

# Table of Contents

## PART I. MARKETABLE TITLES

### CHAPTER 1. OVERVIEW OF MARKETABLE LAND TITLES

- § 1:1 Introduction to marketable land titles
- § 1:2 —What constitutes “marketable title”
- § 1:3 Development of American land title recording system
- § 1:4 —Tract identification
- § 1:5 —Torrens system
- § 1:6 Land title examination methods
- § 1:7 —Title standards
- § 1:8 —Title insurance
- § 1:9 — —Lawyers’ Title Guaranty Funds
- § 1:10 Uniform Land Transactions Act (“ULTA”)
- § 1:11 Uniform Simplification of Land Transfers Act (“USLTA”)
- § 1:12 Uniform Real Property Electronic Recording Act (“URPERA”)
- § 1:13 —Adoption by states
- § 1:14 Uniform Electronic Transactions Act (“UETA”)
- § 1:15 —Adoption by states
- § 1:16 Federal Electronic Signatures in Global and National Commerce Act (“E-Sign Act”)
- § 1:17 Uniform Law on Notarial Acts (“ULNA”)
- § 1:18 —Adoption by states
- § 1:19 Effect of bankruptcy on marketable title

### CHAPTER 2. EVIDENCE OF MARKETABLE TITLE

#### I. OVERVIEW

- § 2:1 Introduction to evidence of marketable title
- § 2:2 Ancient documents as evidence of title
- § 2:3 Recorded deeds as evidence of execution and delivery
- § 2:4 —When recording delayed
- § 2:5 Authentication of deeds executed or acknowledged under former law
- § 2:6 Authentication of deeds executed or acknowledged under later law

- § 2:7 Authentication of deeds executed or acknowledged  
under foreign law
- § 2:8 Documentary evidence of transfer on death of donor  
("TOD")
- § 2:9 —Uniform Nonprobate Transfers on Death Act  
("UNTODA")
- § 2:10 —Uniform Real Property Transfer on Death Act  
("URPTODA")
- § 2:11 —Optional form of transfer on death deed—New  
Hampshire
- § 2:12 — —Utah
- § 2:13 — —Virginia

## II. STATUTORY TITLE PRESUMPTIONS

- § 2:14 Introduction to statutory title presumptions
- § 2:15 Presumption of identity of person
- § 2:16 —Effect of variance in names
- § 2:17 — —Business organizations
- § 2:18 Presumptions of genuineness and authority of  
corporate instruments
- § 2:19 Presumption as to power of trustees to convey land
- § 2:20 Presumption of validity of judicial proceedings
- § 2:21 Conclusive presumptions affecting proof of title
- § 2:22 —Delivery

## CHAPTER 3. RECITALS AS EVIDENCE OF TITLE

### I. OVERVIEW

- § 3:1 Introduction
- § 3:2 Recitals in private deeds and affidavits as evidence of  
title
- § 3:3 Recitals of family history as evidence of title
- § 3:4 —Heirship
- § 3:5 Recitals of decedent's lack of debt as evidence of title
- § 3:6 Recitals of marital status as evidence of title
- § 3:7 —No recital as to grantor's marital status
- § 3:8 Recitals of identity of persons as evidence of title
- § 3:9 Recitals of adverse possession as evidence of title
- § 3:10 Recitals of nondevelopment of mineral leases as  
evidence of title
- § 3:11 Recitals in judgments and decrees as evidence of title
- § 3:12 Recitals in sheriffs' deeds as evidence of title
- § 3:13 Recitals in judicial deeds as evidence of title

## TABLE OF CONTENTS

- § 3:14 Recitals in foreclosure deeds as evidence of title
- § 3:15 Recitals in corporation deeds as evidence of title

