

Table of Contents

Volume 28

PART I. TREATISE

CHAPTER 1. HISTORICAL INTRODUCTION

- § 1:1 Introduction: “Upon this point a page of history is worth a volume of logic.”
- § 1:2 What is property?
- § 1:3 The feudal system of Medieval England with definitions of terms
- § 1:4 Common law conveyancing and evolution of the modern deed
- § 1:5 Types of estates in land—Generally
- § 1:6 Types of estates—Fee simple absolute
- § 1:7 —Fee tail (also known as entail)
- § 1:8 —Conditional or defeasible fees
- § 1:9 — —Termination of conditional fee by statute of limitations, rule against perpetuities, judicial sale, or (for a fee simple subject to a condition subsequent) waiver
- § 1:10 — —Fee simple determinable (fee simple subject to a special limitation)
- § 1:11 — —Fee simple subject to a condition subsequent (fee simple subject to a right of entry for a condition broken)
- § 1:12 — —Fee simple subject to an executory limitation (fee simple subject to a conditional limitation)
- § 1:13 —Life estate
- § 1:14 —Estate for years
- § 1:15 A short history of feudal estates
- § 1:16 Future interests—Generally
- § 1:17 —Remainders—Generally
- § 1:18 —Vested remainders
- § 1:19 —Contingent remainders
- § 1:20 The statute of uses—Generally
- § 1:21 —Conveyancing
- § 1:22 The rule against perpetuities—Common law
- § 1:23 —Statutory rule
- § 1:24 —Class gifts

§ 1:25 Conveyancing at Common Law

CHAPTER 2. THE RECORDING SYSTEM

- § 2:1 History of recording statute
- § 2:2 Conveyances without deeds—Proprietors in common, towns and the Commonwealth
- § 2:3 Present recording statute—Generally
- § 2:4 —Conveyances
- § 2:5 —Leases
- § 2:6 —Assignment of rents and profits
- § 2:7 —Actual notice
- § 2:8 —Constructive notice: party recording document must insure proper indexing in registry of deeds records
- § 2:9 Types of title—Record title
- § 2:10 —Marketable title
- § 2:11 —Insurable title
- § 2:12 Public records
- § 2:13 Place of recording—Generally
- § 2:14 —Registered and unregistered land
- § 2:15 —Non-testamentary trusts
- § 2:16 —Two or more districts
- § 2:17 Indefinite references—Curative statute M.G.L. c. 184, § 25
- § 2:18 —All right, title and interest
- § 2:19 —Other descriptions
- § 2:20 —Deeds to trustees

CHAPTER 3. PURCHASE AND SALE AGREEMENTS

- § 3:1 Preliminaries—Oral agreements and statutes requiring a writing to create or convey an interest in land: Statute of Frauds (M.G.L. 259, § 1(4)); M.G.L. c. 183, § 1 and M.G.L. c. 203, § 1
- § 3:2 —Email communications and the Uniform Electronic Transactions Act, M.G.L. c. 110G
- § 3:3 —Part performance or detrimental reliance, and quantum meruit
- § 3:4 —Offer forms
- § 3:5 Elements of agreement—Sellers
- § 3:6 — —Death of seller before closing
- § 3:7 —Buyers
- § 3:8 —Interest of buyers
- § 3:9 —Premises
- § 3:10 —Sale inclusions and exclusions; Fixtures

TABLE OF CONTENTS

§ 3:11	—Form of deed
§ 3:12	—Quality of title
§ 3:13	—Plan of premises
§ 3:14	—Registered land considerations; transfer certificates of title.
§ 3:15	—Payment of agreed purchase price
§ 3:16	—Place for performance and Electronic Recording (E-Recording) of Documents
§ 3:17	—Time for performance
§ 3:18	—Condition of premises at closing
§ 3:19	—Extension to solve problems
§ 3:20	—Failure of seller to solve problems
§ 3:21	—Buyer's election to accept title
§ 3:22	—Acceptance of deed
§ 3:23	—Clearing title with purchase money
§ 3:24	—Insurance coverage
§ 3:25	—Closing adjustments
§ 3:26	—Broker fees, warranty, and joinder
§ 3:27	—Deposit holding; Escrows
§ 3:28	—Default by buyer—Liquidated damages
§ 3:29	—Seller's spouse
§ 3:30	—Negating warranties and representations with an exculpatory clause (also known as a merger clause or an integration clause)
§ 3:31	—Mortgage contingency
§ 3:32	—Inspection contingency, which can be waived only under limited circumstances
§ 3:33	—Zoning (and other land use regulation) and building compliance
§ 3:34	—Health and safety conditions—Lead paint
§ 3:35	— —Fire safety
§ 3:36	— —UFFI (Urea Formaldehyde Foam Insulation)
§ 3:37	— —Radon
§ 3:38	— —Asbestos
§ 3:39	— —M.G.L.A. c. 21E
§ 3:40	—Other conditions
§ 3:41	—Administrative provisions—Notices to parties
§ 3:42	— —Execution of required documents
§ 3:43	—Legal effect of agreement
§ 3:44	Specific performance of a real estate agreement, option, or right of first refusal

