# **Index**

#### **ABANDONMENT**

Condemnation, § 64:24
Easements and licenses, § 28:19
Landlord-tenant actions, § 52:9
Listing agreements, §§ 12:8, 12:9
Non mortgage financing techniques, § 15:11

#### ABSOLUTE DEED

Non mortgage financing techniques, § 15:13

#### **ACCELERATION**

Foreclosure of mortgages, § 59:4 Mortgage documents, § 18:3 Promissory notes, suits on, § 55:4

## **ACCEPTANCE**

Deeds, § 3:18
Landlord-tenant actions, acceptance of rent, § 52:10
Mortgage documents, §§ 16:2, 17:15
Sale contract basics, § 9:2

# **ACCOMMODATION PARTIES**

Promissory notes, suits on, § 55:6

# ACCOUNTS AND ACCOUNTING

Mechanic's liens, § 73:15 Non mortgage financing techniques, § 15:5

## **ACCRUAL OF INDEBTEDNESS**

Mechanic's liens, § 73:17

# **ACKNOWLEDGMENTS**

Condominiums, § 21:1
Deeds, § 3:20
Title insurance, §§ 5:1, 6:1, 7:1
Title to property, § 4:8

# **ACTIONS AND REMEDIES**

Arbitration, § 44:16
Borrower/Lender Actions. this index
Ejectment, this index
Foreclosure of Mortgages, Suits on. this index
Fraud, this index
Guaranties, Suits on. this index
Landlord-Tenant Actions, this index
Leases. Landlord-Tenant Actions, this index
Lenders. Borrower/Lender Actions. this index

#### ACTIONS AND REMEDIES—Cont'd

Mortgage Litigation, Suits on. this index

Promissory Notes, Suits on. this index

Statutory Actions Affecting Real Estate, this index

Trespass, this index

Vendor and Purchaser Actions, this index

Warranties, Actions for Breach of, this index

# **ACTUAL POSSESSION**

Adverse possession, §§ 66:8-66:11

## ADMINISTRATION AND ADMINISTERING

Guaranties, suits on, § 56:8

Subdivisions, § 23:6

## ADMINISTRATIVE PROCEDURE

Real estate licensee issues, § 49:6

Real estate tax appeals, §§ 65:2, 65:7

Zoning, § 63:4

## **ADVANCES**

Mortgages, §§ 13:9-13:12

# ADVERSE POSSESSION

Generally, §§ 66:1-66:16

Actual possession, §§ 66:8-66:11

Boundaries, § 66:7

Claim of right, § 66:5

Color of title, §§ 66:9, 66:10

Continuous possession, § 66:14

Easements and licenses, § 28:20

Elements, § 66:3

Exclusivity, § 66:13

Government, possession as against, § 66:16

Hostile possession, §§ 66:4-66:7

Inferred boundaries, § 66:7

Open and notorious, § 66:12

Overview, § 66:1

Pious uses, § 66:16

Statutory basis, § 66:2

Tacking possession as between grantor and grantee, § 66:15

Trespass, § 66:6

Wild lands, § 66:11

#### ADVERSE USE

Prescription, easement by, § 67:3

# **AESTHETIC BENEFIT**

Easements and licenses, § 29:14

#### AFFIRMATIVE DEFENSES

Landlord-tenant actions, § 51:18

# AFTER-ACQUIRED PROPERTY

Mortgages, § 13:13

# AFTER-ACQUIRED TITLE

Title to property, § 4:3

#### **AGENCY**

Real estate brokers, § 11:4 Title insurance, § 5:13

#### **AGREEMENTS**

Contracts and Agreements, this index

#### AGRICULTURAL LAND

Real estate tax appeals, § 65:5

#### **ALIENS**

Deeds, § 3:6

## **ALLOCATION**

Condominiums, § 21:25

# ALTA OWNER'S POLICY

Title insurance, § 6:2

## **ALTERATION**

Modification, this index

## ALTERNATIVE DISPUTE RESOLUTION

Generally, §§ 43:1-43:10

Arbitration, this index

Avoidance of dispute, § 43:8

Dispute resolution design, §§ 43:6, 43:7

Med/arb, § 43:4

Mediation overview, § 43:3

Other ADR, overview, § 43:5

Overview, §§ 43:2, 43:3

Procedural controls on litigation, § 43:9

Substantive controls on dispute resolution, § 43:10

Vendor and Purchaser Actions, this index

#### AMBIGUITIES AND AMBIGUOUS MATTERS

Deeds, § 3:13

Subdivisions, § 22:15

#### **AMENDMENT**

Subdivisions, § 23:7

# **ANCILLARY RIGHTS**

Sale contract basics, § 9:6

#### ANTICIPATORY BREACH OF CONTRACT

Vendor and purchaser actions, § 46:4

#### APPEAL AND REVIEW

Arbitration, §§ 44:2, 44:4, 44:15

Landlord-tenant actions, § 51:24

Real estate licensee issues, § 49:7

Real Estate Tax Appeals, this index

Zoning, this index

# **APPOINTMENT**

Mortgage documents, § 19:1

#### **APPRAISALS**

Options, first refusals, extensions and renewals of leases, § 35:7

## APPROVAL

Consent or Approval, this index

## APPURTENANT EASEMENTS

Easements and licenses, § 27:2

# ARBITRARY REQUIREMENTS

Subdivisions, § 22:12

## **ARBITRATION**

Generally, §§ 44:1-44:20

Appeal and review, §§ 44:2, 44:4, 44:15

Awards, generally, §§ 44:15, 44:20

"Baseball" arbitration, § 44:17

Cautions, § 44:8

Consent, §§ 44:1, 44:6

Designer arbitration, § 44:12

Discovery in arbitration, § 44:18

Enforcement of arbitration award, § 44:19

Evidence in arbitration, § 44:19

Federal and Missouri acts compared, § 44:13

Limiting arbitration, § 44:11

Modification of protocols, § 44:10

Overview, § 43:2

Pre-dispute arbitration commitment decisions, § 44:7

Protocols, § 44:9

Remedies, § 44:16

Stay of arbitration, appeal of ruling for, § 44:3

Time agreed to, § 44:5

Two bites, § 44:3

Waiver of arbitration right, § 44:14

# ARCHITECTURAL REVIEW

Subdivisions, § 23:14

#### **ASSESSMENTS**

Subdivisions, § 23:5

#### **ASSIGNMENTS**

Leases and leasing, § 34:2
Resolving real estate disputes, § 41:5

# ASSOCIATIONS

Deeds, § 3:5

# ASSUMPTION OF MORTGAGE

Sale contract basics, § 9:12

## **ATTACHMENT**

Borrower/lender actions, § 54:5

## **ATTORNEYS**

Sale contract basics, § 9:23

#### **ATTORNEYS' FEES**

Landlord-tenant actions, § 51:5 Partition, § 69:11 Subdivision disputes, § 68:10

# ATTORNMENT TO STRANGER

Leases and leasing, § 33:6

## **AUDITS**

Lease expenses and rental adjusters, § 37:10 Real estate licensee issues, § 49:5

# **AUTHORITY AND AUTHORIZATION**

Deeds, § 3:5 Zoning, §§ 25:1, 25:2

## **AVOIDANCE**

Alternative dispute resolution, § 43:8

#### **AWARDS**

Arbitration, this index Condemnation, §§ 64:8, 64:9, 64:25

## **BANKRUPTCY**

Landlord-tenant actions, § 51:23 Mechanic's liens, § 73:37

# "BASEBALL" ARBITRATION

Generally, § 44:17

# **BENEFICIARY DEEDS**

Deeds, § 3:19

# **BIDS AND BIDDING**

Foreclosure sale, § 60:10

#### **BLANKET MORTGAGES**

Mortgage documents, § 16:8

#### **BOARD**

Commission or Board, this index

#### **BONDS**

Post-sale issues, § 61:2 Subdivision disputes, § 68:8

## **BORROWER/LENDER ACTIONS**

Generally, §§ 54:1-60:19

Attachment, § 54:5

Declaratory judgment, § 54:1

Enforcement tools, generally, §§ 54:1-54:5

Guaranties, Suits on, this index

Implied covenants, §§ 54:2, 54:3

Liens of landlord, § 54:4

Miscellaneous enforcement tools, §§ 54:1-54:5

Mortgage Litigation, this index

Promissory Notes, Suits on, this index

## **BOUNDARIES**

Adverse possession, § 66:7 Subdivisions, § 22:5

## **BREACH OF LEASE**

Landlord-Tenant Actions, this index

#### **BROKERS**

Real Estate Brokers, this index

# **BUILDING LINES**

Subdivision disputes, § 68:14

# **BULK SALES**

Foreclosure sale, § 60:4

#### **BURDEN OF PROOF**

Promissory notes, suits on, § 55:11 Quiet title, § 70:3

## **BUYER'S BROKERS**

Listing agreements, § 12:6

# **BUYING AND SELLING REAL ESTATE**

Sales of Selling of Real Estate, this index

#### **BYLAWS**

Condominiums, § 21:12

# **CAP ON DAMAGES**

Vendor and purchaser actions, § 46:12

# **CAPACITY**

Deeds, § 3:4

Mortgage documents, § 16:3

## **CASUALTY LOSS**

Lease documents, § 39:7

# **CATEGORIZATION**

Leases and leasing, § 31:2 Premises liability, § 75:3

## **CAVEAT EMPTOR**

Foreclosure sale, § 60:11

## **CERTIORARI**

Zoning, § 63:6

# **CHAIN OF TITLE**

Title to property, § 4:1

# **CHALLENGING**

Leases and leasing, § 32:2

#### **CHANGE**

Modification, this index

## **CHECKING IT OUT**

Sales transaction overview, § 8:4

# CHECKING THE POLICY

Title insurance, § 5:16

# CHILLING THE SALE

Foreclosure sale, § 60:3

## **CIRCUIT COURT**

Zoning, § 63:6

## **CLAIMS**

Adverse possession, § 66:5 Landlord-Tenant Actions, this index Lease documents, § 39:12

# **CLARITY OF CONTRACT**

Vendor and purchaser actions, § 47:2

## **CLASS STRUCTURE**

Zoning, § 25:3

## **CLASSIFICATION**

Real estate tax appeals, § 65:4

# **CLOSING**

Sale Contract Basics, this index Title insurance, §§ 5:11, 5:14

# **COINSURANCE**

Lease documents, § 39:4 Title insurance, § 6:13

## **COLLATERAL OBLIGORS**

Foreclosure sale, § 60:12

## **COLOR OF TITLE**

Adverse possession, §§ 66:9, 66:10

## **COMMERCIAL LEASES**

Landlord-tenant actions, §§ 50:4, 52:20

# **COMMERCIAL TRANSACTION**

Sales transaction overview, § 8:2

## **COMMISSION OR BOARD**

Condemnation, §§ 64:8, 64:25
Real Estate Licensee Issues, this index

Zoning, board of adjustment, §§ 63:5, 63:6

#### **COMMISSIONS**

Listing agreements, § 12:4

## **COMMITMENT**

Title Insurance, this index

# **COMMON AREAS**

Lease documents, § 36:7

Personal injury liability risk allocation, § 53:5

## **COMMON LAW**

Fraud, § 74:2

Leases and leasing, § 30:7

Non mortgage financing techniques, § 15:6

## COMMON REPAIR AND MAINTENANCE DISPUTES

Lease improvements, § 38:1

# COMMUNITY IMPROVEMENT DISTRICTS

Easements and licenses, § 26:5

# COMPARABLE SALES APPROACH

Condemnation, § 64:16

## **COMPENSATION**

Mortgage documents, § 19:4

# **COMPETENT PARTIES**

Deeds, § 3:4

# **COMPOSITION OF INSURED**

Title insurance, § 6:5

# **CONCURRENT EASEMENTS**

Easements and licenses, § 29:12

# **CONDEMNATION**

Generally, §§ 64:1-64:28

Abandonment by condemnor, § 64:24

# CONDEMNATION—Cont'd Award, §§ 64:8, 64:9, 64:25 Commissioner, generally, §§ 64:8, 64:25 Comparable sales approach, § 64:16 Condominiums, § 21:29 Determination of power, § 64:5 Easements and licenses, § 28:13 Five "p's," § 64:1 Good faith negotiations, §§ 64:3, 64:7 Hearing, § 64:8 Income approach, § 64:19 Income method-lot method, § 64:20 Interests subject to condemnation, § 64:14 Intergovernmental conflicts, § 64:4 Inverse Condemnation, this index Landowner opinion testimony, § 64:21 Lease Documents, this index Leases and leasing, § 30:5 Market approach, § 64:16 Maximum injury rule, § 64:11 Mortgage documents, § 18:4 Necessity power, § 64:3 Opinion testimony, § 64:21 Payment, generally, §§ 64:9, 64:23-64:25 Power, generally, §§ 64:2-64:4 Pre-filing, § 64:6 Price, generally, §§ 64:15-64:22 Private condemnation, § 64:28 Process, generally, §§ 64:5-64:9 Project definition issues, § 64:11 Project influence doctrine, § 64:17 Property, generally, §§ 64:10-64:14 Public purpose power, § 64:3 Purchase price, generally, §§ 64:15-64:22 Replacement cost approach, § 64:18 Scope of taking, § 64:10 Special benefits, § 64:17 Special damage to property retained, § 64:12 Special evidence, § 64:22 State constitution power, § 64:2 Statutory power, § 64:3