## **II. RECITALS AS STATUTORY EVIDENCE OF TITLE**

- § 3:16 Introduction
- § 3:17 Recitals as statutory evidence of title—Alabama
- § 3:18 —Arkansas
- § 3:19 —California
- § 3:20 —Colorado
- § 3:21 —Connecticut
- § 3:22 —Florida
- § 3:23 —Idaho
- § 3:24 —Iowa
- § 3:25 —Maine
- § 3:26 —Massachusetts
- § 3:27 —Michigan
- § 3:28 —Minnesota
- § 3:29 —Missouri
- § 3:30 —Nebraska
- § 3:31 —New Jersey
- § 3:32 —New York
- § 3:33 —North Dakota
- § 3:34 —Oklahoma
- § 3:35 —Oregon
- § 3:36 —Pennsylvania
- § 3:37 —South Dakota
- § 3:38 —Tennessee
- § 3:39 —Mississippi
- § 3:40 —Texas
- § 3:41 —Virginia
- § 3:42 —West Virginia
- § 3:43 —Wisconsin
- § 3:44 —Wyoming

## **PART II. STATUTES OF LIMITATIONS FOR MARKETABLE TITLES**

### **CHAPTER 4. EFFECT OF STATUTES OF LIMITATIONS ON LAND TITLES**

#### **I. LIMITATIONS ON LAND TITLES**

- § 4:1 Introduction to effect of statutes of limitations on land titles
- § 4:2 Effect of statutes of limitations on future interests
- § 4:3 Statutes of limitations barring title suits by governmental entities
- § 4:4 Statutes of limitations barring title suits by persons under legal disability
- § 4:5 Adverse possession under statutes of limitations
- § 4:6 —Examples of statutes
- § 4:7 —Suits by future interest owners

#### **II. LIMITATIONS AND MARITAL INTERESTS**

- § 4:8 Statutes of limitations barring title suits for marital interests
- § 4:9 —Arkansas
- § 4:10 —Florida
- § 4:11 —Indiana
- § 4:12 —Iowa
- § 4:13 —Maine
- § 4:14 —Massachusetts
- § 4:15 —Michigan
- § 4:16 —Minnesota
- § 4:17 —Montana
- § 4:18 —Wisconsin
- § 4:19 Statutes of limitations barring title suits for community property rights
- § 4:20 —California
- § 4:21 —Washington
- § 4:22 —Wisconsin
- § 4:23 —Repealed statutes in Hawaii, Michigan, Nebraska, Oklahoma and Oregon

### **CHAPTER 5. MARKETABLE TITLE LEGISLATION**

- § 5:1 Introduction

## TABLE OF CONTENTS

§ 5:2	Restrictions on real property transfer fees
§ 5:3	Uniform Marketable Title Act (“UMTA”)
§ 5:4	Application of Marketable Title Acts—California
§ 5:5	—Connecticut
§ 5:6	—Florida
§ 5:7	—Illinois
§ 5:8	—Indiana
§ 5:9	—Iowa
§ 5:10	—Kansas
§ 5:11	—Michigan
§ 5:12	—Minnesota
§ 5:13	—Nebraska
§ 5:14	—North Carolina
§ 5:15	—North Dakota
§ 5:16	—Ohio
§ 5:17	—Oklahoma
§ 5:18	—Rhode Island
§ 5:19	—South Dakota
§ 5:20	—Utah
§ 5:21	—Vermont
§ 5:22	—Wisconsin
§ 5:23	—Wyoming

## CHAPTER 6. STATUTES OF LIMITATIONS BARRING MORTGAGES

§ 6:1	Introduction
§ 6:2	Distinction between mortgage lien and mortgage debt
§ 6:3	Early distinction between mortgages and deeds of trust
§ 6:4	Tolling of statutes
§ 6:5	Specific statutes of limitations barring mortgages— Generally
§ 6:6	—Alabama
§ 6:7	—Alaska
§ 6:8	—Arkansas
§ 6:9	—California
§ 6:10	—Colorado
§ 6:11	—Connecticut
§ 6:12	—Florida
§ 6:13	—Georgia
§ 6:14	—Idaho
§ 6:15	—Illinois
§ 6:16	—Indiana
§ 6:17	—Iowa

