

# Index

## **ABSOLUTE DEED TRANSACTIONS**

History of real estate security, § 1:6

## **ACCELERATION**

Due-on-sale clauses, § 5:1

Pre-foreclosure rights and remedies, §§ 4:2, 4:5

## **ACTIVE MILITARY DUTY PERSONNEL**

Servicemembers Civil Relief Act, § 14:5

## **ADVERTISING**

Power of sale foreclosure, § 8:5

## **APPEALS**

Confirmation proceedings and deficiency actions, § 10:3

## **ARMED SERVICES MEMBERS**

Servicemembers Civil Relief Act, this index

## **ASSIGNMENTS**

Power of sale foreclosure, § 8:1

Rents assigned as security for debt, § 3:3

## **ASSUMPTION OF LOAN**

Generally, § 2:5

## **ATTEMPT**

Wrongful attempted foreclosure, § 9:3

## **ATTORNEY'S FEES**

Cancellation of record in satisfaction of debt, § 6:4

High cost loans, § 6:3

Satisfaction of debt, §§ 6:3, 6:4

## **ATTORNEY AGREEMENTS**

Security for debt, § 3:6

## **AUTOMATIC STAY**

Bankruptcy, § 13:3

## **BANKRUPTCY**

Generally, §§ 13:1 to 13:9

Automatic stay, § 13:3

Avoidance of security, § 13:2

Chapter 7 proceeding issues, generally, § 13:4

Cure of defaults and loan modifications, § 13:5

Defaults, cure of, § 13:5

Defenses, § 13:6

**BANKRUPTCY—Cont'd**

- Foreclosure, relationship to, generally, § 13:1
- Leases, § 13:9
- Modification of loans, cure of, § 13:5
- Presumptions, § 13:8
- Rents, § 13:8
- Third parties, §§ 13:3, 13:9
- Voidable preferences, § 13:6

**BIDDING**

- Chilling bid, § 8:6
- Enforcing bid, § 8:6
- Fair market value, § 8:6
- Fairness, § 8:6
- Power of sale foreclosure, § 8:6
- Sales price, § 8:6
- Structured bidding, § 8:6
- Wrongful foreclosure, § 9:2

**BOND FOR TITLE TRANSACTION**

- History of real estate security, §§ 1:4, 1:5

**CANCELLATION OF RECORD**

- Satisfaction of debt, § 6:4

**CASUALTY LOSS**

- Pre-foreclosure rights and remedies, § 4:5

**CAUSATION**

- Wrongful foreclosure, § 9:9

**CHILLING BID**

- Power of sale foreclosure, § 8:6

**COLLATERAL**

- Security for debt, §§ 3:1, 3:2

**COMMERCIAL REAL ESTATE**

- Prepayment prohibitions and premiums, § 6:2

**COMMON LAW**

- Constitutional matters, § 15:1
- History of real estate security, §§ 1:1, 1:2

**CONDITIONAL SALES TRANSACTIONS**

- History of real estate security, § 1:6

**CONDOMINIUM ASSESSMENTS**

- Priorities in case of foreclosure, § 11:5

**CONFIRMATION PROCEEDINGS AND DEFICIENCY ACTIONS**

- Generally, §§ 10:1 to 10:5
- Appeals, § 10:3
- Denial of confirmation, § 10:5

## INDEX

### **CONFIRMATION PROCEEDINGS AND DEFICIENCY ACTIONS—Cont'd**

- Evidence of true market value and regularity, § 10:3
- Federal regulation, § 14:3
- Hearings, § 10:1
- Jury trial, § 10:1
- Nature of proceeding, § 10:1
- Notice, § 10:2
- Parties, § 10:2
- Personalty as security, § 10:1
- Prior judgment on note, § 10:4
- Procedure, § 10:2
- Regularity of procedures, § 10:3
- Resale following denial of confirmation, § 10:5
- Scope, § 10:1
- Security for debt, § 3:2
- Separate actions, § 10:4
- Separate security, § 10:4
- Supersedeas bond, § 10:2
- True market value, § 10:3
- Venue, § 10:1