#### **CONDITION OF PREMISES**

Tripartite rule of unity, § 64:13 Zoning, inverse condemnation, § 64:27

Survey right, § 64:6

Resolving real estate disputes, § 41:10

#### **CONDITION OF SECURITY**

Mortgage documents, §§ 18:1-18:5

# CONDITIONS SUBSEQUENT

Subdivisions, § 23:1

## **CONDOMINIUMS**

Generally, §§ 21:1-21:33

Acknowledgment of chapter information, § 21:1

Allocation of common area interests and expenses, § 21:25

Alteration of common elements, § 21:23

Basic concepts, § 21:3

Bylaws of association, § 21:12

Common elements, § 21:22

Condemnation, § 21:29

Control of unit owners association, § 21:8

Conversion condominiums, protection in, § 21:32

Conveyancing, § 21:7

Damage or destruction, § 21:28

Declarant development rights, § 21:11

Declaration, § 21:5

Democratic principles, § 21:8

Destruction, § 21:28

Directors of association, § 21:15

Due diligence of buyer, § 21:20

Duties of owners to associations, § 21:26

Elements of condominium, § 21:4

Features of condominium, § 21:4

Financing, §§ 21:17, 21:18

Functions peculiar to condominiums associations, § 21:16

Insurance, § 21:27

Land-use regulations, § 21:21

Liens, § 21:19

Limited common elements, § 21:24

Long term developer deals, § 21:9

Officers and directors of association, § 21:15

Original purchasers, protection of, § 21:31

Overview, § 21:2

Protection, generally, §§ 21:31-21:33

Public land-use regulations, § 21:21

Resale, protection for purchasers on, § 21:32

Restrictions, § 21:14

Scope of chapter, § 21:2

Special assessments, § 21:20

Special declarant rights, § 21:10

Special projects, financing of, § 21:18

Termination, § 21:30

Unit owners, generally, §§ 21:13, 21:14

Unit owners association, §§ 21:6, 21:8

## CONDOMINIUMS—Cont'd

Use restrictions, § 21:14

## CONSENT OR APPROVAL

Arbitration, §§ 44:1, 44:6 Leases and Leasing, this index

## **CONSEQUENTIAL DAMAGES**

Landlord-tenant actions, § 51:3 Vendor and purchaser actions, § 46:9

#### CONSIDERATION

Deeds, §§ 3:7, 3:8

Mortgage documents, § 16:3

Title to property, § 4:9

## **CONSISTENCY**

Leases and leasing, § 32:7

#### **CONSTITUTIONAL LAW**

Condemnation, § 64:2
Easements and licenses, § 26:8
Foreclosure of mortgages, § 58:4
Mechanic's liens, § 73:3
Subdivisions, §§ 22:9, 22:11
Zoning, this index

#### CONSTRUCTION AND INTERPRETATION

Easements and licenses, §§ 29:1, 29:2 Lease improvements, § 38:3

# **CONSTRUCTION LOANS**

Mortgages, § 13:7

## **CONSTRUCTIVE EVICTION**

Landlord-tenant actions, §§ 52:7-52:9

## **CONSTRUCTIVE TRUST**

Deeds, § 3:10

Vendor and purchaser actions, § 47:17

#### **CONTINGENCIES**

Lease documents, § 36:3
Sale Contract - Additional Issues, this index

# CONTINUATION OF COVERAGE

Title insurance, § 6:4

# CONTINUOUS AND UNINTERRUPTED USE

Prescription, easement by, § 67:2

## **CONTINUOUS POSSESSION**

Adverse possession, § 66:14

#### **CONTRACTS AND AGREEMENTS**

Fraud, contract disclaimers, § 74:15

Leases, agreements to agree, § 35:16

Listing Agreements, this index

Non mortgage Financing Techniques, this index

Oral Agreements, this index

Sale Contract Basics, this index

Sale Contract-Additional Issues, this index

Title insurance, § 6:7

Vendor and Purchaser Actions, this index

#### **CONTRIBUTION**

Guaranties, suits on, § 56:14

## **CONTROL**

Condominiums, § 21:8

Personal injury liability risk allocation, § 53:3

## **CONVERSION CONDOMINIUMS**

Condominiums, § 21:32

## CONVERSION OF PERSONAL PROPERTY

Landlord-tenant actions, § 52:22

#### **CONVEYANCES**

Titles and Conveyances, this index

# **COSIGNERS**

Lease documents, § 36:4

#### **COSTS**

Expenses, this index

# **COUNTERCLAIMS**

Landlord-tenant actions, § 51:18

## **COURT CHALLENGE**

Real estate tax appeals, § 65:9

# **COURT-ORDERED EVICTION**

Landlord-tenant actions, § 51:8

#### **COVENANTS**

Mortgage Documents, this index Subdivisions, § 23:3

# **CPI INDEX**

Lease expenses and rental adjusters, § 37:3

# **CRIMINAL ACTS**

Personal injury liability risk allocation, § 53:7

#### **CRYING THE SALE**

Foreclosure sale, § 60:5

#### **CURE OF DEFECT**

Mortgage documents, § 18:3

## DAMAGE OR DESTRUCTION

Condominiums, § 21:28

Sale contract - additional issues, §§ 10:14-10:18

#### **DAMAGES**

Landlord-tenant actions, §§ 51:3, 51:4, 52:3

Lender liability, § 76:5

Nuisance, § 77:5

Promissory notes, suits on, § 55:8

Subdivision disputes, § 68:5

Vendor and Purchaser Actions, this index

Warranties, actions for breach of, §§ 48:2, 48:10

## **DEADLINES**

Mechanic's liens, § 73:18

## **DECLARATION**

Condominiums, § 21:5

#### **DECLARATORY JUDGMENT**

Borrower/lender actions, § 54:1

Zoning, § 63:8

# **DECRYPTION OF PROPERTY**

Sale contract basics, § 9:3

# **DEDICATION**

Leases and leasing, § 30:7

## **DEED OF TRUST**

Mortgage documents, § 16:1

#### **DEEDS**

Generally, §§ 3:1-3:24

Acceptance, § 3:18

Acknowledgment, § 3:20

Aliens, restrictions applicable to, § 3:6

Ambiguities in descriptions, § 3:13

Approaches to describing real estate, § 3:12

Associations, deeds by and to, § 3:5

Authority and authorization, § 3:5

Beneficiary deeds, § 3:19

Capacity, § 3:4

Competent parties, § 3:4

Consideration, §§ 3:7, 3:8

Constructive trust, § 3:10

Delivery of deed, § 3:16

Description, generally, §§ 3:11-3:13

Entities, deeds by and to, § 3:5

#### DEEDS—Cont'd

Exceptions, § 3:14

Execution, § 3:20

Foreclosure sale, § 60:9

Fraud, § 3:8

Informality, § 3:2

Intent or intention, §§ 3:7, 3:15

Legal description, generally, §§ 3:11-3:13

Overview, § 3:1

Quitclaim deeds, § 3:24

Recordation of deeds, § 3:17

Reservations, § 3:14

Restrictions, §§ 3:6, 23:1

Resulting trust, § 3:9

Special warranty deeds, § 3:23

Subdivisions, restrictions in deeds, § 23:1

Types of deeds, § 3:21

Undue influence, § 3:8

Valuable consideration, § 3:7

Warranties in deeds, §§ 3:22, 3:23

Writing requirement, § 3:3

## **DEEDS OF TRUST**

Mortgages, § 13:2

#### **DEFAULT**

Foreclosure of mortgages, § 59:2

Landlord-tenant actions, § 52:10

Lease documents, §§ 40:1, 40:8

Sale contract - additional issues, § 10:19

# **DEFEASIBLE ESTATES**

Present estates, § 1:4

# **DEFECTIVE REPAIRS**

Landlord-tenant actions, § 52:21

# **DEFENSES**

Guaranties, Suits on, this index

Promissory notes, suits on, §§ 55:9-55:13

Vendor and purchaser actions, § 47:15

#### **DEFICIENCY JUDGMENT**

Post-sale issues, § 61:7

## **DEFICIENT HOUSING STATUTE**

Landlord-tenant actions, §§ 52:16, 52:17

## **DEFINITIONS**

Liens, § 72:1

Real estate brokers, § 11:2

Title insurance, § 6:3

## **DEFINITIONS—Cont'd**

Vendor and purchaser actions, § 45:1

#### **DELAY**

Laches or Delay, this index

## **DELIVERY**

Deeds, § 3:16

Mortgage documents, § 16:2

#### **DEMAND**

Landlord-tenant actions, § 51:13

Promissory notes, suits on, § 55:3

# **DEMOCRATIC PRINCIPLES**

Condominiums, § 21:8

## **DENIAL SYNDROME**

Guaranties, suits on, § 56:1

## **DEPOSITS**

Sale contract - additional issues, § 10:10

Sale contract basics, § 9:9

Security Deposits, this index

Vendor and purchaser actions, § 46:2

## **DESCRIPTION**

Deeds, §§ 3:11-3:13

Easements and Licenses, this index

Mortgage documents, § 16:9

# **DESIGNER ARBITRATION**

Generally, § 44:12

# **DESTRUCTION**

Damage or Destruction, this index

# **DEVELOPING REAL ESTATE**

Condominiums, this index

Subdivisions, this index

Zoning, this index

# **DILIGENCE**

Condominiums, § 21:20

Lease documents, § 36:3

Sale contract - additional issues, §§ 10:2, 10:6, 10:8

Sales transaction overview, § 8:4

# DIRECT COURT REVIEW

Real estate tax appeals, § 65:8

#### **DIRECTORS**

Condominiums, § 21:15

#### **DISCIPLINE**

Real estate licensee issues, § 49:2

## **DISCLAIMERS**

Fraud, § 74:15

Warranties, actions for breach of, § 48:7

## **DISCOVERY**

Arbitration, § 44:18

## DISCRETION

Mortgage documents, § 19:3

Vendor and purchaser actions, § 47:10

# **DISCRIMINATION**

Real estate tax appeals, § 65:6

## **DISPUTES**

Resolving Real Estate Disputes, this index

## **DISTINCTIONS**

Mortgages, § 13:2

# **DISTRESS SALES**

Foreclosure sale, § 60:11

#### **DISTRIBUTION**

Foreclosure sale, § 60:15

Partition, § 69:13

# **DIVISION OF INTEREST**

Present estates, § 1:6

# **DRAFTING MATTERS**

Lease documents, § 36:12

Options, first refusals, extensions and renewals of leases, § 35:9

Sale contract - additional issues, §§ 10:4, 10:18

#### **DRIVES**

Leases and Leasing, this index

#### **DUAL AGENCY**

Real estate brokers, § 11:7

# **DUE DILIGENCE**

Diligence, this index

## **DUE ON SALE CLAUSES**

Mortgages, §§ 13:20, 13:21

Sale contract basics, § 9:14

# **DURATION**

Easements and licenses, § 29:4

Foreclosure of mortgages, § 59:9

Liens, § 72:4

#### EARNEST DEPOSIT

Deposit, this index

## **EASEMENTS AND LICENSES**

Generally, §§ 26:1-29:16

Abandonment, termination of easements by, § 28:19

Adverse possession, termination of easements by, § 28:20

Aesthetic benefit of servient estate, § 29:14

Appurtenant easements, § 27:2

Community improvement districts, § 26:5

Concurrent easements, § 29:12

Condemning private access easements, § 28:13

Constitutional issues, § 26:8

Construction and interpretation, §§ 29:1, 29:2

Creation, generally, §§ 28:1-28:20

Description

Easement area, § 29:11

Property, § 28:4

Duration of easement, § 29:4

Easement installations, § 29:9

Easements in gross, § 27:3

Elements of implied easements, § 28:7

Estoppel, easement by, § 28:2

Expectation of parties, interpretation to meet, § 29:2

Expiration of easements, § 28:16

Fee or easement, § 29:3

Franchises, § 27:6

Implied easements, §§ 28:6-28:9

Indemnity, § 29:15

Industrial development financing, § 26:6

Liability, § 29:15

Licenses, generally, § 27:4

Limits on use of servient estates, § 29:8

Maintenance and repair, duty of, § 29:13

Merger, termination of easements by, § 28:18

Miscellaneous redevelopment incentives, § 26:7

Municipal franchises, § 27:6

Necessity for implied easements, § 28:8

Operation of law, easements by, § 28:5

Oral grant, § 28:1

Overview, § 26:1

Parties, rights and obligations of

Generally, §§ 29:1-29:16

Aesthetic benefit of servient estate, § 29:14

Concurrent easements, § 29:12

Construction and interpretation, §§ 29:1, 29:2

Description of easement area, § 29:11

Duration of easement, § 29:4

# EASEMENTS AND LICENSES—Cont'd Parties, rights and obligations of-Cont'd Easement installations, § 29:9 Expectation of parties, interpretation to meet, § 29:2 Fee or easement, § 29:3 Indemnity, § 29:15 Liability, § 29:15 Limits on use of servient estates, § 29:8 Maintenance and repair, duty of, § 29:13 Platted easements, interpretation of, § 29:10 Repair, duty of, § 29:13 Rules of construction of nonspecific easements, § 29:5 Servient estates, generally, §§ 29:6-29:8 Use of appurtenant easement by owner of dominant estate, § 29:16 Platted easements, interpretation of, § 29:10 Prescriptive easements, §§ 28:10-28:12 Profits a prendre, § 27:5 Public easements, generally, §§ 28:14, 28:15 Redevelopment incentives Generally, §§ 26:1-26:8 Community improvement districts, § 26:5 Constitutional issues, § 26:8 Industrial development financing, § 26:6 Miscellaneous redevelopment incentives, § 26:7 Overview, § 26:1 Tax increment financing, § 26:2 Transpiration development districts, § 26:4 Urban Redevelopment Corporation Law, § 26:3 Release of easements, § 28:17 Reliance by licensee, § 28:2 Repair, duty of, § 29:13 Rules of construction of nonspecific easements, § 29:5 Servient estates, generally, §§ 29:6-29:8 Significance of public easements, § 28:14 Subdivisions, § 22:13 Tax increment financing, § 26:2 Termination of easements, §§ 28:18-28:20 Transpiration development districts, § 26:4 Urban Redevelopment Corporation Law, § 26:3 Use Appurtenant easement by owner of dominant estate, § 29:16 Prescriptive easements, § 28:12 Visibility of implied easements, § 28:9 Written grants, § 28:3 **EJECTMENT**

Index-18

Generally, §§ 71:1-71:5

Core remedy in ejectment action, § 71:5

#### EJECTMENT—Cont'd

Landlord-tenant actions, § 51:25 Missouri Betterment Statute, § 71:3 Overview of chapter, § 71:2 Quiet title distinguished from ejectment, § 71:4 Source of law, § 71:1

## **EMERGING MARKET**

Partition, § 69:14

## **EMINENT DOMAIN**

Condemnation, this index

## **ENABLING STATUTES**

Subdivisions, § 22:6

#### **ENCUMBRANCES**

Liens, this index

#### **ENFORCEMENT**

Arbitration award, § 44:19
Lease Documents, this index
Mechanic's liens, § 73:22
Subdivision Disputes, this index
Subdivisions, § 22:3
Vendor and purchaser actions, § 46:11