- § 6:18 —Kansas
- § 6:19 —Kentucky
- § 6:20 —Louisiana
- § 6:21 —Maine
- § 6:22 —Maryland
- § 6:23 —Massachusetts
- § 6:24 —Michigan
- § 6:25 —Minnesota
- § 6:26 —Mississippi
- § 6:27 —Missouri
- § 6:28 —Montana
- § 6:29 —Nebraska
- § 6:30 —Nevada
- § 6:31 —New Hampshire
- § 6:32 —New Mexico
- § 6:33 —New York
- § 6:34 —North Carolina
- § 6:35 —North Dakota
- § 6:36 —Ohio
- § 6:37 —Oklahoma
- § 6:38 —Oregon
- § 6:39 —Pennsylvania
- § 6:40 —Rhode Island
- § 6:41 —South Carolina
- § 6:42 —South Dakota
- § 6:43 —Tennessee
- § 6:44 —Texas
- § 6:45 —Utah
- § 6:46 —Virginia
- § 6:47 —Washington
- § 6:48 —West Virginia
- § 6:49 —Wisconsin
- § 6:50 —Wyoming

## **CHAPTER 7. STATUTES OF LIMITATIONS BARRING CREDITORS OF DECEDENTS**

- § 7:1 Introduction
- § 7:2 Statutes of limitations barring claims of creditors  
against administered estates
- § 7:3 Statutes of limitations barring claims of creditors  
against estates not administered
- § 7:4 Statutes of limitations barring claims for estate taxes
- § 7:5 —Federal taxes
- § 7:6 —State taxes

TABLE OF CONTENTS

**CHAPTER 8. STATUTES OF LIMITATIONS  
BARRING ATTACKS ON OFFICIAL  
CONVEYANCES**

- § 8:1 Introduction
- § 8:2 Statutes barring attacks on official or judicial sales of land
- § 8:3 Statutes barring attacks on sales of land by estate representatives and fiduciaries
- § 8:4 —Application of statutes

**CHAPTER 9. STATUTES OF LIMITATIONS  
BARRING OTHER INTERESTS IN LAND**

- § 9:1 Introduction
- § 9:2 Statutes of limitations barring interests under contracts for sale of land
- § 9:3 Statutes of limitations barring interests under contracts for deed (executory contracts)
- § 9:4 Statutes of limitations barring interests under options for sale of land
- § 9:5 Statutes of limitations barring judgment liens against land
- § 9:6 —Periodic family support orders
- § 9:7 Statutes of limitations barring execution and attachment liens against land
- § 9:8 Statutes of limitations barring notice of *lis pendens*
- § 9:9 Statutes of limitations barring claims asserted by recorded notice
- § 9:10 —Stray deeds
- § 9:11 Statutes of limitations barring effect of recitals as constructive notice
- § 9:12 Statutes of limitations barring equitable charges against land
- § 9:13 Statutes of limitations barring mechanics' liens against land
- § 9:14 Statutes of limitations barring state tax liens against land
- § 9:15 Statutes of limitations barring covenants, conditions, restrictions and reversionary interests in land

**CHAPTER 10. DORMANT MINERAL  
INTEREST LEGISLATION**

- § 10:1 Introduction
- § 10:2 Uniform Dormant Mineral Interests Act (“UDMIA”)
- § 10:3 Legislation extinguishing dormant mineral interests within stated period

- § 10:4 Legislation allowing mineral owner time after lapse of interest to record claim
- § 10:5 Legislation prescribing forfeiture of dormant mineral interests to state
- § 10:6 Legislation impressing trust on dormant mineral interests
- § 10:7 Legislation extinguishing unpatented mining claims on federal lands
- § 10:8 Other legislation addressing dormant mineral interests

## **PART III. CURATIVE STATUTES FOR MARKETABLE TITLES**

### **CHAPTER 11. EFFECT OF CURATIVE STATUTES ON LAND TITLES**

#### **I. CURATIVE STATUTES AND LAND TITLES**

- § 11:1 Introduction
- § 11:2 Constitutional limitations
- § 11:3 Types of curative statutes for land titles
- § 11:4 Curative statutes distinguished from statutes of limitations
- § 11:5 —Marketable title legislation