### **CONSIDERATION**

- Indebtedness, § 2:1

### **CONSTITUTIONAL LAW**

- Drug-related forfeitures, § 14:6
- Due Process Clause, this index
- Express preemption, § 15:1
- Federal common law, § 15:1
- Federal Deposit Insurance Corporation, § 14:1
- Federal government as junior lienor, § 15:1
- Federal judgments, § 15:1
- Governing law, § 15:1
- Implied preemption, § 15:1
- Lien priority, § 15:1
- Limitation of actions, § 15:1
- Notice and hearing requirements, § 15:3
- Power of sale foreclosure, §§ 8:2, 15:1 to 15:3
- Preemption, § 15:1
- Questions, §§ 15:1 to 15:3
- Tax liens and tax sales, requirements, § 12:3
- U.S. as party to action, § 15:1

### **CONTRIBUTION**

- Priorities in case of foreclosure, § 11:4

### **CORONAVIRUS**

- Covid-19 Pandemic, this index

**COVENANT NOT TO SUE**

Indebtedness, § 2:4

**COVID-19 PANDEMIC**

Public emergency orders, § 1:7

**CRIMINAL OFFENSES**

Usury, § 2:2

**CROSS-DEFAULT**

Pre-foreclosure rights and remedies, § 4:1

**CURE**

Bankruptcy, cure of defaults and loan modifications, § 13:5

**DAMAGES**

Bankruptcy, leases, § 13:9

Wrongful foreclosure, §§ 9:8 to 9:11

**DEED IN LIEU OF FORECLOSURE**

Generally, §§ 6:1 to 6:4

Forms, §§ 16:5, 16:6

**DEED TO SECURE DEBT**

Forms, §§ 16:2, 16:4

History of real estate security, § 1:5

Judicial foreclosure, § 7:1

**DEED UNDER POWER OF SALE**

Generally, § 8:10

Forms, § 16:8

**DEFAULT**

Bankruptcy, cure of defaults and loan modifications, § 13:5

Pre-foreclosure rights and remedies, § 4:1

**DEFEASANCE CLAUSE**

History of real estate security, § 1:5

**DEFEASIBLE FEE SIMPLE MORTGAGE**

Generally, § 1:2

**DEFENSES**

Bankruptcy, §§ 13:2, 13:6

Consideration lacking, § 2:1

**DEFICIENCY ACTIONS**

Confirmation Proceedings and Deficiency Actions

**DEFICIENCY JUDGMENTS**

Security for debt, § 3:2

**DEFINITIONS**

Usury, § 2:2

## INDEX

### **DIRECT PARTICIPATION**

Federal regulation, § 14:1

### **DISCLOSURE**

Federal requirements, §§ 14:1, 14:2

### **DISPOSSESSION ACTIONS**

Intentional infliction of emotional distress, § 8:3

Power of sale foreclosure, §§ 8:3, 8:9

### **DISTRIBUTION OF SALE PROCEEDS**

Power of sale foreclosure, § 8:8

### **DRUG-RELATED FORFEITURES**

Federal regulation, § 14:6

Innocent owners, § 14:6

### **DUE PROCESS CLAUSE**

Determination of state actor, § 15:2

Drug-related forfeitures, § 14:6

Evolution of requirements, § 15:3

Power of sale foreclosure, § 8:2

State actions, §§ 15:2, 15:3

Tax liens and sales, §§ 12:1, 12:3, 12:9

Waiver of borrower's rights, § 15:3

### **DUE-ON-ENCUMBRANCE CLAUSE**

Pre-foreclosure rights and remedies, § 4:1

### **DUE-ON-SALE CLAUSES**

Transferability, § 5:1

### **EASEMENTS**

Tax liens and sales, effect of, § 12:6

### **EJECTMENT**

Pre-foreclosure rights and remedies, § 4:4

### **EMINENT DOMAIN**

Pre-foreclosure rights and remedies, § 4:5

### **EMOTIONAL DISTRESS**

Wrongful foreclosure, § 9:10

### **ENFORCING BID**

Power of sale foreclosure, § 8:6

### **EQUITABLE SUBROGATION DOCTRINE**

Security for debt, § 3:4

### **EVIDENCE**

Confirmation proceedings and deficiency actions, § 10:3

### **EXEMPLARY DAMAGES**

Wrongful foreclosure, § 9:11

**EXPRESS PREEMPTION**

Constitutional matters, § 15:1

Federal regulation, § 14:2

**FAIR MARKET VALUE**

Power of sale foreclosure, § 8:6

Tax liens and sales, § 12:6

**FARMERS HOME ADMINISTRATION**

Federal regulation, §§ 14:1, 14:3

**FEDERAL COMMON LAW**

Common Law, this index

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Constitutional matters, § 15:1