CHAPTER 4. TYPES AND ELEMENTS OF DEEDS

§ 4:1	Deed Liability on covenants: Historical introduction;
-------	---

- Definitions of terms and what constitutes a covenant;
- Types of covenants at common law; Covenants running with the land and covenants personal to immediate parties to the deed; Breach of covenants; Measure of damages for breach; Liability of conservators, trustees, heirs and personal representatives
- § 4:2 Encumbrances in general: Duty to disclose known encumbrances; What constitutes an encumbrance; Municipal lien encumbrances; What constitutes a breach of a covenant against encumbrances; What is not a breach of the covenant against encumbrances; Measure of damages for breach
- § 4:3 Oral agreements concerning encumbrances
- § 4:4 Subject matter—Realty v. personalty
- § 4:5 Types of deeds—Warranty deeds—Short form
- § 4:6 — —Meaning of warranty covenants
- § 4:7 — —Effect of warranty covenants
- § 4:8 — —Estoppel by deed and its corollary estoppel by lease
- § 4:9 —Quitclaim deeds—Short form
- § 4:10 — —Meaning of quitclaim covenants
- § 4:11 — —Effect of quitclaim covenants
- § 4:12 — —Estoppel by deed
- § 4:13 Types of deeds—Personal Representative's deeds (formerly known as executor's and administrator's deeds)—Title after death
- § 4:14 Types of deeds—Personal Representative's deeds (formerly known as executor's and administrator's deeds)—Conveyances
- § 4:15 —Trustee's deeds
- § 4:16 —Guardian's and Conservator's deeds
- § 4:17 —Release deeds
- § 4:18 —Confirmatory deeds
- § 4:19 —Cemetery deeds
- § 4:20 Elements of deeds—Grantees—Errors in names and other scriveners' errors
- § 4:21 —Words of grant
- § 4:22 —Life estates
- § 4:23 —Consideration—Generally
- § 4:24 — —Illegal consideration
- § 4:25 —Descriptions—Generally
- § 4:26 Resolving conflicts in deed descriptions
- § 4:27 Elements of deeds—Descriptions—Street numbers
- § 4:28 — —State, county, municipality
- § 4:29 — —Plans

TABLE OF CONTENTS

§ 4:30	Elements of a deed—Descriptions—By plan reference
§ 4:31	Elements of deeds—Descriptions—Metes and bounds
§ 4:32	— —Running description
§ 4:33	— —Title references
§ 4:34	— —Plan reference
§ 4:35	— —Ambiguities, conflict and errors
§ 4:36	— —Bootstrapping
§ 4:37	— —Boundary on a public or private way, watercourse, wall, fence, railroad right of way, or other similar linear monument under the derelict fee statute, M.G.L. c. 183, § 58
§ 4:38	— —“More or less”
§ 4:39	—Signatures—Sunday execution
§ 4:40	— —Forgery
§ 4:41	— —Individuals
§ 4:42	— —Corporations
§ 4:43	— —Limited partnerships
§ 4:44	— —Limited liability companies and partnerships
§ 4:45	— —Trustees
§ 4:46	— —Attorneys under power
§ 4:47	— —Unincorporated associations
§ 4:48	—Seals
§ 4:49	—Authority
§ 4:50	—Acknowledgments
§ 4:51	—Notarizations
§ 4:52	—Material alterations
§ 4:53	—Filling in blanks
§ 4:54	—Delivery—Necessity for delivery
§ 4:55	— —Death of grantor before recording
§ 4:56	— —Date of delivery
§ 4:57	— —Delivery to third persons
§ 4:58	— —Delivery in escrow
§ 4:59	— —Delivery to registry
§ 4:60	— —Acceptance
§ 4:61	—Recordation—Generally
§ 4:62	— —Registered land
§ 4:63	— —Unregistered land
§ 4:64	— —Recording as delivery
§ 4:65	— —Delayed recording
§ 4:66	Reformation of deeds and other instruments
§ 4:67	Rights of first refusal
§ 4:68	Options to purchase
§ 4:69	Simultaneous deeds doctrine—Deeds recorded at the same time construed as a single transaction

CHAPTER 5. PARTIES TO DEEDS

- § 5:1 Designation by name
- § 5:2 Mistake in name
- § 5:3 Assumed name
- § 5:4 Grantors—Definitions
- § 5:5 —Individuals—Compos mentis presumption
- § 5:6 —Minor grantors
- § 5:7 —Mentally Ill grantors
- § 5:8 —Developmentally disabled grantor
- § 5:9 —Conservator or guardian or spendthrift grantors
- § 5:10 —Married men
- § 5:11 —Married women
- § 5:12 —Native Americans
- § 5:13 —Joint tenants
- § 5:14 —Tenants by the entirety
- § 5:15 —Tenants in common
- § 5:16 —Corporations—Generally
- § 5:17 —Professional
- § 5:18 —Dissolved
- § 5:19 —Transfers of substantially all assets
- § 5:20 —Due diligence
- § 5:21 —Mergers
- § 5:22 —Foreign
- § 5:23 —Non-profit or tax-exempt
- § 5:24 —General partnerships
- § 5:25 —Partnerships—Liability of partners
- § 5:26 —Limited partnerships
- § 5:27 —Limited liability companies
- § 5:28 —Limited liability partnerships
- § 5:29 —Massachusetts business (corporate) trusts
- § 5:30 —Joint ventures
- § 5:31 —Unincorporated associations
- § 5:32 —Nominee trustees
- § 5:33 —Executors, administrators, devisees, and heirs at Law
- § 5:34 —Testamentary trustees
- § 5:35 —Guardians and conservators
- § 5:36 —Sheriffs
- § 5:37 —Trustees in bankruptcy
- § 5:38 —Powers of attorney (attorneys-in-fact)
- § 5:39 —Religious societies
- § 5:40 —Governments—Federal, state, county, municipal
- § 5:41 —Railroads
- § 5:42 —Aliens