# **ENTIRETIES, TENANCY BY**

Mechanic's liens, § 73:30 Partition, § 69:4

#### **ENTITIES**

Deeds, § 3:5

## **ENTITY CHOICES**

Real estate licensee issues, § 49:4

# ENTRY AND RELETTING REMEDY

Lease documents, § 40:6

# **ENVIRONMENTAL ISSUES**

Resolving real estate disputes, § 41:6 Sale contract - additional issues, § 10:8

## **EQUITABLE ACTIONS**

Vendor and Purchaser Actions, this index

## **EQUITABLE MECHANIC'S LIENS**

Mechanic's liens, §§ 73:20—73:22

# **EQUITABLE REDEMPTION**

Post-sale issues, §§ 61:4, 61:5

## **EQUITABLE RELIEF**

Zoning, § 63:8

# **EQUITABLE SUBROGATION**

Mortgages, § 13:18

# ESCALATION OF RENT AND ESCALATORS

Lease expenses and rental adjusters, §§ 37:4, 37:11, 37:12

#### **ESCROWS**

Title insurance, § 5:15

#### **ESTOPPEL**

Waiver and Estoppel, this index

# **EUCLIDEAN ZONING SCHEME**

Zoning, § 62:14

# **EVALUATION AND EVALUATING**

Foreclosure of mortgages, § 59:2

Guaranties, suits on, § 56:9

Options, first refusals, extensions and renewals of leases, § 35:8

## **EVICTION**

Landlord-tenant actions, § 51:8

## **EVIDENCE**

Arbitration, § 44:19

#### **EXCEPTIONS**

Deeds, § 3:14

Leases and leasing, § 31:5

Title Insurance, this index

Zoning, § 62:4

# **EXCLUSIONS**

Title Insurance, this index

## **EXCLUSIVITY**

Adverse possession, § 66:13

Resolving real estate disputes, § 41:4

## **EXECUTION**

Deeds, § 3:20

Mechanic's liens, § 73:36

# **EXECUTORY INTERESTS**

Future interests, § 2:6

# **EXEMPTION**

Real estate tax appeals, § 65:11

# **EXERCISE OF OPTION**

Options, first refusals, extensions and renewals of leases, §§ 35:6, 35:11

## **EXHAUSTION REQUIREMENT**

Zoning, §§ 62:3, 62:4

#### **EXPECTATION OF PARTIES**

Easements and licenses, § 29:2

#### **EXPENSES**

Lease Expenses and Rental adjusters, this index Partition, § 69:12
Sale contract basics, § 9:20

## **EXPIRATION**

Easements and licenses, § 28:16

#### **EXPRESS WARRANTIES**

Generally, §§ 48:1-48:3

#### **EXTENSIONS**

Options, First Refusals, Extensions and Renewals of Leases, this index

#### **EXTERIOR REPAIRS**

Lease improvements, § 38:2

## **EXTERNAL RESTRICTIONS**

Resolving real estate disputes, § 41:2

# **FAILED RENT WORKOUTS**

Lease expenses and rental adjusters, § 37:6

## FAILURE OF CONSIDERATION

Promissory notes, suits on, § 55:13

#### **FAILURE OF CONTINGENCY**

Sale contract - additional issues, § 10:11

## **FAIR HOUSING**

Resolving real estate disputes, § 41:12

#### **FALSITY**

Fraud, this index

# FARM LEASE ENFORCEMENT ISSUES

Landlord-tenant actions, § 50:6

## FEDERAL AND MISSOURI ACTS COMPARED

Arbitration, § 44:13

# FEE OR FEE TAIL

Easements and licenses, § 29:3 Future interests, § 2:1 Mechanic's liens, §§ 73:27, 73:28

## FIDUCIARY STATUS

Lender liability, § 76:7 Real estate brokers, § 11:5

# FINANCES AND FINANCING

Condominiums, §§ 21:17, 21:18 Industrial development financing, § 26:6

#### FINANCES AND FINANCING—Cont'd

Lease improvements, § 38:8

Mortgages, this index

Non mortgage Financing Techniques, this index

Purchase Money Financing, this index

Sale contract - additional issues, § 10:7

Sale contract basics, § 9:15

## FIRST REFUSALS

Options, First Refusals, Extensions and Renewals of Leases, this index

#### FIRST SPADE RULE

Mechanic's liens, § 73:32

#### **FIXTURES**

Lease improvements, §§ 38:11, 38:12 Sale contract basics, § 9:7

# FLEXIBILITY

Zoning, § 62:10

## FORCIBLE ENTRY AND DETAINER

Landlord-tenant actions, §§ 52:12, 52:13

# FORECLOSURE OF MORTGAGES

Generally, §§ 58:1-60:19

Acceleration, § 59:4

Acceptable newspapers, § 59:8

Constitutionality of power of sale foreclosure, § 58:4

Content of notice, § 59:10

Default of secured obligation, evaluation checklists upon, § 59:2

Defects in notice, § 59:11

Distinction between sale of realty and personalty, § 58:6

Duration of publication, § 59:9

Establishing right to foreclose, § 59:1

Evaluation checklists, § 59:2

Foreclosure Sale, this index

Impact of power of sale foreclosure, § 58:1

Impediments to foreclosure, § 58:2

Judicial foreclosure, § 58:5

Mixed sales, risks in connection with, § 58:8

Newspapers, § 59:8

Notice of sale

Generally, §§ 59:6-59:11

Content, § 59:10

Defects, § 59:11

Duration, § 59:9

Newspapers, § 59:8

Public notice, generally, § 58:7

Publication, § 59:7

Other avenues for foreclosure relief, § 58:3

# FORECLOSURE OF MORTGAGES—Cont'd Overview, generally, §§ 58:1-58:8 Post-default planning, § 59:3

Presale process

Generally, §§ 59:1-59:11

Acceleration, § 59:4

Acceptable newspapers, § 59:8

Content of notice, § 59:10

Default of secured obligation, evaluation checklists upon, § 59:2

Defects in notice, § 59:11

Duration of publication, § 59:9

Establishing right to foreclose, § 59:1

Evaluation checklists, § 59:2

Newspapers, § 59:8

Notice of sale, generously, §§ 59:6-59:11

Post-default planning, § 59:3

Publication venue, § 59:7

Trustee, § 59:5

Venue, § 59:7

Public notice, § 58:7

Publication venue, § 59:7

Risks in connection with mixed sales, § 58:8

Sale on foreclosure. Foreclosure Sale, this index

Trustee, § 59:5

Venue, § 59:7

#### FORECLOSURE SALE

Generally, §§ 60:1-60:19

Bid, factors affecting, § 60:10

Bulk sales, § 60:4

Caveat emptor, § 60:11

Chilling the sale, § 60:3

Collateral obligors, considerations for, § 60:12

Crying the sale, § 60:5

Deed of trustee, § 60:9

Distress sales, § 60:11

Distribution of foreclosure sale proceeds, § 60:15

Holder's bid, factors affecting, § 60:10

Junior liens and encumbrances, §§ 60:13, 60:17

Lien of vendee, § 60:19

Location, § 60:1

Lot sales, marshaling assets, § 60:19

Marshaling assets, §§ 60:18, 60:19

Memorandum of sale, § 60:7

Owner's suit to stop foreclosure sale, § 60:16

Parcel sales, § 60:4

Paying for foreclosure purchase, § 60:8

Possession following foreclosure, § 60:14

## FORECLOSURE SALE—Cont'd

Postponement of sale, § 60:6 Stopping foreclosure sale, §§ 60:16, 60:17 Time for, § 60:2 Trustee's deed, § 60:9

## **FORFEITURE**

Landlord-tenant actions, §§ 51:19, 51:21 Subdivisions, § 23:2

## **FORMS**

Real estate brokers, §§ 11:9-11:11 Sale contract basics, § 9:23 Title insurance, § 5:6

#### **FRANCHISES**

Easements and licenses, § 27:6

## **FRAUD**

Generally, §§ 74:1-74:19 Actions and remedies, generally, § 74:19 Common law fraud, § 74:2 Contract disclaimers as defense, § 74:15 Convergence of major and fraud issues, § 74:16 Deeds, § 3:8 Disclaimers as defense, § 74:15 Elements of common law fraud, § 74:2 Falsity, generally, § 74:5 Great expectation, § 74:1 Guaranties, suits on, § 56:7 Hearer's ignorance of falsity, § 74:9 Ignorance of falsity, § 74:9 Ignorance of truth, § 74:7 Inspections and reliance, § 74:11 Intent of speaker, § 74:8 Knowledge of falsity, § 74:7 Landlord-tenant actions, § 52:4 Lender liability, § 76:2 Materiality, § 74:6 Miscellaneous defenses, § 74:17 Omission as representation, § 74:4 Proximate cause of injury, § 74:14 Reliance, generally, §§ 74:10-74:13 Remedies, § 74:19 Right of hearer to rely, § 74:13 Statutory fraud, § 74:18 Verification of title and reliance, § 74:12

#### **FUNDING**

Lender liability, §§ 76:3, 76:5

## **FUTURE ADVANCES**

Mortgages, §§ 13:9, 13:12

## **FUTURE INTERESTS**

Generally, §§ 2:1-2:9

Executory interests, § 2:6

Fee tail, § 2:1

Possibilities of reverter, § 2:3

Reentry rights, § 2:4

Remainders, §§ 2:5, 2:6

Restraints on alienation, §§ 2:8, 2:9

Reversions, § 2:2

Rule against perpetuities, § 2:7

Unreasonable restraints on alienation, §§ 2:8, 2:9

## **FUTURE RENT**

Landlord-tenant actions, § 51:2

#### **GOOD FAITH**

Condemnation, §§ 64:3, 64:7

Vendor and purchaser actions, § 47:19

#### **GOVERNMENT**

Adverse possession, § 66:16

Condemnation, this index

Eminent domain. Condemnation, this index

Post-Sale Issues, this index

Sale contract - additional issues, § 10:6

Zoning, this index

## **GOVERNMENTAL POLICE MATTERS**

Title insurance, § 6:6

#### **GRANT**

Leases and leasing, § 30:2

## **GROUND LEASE ENFORCEMENT ISSUES**

Landlord-tenant actions, § 50:5

## **GUARANTIES**

Lease documents, guarantors on, § 36:4

Suits on. Guaranties, Suits on, this index

# **GUARANTIES, SUITS ON**

Generally, §§ 56:1-56:14

Administration, enhancing enforceability with, § 56:8

Being broke as best defense, § 56:10

Contents of notice, § 56:12

Contribution among co-guarantors, § 56:14

Defenses, generally, § 56:2 et seq

Denial syndrome, § 56:1

Evaluating liability claims, § 56:9

## GUARANTIES, SUITS ON-Cont'd

Fraud, § 56:7

Institutional guaranties, defending claims on, § 56:4

Lucky lack of notice, § 56:11

Multiple defenses, § 56:2

Notice, §§ 56:11, 56:12

Past consideration, § 56:5

Summary judgments, § 56:6

Termination of guaranty, § 56:13

Waiver of defenses, § 56:3

#### **HABITABILITY**

Sale contract - additional issues, § 10:12

#### **HEARINGS**

Condemnation, § 64:8

Real estate licensee issues, § 49:6

#### **HIGHWAYS**

Leases and Leasing, this index

#### **HOLDERS**

Promissory notes, suits on, § 55:7

## **HOLDOVER TENANTS**

Leases and leasing, §§ 32:14, 32:15

# HORTICULTURAL LAND

Real estate tax appeals, § 65:5

#### HOSTILE POSSESSION

Adverse possession, §§ 66:4-66:7

#### **ICE AND SNOW**

Personal injury liability risk allocation, § 53:6

## **IDENTITY OF RELEASOR**

Mortgages, § 14:5

#### **IMMUNITY FOR LIS PENDENS**

Vendor and purchaser actions, § 47:19

# **IMPLIED COVENANTS**

Borrower/lender actions, §§ 54:2, 54:3

#### **IMPLIED EASEMENTS**

Easements and licenses, §§ 28:6-28:9

# IMPLIED LISTING AGREEMENTS

Listing agreements, § 12:7

#### IMPLIED RESTRICTIONS

Options, first refusals, extensions and renewals of leases, § 35:4

#### **IMPLIED WARRANTIES**

Sale contract - additional issues, § 10:12 Warranties, Actions for Breach of, this index

## **IMPROVEMENTS**

Lease Improvements, this index Subdivision disputes, § 68:15

#### INCOME

Condemnation, income approach, § 64:19 Leases and leasing, § 31:1 Partition, § 69:12 Sale contract basics, § 9:21

## INCOME METHOD-LOT METHOD

Condemnation, § 64:20

## **INDEMNITY**

Easements and licenses, § 29:15 Mortgage documents, § 19:3

## **INDENTURES**

Subdivision disputes, §§ 68:1-68:4 Subdivisions, this index

#### INDUSTRIAL DEVELOPMENT FINANCING

Easements and licenses, § 26:6

## INFERRED BOUNDARIES

Adverse possession, § 66:7

## **INFORMALITY**

Deeds, § 3:2

# **INITIAL PROGRESS**

Sales transaction overview, §§ 8:1, 8:2

#### **INJUNCTIONS**

Subdivision disputes, §§ 68:6-68:9

# **INQUIRY**

Title to property, §§ 4:10-4:12

## **INSOLVENCY**

Bankruptcy, this index

#### **INSPECTIONS**

Fraud, § 74:11

# **INSTITUTIONAL GUARANTIES**

Guaranties, suits on, § 56:4

# **INSURANCE**

Condominiums, § 21:27 Lease Documents, this index

# INSURANCE—Cont'd

Mortgage documents, § 17:4 Post-sale issues, § 61:8 Title Insurance, this index

## **INTEGRATION CLAUSE**

Sale contract - additional issues, § 10:20

# **INTENT**

Deeds, §§ 3:7, 3:15 Fraud, § 74:8 Sales transaction overview, § 8:6

## INTERGOVERNMENTAL CONFLICTS

Condemnation, § 64:4

#### **INTERPRETATION**

Construction and Interpretation

#### **INVERSE CONDEMNATION**

Generally, §§ 64:26, 64:27 Zoning, § 64:27

## **INVITEES**

Premises liability, § 75:4

#### **JEOPARDY**

Leases and leasing, § 34:8

# JOINT CHECK RULE

Mechanic's liens, § 73:35

# JOINT TENANCY

Partition, § 69:3

## **JUDGMENT**

Resolving real estate disputes, § 42:3

# JUDGMENT LIENS

Liens, §§ 72:1-72:5

## JUDICIAL FORECLOSURE

Foreclosure of mortgages, § 58:5

## JUDICIAL REVIEW

Appeal and Review, this index

# **JUNIOR LIENS**

Foreclosure sale, §§ 60:13, 60:17 Mortgage documents, §§ 20:1-20:4

# JUST AND TRUE ACCOUNT

Mechanic's liens, § 73:15

#### KING'S HERITAGE CASE

Landlord-tenant actions, §§ 52:19, 52:20

#### **KNOWLEDGE**

Notice or Knowledge, this index

#### **LABORERS**

Mechanic's liens, § 73:9

## LACHES OR DELAY

Sale contract basics, delayed possession, § 9:18

Subdivision disputes, § 68:18

Vendor and purchaser actions, § 47:11

#### LANDLORD AND TENANT

Actions and remedies. Landlord-Tenant Actions, this index Leases. Leases and Leasing, this index