Federal regulation, § 14:1

**FEDERAL GOVERNMENT AS JUNIOR LIENOR**

Constitutional matters, § 15:1

**FEDERAL HOUSING ADMINISTRATION**

Federal regulation, § 14:1

**FEDERAL HOUSING AND FINANCE AGENCY (FHFA)**

Due process and state actions, § 15:2

**FEDERAL JUDGMENTS**

Constitutional matters, § 15:1

**FEDERAL REGULATION**

Generally, §§ 14:1 to 14:6

Active military duty personnel, § 14:5

Confirmation proceedings and deficiency actions, § 14:3

Direct participation, § 14:1

Direct regulation, § 14:2

Disclosure requirements, §§ 14:1, 14:2

Drug-related forfeitures, secured lenders and, § 14:6

Farmers Home Administration, §§ 14:1, 14:3

Federal Deposit Insurance Corporation, § 14:1

Federal Housing Administration, § 14:1

Foreclosure procedures, §§ 8:4, 14:3

Hazardous waste liability, § 14:4

High cost loans, § 14:2

Housing and Economic Recovery Act of 2008, § 14:5

Indirect regulation, § 14:1

Innocent lienholders, § 14:6

Innocent owners, § 14:6

Market disclosure legislation, § 14:2

Notice requirements, § 14:3

Preemption, §§ 14:1, 14:2

Prepayment prohibitions and premiums, § 6:2

## INDEX

### **FEDERAL REGULATION—Cont'd**

- Receiverships, power of appointment, § 14:3
- Resolution Trust Corporation, § 14:1
- Secure and Fair Enforcement of Mortgage Licensing Act of 2008, § 14:2
- Servicemembers Civil Relief Act, § 14:5
- Settlement statements, § 14:2
- Single Family Mortgage Foreclosure Act of 1994, § 14:3
- Small Business Administration, §§ 14:1, 14:3
- Substantive regulations, § 14:2
- Usury, § 14:2
- Veterans' Administration, §§ 14:1, 14:3

### **FINES, PENALTIES, AND LATE CHARGES**

- Drug-related forfeitures, § 14:6
- Servicemembers Civil Relief Act, § 14:5

### **FIXTURES**

- Security for debt, § 3:2

### **FORECLOSURES**

- Condominium assessments, § 11:5
- Contribution, § 11:4
- Deed in Lieu of Foreclosure, this index
- Forms, this index
- History of real estate security, § 1:1
- Impact on leases, § 11:3
- Judicial Foreclosures, this index
- Marshaling of assets, § 11:4
- Power of Sale Foreclosure, this index
- Pre-foreclosure Rights and Remedies, this index
- Priorities, this index
- Procedures, federal regulation, § 14:3
- Protecting Tenants at Foreclosure Act of 2009, § 11:3
- Setting aside
  - denial of confirmation and resale, § 10:5
  - wrongful foreclosure, §§ 9:4 to 9:6
- Single Family Mortgage Foreclosure Act of 1994, § 14:3
- Tax liens and tax sales, this index
- Tenants, post-foreclosure rights, § 11:3
- Third party impact. Priorities, this index
- Transferability. Sales and transfers, this index
- Wrongful Foreclosure, this index

### **FORMS**

- Generally, §§ 16:1 to 16:10
- Deed in lieu of foreclosure, §§ 16:5, 16:6
- Deed to secure debt, §§ 16:2, 16:4
- Deed under power of sale, § 16:8
- Failure to honor loan modification and dual tracking violations, request and notice of error regarding, § 16:10

