspections, etc., 4-48.

Title charges, 4-46.

SIDES.

Legal description, 2-4.11.

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT.

Generally, 3-43.

STAKES.

Artificial monuments, 2-4.10.

STANDARD OF CARE.

Drafting of contracts, 1-3.

STATUTE OF FRAUDS.

See **Frauds, Statute of.**

STATUTES.

Indexing of deeds, statute regarding, 3-12.

Recording statutes, 3-8.

RESPA and Reg X, see **RESPA and Reg X.**

Truth-in-Lending and Reg Z, see **Truth-in-Lending and Reg Z.**

STIPULATIONS.

Special stipulations clause, 6-90.

STREAMS.

Legal descriptions—

“Following the meanderings thereof,” 2-4.15.

Problems attendant to, 5-10.

Natural monuments, 2-4.10.

Traverse lines, 2-4.14.

STREETS.

Artificial monuments, 2-4.10.

Legal description—

Curved corners, 2-4.16.

“Following the curvature thereof,” 2-4.15.

Street address, 2-11.

SUBDIVISIONS.

Covenants and restrictions regarding, title examination, 3-16.

Indices, 3-16.

Legal description of subdivision lot, 2-9.

Plats—

Ratification of, 4-24.

Verification of, 3-16.

SUBORDINATION.

Deed of trust subordination agreement, 6-122, 6-123.

Purchase price, payment of, subordination clause, 6-34.

SUPERFUND.

See also **Hazardous Substances.**

Generally, 4-83.

SUPERVISORS.

Minute books of, 3-25.

SURVEYS.

Charges for, 4-48.

SURVEYS —Cont'd.

Checklist, 4-31.

Forms—

Boundary line agreement, 6-107.

Consent of lienholder to boundary line agreement, 6-108.

Certification letter, purchaser's, 6-112.

Encroachment agreement, 6-110, 6-110.1, 6-111.

Notice of availability of survey, 6-112.1.

Survey clause, 6-54.

Fractional designation method of legal description, 2-2.

Inspection report and certificate, 4-93.

Legal descriptions, see **Legal Descriptions.**

Minimum standards for land surveying, 2-14.

Ordering of survey, 4-30.

Waiver of survey, 4-30.1.

Form, 6-112.1.

SURVIVAL.

Contract, survival of, 1-21.

Survival clause, 6-71.

TAXES.

Alcoholic beverage tax liens, 3-55.

Closing, determination of taxes due upon, 4-51.

Corporation franchise tax liens, 3-55.

Escrow account for, 4-45.

Estate tax liens, 3-55.

Estimate of upon closing, 4-51.

Federal lien for, 3-22.

Foreclosure sale, notice of to IRS, 3-43.

Forms—

Exchange clause, tax-free—

Long form, 6-98.

Short form, 6-97.

Non-foreign status affidavit, IRS, 6-175.

Proration, 6-48, 6-98.

Taxpayer ID number and certification, request for, 6-153.

Withholding on sale by nonresident, 6-153.2.

Affidavit by seller, 6-153.3.

Income tax liens, 3-55.

Measurements of land, 2-15.

Nonresident seller, reporting information to State Tax Commission, 4-82.1.

Patents—

Challenging of, 3-20.

TAXES —Cont'd.

Patents—Cont'd.

Generally, 5-12.

Proration—

Example of, 4-51.

Problems at closing, 4-40.

Reporting information to IRS, 4-82.

Sales of property for delinquent taxes,
checking of, 3-20.

Sales tax liens, 3-55.

Settlement statement (HUD-1), Series
500, statement of taxes on, 4-51.

State tax liens, 3-55.

Tax sales, checking of, 3-20.

Title examination of tax receipts, 3-19.

Tobacco tax liens, 3-55.

TERMITES.

Certificate checklist, 4-36.

Charges for inspections, 4-48.

Form, termite clause, 6-74.

Inspection clause in sales contract,
1-24.Notice of availability of termite
certificate, 6-178.**TIMBER.**Guardian's power to sell wood or
timber, 3-29.Leases and contracts, title examination
for, 3-51.**TIME.**

Extension of sales contracts, 4-21.

Offer and acceptance, contract language
regarding date, time and place of,
1-30.Expiration of offer, language
regarding, 1-34.Time is of the essence clauses, 1-18.
Form, 6-57.

Title examination, period of, 3-5.

TITLE.

Adverse possession, 5-2.

After-acquired, 5-3.

Aliens holding land, 5-4.

Certificate of, 4-59.

Chain of, break in, 3-45.

Charges, 4-46.

Co-tenancy, 5-6.

Defects in, generally, 4-20.

