

Table of Contents

CHAPTER 1. COMMON LAW ESTATES IN LAND

B. PRESENT ESTATES

§ 1.4 Life estate

C. DEFEASIBLE ESTATES

§ 1.8 Fee simple determinable

E. DOCTRINES RESTRICTING AND PROTECTING FUTURE ESTATES

§ 1.25 Rule Against Perpetuities

§ 1.26 Restraints on alienation

§ 1.27 Waste

F. CONCURRENT ESTATES

§ 1.28 Tenancy in common

§ 1.29 Joint tenancy

§ 1.32 Partition

§ 1.33 Partition of Heirs Property *[New]*

CHAPTER 2. EASEMENTS AND PROFITS

§ 2.1 Nature of easements and profits

§ 2.3 Creation of easements and profits by Express Act

§ 2.4 Easements implied from prior use

§ 2.5 Easements implied from necessity

§ 2.6 Easements implied from plat

§ 2.7 Easements by prescription

§ 2.9 Scope of easements and profits

§ 2.9.50 Relocation of Easements *[New]*

§ 2.10 Transfer of easements and profits

§ 2.12 Termination of easements and profits

CHAPTER 3. RUNNING COVENANTS

§ 3.1 Introduction to running covenants

§ 3.1.30 Environmental covenants *[New]*

§ 3.1.50 Private transfer fee obligations *[New]*

§ 3.1.70 Discriminatory covenants *[New]*

A. REAL COVENANTS

- § 3.2 Form and interpretation of real covenants
- § 3.2.50 Headed “Homeowners’ Associations” *[New]*
- § 3.3 Real covenants must touch and concern
- § 3.8 Defenses to enforcement of real covenants
- § 3.9 Remedies for breach of real covenants

B. EQUITABLE RESTRICTIONS

- § 3.10 Introduction to equitable restrictions
- § 3.11 Form and interpretation of equitable covenants
- § 3.13 Intent to bind successors by equitable restrictions
- § 3.15 Equitable restrictions run with burdened land (sink their tentacles into the soil)
- § 3.18 Defenses to enforcement of equitable restrictions
- § 3.20 Equitable restrictions in subdivisions

CHAPTER 4. PLANNING AND ZONING

A. FUNDAMENTAL CONCEPTS

- § 4.1 Authority to zone
- § 4.2 Relationship of planning and zoning

C. CHALLENGES TO ZONING ACTIONS

- § 4.7 Denial of due process
- § 4.8 Denial of equal protection of law
- § 4.9 The “taking” issue
- § 4.10 Free speech and free exercise of religion
- § 4.11 Not in accord with a comprehensive plan
- § 4.12 Failure to follow required procedures
- § 4.13 Beyond authority of enabling act
- § 4.14 Appearance of fairness doctrine

D. ZONING AND REZONING

- § 4.16 Rezoning (map amendments)
- § 4.19 Planned unit developments
- § 4.20 Contract zoning
- § 4.21 Nonconforming uses

E. CONDITIONAL (SPECIAL) USES

- § 4.22 Grounds for conditional uses
- § 4.23 Procedures for conditional uses

F. VARIANCES

- § 4.25 Grounds for variance
- § 4.26 Procedures for variance

TABLE OF CONTENTS

G. JUDICIAL REVIEW OF ZONING ACTIONS

- § 4.29 Exhaustion of administrative remedies
- § 4.30 Court jurisdiction and procedures

CHAPTER 5. SUBDIVIDING AND PLATTING

- § 5.2 Requirements for plat applications
- § 5.3 Processing of applications
- § 5.4 Grounds for approval or denial
- § 5.5 Exactions and fees
- § 5.6 Judicial review
- § 5.7 Results of subdividing
- § 5.8 Violations and their consequences
- § 5.10 Common-law dedication

CHAPTER 6. LANDLORD AND TENANT

A. NATURE OF LEASEHOLDS IN GENERAL

- § 6.2 The landlord-tenant relation
- § 6.3 Leaseholds distinguished from other relationships
- § 6.4 Conveyance or contract?