**FORMS—Cont'd**

- Multifamily deed to secure debt, § 16:4
- Multifamily note, § 16:3
- Notice of sale, § 16:7
- Owner of mortgage loan, request for information regarding, § 16:9
- Promissory note, §§ 16:1, 16:3
- Single family note, § 16:1

**FORUM**

- Setting aside a foreclosure, § 9:4

**FRAUDS, STATUTE OF**

- Guaranty, § 2:6

**FRAUDULENT TRANSFERS**

- Bankruptcy, § 13:7
- Uniform Voidable Transactions Act, § 5:2

**FUTURE ADVANCES**

- Indebtedness, § 2:3

**GOOD FAITH**

- Wrongful foreclosure, failure to exercise the power of sale in good faith, § 9:2

**GOVERNING LAW**

- Constitutional law, § 15:1

**GUARANTEES**

- Indebtedness, § 2:6

**HAZARDOUS WASTE LIABILITY**

- Federal regulation, § 14:4

**HEARINGS**

- Confirmation proceedings and deficiency actions, § 10:1
- Judicial tax foreclosure, § 12:8
- Power of sale foreclosure, § 8:2
- Requirements, due process, § 15:3

**HIGH COST LOANS**

- Generally, § 2:11
- Attorney's fees, § 6:3
- Federal regulation, § 14:2

**HOUSING AND ECONOMIC DEVELOPMENT ACT OF 2008 (HERA)**

- Due process and state actions, § 15:2

**HOUSING AND ECONOMIC RECOVERY ACT OF 2008**

- Federal regulation, § 14:5

**IDENTIFICATION OF PRIOR ENCUMBRANCES**

- Power of sale foreclosure, § 8:5

**IMPLIED PREEMPTION**

- Constitutional matters, § 15:1



## INDEX

### **INDEBTEDNESS**

- Generally, §§ 2:1 to 2:11
- Alternative remedies, § 2:4
- Assumption of loan, § 2:5
- Calculation of interest, § 2:2
- Consideration, § 2:1
- Covenant not to sue, § 2:4
- Cumulative remedies, § 2:4
- Future advances, § 2:3
- Guarantees, § 2:6
- High cost home loans, § 2:11
- Intangible recording tax, § 2:9
- Interest, § 2:2
- Liability on note, § 2:4
- Limitation of actions, § 2:7
- Nonrecourse debt, § 2:4
- Open-ended clauses, §§ 2:3, 2:6
- Origination of mortgage, § 2:8
- Real estate transfer tax, § 2:10
- Regulation of interest, § 2:2
- Satisfaction of Debt, this index
- Security for Debt, this index
- Usury, § 2:2

### **INDIRECT REGULATION**

- Federal regulation, § 14:1

### **INJUNCTIVE RELIEF**

- Wrongful foreclosure, § 9:7

### **INNOCENT OWNERS**

- Federal regulation, § 14:6

### **INSECURITY**

- Pre-foreclosure rights and remedies, § 4:1

### **INSTALLMENT LAND SALES CONTRACTS**

- History of real estate security, § 1:6

### **INSURANCE**

- Pre-foreclosure rights and remedies, §§ 4:1, 4:5

### **INTANGIBLE RECORDING TAX**

- Indebtedness, § 2:9

### **INTEREST RATE**

- Indebtedness, § 2:2
- Servicemembers Civil Relief Act, § 14:5
- Usury, this index