#### LANDLORD-TENANT ACTIONS

Abandonment of premises, § 52:9

Acceptance of rent following tenant default, § 52:10

Affirmative defenses, § 51:18

Appeal of unlawful detainer judgment, § 51:24

Attorneys' fees, § 51:5

Bankruptcy court looks at lease termination, § 51:23

Basic litigation options, § 51:1

Breach of landlord duty as constructive eviction, § 52:8

Breach of lease by tenant

Generally, §§ 51:1-51:25

Affirmative defenses, § 51:18

Appeal of unlawful detainer judgment, § 51:24

Attorneys' fees, § 51:5

Bankruptcy court looks at lease termination, § 51:23

Basic litigation options, § 51:1

Consequential damages, claims for, § 51:3

Counterclaims, § 51:18

Court-ordered eviction, § 51:8

Damages, claims for, §§ 51:3, 51:4

Dealing the tenant out, § 51:7

Demand for rent requirement, § 51:13

Ejectment, § 51:25

Eviction, § **51:8** 

Forfeiture, generally, §§ 51:19, 51:21

Future rent, claims for, § 51:2

Lease administration, § 51:11

Level of breaches justifying forfeiture, § 51:19

Mortgage rights in rent and possession, § 51:14

New emphasis, § 51:22

Past and future rent, claims for, § 51:2

Possession action, § 51:9

Rent, claims for, § 51:2

Rent and possession, §§ 51:9, 51:10

Risk of self-help repossession, § 51:6

#### LANDLORD-TENANT ACTIONS—Cont'd

Breach of lease by tenant-Cont'd

Self-help repossession, risk of, § 51:6

Termination, bankruptcy court looks at, § 51:23

Trial de novo, §§ 51:12, 51:24

Unlawful detainer, §§ 51:15-51:17, 51:24

Waiver by landlord, risk of, § 51:20

Waste, claims for damages for, § 51:4

Claims by tenant against landlord

Generally, §§ 52:1-52:22

Abandonment of premises, § 52:9

Acceptance of rent following tenant default, § 52:10

Breach of landlord duty as constructive eviction, § 52:8

Commercial leases, § 52:20

Constructive eviction, §§ 52:7-52:9

Conversion of personal property, § 52:22

Damages, § 52:3

Default by tenant, landlord acceptance of rent following, § 52:10

Defective repairs, landlord liability for, § 52:21

Deficient housing statute, §§ 52:16, 52:17

Forcible entry and detainer, §§ 52:12, 52:13

Fraud in inducement, § 52:4

Implied protection for residential tenants, § 52:18

King's Heritage case, §§ 52:19, 52:20

Lost profits, tenant claims for, § 52:6

Personal property, conversion of, § 52:22

Possession, role of, § 52:11

Rent obligation, landlord breach as obviating, § 52:2

Surrender as defense, § 52:5

Utilities, turning off of, § 52:15

Commercial leases, §§ 50:4, 52:20

Consequential damages, claims for, § 51:3

Constructive eviction, §§ 52:7-52:9

Conversion of personal property, § 52:22

Counterclaims, § 51:18

Court-ordered eviction, § 51:8

Damages, §§ 51:3, 51:4, 52:3

Dealing the tenant out, § 51:7

Default by tenant, landlord acceptance of rent following, § 52:10

Defective repairs, landlord liability for, § 52:21

Deficient housing statute, §§ 52:16, 52:17

Demand for rent requirement, § 51:13

Ejectment, § 51:25

Enforcement of lease. Lease enforcement overview, below

Eviction, § 51:8

Farm lease enforcement issues, § 50:6

Forcible entry and detainer, §§ 52:12, 52:13

Forfeiture, generally, §§ 51:19, 51:21

#### LANDLORD-TENANT ACTIONS—Cont'd

Fraud in inducement, § 52:4

Future rent, claims for, § 51:2

Ground lease enforcement issues, § 50:5

Implied protection for residential tenants, § 52:18

King's Heritage case, §§ 52:19, 52:20

Lease administration, § 51:11

Lease enforcement overview

Generally, §§ 50:1-50:6

Breach of lease by tenant, above

Claims by tenant against landlord, above

Commercial lease enforcement issues, § 50:4

Farm lease enforcement issues, § 50:6

First principles, § 50:1

Ground lease enforcement issues, § 50:5

Residential lease enforcement issues, § 50:3

Security deposits, § 50:2

Level of breaches justifying forfeiture, § 51:19

Licensees. Real Estate Licensee Issues, this index

Lost profits, tenant claims for, § 52:6

Mortgage rights in rent and possession, § 51:14

Past and future rent, claims for, § 51:2

Personal Injury Liability Risk Allocation, this index

Personal property, conversion of, § 52:22

Possession, generally, §§ 51:9, 52:11

Real Estate Licensee Issues, this index

Rent

Breach of lease by tenant, above

Landlord breach as obviating obligation for, § 52:2

Residential lease enforcement issues, § 50:3

Risk allocation. Personal Injury Liability Risk Allocation, this index

Risk of self-help repossession, § 51:6

Security deposits, § 50:2

Self-help repossession, risk of, § 51:6

Surrender as defense, § 52:5

Termination, bankruptcy court looks at, § 51:23

Trial de novo, §§ 51:12, 51:24

Unlawful detainer, §§ 51:15-51:17, 51:24

Utilities, turning off of, § 52:15

Waiver by landlords, risk of, § 51:20

Waste, claims for damages for, § 51:4

## LANDOWNER OPINION TESTIMONY

Condemnation, § 64:21

#### LAND-USE REGULATIONS

Condominiums, § 21:21

#### **LATE CHARGES**

Lease documents, § 36:10

## LEASE DOCUMENTS

Generally, §§ 35:1-40:8

Additional rent, § 36:9

Additional rights, § 40:4

Casualty loss, § 39:7

Claims for insurance, § 39:12

Coinsurance, § 39:4

Common areas, § 36:7

Condemnation. Insurance and condemnation, below

Contingencies, § 36:3

Cosigners, § 36:4

Default, §§ 40:1, 40:8

Diligence, § 36:3

Drafting considerations, § 36:12

Encumbrances impacting property leased, § 36:6

Enforcement

Generally, §§ 40:1-40:8

Additional rights, § 40:4

Default, §§ 40:1, 40:8

Entry and reletting remedy, § 40:6

Landlord remedies, generally, § 40:2

Mitigation by landlord, § 40:3

Option to terminate, § 40:7

Reentry, § 40:3

Reletting remedy, § 40:6

Special rights upon default, § 40:8

Surrender, landlord acceptance of, § 40:5

Termination option, § 40:7

Entry and reletting remedy, § 40:6

Essential terms of lease, generally, §§ 36:1-36:13

Expenses. Lease Expenses and Rental adjusters, this index

Extensions. Options, First Refusals, Extensions and Renewals of Leases, this index

First refusals. Options, First Refusals, Extensions and Renewals of Leases, this index

Guarantors, § 36:4

Hazards of oral lease agreements, § 36:13

Improvements. Lease Improvements, this index

Insufficient insurance proceeds, § 39:11

Insurance and condemnation

Generally, §§ 39:1-39:14

Casualty loss, § 39:7

Claims, § 39:12

Coinsurance, § 39:4

Condemnation awards, generally, §§ 39:13, 39:14

#### LEASE DOCUMENTS—Cont'd

Insurance and condemnation—Cont'd

Insufficient insurance proceeds, § 39:11

Liability insurance, § 39:1

Neighboring tenants, claims by, § 39:9

Payment for insurance, § 39:5

Property insurance, § 39:3

Protecting landlord from liability, § 39:2

Rebuilding duty, § 39:10

Redelivery clause, § 39:8

Subrogation, waiver of, § 39:6

Waiver of subrogation, § 39:6

Landlord remedies, generally, § 40:2

Late charges, § 36:10

Liability insurance, § 39:1

Mitigation by landlord, § 40:3

Neighboring tenants, claims by, § 39:9

Options, First Refusals, Extensions and Renewals of Leases, this index

Oral lease agreements, § 36:13

Overview of essential terms of lease, § 36:1

Parties to lease, § 36:3

Payment for insurance, § 39:5

Property insurance, § 39:3

Property leased, § 36:5

Protecting landlord from liability, § 39:2

Rebuilding duty, § 39:10

Redelivery clause, § 39:8

Reentry, § 40:3

Reletting remedy, § 40:6

Renewals. Options, First Refusals, Extensions and Renewals of Leases, this index

Rent, §§ 36:8, 36:9

Rental adjusters. Lease Expenses and Rental adjusters, this index

Special rights upon default, § 40:8

Subrogation, waiver of, § 39:6

Surrender, landlord acceptance of, § 40:5

Term of lease, § 36:11

Termination option, § 40:7

Waiver of subrogation, § 39:6

#### LEASE EXPENSES AND RENTAL ADJUSTERS

Generally, §§ 37:1-37:12

Audits under percentage leases, § 37:10

CPI index, § 37:3

Escalation of rent and escalators, §§ 37:4, 37:11, 37:12

Failed rent workouts, § 37:6

Percentage rent, §§ 37:7-37:10

Rationale, § 37:1

#### LEASE EXPENSES AND RENTAL ADJUSTERS—Cont'd

Sales audits under percentage leases, § 37:10

Tax expense escalators, § 37:12

Types of indices, § 37:2

Use of premises leased under percentage leases, § 37:8

## LEASE IMPROVEMENTS

Generally, §§ 38:1-38:12

Common repair and maintenance disputes, § 38:1

Exterior repairs, § 38:2

Financing secured by lease, § 38:8

Fixtures, §§ 38:11, 38:12

Harmonizing repair related provisions, § 38:4

Interpretation of repair clause, § 38:3

Ownership of improvements, § 38:10

Personalty, fixtures distinguished from, § 38:12

Restrictions on tenant improvements, § 38:6

Structural repairs and maintenance, § 38:5

Tenant financing secured by lease, § 38:8

Unimproved space, leasing of, § 38:7

Unjust enrichment, § 38:9

#### **LEASEHOLDS**

Mechanic's liens, §§ 73:26-73:28

# **LEASES AND LEASING**

Generally, §§ 30:1-40:8

Actions and remedies. Landlord-Tenant Actions, this index

Assignment of tenant's interest, § 34:2

Attornment to stranger, § 33:6

Categorization, importance of, § 31:2

Challenging landlord-tenant statutes, § 32:2

Common law dedication for public roads, § 30:7

Condemnation, § 30:5

Consent or approval

Holdover's rights, § 32:14

Transfer, factors in consent to, § 34:5

Consistency, premium on, § 32:7

Creation of public roads, §§ 30:2, 30:3

Dedication for public roads, § 30:7

Distinction between lease and license, § 31:3

Documents. Lease Documents, this index

Drives. Roads, streets, highways, and drives, above

Effect of public use, § 30:4

Enforcement of lease. Landlord-Tenant Actions, this index

Estoppel letters, § 33:3

Estoppel to avoid statute of frauds, § 31:7

Exceptions to statute of frauds, § 31:5

Expenses. Lease Expenses and Rental Adjusters, this index

# LEASES AND LEASING—Cont'd Grant, creation of public roads by, § 30:2 Highways. Roads, streets, highways, and drives, above Holdover tenants, §§ 32:14, 32:15 Improvements. Lease Improvements, this index Income realized from real estate, § 31:1 Increasing rent on month-to-month tenancies, § 32:9 Jeopardy of landlord, § 34:8 Landlord transfers, statutory considerations relating to, § 33:5 Landlord-Tenant Actions, this index Lease Documents, this index Lease Improvements, this index License distinguished from lease, § 31:3 Limitations on assignment and sublease, § 34:4 Listing agreements, § 12:11 Miscellaneous termination issues, § 32:8 Month-to-month tenancies, generally, § 32:5 et seq Mortgage documents, § 17:8 Multiple documents and statute of frauds, § 31:6 Non mortgage financing techniques, § 15:2 Operation of statute, terms by, § 32:4 Oral agreements or tenancies, §§ 31:4, 32:1 Original tenant residual liability following transfer, § 34:3 Ownership of underlying fee, § 30:10 Partially oral and partially written leases, § 31:8 Periodic tenancies, § 32:3 Peripheral lease transactions, generally, §§ 33:1-33:6 Prescription, § 30:6 Private action, creation of public roads by, § 30:3 Privity, § 33:4 Rent Adjusters. Lease Expenses and Rental Adjusters, this index Month-to-month tenancies, rent increased on, § 32:9 Tenant risk from rent severance, § 33:2 Termination of tenancy for term of years, rent upon, § 32:13 Rental adjusters. Lease Expenses and Rental Adjusters, this index Risk from rent severance, § 33:2 Roads, streets, highways, and drives Generally, §§ 30:1-30:10 Common law dedication for public roads, § 30:7 Condemnation, § 30:5 Creation of public roads, §§ 30:2, 30:3 Dedication for public roads, § 30:7 Effect of public use, § 30:4 Grant, creation of public roads by, § 30:2

Ownership of underlying fee, § 30:10

Private action, creation of public roads by, § 30:3

Prescription, § 30:6

#### LEASES AND LEASING—Cont'd

Roads, streets, highways, and drives—Cont'd

Statutes terminating public ways, § 30:9

Termination of public ways, §§ 30:8, 30:9

Specialized occupancy, § 32:16

Specific tenancies, generally, §§ 32:1-32:16

Statute of frauds, §§ 31:5-31:7

Statutes and statutory provisions

Landlord transfers, considerations relating to, § 33:5

Oral tenancies, § 32:1

Protection for holdover tenants, § 32:15

Termination of public ways, § 30:9

Streets. Roads, streets, highways, and drives, above

Subleases and Subleasing, this index

**Tenancies** 

Generally, §§ 31-31:8

Specific tenancies, generally, §§ 32:1-32:16

Termination

Month-to-month tenancies, §§ 32:5, 32:6

Public ways, §§ 30:8, 30:9

Years, tenancy for term of, §§ 32:12, 32:13

Terms by operation of statute, § 32:4

Transfer of tenant's interest

Generally, §§ 34:1-34:8

Assignment of tenant's interest, § 34:2

Consent to transfer, factors in, § 34:5

Jeopardy of landlord, § 34:8

Limitations on assignment and sublease, § 34:4

Original tenant residual liability following transfer, § 34:3

Subleases, §§ 34:4, 34:6

Subtenants as lacking privity, § 34:7

Years, tenancy for term of, §§ 32:10-32:13

#### LEGAL ADVICE

Real estate brokers, § 11:12

# LENDER LIABILITY

Generally, §§ 76:1-76:7

Damages for breach of contract relating to funding, § 76:5

Fiduciary status of lender liability claim, § 76:7

Fraud liability, § 76:2

Funding, breach of contract relating to, §§ 76:3, 76:5

Negligent misrepresentation, § 76:4

Overview, § 76:1

Prima facie tort liability of lender, § 76:6

# **LETTERS**

Non mortgage financing techniques, letters of credit, § 15:3

Sales transaction overview, letter of intent, § 8:6

#### LETTERS—Cont'd

Title insurance, § 5:14

#### **LIABILITY**

Easements and licenses, § 29:15
Personal injury liability risk allocation, § 53:1 et seq
Personal Injury Liability Risk Allocation, this index