Examinations, see **Title Examinations.**

Forms—

Bill of sale, 6-181.

TITLE —Cont'd.

Forms—Cont'd.

Certificate of title, 6-127 — 6-128.

Exceptions clause, 6-61.

Insurance—

Attorney's final certificate, 6-148.3.

Attorney's first certificate, 6-148.2.

Commitment, 6-148, 6-148.1.

Indemnity—

Agreement, 6-151, 6-151.1,
6-151.2, 6-151.3.

Letter of, 6-150.

Notice of availability of owner's
title insurance, 6-152.

Policy, 6-149, 6-149.1, 6-149.2.

Marketable title, 6-62.

Objections, title, letter to seller
regarding, 6-105.Supplemental certificate of title,
6-129.

Warranty as to, seller's, 6-60.

Legal entity other than natural person
holding title, title examination,
3-49.

Prescription, by, 5-2.

Recording statutes, 3-8.

RESPA and Reg X, title insurance
companies, 4-71.Search, waiver of, 4-60. See also **Title
Examinations.**Stranger to chain of title, instrument
executed by, 3-48.

Tax patents, 5-12.

Unmarketable, 4-29.

Update, 4-90.

TITLE EXAMINATIONS.

Abstracts—

Abbreviations, 3-6.

Attorneys, abstracting by, 3-11.

Definition of, 3-4.

Generally, 3-4.

Title reports, 3-4.

Vocabulary, 3-6.

Administrators, conveyances by, 3-47.

Adverse possession, 5-2.

Affidavits, 4-79.

After-acquired title, 5-3.

Aliens holding land, 5-4.

Bankruptcy, 3-44.

Book of original entries, 3-10.

Chain of title, break in, 3-45.

Chancery court—

Construction liens, notice of, 3-30.

Docket, 3-23.

TITLE EXAMINATIONS —Cont'd.**Chancery court—Cont'd.**

Other records kept in clerk's office,
3-32.

Recently filed instruments, 3-34.

Title recording, generally, 3-8.

Circuit court—

Docket, 3-39.

Judgment roll, 3-38.

Other records at clerk's office, 3-40.

Claims against estate, register of, 3-27.

Co-tenancy, 5-6.

Construction liens, notice of, 3-30.

Contract language regarding, 1-19.

Corporations, record of incorporations
and charters, 3-41.

Correction deeds, 3-54, 4-22.

Court proceedings, 3-46.

Curing title defects, 4-20.

Deeds, errors in—

Curative instruments, other, 4-24.

Existing deeds of trust or liens,
errors in, 4-23.

Obvious errors, 3-53.

Prior recorded deeds, errors in,
correction deeds, 3-54, 4-22.

Deeds of trust, see **Deeds of Trust.**

Defective title—

Curing defects, 4-20.

Generally, 4-20.

Previous attorneys, communications
with, 3-7.

Waiving defects, 4-20.

Destruction of old records, 3-33.

Due-on-sale clauses in deeds of trust,
3-13.

Erroneous legal descriptions in deeds of
trust, 3-14.

Estates in property, 5-7.

Executors, conveyances by, 3-47.

Federal liens, 3-22.

Foreclosures, 3-43.

Forfeitures, 3-56.

Forms—

Waiver of title search—

Grantee's, 6-130.

Grantor's, 6-131.

Without title search, deed provision,
6-133.10.

Future advance clause valid, 3-13.

General indices, 3-12.

Guardians, conveyances by, 3-47.

Homestead exemption, 3-21.

Incompetent persons, deeds recorded
by, 3-29.

TITLE EXAMINATIONS —Cont'd.**Indices—**

General, 3-12.

Names, checking of, 3-17.

Sectional, 3-11.

Subdivision, 3-16.

Tax sales, 3-20.

Instruments—

Acknowledgment of, 3-8.

Checking, 3-13.

Introduction, 3-1.

Judgment roll, 3-38.

Leases, recordation of, 3-50.

Legal entities other than natural
persons, 3-49.

Liens, see **Liens.**

Lis pendens, 3-18.

Measurements of land, 2-15.

Military personnel, 3-43.

Mineral and royalty estates, 3-15, 5-8.

Minors and incompetent persons, deeds
recorded by, 3-29.

Minute books—

Chancery court, 3-24.

Supervisors, 3-25.

Miscellaneous considerations, 5-1 et seq.

Names—

Checking of, 3-17.

Variances on deeds, 4-25.

Natural persons, legal entities other
than, 3-49.

Newspaper files, 3-28.

Notice—

Actual possession as, 3-36.

Construction liens, notice of, 3-30.

Reasonably prudent man, notice to,
3-37.

Options, recordation of, 3-50.