TABLE OF CONTENTS

§ 5:43	Grantees—Individuals
§ 5:44	—Joint tenants—Other than husbands and wives and unequal interests
§ 5:45	— —Husbands and wives
§ 5:46	—Tenants by the entirety
§ 5:47	—Tenants in common
§ 5:48	—Relationship between cotenants
§ 5:49	—Transfers to self and others
§ 5:50	—Homesteads
§ 5:51	—Corporations
§ 5:52	—General partnerships
§ 5:53	—Partnerships—Liability of partners
§ 5:54	—Limited partnerships
§ 5:55	—Limited liability companies
§ 5:56	—Limited liability partnerships
§ 5:57	—Massachusetts business (corporate) trusts
§ 5:58	—Joint ventures
§ 5:59	—Unincorporated associations
§ 5:60	—Trustees
§ 5:61	—Other fiduciaries
§ 5:62	—Religious societies
§ 5:63	Life estates

CHAPTER 6. DOWER AND HOMESTEAD

§ 6:1	Common Law dower
§ 6:2	Common Law curtesy
§ 6:3	Abolition of lifetime dower and curtesy
§ 6:4	Abolition of curtesy
§ 6:5	Procedure for assignment of dower
§ 6:6	Effect of claiming dower
§ 6:7	Release of dower
§ 6:8	Homestead—Regular—Historically
§ 6:9	— —At present
§ 6:10	—Elderly or disabled—Generally
§ 6:11	—Creation
§ 6:12	—Termination and Abandonment
§ 6:13	—Other provisions
§ 6:14	—Problem period
§ 6:15	—Insolvency
§ 6:16	—Bankruptcy
§ 6:17	—Attachment and levy on civil execution

CHAPTER 7. LEASES

§ 7:1	Scope of chapter
-------	------------------

- § 7:2 Types of occupancy arrangements
- § 7:3 Leasehold covenants
- § 7:4 Recording requirements
- § 7:5 Option to purchase
- § 7:6 Right of first refusal
- § 7:7 Assignments by lessor
- § 7:8 Assignments by lessees and subleases
- § 7:9 Subordination to mortgage
- § 7:10 Termination of leases
- § 7:11 Long-term leases
- § 7:12 Tenant's due diligence
- § 7:13 Rent control
- § 7:14 Manufactured housing communities
- § 7:15 Leased premises—What constitutes “premises”
- § 7:16 Discrimination in renting residential property

CHAPTER 8. EASEMENTS

- § 8:1 Introduction: origin of this chapter on easements, with caveat for litigators

PART I. NATURE OF EASEMENTS IN MASSACHUSETTS LAW

- § 8:2 Definitions: easement, right of way and passageway, dominant and servient estates
- § 8:3 Easement compared to a lease, license and profit à prendre (which is a type of easement).
- § 8:4 Rights to lateral and subjacent support, and party walls
- § 8:5 Easement appurtenant vs. easement in gross
- § 8:6 Easement contrasted with private land use restriction (also called “Restrictive Covenant”) and clauses implying promises by grantee
- § 8:7 Perpetual vs. temporary (i.e., time limited) easement
- § 8:8 Exclusive vs. non-exclusive easement (non-exclusive presumption)
- § 8:9 “A page of history . . .”: history of the law of easements and treatises on easements

PART II. CREATION OF EASEMENTS

- § 8:10 Creation of easements must occur within some legally established category
- § 8:11 Easement by express grant or reservation in a deed, will or other writing
- § 8:12 How to draft a grant or reservation of an easement
- § 8:13 Easement by prescription (i.e., 20 years or more adverse use)

TABLE OF CONTENTS

- § 8:14 Implied easement based on reasonable necessity
- § 8:15 Implied easement by estoppel (also called easement by boundary on a way)
- § 8:16 Easements created by statutes
- § 8:17 Easements created by court judgment
- § 8:18 Easements created by written agreement
- § 8:19 Easements created by eminent domain
- § 8:20 Public easements created by dedication
- § 8:21 Easement in gross
- § 8:22 Easements in registered land
- § 8:23 Common scheme: imposition by law of easement appurtenant to all lots in a subdivision
- § 8:24 Burden of proof and judicial rules governing creation of easements
- § 8:25 Easement by equitable estoppel—Based on conduct or representation

PART III. USE OF EASEMENTS

- § 8:26 Introduction: types of litigation over use of easements; burden of proof is on easement holder
- § 8:27 Easement by express grant or reservation
- § 8:28 Easement by prescription: use is established and limited by nature of use during 20-year prescriptive period
- § 8:29 Implied easement: whether based on reasonable necessity or estoppel (boundary on a way), implied easement may be used for any purpose for which the land to which it is appurtenant may be lawfully used
- § 8:30 Extent and limits of appurtenant rights
- § 8:31 Limits on use: overburdening of easements

PART IV. LAND SUBJECT TO EASEMENTS (THE “SERVIENT ESTATE”)

- § 8:32 Locating and relocating easements on the ground; width of easements
- § 8:33 Maintenance and repair of easement
- § 8:34 Land subject to an easement may be used for any purpose which does not unreasonably interfere with the easement holder’s rights

PART V. TERMINATION AND EXTINGUISHMENT OF EASEMENTS

- § 8:35 Introduction: definitions of “termination” vs. “extinguishment” of easements; burden of proof is on party claiming easement has been extinguished