#### LIABILITY INSURANCE

Lease documents, § 39:1

#### **LICENSES**

Easements and Licenses, this index Leases, licenses distinguished from, § 31:3 Mechanic's liens, licensed professionals, § 73:10 Premises liability, § 75:5 Real Estate Licensee Issues, this index

### **LIENS**

Borrower/lender actions, § 54:4 Broker liens, § 72:6 Condominiums, § 21:19 Definitions, § 72:1 Duration of judgment lien, § 72:4 Ejectment, this index Foreclosure sale, § 60:19 Judgment liens, generally, §§ 72:1-72:5 Junior Liens, this index Lease documents, § 36:6 Priority of judgment lien, § 72:3 Purchasing at tax sales, § 72:9 Real estate broker liens, § 72:6 Redemption from tax sale, § 72:8 Sale under judgment lien, § 72:5 Tax liens, § 72:7 Tax sales, §§ 72:8, 72:9

### **LIFE ESTATES**

Present estates, §§ 1:5, 1:7, 1:8

### LIMITATION OF ACTIONS

Statute of Limitations, this index

#### LIMITATIONS AND RESTRICTIONS

Arbitration, § 44:11
Condominiums, § 21:14
Deeds, §§ 3:6, 23:1
Lease improvements, § 38:6
Leases and leasing, generally, § 34:4
Options, first refusals, extensions and renewals of leases, §§ 35:1, 35:4
Real estate brokers, § 11:10

#### LIMITATIONS AND RESTRICTIONS—Cont'd

Resolving real Estate Disputes, this index Subcontractors liens, § 73:6 Subdivisions, §§ 23:1, 23:7, 23:8

#### **LIMITS**

Easements and licenses, § 29:8

### LIQUID INVESTMENTS

Partition, § 69:14

### LIQUIDATED DAMAGES

Vendor and Purchaser Actions, this index

#### LIS PENDENS

Subdivision disputes, §§ 68:11, 68:12 Vendor and purchaser actions, §§ 47:18, 47:19

### LISTING AGREEMENTS

Generally, §§ 12;1-12:11
Abandonment, §§ 12:8, 12:9
Buyer's brokers, § 12:6
Chapter note, § 12;1
Commission, earning of, § 12:4
Implied listing agreements, § 12:7
Issues, § 12:3
Lease commissions, § 12:11
Net listings, § 12:5
Termination of, §§ 12:8-12:10
Types of, § 12;2

### LOCATION

Foreclosure sale, § 60:1

#### LONG TERM DEVELOPER DEALS

Condominiums, § 21:9

### LONG TERM LEASES

Non mortgage financing techniques, § 15:2

### **LOST PROFITS**

Landlord-tenant actions, § 52:6

### LOT SALES

Foreclosure sale, § 60:19

#### MAINTENANCE AND REPAIR

Easements and licenses, § 29:13

### **MALICE**

Vendor and purchaser actions, § 47:19

#### **MANUFACTURED HOUSING**

Subdivision disputes, § 68:16

#### MARKET APPROACH

Condemnation, § 64:16

#### **MARSHALING ASSETS**

Foreclosure sale, §§ 60:18, 60:19

#### **MATERIALITY**

Fraud, § 74:6

### **MATERIALMEN**

Mechanic's liens, § 73:8

#### **MAXIMS**

Subdivision disputes, § 68:13

#### **MAXIMUM INJURY RULE**

Condemnation, § 64:11

#### **MECHANIC'S LIENS**

Generally, §§ 73:1-73:37

Account, rationale for, § 73:15

Accrual of indebtedness, § 73:17

Background, § 73:1

Bankruptcy, § 73:37

Constitutional law, § 73:3

Coverage, § 73:4

Deadline for suit, § 73:18

Detail of lien statement, § 73:16

Enforcement of equitable mechanic's liens, § 73:22

Entireties, tenancy by, § 73:30

Equitable mechanic's liens, §§ 73:20—73:22

Execution, § 73:36

Fee of landlord, liability of, §§ 73:27, 73:28

First spade rule, § 73:32

Joint check rule, § 73:35

Just and true account, rationale for, § 73:15

Laborers, § 73:9

Leaseholds, §§ 73:26-73:28

Licensed professionals, § 73:10

Limitations of subcontractors liens, § 73:6

Materialmen, § 73:8

Mortgages, § 13:7

Municipalities, § 73:25

Named parties, equitable mechanic's liens, § 73:21

Notice to .owner, § 73:11

Original contractors, § 73:5

Parties, § 73:19

Precautions of owner, § 73:34

Priority, significance of, § 73:31

Property subject to lien, §§ 73:23, 73:24

Purpose, § 73:2

#### MECHANIC'S LIENS—Cont'd

Rationale for just and true account, § 73:15 Recordation of notice, § 73:13 Service of owner, § 73:12 Statement of lien, §§ 73:14, 73:16 Subcontractors, §§ 73:6, 73:7 Title insurance, § 73:32 Waiver, §§ 73:33, 73:35

### MED/ARB

Alternative dispute resolution, § 43:4

#### **MEDIATION**

Alternative dispute resolution, § 43:3 Vendor and Purchaser Actions, this index

#### MEMORANDUM OF SALE

Foreclosure sale, § 60:7

#### **MERGER**

Easements and licenses, § 28:18 Mortgages, § 14:7 Sale contract - additional issues, § 10:20 Warranties, actions for breach of, §§ 48:3, 48:6

#### **MIDDLEMEN**

Real estate brokers, § 11:8

### MINOR SUBDIVISIONS

Subdivisions, § 22:5

#### MISSOURI BETTERMENT STATUTE

Ejectment, § 71:3

### MISSOURI REAL ESTATE COMMISSION

Real Estate Licensee Issues, this index

#### MITIGATION BY LANDLORD

Lease documents, § 40:3

#### **MIXED SALES**

Foreclosure of mortgages, § 58:8

### **MODIFICATION**

Arbitration, § 44:10 Condominiums, alteration, § 21:23 Mortgage documents, § 17:14 Title insurance, § 7:5

### MONTH-TO-MONTH TENANCIES

Leases and Leasing, this index

#### MORTGAGE DOCUMENTS

Generally, §§ 16:1-20:4

### MORTGAGE DOCUMENTS—Cont'd Acceleration, § 18:3 Acceptance, §§ 16:2, 17:15 Appointment of trustee, § 19:1 Basics of mortgage documents, § 17:1 Blanket mortgages, § 16:8 Capacity of parties, § 16:3 Compensation of trustee, § 19:4 Condition of security, clauses relating to, §§ 18:1-18:5 Consideration, § 16:3 Covenants Generally, §§ 17:1-17:15 Acceptance of tenant, securing, § 17:15 Basics, § 17:1 Defeated expectation of coverage, § 17:5 Insurance, § 17:4 Leased property, mortgages of, § 17:8 Lien protection covenants, § 17:2 Modification of contract, § 17:14 Open mortgage clause, § 17:6 Perspective of tenant, § 17:12 Possession, §§ 17:10, 17:13 Rent assignments, § 17:11 Risk of prior liens, § 17:3 Tenant's interest, mortgage of, § 17:9 Union mortgage clause, § 17:7 Cure, right of, § 18:3 Deed of trust, parties to, § 16:1 Defeated expectation of coverage, § 17:5 Delivery, § 16:2 Description of secured debt, § 16:9 Discretion of trustee, § 19:3 Eminent domain, § 18:4 Encumbering personalty, § 16:7 Grant, generally, § 16:5 Indemnity of trustee, § 19:3 Insurance, § 17:4 Junior liens, §§ 20:1-20:4 Leased property, mortgages of, § 17:8 Liability of trustee, § 19:3 Miscellaneous, § 18:5 Modification of contract, § 17:14 Open mortgage clause, § 17:6 Parties and grant, generally, §§ 16:1-16:9 Personalty, encumbering of, § 16:7 Perspective of tenant, § 17:12 Possession, §§ 17:10, 17:13 Property included, § 16:6

#### MORTGAGE DOCUMENTS—Cont'd

Rent assignments, § 17:11

Repairs, clauses relating to, § 18:1

Residential second mortgages, § 20:2

Resignation of trustee, § 19:1

Responses to deterioration of security, § 18:2

Risk of prior liens, § 17:3

Second mortgages, §§ 20:1, 20:2

Successor trustees, § 19:2

Tenant's interest, mortgage of, § 17:9

Trusts and trustees, §§ 16:4, 19:1-19:4

Union mortgage clause, § 17:7

Waste, clauses relating to, § 18:1

Wrap area of conflict, § 20:4

Wraparound mortgages, § 20:3

#### MORTGAGE LITIGATION

Generally, §§ 57:1-60:19

Foreclosure of Mortgages, this index

Penalty for refusal to release, § 57:2

Prepayment, § 57:2

Refusal to release, penalty for, § 57:2

#### **MORTGAGES**

Generally, §§ 13:1-13:22

Advances, §§ 13:9-13:12

After-acquired property, § 13:13

Analyzing the transfer, § 13:17

Avoidance of due on sale acceleration, § 13:22

Construction loans, priorities, § 13:7

Deeds of trust distinguished, § 13:2

Distinctions, § 13:2

Documents. Mortgage Documents, this index

Due on sale clauses, §§ 13:20, 13:21

Equitable subrogation, § 13:18

Estoppel certificates, § 13:16

Future advances, §§ 13:9, 13:12

Historical antecedents, § 13:1

Identity of releasor, § 14:5

Landlord-tenant actions, § 51:14

Litigation. Mortgage Litigation, this index

Mechanic's liens, priorities, § 13:7

Mechanics of release, § 14:4

Merger, § 14:7

Mortgage Documents, this index

Mortgage Litigation, this index

Nonrecourse obligations, transfer of mortgages securing, § 13:15

Optional versus mandatory advances for, § 13:11

Overview, generally, §§ 13:1-13:22

#### MORTGAGES—Cont'd

Partial releases, § 14:3

Penalty for failure to release, § 14:6

Prepayment of mortgage, §§ 14:1, 14:2

Priorities, §§ 13:6, 13:7

Promissory notes, § 13:4

Protection of mortgage security, advances for, § 13:10

Purchase money mortgages, § 13:8

Refinancing, § 14:8

Related legal issues, § 13:3

Release. Satisfaction and release of mortgages, below

Replacement mortgages, § 14:8

Requisites for valid mortgage, § 13:5

Sale contract basics, § 9:13

Satisfaction and release of mortgages

Generally, §§ 14:1-14:8

Identity of releasor, § 14:5

Mechanics of release, § 14:4

Merger, § 14:7

Partial releases, § 14:3

Penalty for failure to release, § 14:6

Prepayment of mortgage, §§ 14:1, 14:2

Refinancing, § 14:8

Replacement mortgages, § 14:8

Satisfaction distinguished from transfer, § 13:19

Secured obligation, transfer of, § 13:14

Subrogation, § 13:18

Title Insurance, this index

Transfer, §§ 13:14, 13:15, 13:17

#### **MULTIPLE DEFENSES**

Guaranties, suits on, § 56:2

#### **MULTIPLE DOCUMENTS**

Leases and leasing, § 31:6

#### **MULTIPLE PARCELS**

Title to property, § 4:13

### **MUNICIPAL FRANCHISES**

Easements and licenses, § 27:6

#### **MUNICIPAL REGULATION**

Subdivisions, § 22:10

### **MUNICIPAL ZONING**

Zoning, §§ 25:4, 62:20

### **MUNICIPALITIES**

Mechanic's liens, § 73:25

Ordinances, this index

#### **MUTUALITY**

Sale contract - additional issues, § 10:9 Vendor and purchaser actions, § 47:8

### NAMED PARTIES

Mechanic's liens, § 73:21

#### **NECESSITY POWER**

Condemnation, § 64:3

### NEGLIGENT MISREPRESENTATION

Lender liability, § 76:4

#### **NEIGHBORING TENANTS**

Lease documents, § 39:9

#### NEIGHBORS, DISPUTES BETWEEN

Adverse Possession, this index Prescription, Easement by, this index Real Estate Tax Appeals, this index

#### **NET LISTINGS**

Listing agreements, § 12:5

#### **NEW RESIDENCE SALES**

Vendor and purchaser actions, § 46:13

#### **NEWSPAPERS**

Foreclosure of mortgages, § 59:8

### NON MORTGAGE FINANCING TECHNIQUES

Generally, §§ 15:1-15:13

Abandonment by vendue, § 15:11

Absolute deed as mortgage, § 15:13

Account party risks, § 15:5

Alternative approaches, § 15:1

Common law debtor protection, § 15:6

Contracts for deeds, generally, §§ 15:7-15:12

Disadvantages of contracts for deeds, §§ 15:9, 15:10

Leases, § 15:2

Letters of credit, § 15:3

Long term leases, § 15:2

Termination of letters of credit, § 15:4

#### NONRECOURSE OBLIGATIONS

Mortgages, § 13:15

### NOTICE OR KNOWLEDGE

Foreclosure of Mortgages, this index

Fraud, § 74:7

Guaranties, suits on, §§ 56:11, 56:12

Mechanic's liens, § 73:11

Options, first refusals, extensions and renewals of leases, § 35:15

#### NOTICE OR KNOWLEDGE—Cont'd

Premises liability, § 75:7 Title insurance, § 6:8 Title to property, § 4:10

#### **NUISANCE**

Generally, §§ 77:4-77:6
Damages, § 77:5
Resolving real estate disputes, § 41:3
Statute of limitations, § 77:6
Temporary or permanent nuisance, §§ 77:5, 77:6