B. NATURE AND CREATION OF THE FOUR LEASEHOLDS

- § 6.6 General principles
- § 6.7 Tenancy for years—Nature of estate
- § 6.10 Tenancy for years—Requirement of a writing
- § 6.11 Tenancy for years—Informal leases
- § 6.12 Tenancy for years—Recording
- § 6.14 Periodic tenancy—Methods of creation
- § 6.15 Tenancy at will—Nature

C. TENANT'S RIGHTS OF POSSESSION AND USE

- § 6.22 Waste by tenant
- § 6.27 Tenant's illegal use
- § 6.28 Implied covenant of fitness

D. INTERFERENCE WITH TENANT'S POSSESSORY RIGHTS

- § 6.32 Quiet enjoyment—Constructive eviction by landlord
- § 6.33 Damages for landlord's interference with possession
- § 6.35 Personal injuries to tenant from defective conditions
- § 6.36 Landlord's liability for criminal acts
- § 6.37 Condemnation of leased premises

E. REPAIRS AND IMPROVEMENTS

- § 6.39 Covenants to repair

§ 6.40 Repairs required by legislative acts

G. RENT AND SECURITY

- § 6.44 Remedies for rent default
- § 6.47 Rent adjustment clauses
- § 6.48 Governmental rent controls
- § 6.53 Security deposits
- § 6.54 Liquidated damages

K. LANDLORD'S AND TENANT'S TRANSFERS OF THEIR ESTATES

- § 6.63 Tenant's transfers—General principles
- § 6.67 Tenant's covenants against assignment and sublease
- § 6.68 Landlord's conveyance of reversion

L. TERMINATION

- § 6.71 Termination of tenancy for years
- § 6.72 Termination of periodic tenancy
- § 6.73 Termination of tenancy at will
- § 6.75 Special limitation on term (automatic termination)
- § 6.79 Unlawful detainer as a means of termination—In general
- § 6.80 Unlawful detainer under RCWA Chapter 59.12
- § 6.81 Unlawful detainer under Residential Landlord-Tenant Act
- § 6.81.50 For cause termination *[New]*
- § 6.82 Unlawful detainer under Manufactured/Mobile Home Landlord-Tenant Act
- § 6.84 Government regulation of evictions
- § 6.86 Termination by surrender
- § 6.89 Death of landlord or tenant
- § 6.91 Frustration of purpose

M. MOBILE AND MANUFACTURED HOMES *[New]*

- § 6.92 Mobile and Manufactured homes *[New]*

N. GOVERNMENT INTERVENTION IN LANDLORD TENANT RELATIONSHIP *[New]*

- § 6.93 Governmental intervention in the landlord tenant relation *[New]*

CHAPTER 7. CONVEYANCES OF TITLE

- § 7.2 Forms of Washington deeds
- § 7.4 Acknowledgment and sealing of deeds
- § 7.7 Consideration and gift deeds
- § 7.10 Defective execution of deeds
- § 7.12 Informal conveyances
- § 7.13 Merger by deed *[New]*

TABLE OF CONTENTS

CHAPTER 8. ADVERSE POSSESSION AND RELATED DOCTRINES

§ 8.1 Introduction

A. ADVERSE POSSESSION—GENERAL MATTERS

§ 8.2 Statutes of limitation

§ 8.4 Statutes of limitation—Tolling

§ 8.6 Title acquired by adverse possession

§ 8.8 Owners against whom adverse possession title may not be obtained

§ 8.8A Adverse possessor may have to pay taxes and assessments
[New]

B. ELEMENTS OF ADVERSE POSSESSION

§ 8.9 Actual possession—Principles

§ 8.10 Actual possession—Examples

§ 8.12 Hostility—In general

§ 8.13 Hostility—Ouster

§ 8.19 Exclusive possession

§ 8.20 Color of title

C. BOUNDARY ADJUSTMENT DOCTRINES

§ 8.21 Overview of boundary adjustment doctrines

§ 8.22 Common grantor

CHAPTER 9. EMINENT DOMAIN

A. THE POWER OF EMINENT DOMAIN

§ 9.4 Local governmental entities

§ 9.6 Private persons

B. CONSTITUTIONAL LIMITATIONS

§ 9.10 Property—Usufructuary interests (easements, etc.)