- § 8:36 Extinguishment by grant or release
- § 8:37 Extinguishment by adverse acts (prescription): conduct of servient estate owner, inconsistent with the easement, continuing for 20 years or more
- § 8:38 Extinguishment by abandonment: requires conclusive unequivocal evidence of acts inconsistent with the easement, demonstrating an intent to abandon; nonuse alone, no matter how long continued, is not enough
- § 8:39 Extinguishment by merger of title: easement and underlying land owned by the same party
- § 8:40 Termination of easement by necessity
- § 8:41 Extinguishment by frustration of purpose: total and permanent impossibility of enjoyment of an easement limited by its terms to particular purpose(s)
- § 8:42 Extinguishment by court judgment
- § 8:43 Extinguishment by eminent domain taking of servient estate
- § 8:44 Termination by condition subsequent or conditional limitation
- § 8:45 Extinguishment by estoppel

CHAPTER 9. MORTGAGES

- § 9:1 Overview of mortgages
- § 9:2 Title vs. Lien
- § 9:3 Note vs. Security
- § 9:4 Mortgage statutory short form
- § 9:5 Mortgage covenants
- § 9:6 Statutory condition
- § 9:7 Who may be a mortgagor
- § 9:8 Deed with separate agreement
- § 9:9 Equitable mortgages
- § 9:10 Open-end mortgages
- § 9:11 Purchase money mortgages and their priority
- § 9:12 Leasehold mortgages
- § 9:13 Construction mortgage
- § 9:14 Mortgage without liability on note—Non-recourse mortgage
- § 9:15 —Lack of consideration
- § 9:16 Mortgage for future advances
- § 9:17 Assignment of rents
- § 9:18 Effect of recording UCC financing statement
- § 9:19 Second mortgages—Generally
- § 9:20 —Home equity loans
- § 9:21 Government-guaranteed mortgages

TABLE OF CONTENTS

§ 9:22	Cooperative bank mortgages
§ 9:23	Other institutional mortgages
§ 9:24	Alternative forms—Variable rate mortgages
§ 9:25	—Graduated payment mortgages
§ 9:26	—Balloon mortgages
§ 9:27	—Bi-weekly mortgages
§ 9:28	—Reverse mortgages
§ 9:29	—Performance mortgages
§ 9:30	Participation loan mortgages
§ 9:31	Real estate taxes
§ 9:32	Eminent domain
§ 9:33	Casualty losses—Insurance
§ 9:34	Usury
§ 9:35	Points
§ 9:36	Truth in lending—Generally
§ 9:37	—Right of rescission—Generally
§ 9:38	— —Waiver
§ 9:39	Other disclosures
§ 9:40	Prohibited discrimination—Redlining
§ 9:41	—UFFI and lead paint
§ 9:42	Title certification
§ 9:43	Acceleration and 90-day notice under M.G.L. c. 244, § 35A; reasonable steps and good faith effort to avoid foreclosure under M.G.L. c. 244, § 35B; federal preemption for national bank and federal savings association mortgages executed before July 21, 2010 or July 21, 2011
§ 9:44	Due-on-sale clauses
§ 9:45	Penalties—Generally
§ 9:46	—Pre-payment penalties
§ 9:47	—Late charges
§ 9:48	Subordination of mortgages
§ 9:49	Assignment of mortgage
§ 9:50	Assignment of mortgage to owner of equity
§ 9:51	Extension agreements
§ 9:52	Assumption of mortgages
§ 9:53	Partial releases—Generally
§ 9:54	—Agreement of mortgagee to give
§ 9:55	Discharges
§ 9:56	Discharges after April 13, 2006
§ 9:57	Obligation of estate to pay joint mortgage obligation upon death of joint owner
§ 9:58	Equitable subrogation
§ 9:59	Regulation of mortgage lenders and brokers
§ 9:60	Dragnet clauses

- § 9:61 Merger of mortgage into fee simple
- § 9:62 Mortgage of property held in statutory (M.G.L. c. 209, § 1, enacted by 1979 Mass. Acts, c. 727) tenancy by the entirety
- § 9:63 Predatory Home Loan Practices Act (PHLPA), M.G.L. c. 183C

CHAPTER 10. MORTGAGE FORECLOSURE

- § 10:1 Overview of foreclosures with checklist for conducting a foreclosure
- § 10:2 Defending against mortgage foreclosures in Massachusetts
- § 10:3 Preliminary matters
- § 10:4 Soldiers' and Sailors' Civil Relief Act (now called Servicemembers Civil Relief Act, 50 U.S.C.A. §§ 3901 to 4043)
- § 10:5 Foreclosure procedure prior to January 1, 1991
- § 10:6 Foreclosure procedure since January 1, 1991
- § 10:7 Procedure under Soldiers' and Sailors' Civil Relief act (now called Servicemembers Civil Relief Act, 50 U.S.C.A. §§ 3901 to 4043)—Complaints
- § 10:8 Moratorium between July 11, 1991, and November 7, 1991
- § 10:9 Foreclosure procedure—Publication of notice
- § 10:10 —Mailing of notice
- § 10:11 Authority to foreclose
- § 10:12 Foreclosure by entry
- § 10:13 Foreclosure by sale—Generally
- § 10:14 —Adjournment of sale
- § 10:15 —Mortgagee's affidavit of sale
- § 10:16 —Purchase by co-tenant
- § 10:17 —Purchase by owner of equity
- § 10:18 Mortgagee's duty in foreclosing
- § 10:19 Rights, duties, and obligations of a foreclosing mortgagee to tenants and others
- § 10:20 Proceeds of sale—Credits allowed
- § 10:21 Power of sale—Disposition of proceed
- § 10:22 Tax liens—Generally
- § 10:23 —United states' right of redemption
- § 10:24 Other federal liens
- § 10:25 Bankruptcy—Automatic stay
- § 10:26 —Preferences and fraudulent conveyances
- § 10:27 Foreclosure of second mortgages
- § 10:28 Suits for deficiency
- § 10:29 Foreclosure by action (judicial foreclosure)