#### **II. CURATIVE STATUTES FOR DEFECTIVE INSTRUMENTS**

- § 11:6 Curative statutes for instruments lacking legible names
- § 11:7 Curative statutes for instruments lacking names of persons affected
- § 11:8 Curative statutes for instruments with unconventional words of conveyance
- § 11:9 Curative statutes for quitclaim deeds
- § 11:10 Curative statutes for instruments lacking reference to prior conveyance
- § 11:11 Curative statutes for instruments executed in wrong capacity
- § 11:12 Curative statutes for instruments lacking proper dates
- § 11:13 Curative statutes for instruments lacking proper witness attestation
- § 11:14 Curative statutes for instruments lacking addresses
- § 11:15 Curative statutes for instruments without stamps or payment of tax



## TABLE OF CONTENTS

- § 11:16 Curative statutes for instruments lacking seals
- § 11:17 Curative statutes for instruments with various defects in execution

## **CHAPTER 12. CURATIVE STATUTES FOR DEFECTS IN PARTIES TO INSTRUMENTS**

### **I. CURATIVE STATUTES FOR PARTIES**

- § 12:1 Introduction
- § 12:2 Curative statutes for instruments to and from minor persons
- § 12:3 —Uniform Transfers to Minors Act
- § 12:4 Curative statutes for instruments of persons lacking mental capacity
- § 12:5 Curative statutes for conveyances to or from aliens
- § 12:6 Curative statutes for conveyances to deceased persons
- § 12:7 Curative statutes for conveyances from mortgagor to mortgagee
- § 12:8 Curative statutes for conveyance to self and another as joint tenants or tenants by entirety
- § 12:9 Curative statutes for conveyances of trust property by fiduciary to self
- § 12:10 Curative statutes for conveyances by owners of remainders or executory interests

### **II. CURATIVE STATUTES FOR MARITAL INTERESTS**

- § 12:11 Curative statutes for conveyances between spouses
- § 12:12 Curative statutes for conveyance of homestead by only one spouse
- § 12:13 Curative statutes for conveyance of husband's land without joinder of wife
- § 12:14 Curative statutes for conveyance of wife's land without joinder of husband
- § 12:15 Curative statutes for conveyance by one spouse with execution by both spouses
- § 12:16 Curative statutes for conveyances not showing marital status of parties

## **CHAPTER 13. CURATIVE STATUTES FOR CONVEYANCES UNDER POWERS OF ATTORNEY**

- § 13:1 Introduction

- § 13:2 Curative statutes for failure to record power of attorney
- § 13:3 Curative statutes for defective exercise of power of attorney
- § 13:4 Curative statutes for conveyances under power of attorney from spouse
- § 13:5 Curative statutes for conveyances under power of attorney from married woman

## **CHAPTER 14. CURATIVE STATUTES FOR DEFECTIVE INSTRUMENTS OF CORPORATIONS**

- § 14:1 Introduction
- § 14:2 Curative statutes for conveyances to and from limited liability companies
- § 14:3 Curative statutes for instruments lacking corporate authority
- § 14:4 Curative statutes for corporate instruments lacking evidence of officer's authority
- § 14:5 Curative statutes for corporate instruments executed by unauthorized persons
- § 14:6 Curative statutes for corporate instruments executed in wrong capacity
- § 14:7 Curative statutes for instruments of defective corporate entities
  - § 14:8 —Defect in organization
  - § 14:9 —Conveyance before organization
  - § 14:10 —Conveyance after cease of organization
- § 14:11 Curative statutes for instruments of corporations not authorized to own real property
- § 14:12 Curative statutes for conveyances to and from foreign corporations
- § 14:13 Curative statutes for instruments lacking corporate seal

## **CHAPTER 15. CURATIVE STATUTES FOR INSTRUMENTS OF PARTNERSHIPS, ASSOCIATIONS, BUSINESS TRUSTS AND GOVERNMENTAL UNITS**