§ 9.11 Property—Loss of access to public ways

§ 9.12 Property—Riparian rights

§ 9.18 Property—Property of entities that have eminent domain power

§ 9.19 “Takings” and “damagings,” trespassory and nontrespassory

§ 9.20 Public-use doctrine

§ 9.22 Just compensation—Measure

§ 9.23 Just compensation—Severance damages

§ 9.25 Just compensation—Costs, attorneys’ fees, other allowances

§ 9.26 Just compensation—When measured and paid

C. EMINENT DOMAIN ACTIONS

§ 9.27 Pleadings

§ 9.28 Hearing on public use and necessity

§ 9.31 Inverse condemnation

**CHAPTER 10. RIGHTS INCIDENT TO
POSSESSION OF LAND**

- § 10.2 Freedom from physical intrusion (law of trespass)
- § 10.3 Freedom from nuisance
- § 10.5 Common law rights to streams and lakes (riparian rights)
- § 10.7 Diffuse surface water

Table of Contents

CHAPTER 11. EJECTMENT AND QUIET TITLE ACTIONS

- § 11.1 Introduction
- § 11.2 Nature and purpose of ejectment
- § 11.3 Nature and purpose of quiet title
- § 11.4 Jurisdiction over subject matter and persons
- § 11.5 Parties plaintiff
- § 11.6 Parties defendant
- § 11.8 Lis pendens
- § 11.10 Remedies—Specific relief
- § 11.11 Relief—Damages

CHAPTER 12. CONDOMINIUMS

- § 12.1 Overview and scope of this chapter
- § 12.2 Basic condominium concepts
- § 12.3 Essential features
- § 12.4 The declaration
- § 12.5 The unit owners' association
- § 12.6 Financing
- § 12.7 Public land—Use regulations
- § 12.8 Common elements
- § 12.9 Occupancy controls
- § 12.10 Owners' rights, duties, and liabilities
- § 12.11 Condemnation, damage to, or destruction of premises
- § 12.12 Termination
- § 12.13 Condominium purchaser's protection and checklist

CHAPTER 12A. WASHINGTON COMMON INTEREST COMMUNITY ACT *[New]*

- § 12A.1 Introduction and scope *[New]*
- § 12A.2 Common Interest Communities defined and exempt arrangements *[New]*
- § 12A.3 Creating a Common Interest Community *[New]*
- § 12A.4 The Management of the Community *[New]*
- § 12A.5 Financing *[New]*
- § 12A.6 Unit owners rights and obligations *[New]*
- § 12A.7 Common elements *[New]*
- § 12A.8 Damage, destruction and eminent domain *[New]*
- § 12A.9 Termination *[New]*
- § 12A.10 Protection for purchasers and residents of conversion units and purchasers check lists. *[New]*
- § 12A.11 Miscellaneous and special provisions *[New]*

CHAPTER 13. LAND DESCRIPTIONS AND BOUNDARIES

A. LAND DESCRIPTIONS

- § 13.2 The government survey system
- § 13.3 Kinds of land descriptions

B. BOUNDARIES

- § 13.4 Boundaries—In general
- § 13.5 Boundaries—Water boundaries

C. MISTAKEN AND INCONSISTENT DESCRIPTIONS

- § 13.7 Inconsistent descriptions

CHAPTER 14. METHODS OF TITLE ASSURANCE

A. TITLE COVENANTS IN DEEDS

- § 14.2 Deed covenants—General principles
- § 14.3 Deed covenants—Content of specific covenants

B. THE WASHINGTON RECORDING SYSTEM

- § 14.5 Fundamental concepts
- § 14.6 Outline of Washington recording system
- § 14.7 Recordable instruments
- § 14.8 Effect of recording
- § 14.10 “Good faith”
- § 14.11 Chain-of-title problems
- § 14.12.50 Recording transactions dealing with indian trust land
[New]

C. REGISTERED (TORRENS) TITLE

- § 14.13 Overview of the system
- § 14.14 Converting from recorded to registered title
- § 14.15 Dealings with registered land

D. TITLE INSURANCE

- § 14.16 Overview
- § 14.17 The title insurance industry
- § 14.18 The preliminary commitment
- § 14.20 The title insurance policy—Specific clauses