TABLE OF CONTENTS

- § 10:30 Foreclosures involving FDIC and RTC
- § 10:31 Income tax consequences of foreclosures
- § 10:32 Deeds in lieu of foreclosure

CHAPTER 11. LIENS

- § 11:1 Liens—Generally
- § 11:2 Municipal liens—Real estate taxes
- § 11:3 —Municipal lien certificates
- § 11:4 —Other municipal liens
- § 11:5 Betterments
- § 11:6 Agricultural or horticultural property tax liens under M.G.L. c. 61A & c. 61B
- § 11:7 Forest land property tax liens under M.G.L. c. 61
- § 11:8 Recreational land liens
- § 11:9 Municipality's right of refusal under M.G.L. chapters 61, 61A & 61B, which ripens into an option upon conversion to residential, commercial or industrial use
- § 11:10 Death tax liens—Generally
- § 11:11 —Federal
- § 11:12 —Massachusetts
- § 11:13 —Gifts in contemplation of death
- § 11:14 Financing statements
- § 11:15 Condominium liens
- § 11:16 Federal tax liens
- § 11:17 Massachusetts tax liens
- § 11:18 Mechanic's liens—Introduction; determining validity of the lien and lien priorities
- § 11:19 —Dissolving the lien
- § 11:20 Lis pendens
- § 11:21 Lis pendens special motion to dismiss
- § 11:22 Final judgments or decrees
- § 11:23 Attachments
- § 11:24 Levy of execution
- § 11:25 Sheriff's sales
- § 11:26 Seizures by government—Federal RICO
- § 11:27 —Federal drug seizures
- § 11:28 —State seizures
- § 11:29 Lien priorities
- § 11:30 Medicaid liens
- § 11:31 Child support liens

CHAPTER 12. TAX TITLES

- § 12:1 Historical summary

- § 12:2 Assessment
- § 12:3 Assessments—Community Preservation Act
- § 12:4 —Exemptions
- § 12:5 Billing—Generally
- § 12:6 —Quarterly bills
- § 12:7 Abatements—Generally
- § 12:8 —Appeal of denial
- § 12:9 Duration of lien
- § 12:10 Tax bill, notice and demand
- § 12:11 Tax title procedure—Before July 1, 1915
- § 12:12 —After July 1, 1915
- § 12:13 Insubstantial errors
- § 12:14 Disclaimer
- § 12:15 Assignment of tax titles
- § 12:16 2024 amendments to M.G.L. c. 60 to stop “home equity theft” by municipalities and private buyers of tax liens
- § 12:17 Massachusetts tax foreclosure law—Constitutionality considerations
- § 12:18 Effect of a deed of premises
- § 12:19 Foreclosure of tax titles—In land court
- § 12:20 —Low value procedure
- § 12:21 — —Constitutional issues
- § 12:22 Effect of foreclosure of tax titles
- § 12:23 Redemption

Volume 28A

CHAPTER 13. PRIVATE RESTRICTIONS AND OTHER SERVITUDES

- § 13:1 Definitions
- § 13:2 Easements
- § 13:3 Party wall agreements
- § 13:4 Licenses
- § 13:5 Conditional fees
- § 13:6 Right of entry for condition broken and possibility of reverter
- § 13:7 Covenants at Common Law
- § 13:8 Covenants under Massachusetts Law
- § 13:9 Equitable servitudes
- § 13:10 Restrictions
- § 13:11 Nature of restrictions
- § 13:12 Enforceability of restrictions

TABLE OF CONTENTS

- § 13:13 Enforcement of restrictions—Statutory provisions—
Imposed before January 1, 1962
- § 13:14 — —Imposed after December 1, 1961
- § 13:15 Illegal restrictions
- § 13:16 Restrictions against competition
- § 13:17 Court determination
- § 13:18 Quasi-public restrictions—Generally
- § 13:19 —Conservation
- § 13:20 —Preservation
- § 13:21 —Affordable housing
- § 13:22 —Procedure and enforcement
- § 13:23 Extinguishment of restrictions
- § 13:24 Restraints on alienation
- § 13:25 Encroachments

CHAPTER 14. CONDOMINIUMS

- § 14:1 History
- § 14:2 Theory
- § 14:3 Creation of a condominium by recording of a master
deed
- § 14:4 Master deed—Requirements
- § 14:5 Common areas
- § 14:6 Right of first refusal
- § 14:7 Plans
- § 14:8 Fannie mae requirements
- § 14:9 Organization of unit owners
- § 14:10 By-Laws
- § 14:11 Rules and regulations
- § 14:12 Unit deeds—Requirements
- § 14:13 Condominium liens
- § 14:14 Rebuilding and improvements
- § 14:15 Leasehold condominiums
- § 14:16 Phasing
- § 14:17 Commercial, industrial and mixed-use condominiums
- § 14:18 Removal from Chapter 183A
- § 14:19 Foreclosure of mortgages
- § 14:20 Taxes and assessments
- § 14:21 Claims
- § 14:22 Time sharing
- § 14:23 Cooperatives
- § 14:24 Condominium conversion