### **INTERVENING LIENS**

- Security for debt, § 3:5

**INVESTIGATIONS**

Mortgage lenders and brokers, § 2:8

**JUDICIAL FORECLOSURES**

Generally, §§ 7:1 to 7:3

Identification of prior encumbrances, § 8:5

Necessary parties, § 7:2

Omitted junior lienors, § 7:3

Proper parties, § 7:2

Tax foreclosures, § 12:8

**JUNIOR LIENORS**

Federal government as junior lienor, § 15:1

Omitted junior lienors, § 7:3

**JUNIOR LIENS**

Judicial foreclosure, § 7:3

Priorities in case of foreclosure, § 11:1

**JURISDICTION**

Tax liens and tax sales, § 12:3

**JURY TRIAL**

Confirmation proceedings and deficiency actions, § 10:1

**LEASES**

Bankruptcy, § 13:9

Priorities in case of foreclosure, § 11:3

Security for debt, §§ 3:5, 3:6

**LICENSING**

Mortgage lenders and brokers, § 2:8

Secure and Fair Enforcement of Mortgage Licensing Act of 2008, § 14:2

**LIENS**

Nature of mortgages generally, § 1:3

Priorities, this index

Property taxes, § 12:2

Tax Liens and Tax Sales, this index

**LIMITATION OF ACTIONS**

Constitutional matters, § 15:1

Indebtedness, § 2:7

Wrongful foreclosure, § 9:12

**MARKET DISCLOSURE LEGISLATION**

Federal regulation, § 14:2

**MARKET VALUE**

Confirmation proceedings and deficiency actions, § 10:3

Fair market value, § 8:6

Power of sale foreclosure, § 8:6

Tax liens and sales, § 12:6

## INDEX

### **MARKET VALUE—Cont'd**

True market value, § 10:3

### **MARSHALING**

Priorities in case of foreclosure, § 11:4

### **MERGER OF ESTATES**

Satisfaction of debt, § 6:1

### **MITIGATION**

Wrongful foreclosure, loss mitigation abuses, § 9:2

### **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (MERS)**

Generally, § 5:4

### **MORTGAGE LENDERS AND BROKERS**

Licensing, § 2:8

Secure and Fair Enforcement of Mortgage Licensing Act of 2008, § 14:2

### **MULTIPLE NOTES**

Security for debt, § 3:4

### **MULTIPLE SECURITY DEEDS**

Security for debt, § 3:4

### **NATURE OF REAL ESTATE SECURITY**

Generally, §§ 1:1 to 1:6

### **NECESSARY PARTIES**

Judicial foreclosure, § 7:2

### **NONDISTURBANCE AGREEMENTS**

Security for debt, § 3:6

### **NONRECOURSE DEBT**

Indebtedness, § 2:4

### **NOTICE**

Confirmation proceedings and deficiency actions, § 10:2

Failure to honor loan modification and dual tracking violations, request and notice of error regarding, § 16:10