#### **OFFICERS**

Condominiums, § 21:15

#### **OMISSION**

Fraud, § 74:4

#### **OPEN AND NOTORIOUS USE**

Adverse possession, § 66:12

#### **OPEN MORTGAGE CLAUSE**

Mortgage documents, § 17:6

### **OPERATION OF LAW**

Easements and licenses, § 28:5 Leases and leasing, § 32:4

### **OPINION TESTIMONY**

Condemnation, § 64:21

# OPTIONS, FIRST REFUSALS, EXTENSIONS AND RENEWALS OF LEASES

Generally, §§ 35:1-35:17

Agreements to agree, § 35:16
Alternatives to rights of refusal, § 35:14

Appraisals, reliability of, § 35:7

Drafting the option, § 35:9

Evaluation clauses using appraisals, § 35:8

Exercise of option, §§ 35:6, 35:11

Implied restrictions against transfer of percentage leases, § 35:4

Notice, § 35:15

Options and first refusals, generally, § 35:5

Percentage leases, transfer of, §§ 35:3, 35:4

Perpetuities, § 35:10

Reliability of appraisals, § 35:7

Remote transferees, restrictions against, § 35:1

Renewals and extensions, generally, § 35:15

Restraints on alienation, § 35:10

Restrictions, §§ 35:1, 35:4

Rights of refusal, § 35:12

Setting option exercise price, § 35:6

## OPTIONS, FIRST REFUSALS, EXTENSIONS AND RENEWALS OF LEASES—Cont'd

Termination, §§ 35:17, 40:7

Waiver of restriction against transfer, § 35:2

### **ORAL AGREEMENTS**

Leases, §§ 31:4, 32:1, 36:13

Vendor and purchaser actions, § 47:3

### **ORAL GRANTS**

Easements and licenses, § 28:1

#### **ORDINANCES**

Subdivisions, §§ 22:2, 22:3

Zoning, § 25:5

#### **ORIGINAL CONTRACTORS**

Mechanic's liens, § 73:5

#### **ORIGINAL PURCHASERS**

Condominiums, § 21:31

#### OWNERS AND OWNERSHIP

Leases and lease improvements, §§ 30:10, 38:10

Titles and Conveyances, this index

#### PARCEL SALES

Foreclosure sale, § 60:4

### PARTIAL RELEASES

Mortgages, § 14:3

#### PARTIALLY ORAL AND PARTIALLY WRITTEN LEASES

Leases and leasing, § 31:8

#### **PARTIES**

Easements and Licenses, this index

Lease documents, § 36:3

Mechanic's liens, § 73:19

Mortgage Documents, this index

Sale contract basics, § 9:1

### **PARTITION**

Generally, §§ 69:1-69:14

Attorneys' fees, § 69:11

Distribution of partition proceeds, § 69:13

Emerging market, § 69:14

Entireties, tenancy by, § 69:4

Expense, § 69:12

Income, § 69:12

Joint tenancy, § 69:3

Liquid investments, tenancies in common as, § 69:14

Partition, generally, § 69:6

#### PARTITION—Cont'd

Procedure for partition suit, § 69:9 Recognizing types of joint ownership, § 69:1 Sale in partition, § 69:10 Severance, § 69:5 Suit for partition, generally, § 69:7 Tenancy in common, §§ 69:2, 69:14

#### PAST AND FUTURE RENT

Landlord-tenant actions, § 51:2

#### PAST CONSIDERATION

Guaranties, suits on, § 56:5

#### **PAYMENT**

Condemnation, §§ 64:9, 64:23-64:25 Foreclosure sale, § 60:8 Lease documents, § 39:5 Promissory notes, suits on, §§ 55:10, 55:11 Real estate tax appeals, § 65:10

#### **PENALTIES**

Mortgages, § 14:6

#### PERCENTAGE LEASES

Options, first refusals, extensions and renewals of leases, §§ 35:3, 35:4

#### PERCENTAGE RENT

Lease expenses and rental adjusters, §§ 37:7-37:10

### PERIODIC TENANCIES

Leases and leasing, § 32:3

### PERIPHERAL LEASE TRANSACTIONS

Leases and Leasing, this index

#### PERPETUAL FREEHOLD ESTATES

Present estates, § 1:3

### **PERPETUITIES**

Future interests, § 2:7

Options, first refusals, extensions and renewals of leases, § 35:10

### PERSONAL INJURY LIABILITY RISK ALLOCATION

Generally, §§ 53:1-53:8

Common area, injuries in, § 53:5

Control, retention of, § 53:3

Criminal acts, landlord liability for, § 53:7

Ice and snow and common use rule, § 53:6

Liability for personal injury, generally, § 53:1 et seq

Public use, § 53:8

Repairs, landlord's responsibility for, § 53:4

Retention of control, § 53:3

#### PERSONAL INJURY LIABILITY RISK ALLOCATION—Cont'd

Superior knowledge, § 53:2

#### PERSONAL PROPERTY

Landlord-tenant actions, § 52:22 Lease improvements, § 38:12 Mortgage documents, § 16:7 Resolving real estate disputes, § 41:11

#### **PIOUS USES**

Adverse possession, § 66:16

#### PLATTED EASEMENTS

Easements and licenses, § 29:10 Subdivisions, § 22:13

#### **POSSESSION**

Adverse Possession, this index Foreclosure sale, § 60:14 Landlord-tenant actions, §§ 51:9, 52:11 Mortgage documents, §§ 17:10, 17:13 Sale contract basics, §§ 9:16-9:18

### POSSIBILITIES OF REVERTER

Future interests, § 2:3

#### POST-DISPUTE MEDIATION

Vendor and purchaser actions, § 45:5

#### **POSTPONEMENT**

Foreclosure sale, § 60:6

#### **POST-SALE ISSUES**

Generally, §§ 61:1-61:9

Bond, redemption, § 61:2

Deficiency judgment, § 61:7

Equitable redemption, §§ 61:4, 61:5

Insurance, § 61:8

Redemption, generally, §§ 61:1-61:5

Resale, suit for, § 61:6

Statutory redemption, generally, §§ 61:1-61:3

Waste, § 61:8

Wrongful foreclosure, § 61:9

### **POWER**

Condemnation, §§ 64:2-64:4

### PRE-DISPUTE MEDIATION

Vendor and purchaser actions, §§ 45:5, 45:6

#### PREFABRICATED HOUSING

Subdivision disputes, § 68:16

#### **PRE-FILING**

Condemnation, § 64:6

#### PREMISES LIABILITY

Generally, §§ 75:1-75:7 Categorization of land entrants, § 75:3 Invitees, § 75:4 Licensees, § 75:5 Notice, § 75:7

Special notice, § 75:7

Trespassers, § 75:6

Trigger for premises liability, § 75:2

#### PREPAYMENT OF MORTGAGE

Mortgages, §§ 14:1, 14:2

### PRESALE PROCESS

Foreclosure of Mortgages, this index

#### **PRESCRIPTION**

Easement by. Prescription, Easement by, this index Leases and leasing, § 30:6

### PRESCRIPTION, EASEMENT BY

Generally, §§ 28:10-28:12, 67:1-67:6

Adverse use, § 67:3

Continuous and interrupted use for ten years, § 67:2

Elements, §§ 67:2-67:4

Permissive prescriptive easement, § 28:11

Public access to private property, § 67:5

Shopping centers, public access to, § 67:5

Use of prescriptive easement, §§ 28:12, 67:6

Visible use, § 67:4

### PRESENT ESTATES

Generally, §§ 1:1-1:8

Defeasible estates, § 1:4

Division of interest, § 1:6

Frustrations of life estates, § 1:7

Introduction, § 1:1

Life estates, §§ 1:5, 1:7, 1:8

Move from life estates, § 1:7

Overview, § 1:2

Perpetual freehold estates, § 1:3

### **PRICE**

Purchase Price, this index

### PRIMA FACIE CASE

Lender liability, § 76:6

Promissory notes, suits on, § 55:2

#### **PRIORITIES**

Liens, § 72:3 Mechanic's liens, § 73:31 Mortgages, §§ 13:6, 13:7 Title to property, § 4:9

### PRIVATE ACTION

Leases and leasing, § 30:3

#### PRIVATE CONDEMNATION

Condemnation, § 64:28

#### **PRIVITY**

Leases and leasing, § 33:4

#### PROCEDURAL CONTROLS

Alternative dispute resolution, § 43:9

### PROCEDURAL UNCONSTITUTIONALITY

Zoning, § 24:7

#### **PROCESS**

Condemnation, §§ 64:5-64:9

### **PROFITS A PRENDRE**

Easements and licenses, § 27:5

### PROJECT DEFINITION ISSUES

Condemnation, § 64:11

### PROJECT INFLUENCE DOCTRINE

Condemnation, § 64:17

#### PROMISSORY NOTES

Actions on. Promissory Notes, Suits on, this index Mortgages, § 13:4

### PROMISSORY NOTES, SUITS ON

Generally, §§ 55:1-55:13

Acceleration, § 55:4

Accommodation parties, release of, § 55:6

Burden of proof of payment, § 55:11

Damages, § 55:8

Defenses, §§ 55:9-55:13

Demand, § 55:3

Different capacities of note execution, § 55:5

Failure of consideration, defense of, § 55:13

Holder, rights of, § 55:7

Payment, §§ 55:10, 55:11

Prima facie case, § 55:2

Promissory notes, generally, § 55:1

Release of parties, § 55:6

Setoff, defense of, § 55:12

### PROMISSORY NOTES, SUITS ON-Cont'd

Statute of limitations, § 55:9

#### PROPERTY INSURANCE

Lease documents, § 39:3

#### **PROTECTION**

Condominiums, §§ 21:31-21:33 Mortgage security, § 13:10 Subdivisions, § 22:14

#### **PROTOCOLS**

Arbitration, § 44:9

### PROXIMATE CAUSE

Fraud, § 74:14

#### **PUBLIC ACCESS**

Prescription, easement by, § 67:5

### **PUBLIC EASEMENTS**

Easements and licenses, §§ 28:14, 28:15

#### PUBLIC LAND-USE REGULATIONS

Condominiums, § 21:21

### **PUBLIC NOTICE**

Notice or Knowledge, this index

### **PUBLIC POLICY**

Zoning, § 62:18

### **PUBLIC PURPOSE POWER**

Condemnation, § 64:3

### **PUBLIC USE**

Personal injury liability risk allocation, § 53:8

#### **PUBLICATION**

Foreclosure of mortgages, § 59:7

### PURCHASE MONEY FINANCING

Mortgages, § 13:8

Sale contract basics, § 9:15

### **PURCHASE PRICE**

Condemnation, this index Sale contract basics, § 9:8

### PURCHASE WITH INTENT TO REZONE

Zoning, § 24:9

### **QUANTITY**

Sale contract basics, § 9:5

### **QUICK FIXES**

Vendor and purchaser actions, § 46:2

#### **QUIET TITLE**

Generally, §§ 70:1-70:4 Burden of proof, § 70:3 Ejectment distinguished from quiet title, § 71:4 Remedy in quiet title action, § 70:4 Source of law, § 70:1 Standing to bring action, § 70:2

#### **QUITCLAIM DEEDS**

Deeds, § 3:24

#### REAL ESTATE BROKERS

Generally, §§ 11:1-11:12 Agency, § 11:4 Definitions, § 11:2 Dual agency, § 11:7 Fiduciary duties, § 11:5 Forms, §§ 11:9-11:11 Introduction, § 11:1 Legal advice, brokers prohibited from giving, § 11:12 Licensure questions, § 11:3 Liens, § 72:6 Limitations on use of forms, § 11:10 Listing Agreements, this index Middlemen, § 11:8 New model, § 11:6 Permitted forms, § 11:11

REAL ESTATE LICENSEE ISSUES Generally, §§ 49:1-49:8 Administrative hearings, § 49:6 Appeal from real estate commission sanctions, § 49:7 Audits by commission, § 49:5 Brokers, licensure questions, § 11:3 Discipline, § 49:2 Entity choices for real estate brokerage practice, § 49:4 Hearings, § 49:6 Licensee discipline, § 49:2 Missouri Real Estate Commission, generally, § 49:1 Regulations of commission, § 49:3 Sanctions by real estate commission, appeal from, § 49:7 Violation of regulations, effect of, § 49:8

### REAL ESTATE TAX APPEALS

Generally, §§ 65:1-65:11 Administrative appeal, §§ 65:2, 65:7 Agricultural land, § 65:5

#### REAL ESTATE TAX APPEALS—Cont'd

Basis for review, §§ 65:3, 65:4, 65:6

Classification, § 65:4

Court challenge to state tax commission decision, § 65:9

Direct court review, § 65:8

Discrimination, § 65:6

Exemption, § 65:11

Horticultural land, § 65:5

Overview, § 65:1

Payment of taxes without protest, § 65:10

#### REASONABLENESS

Vendor and purchaser actions, § 47:19

#### REBUILDING DUTY

Lease documents, § 39:10

### RECORDS AND RECORDING

Deeds, § 3:17

Mechanic's liens, § 73:13

Title to property, §§ 4:4, 4:5

#### REDELIVERY CLAUSE

Lease documents, § 39:8

#### REDEMPTION

Post-sale issues, §§ 61:1-61:5

Tax sale, redemption from, § 72:8

#### REDEVELOPMENT INCENTIVES

Easements and Licenses, this index

### REENTRY

Future interests, § 2:4

Lease documents, § 40:3

### REFINANCING

Mortgages, § 14:8

#### REFORMATION

Vendor and purchaser actions, § 47:14

### REGULATIONS

Real estate licensee issues, § 49:3

### RELATIVITY OF OWNERSHIP

Title to property, § 4:6

### **RELEASE**

Easements and licenses, § 28:17

Mortgages, this index

Promissory notes, suits on, § 55:6

Subdivisions, § 23:7

#### RELETTING REMEDY

Lease documents, § 40:6

#### RELIABILITY

Options, first refusals, extensions and renewals of leases, § 35:7

#### **RELIANCE**

Easements and licenses, § 28:2 Fraud, §§ 74:10-74:13

### REMAINDERS

Future interests, §§ 2:5, 2:6

#### REMEDIES

Actions and Remedies, this index

#### REMOTE TRANSFEREES

Options, first refusals, extensions and renewals of leases, § 35:1

#### REMOVAL OF TRUSTEES

Subdivisions, § 23:11

#### RENEWALS

Options, First Refusals, Extensions and Renewals of Leases, this index

#### RENT

Landlord-Tenant Actions, this index Lease documents, §§ 36:8, 36:9 Leases and Leasing, this index

### RENT ASSIGNMENTS

Mortgage documents, § 17:11

#### RENTAL ADJUSTERS

Lease Expenses and Rental adjusters, this index

#### **REPAIRS**

Easements and licenses, § 29:13 Mortgage documents, § 18:1 Personal injury liability risk allocation, § 53:4