- § 15:1 Curative statutes for conveyances to and from partnerships
  - § 15:2 —Joint ventures
- § 15:3 Curative statutes for conveyances to and from unincorporated associations

## TABLE OF CONTENTS

- § 15:4 Curative statutes for conveyances to and from business trusts
- § 15:5 Curative statutes for conveyances to and from governmental units

## **CHAPTER 16. CURATIVE STATUTES FOR INSTRUMENTS OF FIDUCIARIES AND OFFICERS INDEPENDENT OF JUDICIAL PROCEEDINGS**

- § 16:1 Introduction
- § 16:2 Curative statutes for conveyances by executors and administrators under powers
- § 16:3 Curative statutes for conveyances by foreign executors and administrators
- § 16:4 Curative statutes for conveyances by testamentary trustees
- § 16:5 Curative statutes for conveyances by nontestamentary trustees
- § 16:6 Curative statutes for conveyances by foreign judicial officers
- § 16:7 Curative statutes for conveyances by officers having powers incident to office

## **CHAPTER 17. CURATIVE STATUTES FOR CONVEYANCES DEPENDENT ON DEFECTIVE JUDICIAL PROCEEDINGS**

- § 17:1 Introduction
- § 17:2 Curative statutes for instruments based on defective judicial proceedings
- § 17:3 Curative statutes for instruments based on defective judicial sales in courts of general jurisdiction
- § 17:4 Curative statutes for instruments based on defective judicial sales in probate courts
- § 17:5 Curative statutes for instruments based on defective judicial sales by foreign fiduciaries

## **CHAPTER 18. CURATIVE STATUTES FOR DEFECTIVE MORTGAGE TRANSACTIONS**

- § 18:1 Introduction
- § 18:2 Curative statutes for defective mortgage instruments
- § 18:3 Curative statutes for defective assignments and releases of mortgages
- § 18:4 Curative statutes for defective foreclosures by judicial action

- § 18:5 Curative statutes for defective foreclosures by power of sale

## **CHAPTER 19. CURATIVE STATUTES FOR DEFECTS IN DESCRIPTIONS, PLATS, PUBLICATIONS AND RECORDINGS**

- § 19:1 Curative statutes for instruments with defective descriptions of land
- § 19:2 Curative statutes for instruments with defective descriptions—Mineral interests
- § 19:3 —Decedents' estates
- § 19:4 —Subdivision plats
- § 19:5 —Roadways
- § 19:6 Curative statutes for defective plats referenced in instruments of conveyance
- § 19:7 Curative statutes for defective publication of legal procedures and proceedings
- § 19:8 Curative statutes for defective recordings of instruments of conveyance

## **CHAPTER 20. CURATIVE STATUTES FOR INSTRUMENTS WITH DEFECTIVE ACKNOWLEDGMENTS**

- § 20:1 Introduction
- § 20:2 Curative statutes for acknowledgments defective for any reason
- § 20:3 Curative statutes for acknowledgments taken by unauthorized persons
- § 20:4 —Military personnel
- § 20:5 Curative statutes for acknowledgments taken by officer outside jurisdiction
- § 20:6 Curative statutes for acknowledgments taken by officer with interest in property
- § 20:7 Curative statutes for acknowledgments taken by deputy in name of principal
- § 20:8 Curative statutes for defective acknowledgments of corporate instruments
- § 20:9 Curative statutes for defective acknowledgments of married women
- § 20:10 Curative statutes for defective certificates of acknowledgment
- § 20:11 Curative statutes for instruments lacking acknowledgment or certificate of acknowledgment
- § 20:12 Curative statutes for instruments with defect in certificate of authenticity

## TABLE OF CONTENTS

§ 20:13 Curative statutes for acknowledgments defective for  
other specific reasons

## APPENDICES

Appendix I. Land Title Statutes and Rules Organized by  
Jurisdiction

Appendix II. Land Title Statutes and Rules Organized by  
Chapter

Appendix III. Title Examination Standards, Selected  
Jurisdictions

**Table of Laws and Rules**

**Table of Cases**

**Index**