Federal regulation, § 14:3

Forms, § 16:7

Guaranty action, § 2:6

Judicial confirmation of foreclosure sale, § 2:6

Judicial foreclosure, § 7:2

Power of sale foreclosure, §§ 8:2, 8:3

Requirements, due process, § 15:3

Tax Liens and Tax Sales, this index

### **OPEN-ENDED CLAUSES**

Guaranty, § 2:6

Indebtedness, §§ 2:3, 2:6

**ORIGINATION OF MORTGAGE**

Indebtedness, § 2:8

**PARTIES**

Confirmation proceedings and deficiency actions, § 10:2

Judicial foreclosure, § 7:2

**PERSONAL PROPERTY**

Personalty, this index

**PERSONALTY**

Ad valorem taxation, § 12:2

Confirmation proceedings and deficiency actions, § 10:1

Mixed collateral, § 3:2

Nature of collateral, § 3:1

Rents and profits, § 3:3

**POWER OF SALE FORECLOSURE**

Generally, §§ 8:1 to 8:10

Advertising, § 8:5

Chilling bid, § 8:6

Conduct of sale, § 8:6

Confirmation Proceedings and Deficiency Actions, this index

Constitutional matters, §§ 8:2, 15:1 to 15:3

Date of sale, § 8:5

Deed under

generally, § 8:10

form of, § 16:8

Deficiency actions. Confirmation Proceedings and Deficiency Actions, this index

Description of property in advertising, § 8:5

Dispossession actions, § 8:9

Distribution of sale proceeds, § 8:8

Effect of sale, § 8:9

Enforcing bid, § 8:6

Equity of redemption, § 8:7

Fair market value, § 8:6

Federal restrictions on initiation of foreclosures and conduct of sale, § 8:4

Identification of parties, § 8:5

Identification of prior encumbrances, § 8:5

Nature, § 8:1

Notice, §§ 8:2, 8:3

Place of sale, § 8:5

Purchaser, § 8:7

Redemption, § 8:7

Sales price, § 8:6

Structured bidding, § 8:6

Tenant protections, § 8:9

Time of sale, § 8:5

Uniform Voidable Transactions Act, § 5:2

## INDEX

### **POWER OF SALE FORECLOSURE—Cont'd**

Waiver, § 8:3

### **PREEMPTION**

Constitutional matters, § 15:1

Federal regulation, §§ 14:1, 14:2

### **PRE-FORECLOSURE RIGHTS AND REMEDIES**

Generally, §§ 4:1 to 4:5

Acceleration, §§ 4:2, 4:5

Casualty loss, § 4:5

Cross-default, § 4:1

Default, § 4:1

Due-on-encumbrance clause, § 4:1

Ejectment, § 4:4

Eminent domain, § 4:5

Insecurity, § 4:1

Insurance payment failure, §§ 4:1, 4:5

Prepayment premium, § 4:5

Receivership, §§ 4:1, 4:3

Reinstatement, § 4:2

Tax payment failure, § 4:1

Waiver of default, § 4:1

Waste, § 4:1

### **PREPAYMENT PROHIBITIONS AND PREMIUMS**

Federal law, § 6:2

Pre-foreclosure rights and remedies, § 4:5

Satisfaction of debt, § 6:2

### **PRESUMPTIONS**

Bankruptcy, § 13:6

### **PRIOR JUDGMENT ON NOTE**

Confirmation proceedings and deficiency actions, § 10:4

### **PRIORITIES**

Generally, §§ 11:1 to 11:5

Condominium assessments, § 11:5

Constitutional matters, § 15:1

Contribution, § 11:4

Intervening liens, § 3:5

Junior liens

    junior lien, impact of foreclosure on senior lien, § 11:2

    senior lien, impact of foreclosure on junior lien, § 11:1

Leases, § 11:3

Marshaling, § 11:4

Protecting Tenants at Foreclosure Act of 2009, § 11:3

Senior liens

    junior lien, impact of foreclosure on senior lien, § 11:2

    senior lien, impact of foreclosure on junior lien, § 11:1

**PRIORITIES—Cont'd**

Tenants, post-foreclosure rights, § 11:3

**PROMISSORY NOTES**

Confirmation proceedings and deficiency actions following action on, § 10:4

Documentary recording tax, § 2:9

Forms, §§ 16:1, 16:3

Intangible recording tax, § 2:9

Liability on, § 2:4

Recording tax, § 2:9

Security deed and promissory note together, § 3:7

Transfers, § 5:3

**PROTECTING TENANTS AT FORECLOSURE ACT OF 2009**

Priorities, post-foreclosure rights, § 11:3