### REPLACEMENT COST APPROACH

Condemnation, § 64:18

### REPLACEMENT MORTGAGES

Mortgages, § 14:8

### REPRESENTATIONS

Sale contract - additional issues, § 10:1

### RESALE

Condominiums, § 21:32 Post-sale issues, § 61:6

#### RESCISSION

Vendor and purchaser actions, § 47:13

#### RESERVATIONS

Deeds, § 3:14

#### RESIDENTIAL LEASE ENFORCEMENT ISSUES

Landlord-tenant actions, § 50:3

#### RESIDENTIAL SECOND MORTGAGES

Mortgage documents, § 20:2

### RESIDENTIAL TRANSACTION

Sales transaction overview, § 8:1

#### RESIGNATION OF TRUSTEE

Mortgage documents, § 19:1

#### RESOLVING REAL ESTATE DISPUTES

Generally, §§ 41:1-44:20

Addressing real estate disputes, §§ 42:1-42:4

Alternative Dispute resolution, this index

Arbitration, this index

Assignment, restrictions on, § 41:5

Common real estate disputes, generally, § 42:2

Condition of premises, § 41:10

Environmental issues, § 41:6

Exclusivity clauses, § 41:4

External restrictions, § 41:2

Fair housing, § 41:12

Judgment, § 42:3

Limitations. Restrictions and return of premises, below

Nuisance, § 41:3

Overview, §§ 42:1-42:4

Personal property, § 41:11

Redundancies in settlement/litigation model, § 42:4

Restrictions and return of premises

Generally, §§ 41:1-41:12

Assignment, restrictions on, § 41:5

Condition of premises, § 41:10

Environmental issues, § 41:6

Exclusivity clauses, § 41:4

External restrictions, § 41:2

Fair housing, § 41:12

Nuisance, § 41:3

Personal property, § 41:11

Return of premises, generally, §§ 41:9-41:11

Sale, landlord liability after, § 41:8

Security deposit, § 41:9

Subleasing, restrictions on, § 41:5

Subordination, § 41:7

Use restrictions, § 41:1

Waste, § 41:3

#### RESOLVING REAL ESTATE DISPUTES—Cont'd

Return of premises. Restrictions and return of premises, above Sale, landlord liability after, § 41:8
Security deposit, § 41:9
Settlement, §§ 42:1, 42:4
Subleasing, restrictions on, § 41:5

Subordination, § 41:7

Use restrictions, § 41:1

Waste, § 41:3

#### **RESPONSES**

Mortgage documents, § 18:2 Sales transaction overview, § 8:3

#### RESTITUTION

Vendor and purchaser actions, § 47:16

### RESTRAINTS ON ALIENATION

Future interests, §§ 2:8, 2:9

Options, first refusals, extensions and renewals of leases, § 35:10

#### RESTRICTIONS

Limitations and Restrictions, this index

#### **RESULTING TRUST**

Deeds, § 3:9

#### RETENTION OF CONTROL

Personal injury liability risk allocation, § 53:3

### **RETURN OF PREMISES**

Resolving Real Estate Disputes, this index

### REVERSIONS

Future interests, § 2:2

#### **REVIEW**

Appeal and Review, this index

#### RISK

Landlord-Tenant Actions, this index

Leases and leasing, § 33:2

Mortgage documents, § 17:3

Sale contract - additional issues, § 10:14

Title insurance, risk elimination or reduction, § 5:4

### ROADS

Leases and Leasing, this index

### **RULE AGAINST PERPETUITIES**

Future interests, § 2:7

#### SALE CONTRACT - ADDITIONAL ISSUES

Generally, §§ 10:1-10:20

#### SALE CONTRACT - ADDITIONAL ISSUES—Cont'd

Alternatives relating to damage or destruction, § 10:15

Contingencies

Diligence, § 10:2

Drafting, § 10:4

Failure of, § 10:11

Financing contingencies, § 10:7

Satisfaction, § 10:9

Title contingencies, § 10:5

Contract relating to damage or destruction, § 10:17

Damage or destruction, §§ 10:14-10:18

Default and remedies, § 10:19

Deposit, § 10:10

Diligence, §§ 10:2, 10:6, 10:8

Drafting matters, §§ 10:4, 10:18

Earnest deposit, § 10:10

Environmental due diligence, § 10:8

Failure of contingency, § 10:11

Financing contingencies, § 10:7

Government restrictions diligence, § 10:6

Habitability, implied warranty of, § 10:12

Implied warranty of habitability, § 10:12

Integration clause, § 10:20

Merger, § 10:20

Missouri rule relating to damage or destruction, § 10:16

Mutuality of obligation, § 10:9

Representations, § 10:1

Risk of loss, § 10:14

Satisfaction of contingency, § 10:9

Survey, § 10:5

Title contingencies and survey, § 10:5

Types of contractual conditions, § 10:3

Waiver of conditions, § 10:13

Warranties, §§ 10:1, 10:2

#### SALE CONTRACT BASICS

Generally, §§ 9:1-9:23

Acceptance of offer, § 9:2

Ancillary rights, § 9:6

Assumption of mortgage purchases, § 9:12

Attorney use of forms, § 9:23

Closing, generally, § 9:16 et seq

Conveyance, § 9:22

Decryption of property, § 9:3

Delayed possession, § 9:18

Deposit, § 9:9

Due on sale clauses, § 9:14

Earnest deposit, § 9:9

#### SALE CONTRACT BASICS—Cont'd

Expense items, closing adjustments for, § 9:20

Financing purchase money, § 9:15

Fixtures, § 9:7

Forms, attorney use of, § 9:23

Income items, closing adjustments for, § 9:21

Mortgaged property, purchaser's view on acquiring, § 9:13

Parties, § 9:1

Possession, generally, §§ 9:16-9:18

Price, § 9:8

Purchase money financing, § 9:15

Purchase price, § 9:8

Quantity of property, § 9:5

"Subject to" mortgage purchases, §§ 9:10, 9:11

Survey, § 9:4

Time of essence in closing, § 9:19

Title and conveyance, § 9:22

#### **SALES AUDITS**

Lease expenses and rental adjusters, § 37:10

#### SALES OR SELLING OF REAL ESTATE

Audits, § 37:10

Foreclosure Sale, this index

Judgment lien, sale under, § 72:5

Listing Agreements, this index

Partition sales, § 69:10

Post-Sale Issues, this index

Real Estate Brokers, this index

Resolving real estate disputes, § 41:8

Sale Contract Basics, this index

Sale Contracts - Additional Issues, this index

Sales Transaction overview, this index

Tax sales, §§ 72:8, 72:9

### SALES TRANSACTION OVERVIEW

Generally, §§ 8:1-8:7

Caveats of contracting, § 8:5

Checking it out, § 8:4

Commercial transaction, initial progress at, § 8:2

Due diligence, § 8:4

Initial progress, §§ 8:1, 8:2

Intent, letter of, § 8:6

Letter of intent, § 8:6

Residential transaction, initial progress at, § 8:1

Response of seller, § 8:3

#### **SANCTIONS**

Real estate licensee issues, § 49:7

#### **SATISFACTION**

Mortgages, this index
Sale contract - additional issues, § 10:9

### **SEARCHING TITLE**

Title to property, § 4:2

### **SECOND MORTGAGES**

Mortgage documents, §§ 20:1, 20:2

#### **SECURED OBLIGATION**

Mortgages, § 13:14

### **SECURITY DEPOSITS**

Landlord-tenant actions, § 50:2 Resolving real estate disputes, § 41:9

#### SELF-HELP REPOSSESSION

Landlord-tenant actions, § 51:6

### **SELLING REAL ESTATE**

Sales or Selling of Real Estate, this index

### SERVICE OF OWNER

Mechanic's liens, § 73:12

#### **SERVIENT ESTATES**

Easements and licenses, §§ 29:6-29:8

### **SETOFF**

Promissory notes, suits on, § 55:12

#### **SETTLEMENT**

Resolving real estate disputes, §§ 42:1, 42:4

### **SEVERANCE**

Partition, § 69:5

### **SHOPPING CENTERS**

Prescription, easement by, § 67:5

#### SPECIAL ASSESSMENTS

Condominiums, § 21:20

### **SPECIAL BENEFITS**

Condemnation, § 64:17

#### **SPECIAL DAMAGE**

Condemnation, § 64:12

### SPECIAL EVIDENCE

Condemnation, § 64:22

#### SPECIAL EXCEPTIONS

Title insurance, § 6:12

#### **SPECIAL NOTICE**

Premises liability, § 75:7

#### **SPECIAL USE PERMITS**

Zoning, §§ 62:11-2:15

#### **SPECIAL WARRANTY DEEDS**

Deeds, § 3:23

### SPECIALIZED OCCUPANCY

Leases and leasing, § 32:16

### SPECIFIC PERFORMANCE

Vendor and Purchaser Actions, this index

#### SPECIFIC USE RESTRICTIONS

Subdivision disputes, §§ 68:14, 68:15, 68:17

#### STANDARDS OF REVIEW

Zoning, § 63:3

#### **STANDING**

Quiet title action, § 70:2 Zoning, §§ 62:5, 62:6

#### STATE AND LOCAL ZONING AUTHORITY

Zoning, §§ 25:1-25:5

#### STATE CONSTITUTION POWER

Condemnation, § 64:2

### STATEMENT OF LIEN

Mechanic's liens, §§ 73:14, 73:16

#### **STATUTE OF 1963**

Subdivisions, § 22:8

#### STATUTE OF FRAUDS

Leases and leasing, §§ 31:5-31:7 Vendor and purchaser actions, §§ 47:2, 47:3

#### STATUTE OF LIMITATIONS

Nuisance, § 77:6

Promissory notes, suits on, § 55:9

Trespass, § 77:2

Vendor and purchaser actions, § 46:15

#### STATUTES AND STATUTORY PROVISIONS

Actions. Statutory Actions Affecting Real Estate, this index

Adverse possession, § 66:2

Condemnation, § 64:3

Fraud, § 74:18

Frauds, statute of. Statute of Frauds, this index

Leases and Leasing, this index

Limitations, statute of. Statute of Limitations, this index

### STATUTES AND STATUTORY PROVISIONS—Cont'd

Post-sale issues, statutory redemption, §§ 61:1-61:3 Zoning, § 62:16

#### STATUTORY ACTIONS AFFECTING REAL ESTATE

Partition, this index Quiet Title, this index Subdivision Disputes, this index

### STAY OF ARBITRATION

Arbitration, § 44:3

#### STOP OR STOPPING

Foreclosure sale, §§ 60:16, 60:17

#### **STREETS**

Leases and Leasing, this index

#### STRUCTURAL REPAIRS AND MAINTENANCE

Lease improvements, § 38:5

#### **SUBCONTRACTORS**

Mechanic's liens, §§ 73:6, 73:7

### SUBDIVISION DISPUTES

Generally, §§ 68:1-68:18 Attorneys' fees, § 68:10 Bond for injunction, § 68:8

Building lines, specific use restrictions, § 68:14

Damages, § 68:5

Enforcement

Indentures, §§ 68:2-68:4

Injunction, § 68:9

Improvements, specific use restrictions, § 68:15

Indentures, generally, §§ 68:1-68:4

Injunctions, §§ 68:6-68:9

Laches, § 68:18

Legal effect of lis pendens, § 68:12

Lis pendens, §§ 68:11, 68:12

Manufactured housing, § 68:16

Maxims, § 68:13

Measure of damages, § 68:5

Model for enforcement of indentures, § 68:2

Prefabricated housing, § 68:16

Prerequisite to injunctions, § 68:7

Specific use restrictions, §§ 68:14, 68:15, 68:17

Trustee approvals, specific use restrictions, § 68:17

### **SUBDIVISIONS**

Generally, §§ 22:1-23:14

Administering assessment provisions, § 23:6

Ambiguous plats, § 22:15

## SUBDIVISIONS—Cont'd

Amendment of restrictions, § 23:7

Arbitrary requirements, contesting of, § 22:12

Architectural review, § 23:14

Assessments, § 23:5

Background, §§ 22:1, 23:1

Boundary adjustments, § 22:5

Conditions subsequent, § 23:1

Constitutional law, §§ 22:9, 22:11

Covenants, § 23:3

Deed restrictions, § 23:1

Disputes. Subdivision Disputes, this index

Easements, § 22:13

Enabling statutes, § 22:6

Enforcement of ordinances, § 22:3

Expansion of statutory subdivision authority, § 22:7

Forfeiture, hostility to, § 23:2

Indentures

Generally, §§ 23:1-23:14

Administering assessment provisions, § 23:6

Amendment of restrictions, § 23:7

Architectural review, § 23:14

Assessments, § 23:5

Background, § 23:1

Conditions subsequent, § 23:1

Covenants, § 23:3

Deed restrictions, § 23:1

Forfeiture, hostility to, § 23:2

Release of restrictions, § 23:7

Removal of trustees, § 23:11

Restrictions, §§ 23:1, 23:7, 23:8

Subdivision indentures, generally, § 23:4

Succession of trustees, § 23:12

Termination, §§ 23:8, 23:9

Trusteeship, § 23:10

Voting, § 23:13

Minor subdivisions, § 22:5

Municipal regulation, § 22:10

Ordinances, generally, §§ 22:2, 22:3

Overview of subdivision law, generally, §§ 22:1-22:15

Platted easements, § 22:13

Protecting access to neighboring land, § 22:14

Release of restrictions, § 23:7

Removal of trustees, § 23:11

Restrictions, §§ 23:1, 23:7, 23:8

Statute of 1963, § 22:8

Statute or 1963, § 22:8

Subdivision compliance, § 22:4

#### SUBDIVISIONS—Cont'd

Subdivision Disputes, this index Succession of trustees, § 23:12
Termination, §§ 23:8, 23:9
Trusts and trusteeship, §§ 23:10, 23:12
Voting, § 23:13