CHAPTER 15. TRUSTS

- § 15:1 Trusts—Generally

- § 15:2 —Testamentary
- § 15:3 —With named beneficiaries
- § 15:4 —With transferable shares
- § 15:5 Charitable trusts
- § 15:6 Spendthrift trusts
- § 15:7 Medicaid trusts
- § 15:8 Trusts for the benefit of creditors
- § 15:9 Nominee trusts
- § 15:10 Qualified personal residence trusts
- § 15:11 Resulting trusts
- § 15:12 Constructive trusts
- § 15:13 Recording requirements—Generally
- § 15:14 —Indefinite references
- § 15:15 Liability of trustees
- § 15:16 Termination of trusts

CHAPTER 16. PROBATE OF ESTATES

- § 16:1 Online resources and forms for the Massachusetts Uniform Probate Code (MUPC) and Uniform Trust Code (MUTC)
- § 16:2 Probate records
- § 16:3 Title after death of owner
- § 16:4 Probate proceedings—Generally—On and after July 1, 2011
- § 16:5 Intestate succession—On and after July 1, 2011—In general
- § 16:6 Personal representative—On and after July 1, 2011
- § 16:7 Probate of wills—Generally—Prior to July 1, 2011 and under the Mass. Uniform Probate Code, M.G.L. c. 190B
- § 16:8 Probate of will—Waiver by surviving spouse
- § 16:9 —Pretermitted children
- § 16:10 —Predeceased devisee
- § 16:11 —Ademption
- § 16:12 Intestacy—Descent and distribution
- § 16:13 Probate of estates
- § 16:14 Testate proceedings—Generally—On and after July 1, 2011
- § 16:15 Supervised administration—Generally—On and after July 1, 2011
- § 16:16 Closing estates—Generally—On and after July 1, 2011
- § 16:17 Voluntary administration of small estates consisting entirely of personal property (no real estate)
- § 16:18 Construction of wills

TABLE OF CONTENTS

- § 16:19 Statutory wills
- § 16:20 Simultaneous deaths
- § 16:21 Powers of appointment
- § 16:22 Revocation of wills
- § 16:23 Will contests
- § 16:24 Disclaimers
- § 16:25 Sales by fiduciaries—Generally
- § 16:26 —Under power in will
- § 16:27 —License of court—To pay debts
- § 16:28 — —Distribution
- § 16:29 —Presumption of highest price
- § 16:30 Joint property
- § 16:31 Estates of absentees
- § 16:32 Estates of non-residents

CHAPTER 17. OTHER PROBATE MATTERS

- § 17:1 Online resources and forms for the Massachusetts Uniform Probate Code (MUPC) and Uniform Trust Code (MUTC)
- § 17:2 Guardians—Generally—Prior to July 1, 2009 and under the Mass. Uniform Probate Code, M.G.L. c. 190B
 - § 17:3 —Minors
 - § 17:4 —Custodians for minors
 - § 17:5 —Incapacitated persons
 - § 17:6 —Spendthrifts
 - § 17:7 Temporary guardians
 - § 17:8 Conservators
 - § 17:9 Nonresident wards and protected persons
 - § 17:10 Termination of guardianship
 - § 17:11 Duties and powers of guardians and conservators
 - § 17:12 Sales of real estate by guardians and conservators
 - § 17:13 Guardianships and conservatorships—Generally—On and after July 1, 2009
 - § 17:14 Guardianships and conservatorships of minors—On and after July 1, 2009
 - § 17:15 Guardianships only—Generally—On and after July 1, 2009
 - § 17:16 Conservatorships only—Generally—On and after July 1, 2009
 - § 17:17 Husbands and wives
 - § 17:18 Antenuptial agreements—Generally
 - § 17:19 —Requirements for validity
 - § 17:20 Living apart and separate support—Generally
 - § 17:21 —Conveyance of real estate

- § 17:22 Divorce—Generally
- § 17:23 —Tenancy by the entirety
- § 17:24 —Division of property
- § 17:25 Enforcement of probate court judgments
- § 17:26 Durable powers of attorney
- § 17:27 Trusts
- § 17:28 Partition of Real Property; governed by M.G.L. c. 241

CHAPTER 18. EMINENT DOMAIN

- § 18:1 Constitutional and statutory authority
- § 18:2 Who may take by eminent domain?
- § 18:3 Purposes for which land may be taken
- § 18:4 Regulatory takings
- § 18:5 Procedure
- § 18:6 Alternative procedure—Judicial proceedings
- § 18:7 Procedure for federal takings
- § 18:8 Damages
- § 18:9 Who is entitled to damages?
- § 18:10 Betterments
- § 18:11 Laying out of state highways
- § 18:12 Laying out of public ways
- § 18:13 Laying out of statutory private ways
- § 18:14 Distinguishing public and private ways
- § 18:15 Discontinuance of public ways and discontinuance of maintenance of a public way
- § 18:16 Redevelopment and housing authorities, urban renewal agencies, and urban redevelopment corporations
- § 18:17 Effects of a taking
- § 18:18 Taking without compensation—Public easements by prescription