**PUNITIVE DAMAGES**

Wrongful foreclosure, § 9:11

**REAL ESTATE SECURITY, NATURE OF**

Generally, §§ 1:1 to 1:7

Absolute deed transactions, § 1:6

Bond for title transaction, §§ 1:4, 1:5

Common law, §§ 1:1, 1:2

Conditional sales transactions, § 1:6

The Covid-19 Pandemic, public emergency orders and, § 1:7

Deed to secure debt, generally, § 1:5

Defeasance clause, § 1:5

Defeasible fee simple mortgage, § 1:2

English antecedents, § 1:2

First century of Georgia law, § 1:3

Foreclosure generally, § 1:1

Installment land sales contracts, § 1:6

Lien nature of mortgages generally, § 1:3

Power of sale foreclosure, § 8:1

Public emergency orders and the Covid-19 Pandemic, § 1:7

Redemption, § 1:2

Sales of tax liens, § 12:9

Second century of Georgia law, § 1:5

Secured creditor's rights, § 1:5

Substitutes for mortgages, § 1:6

Surviving spouse's right to year's support, § 1:4

Transition period: 1850-1872, § 1:4

Welsh mortgage, § 1:2

**REAL ESTATE TRANSFER TAX**

Indebtedness, § 2:10

**RECEIVERSHIPS**

Federal regulation, power of appointment, § 14:3

Pre-foreclosure rights and remedies, §§ 4:1, 4:3

## INDEX

### **RECORDS**

Cancellation in satisfaction of debt, § 6:4

### **REDEMPTION**

Equity of redemption, § 8:7

History of real estate security, § 1:2

Post-sale redemption, § 12:8

Power of sale foreclosure, § 8:7

Right to, generally, § 6:1

Tax liens and sales, §§ 12:7, 12:8

### **REINSTATEMENT**

Pre-foreclosure rights and remedies, § 4:2

### **RENTS**

Assignment as security for debt, § 3:3

Bankruptcy, § 13:8

Responsibility for rents collected, § 3:3

### **RESALE**

Confirmation proceedings and deficiency actions, §§ 10:3, 10:5

### **RESOLUTION TRUST CORPORATION**

Federal regulation, § 14:1

### **RESPONSIBILITY FOR RENTS COLLECTED**

Generally, § 3:3

### **SALES AND TRANSFERS**

Generally, §§ 5:1 to 5:4

Due-on-sale clauses, § 5:1

Fraudulent Transfers, this index

Judicial Foreclosures, this index

Mortgage Electronic Registration Systems (MERS), § 5:4

Power of Sale Foreclosure, this index

Promissory note, § 5:3

Security instrument, § 5:3

Tax Liens and Tax Sales, this index

### **SATISFACTION OF DEBT**

Generally, §§ 6:1 to 6:4

Attorney's fees, §§ 6:3, 6:4

Cancellation of record, § 6:4

Commercial real estate, prepayment penalties, § 6:2

Deed in lieu of foreclosure, §§ 6:1 to 6:4

Prepayment prohibitions and premiums, § 6:2

### **SECURE AND FAIR ENFORCEMENT OF MORTGAGE LICENSING ACT OF 2008**

Federal regulation, § 14:2

### **SECURED CREDITOR'S RIGHTS**

History of real estate security, § 1:5

**SECURITY FOR DEBT**

Generally, §§ 3:1 to 3:7  
Assignment of rents, § 3:3  
Attornment agreements, § 3:6  
Bankruptcy, avoidance of security, § 13:2  
Deficiency judgments, § 3:2  
Equitable subrogation, § 3:4  
Fixtures, § 3:2  
Intervening liens, § 3:5  
Invalid security deed, § 3:7  
Leases, §§ 3:5, 3:6  
Mixed collateral, § 3:2  
Multiple notes, § 3:4  
Multiple security deeds, § 3:4  
Nature of collateral, § 3:1  
Nondisturbance agreements, § 3:6  
Perfecting security interest, § 3:2  
Personal property, § 3:3  
Responsibility for rents collected, § 3:3  
Satisfaction of promissory note, § 3:7  
Security deed and promissory note together, § 3:7  
Single notes, § 3:4  
Single security deeds, § 3:4  
Subordination agreements, § 3:5  
Transfer of promissory note, § 3:7  
Transferability of security instrument, § 5:3  
Validity of subordination agreements, § 3:5  
Variations, § 3:4

**SENIOR LIENS**

Federal government as junior lienor, § 15:1  
Priorities in case of foreclosure, § 11:2