Ordering of, 4-17.

Original entries, book of, 3-10.

Partnerships, 3-42.

Period of examination, 3-5.

Plats, 3-16.

Powers of attorney, 3-35, 5-9.

Previous attorneys, communications
with, 3-7.

Procedure, records to be checked, 3-9.

Purchase money deed of trust, 3-13.

Purpose of, 3-3.

Recently filed instruments, 3-34.

Record title holder, 4-28.

Recording statutes, 3-8.

Review of title report, 4-18.

Sales contracts—

Recordation of, 3-50.

TITLE EXAMINATIONS —Cont'd.

- Sales contracts—Cont'd.
 - Title examiner in, 3-2.
- Sectional indices, 3-11.
- Special assessments revealed by, 4-51.1.
- Standards, 3-57.
- State tax liens, 3-55.
- Stranger to chain of title, instrument executed by, 3-48.
- Subdivision indices and plats, 3-16.
- Taxes—
 - Patents, 5-12.
 - Receipts, examination of, 3-19.
 - Sales, tax, checking of, 3-20.
- Timber leases and contracts, 3-51.
- Title report—
 - Checklist, 4-19.
 - Name variances, 4-25.
 - Review of, 4-18.
- Trustees, conveyances by, 3-47.
- Undated instruments, 3-52.
- Uniform Commercial Code, perfecting of security interest, 3-31.
- Unrecorded deeds, 5-13.
- Waiver of, 4-60.
 - Defects in title, waiver of, 4-20.
- Wills, record of, 3-26.

TOBACCO.

- Tax liens, 3-55.

TOWNSHIPS.

- Fractional designation method of legal description, 2-2.
- Legal description, statement of township in, 2-4.12.

TRAVERSE LINES.

- Legal description, 2-4.14.

TREES.

- See also **Timber.**
- Natural monuments, 2-4.10.

TRUSTEES.

- Conveyances by—
 - Title examination, 3-47.
 - Trustee's deed, conveyance by, 6-70.

TRUTH-IN-LENDING AND REG Z.

- Closing attorney's responsibilities, 4-75.
- Disclosure—
 - Form of, 4-76.
 - Receipt of, 4-76.
 - Specific disclosures, 4-77.

TRUTH-IN-LENDING AND REG**Z —Cont'd.**

- Disclosure—Cont'd.
 - Timing of, 4-76.
- Examiner's responsibilities, 4-75.
- Generally, 4-74.
- Rescission, right of, 4-78.

UNIFORM COMMERCIAL CODE.

- Security interest, perfecting of, 3-31.

USURY.

- Generally, 5-14.

UTILITIES.

- Form, water and other utility bills clause, 6-51.

VACANT LAND.

- Contract provision regarding, 1-36.
- Legal description of, 1-9. See also **Legal Descriptions.**

VETERANS ADMINISTRATION (VA).

- Costs payable, 1-11.
- Loans from—
 - Contract, provision in regarding, 1-10.
 - Costs, 1-11.
- Mortgage insurance, 4-44.

VOCABULARY.

- Abstracting vocabulary and abbreviations, 3-6.
- Measurements of land, 2-15.

WAIVER.

- Contingency election, waiver of, 6-85.
- Defects in title, of, 4-20.
- Forms—
 - Contingency election, waiver of, 6-85.
 - Covenants, protective, waiver of, 6-109.
 - Notice of availability of owner's title insurance, 6-152.
 - Title search, waiver of—
 - Grantee's, 6-130.
 - Grantor's, 6-131.

WALLS.

- Artificial monuments, 2-4.10.
- Legal description, references to walls in, 2-12.

WARRANTY.

Builder, 5-5.

Deeds, see **Deeds**.

Forms—

As is condition, 6-72.

Bill of sale, 6-181.

Condemnation, seller's warranty as to, 6-56.

Condition, appliances, and systems, seller's warranty as to, 6-73.

Improvements within property lines and set-back lines, seller's warranty, 6-52.

Title, seller's warranty as to, 6-60.

Zoning, seller's warranty as to, 6-58.

WETLANDS.

Generally, 5-15.

WILLS.

Estate tax liens, 3-55.

Heirship affidavit, 6-146.

Record of, 3-26.

Register of claims, 3-27.

WRAP-AROUND CONTRACT.

Clauses, 6-26.2.

Deed of trust rider, 6-118.1.

Disclosures, 4-77.

Letter re wrap-around note, 6-114.4.

Repayment terms, 6-116.5.

Wrap-around note, 6-115.1.

ZONING.

Contract provision regarding, 1-19.

Forms—

Rezoning contingency, 6-59.

Warranty as to zoning, seller's, 6-58.