CHAPTER 19. CONSUMER PROTECTION

- § 19:1 Remedies for fraud or deceit—Generally
- § 19:2 —Chapter 93A actions—Unfair or deceptive acts or practices
- § 19:3 Fraud—Common law—Generally
- § 19:4 — —Ownership representations
- § 19:5 — —Title representations
- § 19:6 — —Value representations
- § 19:7 — —Profits representations
- § 19:8 — —Area representations
- § 19:9 — —Condition representations
- § 19:10 — —Husband and Wife

TABLE OF CONTENTS

- § 19:11 — — Remedies—Specific restitution
- § 19:12 — — — Rescission
- § 19:13 Fraud distinguished from undue influence—Common law
- § 19:14 Fraud—Chapter 109A actions—Generally
- § 19:15 — — Actual intent to hinder, delay, or defraud any creditor of the debtor
- § 19:16 — — Constructive fraud
- § 19:17 — — Creditors' remedies
- § 19:18 — — Preferences
- § 19:19 — Actions prior to October 6, 1996, under former Chapter 109A, the Massachusetts Uniform Fraudulent Conveyance Act
- § 19:20 Consumer protection in lending—Chapter 140D
- § 19:21 — M.G.L. c. 184, § 17B
- § 19:22 — RESPA

CHAPTER 20. BANKRUPTCY

- § 20:1 Types of bankruptcy
- § 20:2 Bankruptcy under pre-1978 Act
- § 20:3 Notice of bankruptcy filing
- § 20:4 Bankruptcy under post-1978 code—"Straight" bankruptcy
- § 20:5 — Reorganization
- § 20:6 Effect of filing bankruptcy—Automatic stay
- § 20:7 Relief from automatic stay
- § 20:8 First meeting of creditors
- § 20:9 Debtor's exemptions
- § 20:10 Discharge of debtor
- § 20:11 What a trustee may avoid—Generally
- § 20:12 — Preferences
- § 20:13 — Fraudulent conveyances
- § 20:14 Mortgage foreclosure as fraudulent conveyance
- § 20:15 Abandonment of property by trustee
- § 20:16 Debtor in possession
- § 20:17 The position of a secured creditor
- § 20:18 Conveyances under pre-1978 Act
- § 20:19 Conveyances under post-1978 code
- § 20:20 Effect of bankruptcy on liens
- § 20:21 Effect of bankruptcy on tenancies by the entirety

CHAPTER 21. LAND COURT PROCEEDINGS

- § 21:1 Jurisdiction of land court

- § 21:2 Land court procedure
- § 21:3 Land Court motion practice: Land Court Rules 4 through 10
- § 21:4 Land Court trial practice
- § 21:5 Jury trial in a Land Court case
- § 21:6 Exclusive jurisdiction—Registration of title
- § 21:7 —Confirmation of title without registration
- § 21:8 —Complaints affecting registered land
- § 21:9 —Tax titles
- § 21:10 —Writs of entry
- § 21:11 —To require actions to try title
- § 21:12 —To determine validity of encumbrances
- § 21:13 —Discharge of an old mortgage
- § 21:14 —To establish authority to convey land
- § 21:15 —To determine boundaries of flats
- § 21:16 —To determine enforceability of equitable restrictions
- § 21:17 —To determine municipal boundaries
- § 21:18 —To determine either the validity of a zoning enactment or its application to a particular parcel of land under M.G.L. c. 240, § 14A
- § 21:19 Concurrent jurisdiction—Generally
- § 21:20 —Servicemembers Civil Relief Act cases
- § 21:21 Appeals from land court final judgments and interlocutory orders
- § 21:22 Drafting a Land Court complaint, preventing removal of a zoning appeal to Housing Court, and withstanding a Rule 12(b)(6) motion to dismiss
- § 21:23 Limited Assistance Representation (LAR) in the Land Court: A trap for the unwary lawyer

CHAPTER 22. REGISTERED LAND

- § 22:1 Nature of registered land
- § 22:2 Procedure in registration cases—Generally
- § 22:3 —Notice to interested parties
- § 22:4 —Determining boundaries of way
- § 22:5 —Bounding on waterfront, sea or pond
- § 22:6 —Contested cases
- § 22:7 —Decree of registration
- § 22:8 —Decree of confirmation
- § 22:9 —Encumbrances surviving registration
- § 22:10 —Reopening decree
- § 22:11 Who may petition for registration
- § 22:12 Dealing with land after registration
- § 22:13 Owner's duplicate certificates of title
- § 22:14 Approval of documents by land court—Generally

TABLE OF CONTENTS

- § 22:15 —Condominiums
- § 22:16 —Death of registered owner
- § 22:17 Permanence of registration
- § 22:18 Easements in registered land
- § 22:19 Adverse claims
- § 22:20 Changes in registered land records (supplemental or “S” petitions, also written as S-petitions or S petitions)
- § 22:21 Fraudulent conveyances
- § 22:22 Lost certificates—After April 8, 1997
- § 22:23 Assurance fund
- § 22:24 Removal/withdrawal of land from registration system under M.G.L. c. 185, § 52