**SEPARATE SECURITY**

Confirmation proceedings and deficiency actions, § 10:4

**SERVICEMEMBERS CIVIL RELIEF ACT**

Generally, § 14:5

**SETTING ASIDE FORECLOSURE**

Denial of confirmation and resale, § 10:5  
Wrongful foreclosure, §§ 9:4 to 9:6

**SETTLEMENT STATEMENTS**

Federal regulation, § 14:2

**SINGLE FAMILY MORTGAGE FORECLOSURE ACT OF 1994**

Federal regulation, § 14:3

**SINGLE NOTES**

Security for debt, § 3:4



## INDEX

### **SINGLE SECURITY DEEDS**

Security for debt, § 3:4

### **SMALL BUSINESS ADMINISTRATION**

Federal regulation, §§ 14:1, 14:3

### **SOLDIERS' AND SAILORS' CIVIL RELIEF ACT**

Federal regulation, repealed, § 14:5

### **STATE ACTION**

Determination of state actor, § 15:2

Due process, §§ 15:2, 15:3

Federal Housing and Finance Agency (FHFA), § 15:2

Housing and Economic Development Act of 2008 (HERA), § 15:2

Power of sale foreclosure, § 8:2

### **STATUTE OF FRAUDS**

Guaranty, § 2:6

### **STATUTE OF LIMITATIONS**

Limitation of Actions, this index

### **STRUCTURED BIDDING**

Power of sale foreclosure, § 8:6

### **SUBORDINATION AGREEMENTS**

Security for debt, § 3:5

### **SUBSTITUTES FOR MORTGAGES**

History of real estate security, § 1:6

### **SUCCESSOR IN INTEREST**

Power of sale foreclosure, § 8:1

### **SUPERSEDEAS BOND**

Confirmation proceedings and deficiency actions, § 10:2

### **SURVIVING SPOUSE**

Right to year's support, § 1:4

### **TAX EXECUTIONS**

Tax Liens and Tax Sales, this index

### **TAX LIENS AND TAX SALES**

Generally, §§ 12:1 to 12:9

Constitutional requirements, § 12:3

Dual approaches, § 12:4

Due process requirements, §§ 12:1, 12:3, 12:9

Executions, § 12:5

Fair market value requirements, § 12:6

Hearings in judicial tax foreclosure, § 12:8

Judicial tax foreclosures, § 12:8

Jurisdiction, § 12:3

Lien of property tax, § 12:2

**TAX LIENS AND TAX SALES—Cont'd**

- Nature of property tax, § 12:1
- Nonjudicial procedure, §§ 12:5 to 12:7
- Notice
  - due process clause, §§ 12:1, 12:3, 12:9
  - judicial tax foreclosure, § 12:8
  - tax sales, § 12:6
- Post-sale redemption, § 12:8
- Redemptions, §§ 12:7, 12:8
- Sales generally, § 12:6
- Sales of tax liens, § 12:9
- Transfers of tax liens, § 12:9

**TAXES**

- Pre-foreclosure rights and remedies, § 4:1

**TENANT PROTECTIONS**

- Power of sale foreclosure, § 8:9
- Servicemembers Civil Relief Act, § 14:5

**TENDER**

- Setting aside a foreclosure, § 9:5

**THIRD PARTIES**

- Bankruptcy, §§ 13:3, 13:9
- Priorities, this index
- Setting aside a foreclosure, § 9:6
- Tax liens and sales, effect of, § 12:6

**TRANSFERS**

- Sales and Transfers, this index

**TRUE MARKET VALUE**

- Confirmation proceedings and deficiency actions, § 10:3

**UNIFORM VOIDABLE TRANSACTIONS ACT**

- Generally, § 5:2

**USURY**

- Federal regulation, § 14:2
- Indebtedness, § 2:2

**VENUE**

- Confirmation proceedings and deficiency actions, § 10:1
- Judicial foreclosure, § 7:1
- Wrongful foreclosure, § 9:13

**VETERANS' ADMINISTRATION**

- Federal regulation, §§ 14:1, 14:3

**VOIDABLE PREFERENCES**

- Bankruptcy, § 13:6

## INDEX

### **VOIDABLE TRANSFERS**

Uniform Voidable Transactions Act, § 5:2

### **WAIVER**

Borrower's rights, due process, § 15:3

Default, § 4:1

Power of sale foreclosure, § 8:3

### **WASTE**

Pre-foreclosure rights and remedies, § 4:1

### **WELSH MORTGAGE**

Generally, § 1:2

### **WRONGFUL FORECLOSURE**

Generally, §§ 9:1 to 9:13

Attempt, wrongful attempted foreclosure, § 9:3

Basis for wrongful foreclosure claim, § 9:2

Bidding, chilling in the bidding, § 9:2

Causation, § 9:9

Damages, §§ 9:8 to 9:11

Emotional distress, § 9:10

Forum, setting aside a foreclosure, § 9:4

Fraud, § 9:2

Good faith, failure to exercise the power of sale in, § 9:2

Inadequate sale price, § 9:2

Injunctive relief, § 9:7

Loan documents, defects in, § 9:2

Punitive damages, § 9:11

Setting aside a foreclosure, §§ 9:4 to 9:6

Statutes of limitations, § 9:12

Tender, setting aside a foreclosure, § 9:5

Third party purchasers, setting aside a foreclosure, § 9:6

Venue, § 9:13