CHAPTER 15. REAL ESTATE BROKERS

- § 15.1 Introduction

TABLE OF CONTENTS

- § 15.2 Role of broker
- § 15.3 Licensure and control
- § 15.4 Sellers Listing Agreements/Brokerage Services Agreement
[Retitled]
- § 15.5 Multiple listing agencies
- § 15.6 Duration of employment
- § 15.6.50 Brokers' Duties Generally *[New]*
- § 15.7 Duties and liabilities to principal
- § 15.8 Compensation and Commissions—In the appropriate type
[Retitled]
- § 15.10 Broker's liability to buyer
- § 15.10.50 Buyer's Broker Duties and Liabilities *[Retitled]*
- § 15.10.70 Limited Dual Agent's Duties and Liabilities *[New]*
- § 15.12 Certified closing officers
- § 15.13 Other real estate professionals *[New]*

CHAPTER 16. EARNEST MONEY AGREEMENTS

- § 16.1 Overview
- § 16.2 Form of agreement
- § 16.3 Elements essential to enforceable agreement
- § 16.4 Other important elements
- § 16.5 Residential sales—Seller's disclosures
- § 16.5.50 Commercial sales—Seller's disclosures *[New]*
- § 16.7 Remedies for breach—Damages
- § 16.8 Remedies for breach—Specific performance
- § 16.9 Remedies for breach—Rescission and restitution

CHAPTER 17. MORTGAGES—FORMATION

- § 17.1 Nature and history of mortgages
- § 17.2 Overview of Washington mortgages
- § 17.9 Equitable mortgages—Deed absolute
- § 17.10 Equitable mortgages—Conditional sale
- § 17.13 Interests that may be mortgaged
- § 17.16 The obligation—Future advances

CHAPTER 18. MORTGAGES—BETWEEN FORMATION AND FORECLOSURE

A. RIGHTS AND DUTIES BETWEEN MORTGAGOR AND MORTGAGEE

- § 18.6 Receiverships

C. TRANSFERS BY MORTGAGEE

- § 18.18 Mortgage assignment—General principles
- § 18.19 Mortgage assignment—Necessity to record
- § 18.20 Transfer of obligation without transfer of mortgage and vice
versa

D. RELATIONSHIPS WITH THIRD PERSONS AND PRIORITIES

- § 18.23 Labor and materials lienors
- § 18.25 Priority of future advances

E. PAYMENT AND DISCHARGE

- § 18.29 Merger of title and mortgage
- § 18.30 Deed in lieu of foreclosure
- § 18.33 Subrogation
- § 18.34 Statutes of limitation

CHAPTER 19. JUDICIAL FORECLOSURE

- § 19.1 Applicability and effects of judicial foreclosure
- § 19.4 Review of the terms of the documents
- § 19.5 Commencing the lawsuit
- § 19.7 Receivers
- § 19.12 Execution and sale
- § 19.13 Disposition of proceeds of sale
- § 19.14 Confirmation of sale
- § 19.17 Deficiency judgment
- § 19.19 Statutory redemption
- § 19.20 Wrongful foreclosure *[New]*

CHAPTER 20. STATUTORY DEEDS OF TRUST

- § 20.1 Introduction
- § 20.1.50 Washington responses to foreclosure crisis *[New]*
- § 20.2 Nature of deed of trust
- § 20.3 Drafting deeds of trust
- § 20.5 Recording and priorities
- § 20.6 Effect of deed of trust on grantor's title
- § 20.7 Beneficiary's interest
- § 20.8 The trustee
- § 20.10 Prerequisites to trustee's sale
- § 20.11 Notices of trustee's sale
- § 20.12 Discontinuing trustee's sale by curing defaults
- § 20.13 Restraint of trustee's sale
- § 20.14 Conduct of trustee's sale
- § 20.15 Interest of purchaser at trustee's sale
- § 20.16 Distribution of proceeds from trustee's sale
- § 20.17 Trustee's sale's effect on secured obligation
- § 20.18 Setting aside trustee's sale
- § 20.19 Judicial foreclosure

TABLE OF CONTENTS

**CHAPTER 21. REAL ESTATE INSTALLMENT
CONTRACTS**

B. INCIDENTS OF REAL ESTATE CONTRACT

§ 21.9 Purchaser's interest

D. REMEDIES FOR BREACH

II. REMEDIES AVAILABLE ONLY TO VENDOR

§ 21.31 Equitable relief from forfeiture prior to Washington statute

**III. REMEDIES AVAILABLE ONLY TO
PURCHASER**

§ 21.41 Petition for judicial sale under Forfeiture Act

Table of Laws and Rules

Table of Cases

Index