### "SUBJECT TO" MORTGAGE PURCHASES

Sale contract basics, §§ 9:10, 9:11

#### SUBLEASES AND SUBLEASING

Leases and leasing, §§ 34:4, 34:6, 34:7 Resolving real estate disputes, § 41:5

#### **SUBORDINATION**

Resolving real estate disputes, § 41:7

#### **SUBROGATION**

Lease documents, § 39:6 Mortgages, § 13:18

### SUBSTANTIVE MATTERS

Alternative dispute resolution, § 43:10 Zoning, this index

#### **SUCCESSORS**

Mortgage documents, § 19:2 Subdivisions, § 23:12 Zoning, § 62:15

### **SUMMARY JUDGMENTS**

Guaranties, suits on, § 56:6

### SUPERIOR KNOWLEDGE

Personal injury liability risk allocation, § 53:2

### SUPREME COURT OF MISSOURI

Zoning, § 24:3

#### **SURRENDER**

Landlord-tenant actions, § 52:5 Lease documents, § 40:5

### **SURVEY**

Condemnation, § 64:6

Sale contract - additional issues, § 10:5

Sale contract basics, § 9:4

### TAX EXPENSE ESCALATORS

Lease expenses and rental adjusters, § 37:12

#### TAX INCREMENT FINANCING

Easements and licenses, § 26:2

#### **TAX LIENS**

Liens, § 72:7

#### TAX SALES

Liens, §§ 72:8, 72:9

#### **TAXATION**

Real Estate Tax Appeals, this index

### TEMPORARY OR PERMANENT NUISANCE

Nuisance, §§ 77:5, 77:6

#### **TENANCY IN COMMON**

Partition, §§ 69:2, 69:14

#### **TENANTS**

Landlord and Tenant, this index

#### **TENDER**

Vendor and purchaser actions, § 47:9

#### **TERMINATION**

Condominiums, § 21:30

Easements and licenses, §§ 28:18-28:20

Guaranties, suits on, § 56:13

Landlord-tenant actions, § 51:23

Lease documents, § 40:7

Leases and Leasing, this index

Listing agreements, §§ 12:8-12:10

Non mortgage financing techniques, § 15:4

Options, first refusals, extensions and renewals of leases, §§ 35:17, 40:7

Subdivisions, §§ 23:8, 23:9

### **TERMS**

Leases and lease documents, §§ 32:4, 36:11

### TIME OF ESSENCE

Sale contract basics, § 9:19

#### TIME OR DATE

Arbitration, § 44:5

Foreclosure sale, § 60:2

Title insurance, § 6:10

#### TITLE CONTINGENCIES

Sale contract - additional issues, § 10:5

#### TITLE INSURANCE

Generally, §§ 5:1-7:5

Acknowledgment of chapter information, §§ 5:1, 6:1, 7:1

Agency and insurer, § 5:13

Agreement by insured claimant, § 6:7

Alta owner's policy, generally, § 6:2

Checking the policy, § 5:16

### TITLE INSURANCE—Cont'd Closing, generally, §§ 5:11, 5:14 Coinsurance, § 6:13 Commitment, generally, §§ 5:7-5:12 Composition of insured, § 6:5 Continuation of coverage, § 6:4 Date of coverage, § 6:10 Definition of insured, § 6:3 Escrows, § 5:15 Exceptions Commitment, § 5:10 Owner's title insurance, §§ 6:10, 6:12 Exclusions Governmental police matters, § 6:6 Mortgage title insurance, § 7:4 Forms, § 5:6 Governmental police matters, exclusions for, § 6:6 Knowledge of insured, § 6:8 Letter at closing, § 5:14 Mechanic's liens, § 73:32 Modifications of mortgage, § 7:5 Mortgage title insurance Generally, §§ 7:1-7:5 Acknowledgment of chapter information, § 7:1 Coverage's expressed in loan policy, § 7:3 Exclusions expressed in loan policy, § 7:4 Modifications of mortgage, § 7:5 Mortgage title insurance, generally, § 7:2 Nature of title insurance, § 5:2 Non-imputation indorsement, § 6:9 Overview of title insurance, generally, §§ 5:1-5:15 Owner's title insurance Generally, §§ 6:1-6:13 Mortgagee's versus owner's coverage, § 5:3 Requirements of commitment, § 5:9 Responsibility, nature of, § 5:5 Risk elimination or reduction, § 5:4 Special exceptions, § 6:12 Time or date of coverage, § 6:10 Updating title commitment, § 5:12 Use of commitment, § 5:8 TITLE TO PROPERTY Generally, §§ 4:1-4:13 Acknowledgment, § 4:8 After-acquired title, § 4:3 Chain of title, § 4:1 Consideration, effect on priorities, § 4:9

#### TITLE TO PROPERTY—Cont'd

Inquiry, §§ 4:10-4:12

Instruments that convey real estate or affect title, § 4:7

Multiple parcels, risk of describing, § 4:13

Notice, § 4:10

Off-record considerations in searching title, § 4:2

Priorities, effect of consideration, § 4:9

Recording statutes, §§ 4:4, 4:5

Relativity of ownership, § 4:6

Searching title, § 4:2

#### TITLES AND CONVEYANCES

Condominiums, § 21:7

Deeds, this index

Future Interests, this index

Insurance. Title Insurance, this index

Present Estate, this index

Quiet Title, this index

Sale contract basics, § 9:22

Title Insurance, this index

Title to Property, this index

#### TORT CLAIMS INVOLVING REAL ESTATE

Fraud, this index

Lender Liability, this index

Mechanic's Liens, this index

Nuisance, this index

Premises Liability, this index

Trespass, this index

### TRANSFER

Leases and Leasing, this index

Mortgages, §§ 13:14, 13:15, 13:17

### TRANSPORTATION DEVELOPMENT DISTRICTS

Easements and licenses, § 26:4

#### TRESPASS AND TRESPASSERS

Generally, §§ 77:1-77:3

Adverse possession, § 66:6

Elements, § 77:1

Premises liability, § 75:6

Remedy, generally, § 77:3

Statute of limitations, § 77:2

### TRIAL DE NOVO

Landlord-tenant actions, §§ 51:12, 51:24

#### TRIPARTITE RULE OF UNITY

Condemnation, § 64:13

#### TRUSTS AND TRUSTEES

Foreclosure of mortgages, § 59:5 Foreclosure sale, § 60:9 Mortgage documents, §§ 16:4, 19:1-19:4 Subdivisions, §§ 23:10, 23:12, 68:17

#### **UNDUE INFLUENCE**

Deeds, § 3:8

#### UNIMPROVED SPACE

Lease improvements, § 38:7

#### **UNION MORTGAGE CLAUSE**

Mortgage documents, § 17:7

### **UNIT OWNERS**

Condominiums, this index

#### **UNJUST ENRICHMENT**

Lease improvements, § 38:9

#### UNLAWFUL DETAINER

Landlord-tenant actions, §§ 51:15-51:17, 51:24

#### UNREASONABLE RESTRAINTS ON ALIENATION

Future interests, §§ 2:8, 2:9

#### **UPDATING**

Title insurance, § 5:12

### URBAN REDEVELOPMENT CORPORATION LAW

Easements and licenses, § 26:3

#### USE

Easements and Licenses, this index Prescription, easement by, § 67:6

#### **USE RESTRICTIONS**

Condominiums, § 21:14
Resolving real estate disputes, § 41:1

### **USE VARIANCES**

Zoning, § 62:19

### **UTILITIES**

Landlord-tenant actions, § 52:15

#### **VARIANCES**

Zoning, §§ 62:16-62:19

### VENDOR AND PURCHASER ACTIONS

Generally, §§ 45:1-48:10
Actual damages, §§ 46:6, 46:8
Alternative dispute resolution (ADR), Mediation, below

Anticipatory breach of contract, § 46:4

#### VENDOR AND PURCHASER ACTIONS—Cont'd

Appropriate settlement, what constitutes, § 45:3

Cap on damages, liquidated damages as, § 46:12

Clarity of contract in specific performance actions, § 47:2

Consequential damages, § 46:9

Constructive trust, § 47:17

Contract actions, generally, §§ 46:1-46:15

Damages

Actual damages, §§ 46:6, 46:8

Cap on damages, liquidated damages as, § 46:12

Consequential damages, § 46:9

Enforcement of liquidated damages, § 46:11

Extra hazard of overpaying for property, § 46:7

Liquidated damages, generally, §§ 46:10-46:14

New residence sales, liquidated damages on, § 46:13

Overpaying for property, § 46:7

Purpose of liquidated damages, § 46:10

Specific performance and liquidated damages, § 46:14

Types of, § 46:5

Defenses to reformation, § 47:15

Definition of mediation, § 45:1

Delay in pursuing specific performance, § 47:11

Discretion in specific performance, § 47:10

Dynamics of breach of contract actions, § 46:1

Earnest deposit, § 46:2

Enforcement of liquidated damages, § 46:11

Equitable actions on contracts

Generally, §§ 47:1-47:19

Clarity of contract in specific performance actions, § 47:2

Constructive trust, § 47:17

Defenses to reformation, § 47:15

Delay in pursuing specific performance, § 47:11

Discretion in specific performance, § 47:10

Good faith, § 47:19

Immunity for lis pendens, § 47:19

Lis pendens, §§ 47:18, 47:19

Malice, § 47:19

Material elements of a sufficient writing, § 47:6

Mutuality in specific performance, § 47:8

Oral contracts, § 47:3

Reasonableness, § 47:19

Reformation, § 47:14

Rescission, § 47:13

Restitution, § 47:16

Specific performance actions, generally, §§ 47:1-47:3, 47:7-47:11

Statute of frauds, §§ 47:2, 47:3

Tender to support specific performance, § 47:9

Three R's remedies, § 47:12

#### VENDOR AND PURCHASER ACTIONS—Cont'd

Extra hazard of overpaying for property, § 46:7

Good faith, § 47:19

Immunity for lis pendens, § 47:19

Issues considered in mediation, § 45:4

Liquidated damages. Damages, above

Lis pendens, §§ 47:18, 47:19

Malice, § 47:19

Material elements of a sufficient writing, § 47:6

Mediation

Generally, §§ 45:1-45:7

Advantages and disadvantages, § 45:2

Appropriate settlement, what constitutes, § 45:3

Definition, § 45:1

Issues considered, § 45:4

Post-dispute mediation versus pre-dispute mediation, § 45:5

Pre-dispute mediation, §§ 45:5, 45:6

Setting up a mediation, § 45:7

Mutuality in specific performance, § 47:8

New residence sales, liquidated damages on, § 46:13

Oral contracts, § 47:3

Overpaying for property, § 46:7

Post-dispute mediation versus pre-dispute mediation, § 45:5

Pre-dispute mediation, §§ 45:5, 45:6

Purpose of liquidated damages, § 46:10

Quick fixes and earnest deposit, § 46:2

Reasonableness, § 47:19

Reformation, § 47:14

Rescission, § 47:13

Restitution, § 47:16

Setting up a mediation, § 45:7

Specific performance

Equitable actions on contracts, above, §§ 47:7-47:11

Liquidated damages, § 46:14

Statute of frauds, §§ 47:2, 47:3

Statute of limitations for contract actions, § 46:15

Tender to support specific performance, § 47:9

Types of breach of contract, § 46:3

Warranties, Actions for Breach of, this index

### **VENUE**

Foreclosure of mortgages, § 59:7

### VERIFICATION

Fraud, § 74:12

#### VIOLATION OF REGULATIONS

Real estate licensee issues, § 49:8

#### **VISIBILITY**

Easements and licenses, § 28:9

#### **VISIBLE USE**

Prescription, easement by, § 67:4

#### **VOTING**

Subdivisions, § 23:13

#### WAIVER AND ESTOPPEL

Arbitration, § 44:14

Easement by estoppel, § 28:2

Guaranties, suits on, § 56:3

Landlord-tenant actions, § 51:20

Leases and lease documents, §§ 31:7, 33:3, 39:6

Mechanic's liens, §§ 73:33, 73:35

Mortgages, estoppel certificates, § 13:16

Options, first refusals, extensions and renewals of leases, § 35:2

Sale contract - additional issues, § 10:13

Zoning, § 62:9

### WARRANTIES

Actions on. Warranties, Actions for Breach of, this index

Deeds, §§ 3:22, 3:23

Sale contract - additional issues, §§ 10:1, 10:2

### WARRANTIES, ACTIONS FOR BREACH OF

Generally, §§ 48:1-48:10

Current rule as to implied warranties, § 48:5

Damages, §§ 48:2, 48:10

Disclaimers, § 48:7

Express warranties, generally, §§ 48:1-48:3

Implied warranties, generally, §§ 48:4-48:10

Merger, §§ 48:3, 48:6

Situations covered by implied warranty, § 48:9

Traditional rule as to implied warranties, § 48:4

Types of defect covered by implied warranty, § 48:8

### WASTE

Landlord-tenant actions, § 51:4

Mortgage documents, § 18:1

Post-sale issues, § 61:8

Resolving real estate disputes, § 41:3

### WILD LANDS

Adverse possession, § 66:11

### WRAP AREA OF CONFLICT

Mortgage documents, § 20:4

#### WRAPAROUND MORTGAGES

Mortgage documents, § 20:3

#### WRITING REQUIREMENT

Deeds, § 3:3

#### WRITTEN GRANTS

Easements and licenses, § 28:3

#### WRONGFUL FORECLOSURE

Post-sale issues, § 61:9

### YEARS, TENANCY FOR TERM OF

Leases and leasing, §§ 32:10-32:13

#### **ZONING**

Generally, §§ 24:1-25:5, 62:1-62:20

Administrative versus legislative review, § 63:4

Appeal. Judicial review of zoning decisions, below

Authority for zoning, §§ 25:1, 25:2

Board of adjustment, appeal or form, §§ 63:5, 63:6

Categories of reviewable land use decisions, § 63:2

Certiorari to circuit court, § 63:6

Character of special use permit applications, § 62:12

Circuit court certiorari to, § 63:6

Class structure, § 25:3

Constitutional law, generally, §§ 24:1-24:9

Declaratory judgment, § 63:8

Enforcement of municipal zoning, § 62:20

Equitable relief, § 63:8

Estoppel in zoning matters, § 62:9

Euclidean zoning scheme, special use permits in, § 62:14

Exceptions to exhaustion requirement, § 62:4

Exhaustion requirement, §§ 62:3, 62:4

Flexibility in zoning, § 62:10

Growth of zoning concepts, § 24:4

History of zoning, § 24:2

Inverse condemnation, § 64:27

Judicial review of zoning decisions

Generally, §§ 63:1-63:8

Administrative versus legislative review, § 63:4

Board of adjustment, appeal or form, §§ 63:5, 63:6

Categories of reviewable land use decisions, § 63:2

Certiorari to circuit court, § 63:6

Circuit court certiorari to, § 63:6

Declaratory judgment, § 63:8

Equitable relief, § 63:8

Overview, § 63:1

Standards of review, § 63:3

Local level, zoning actions at, generally, §§ 62:1-62:20

Municipal zoning, §§ 25:4, 62:20

Ordinances, § 25:5

Overview of constitutional law, § 24:1

#### ZONING—Cont'd

Procedural unconstitutionality of zoning, § 24:7

Public policy and variances, § 62:18

Purchase with intent to rezone, § 24:9

Role value of constitutionality in zoning, § 24:8

Rules of standing, § 62:6

Special use permits, generally, §§ 62:11-2:15

Standards of review, § 63:3

Standing to contest zoning decisions, §§ 62:5, 62:6

State and local zoning authority, generally, §§ 25:1-25:5

Statutory authority for variances, § 62:16

Substance reigns, § 62:7

Substantive attacks, § 24:6

Substantive unconstitutionality of zoning, § 24:5

Successor's rights in special use permits, § 62:15

Supreme Court of Missouri and zoning constitutionality, § 24:3

Threshold zoning issues, § 62:2

Use variances, § 62:19

Uses available by special use permits, § 62:13

Variances, §§ 62:16-62:19