CHAPTER 23. ZONING

- § 23:1 Constitutional and statutory authority
- § 23:2 Zoning Appeal Bond under M.G.L. c. 40A, § 17 and Boston Zoning Act, § 11
- § 23:3 Test for determining validity of zoning by-laws
- § 23:4 Validity of zoning by-laws—Contract zoning
- § 23:5 Effective date of Zoning Act
- § 23:6 Construction of zoning by-laws—Generally
- § 23:7 —A zoning by-law may be prohibitive, permissive, or both
- § 23:8 —Ambiguity construed in favor of land owner
- § 23:9 —What is a lot? Merger of substandard lots
- § 23:10 —Frontage requirements for divisions and subdivisions
- § 23:11 Earth removal by-laws and quarry reclamation
- § 23:12 Zoning districts—Generally
- § 23:13 —MBTA community multi-family housing
- § 23:14 —Spot zoning
- § 23:15 What may and may not be regulated—the Dover Amendment, M.G.L. c. 40A, § 3
- § 23:16 Nonconforming lots, uses and structures
- § 23:17 Section 6 finding to change, extend or alter a preexisting nonconforming use or structure, or to expand a structure on a preexisting nonconforming lot
- § 23:18 Using easements to address zoning issues
- § 23:19 Condominium conversions
- § 23:20 Wetlands
- § 23:21 Enactment and amendment of zoning by-laws—Generally
- § 23:22 —Effective date of amendments

- § 23:23 Protection of subdivision plans
- § 23:24 Enforcement of zoning by-laws
- § 23:25 Building permits and zoning enforcement under
M.G.L. c. 40A, § 7
- § 23:26 Boards of appeals—Generally
- § 23:27 —Appeals from building inspector
- § 23:28 Special permits—Generally
- § 23:29 —Telecommunications towers
- § 23:30 —Procedure
- § 23:31 Variances—Generally
- § 23:32 —Procedure
- § 23:33 Judicial review—Generally
- § 23:34 —Standing as a “person aggrieved” under M.G.L. c.
40A, § 17 and constitutional argument that all
persons have standing under Mass. Const. Pt. 1
Declaration of Rights, Art. 11
- § 23:35 —Settlement
- § 23:36 Site plan review (also called site plan approval)
- § 23:37 Planned unit developments
- § 23:38 Cluster zoning
- § 23:39 Comprehensive permits
- § 23:40 Anti-snob zoning
- § 23:41 Exceptions to zoning—Religious and educational
institutions, M.G.L. c. 40A, § 3, ¶ 2
- § 23:42 Exceptions to zoning—Agricultural use (M.G.L. c.
40A, § 3, ¶ 1), solar energy (M.G.L. c. 40A, § 3, ¶ 9)
- § 23:43 Accessory and incidental uses
- § 23:44 Buffer zones
- § 23:45 Reapplication after denial
- § 23:46 Smart growth zoning and housing production
- § 23:47 Development districts
- § 23:48 Expedited permitting
- § 23:49 Business improvement districts
- § 23:50 Short-term or vacation rentals
- § 23:51 M.G.L. c. 240, § 14A Land Court action to determine
validity or application of local zoning to a particular
parcel of land
- § 23:52 Zoning vs. land use restrictions
- § 23:53 Zoning vs. general bylaw or ordinance prohibiting or
regulating marijuana establishments
- § 23:54 Zoning for Accessory Dwelling Units (ADUs), M.G.L.
c. 40A, § 3(11)

CHAPTER 24. SUBDIVISION CONTROL

- § 24:1 Background and purpose of subdivision control law

TABLE OF CONTENTS

§ 24:2	When subdivision control law came into effect
§ 24:3	Determination of subdivision—Generally
§ 24:4	—Statutory exceptions
§ 24:5	Approval not required plans—Procedure
§ 24:6	—Time limit for planning board action
§ 24:7	—Protection from zoning changes
§ 24:8	—Checkerboarding
§ 24:9	Subdivision plans—Generally
§ 24:10	—Preliminary plan—Generally
§ 24:11	— —When required
§ 24:12	—Definitive plan—Generally
§ 24:13	— —Referral of plan to board of health
§ 24:14	— —Planning board hearing
§ 24:15	— —Waivers by planning board
§ 24:16	—Approval of plan—Generally
§ 24:17	— —Securing construction of ways
§ 24:18	— —Modification of plan approval
§ 24:19	Constructive approval
§ 24:20	Requirements for recording plans
§ 24:21	Creating sub-standard lots—Board of appeals variance
§ 24:22	Planning board rules and regulations
§ 24:23	Official map
§ 24:24	Appeals to court

CHAPTER 25. OTHER GOVERNMENTAL REGULATIONS INVOLVING LAND USE AND SALES

§ 25:1	Environmental regulation—Generally
§ 25:2	—Massachusetts Wetlands Protection Act
§ 25:3	—Private right of action to enforce the Massachusetts Wetlands Protection Act
§ 25:4	Lawsuits to protect the environment under M.G.L. c. 214, § 7A
§ 25:5	Standing—Nature’s right to environmental protection
§ 25:6	Environmental regulation—Local wetlands bylaws and ordinances
§ 25:7	Environmental regulations—Massachusetts Rivers Protection Act
§ 25:8	Environmental regulation—Massachusetts Wetlands Restriction Act
§ 25:9	—Municipal flood plain regulation
§ 25:10	—National Flood Insurance Program (NFIP)
§ 25:11	—Massachusetts waterways permits

- § 25:12 —Massachusetts coastal zone management
- § 25:13 —Massachusetts ocean sanctuaries
- § 25:14 —Massachusetts Scenic Rivers Act
- § 25:15 —Federal Water Pollution Control Act
- § 25:16 —Massachusetts Clean Waters Act
- § 25:17 —Federal Safe Drinking Water Act
- § 25:18 —Federal Clean Waters Act
- § 25:19 —Interstate compacts
- § 25:20 —Federal Resource Conservation and Recovery Act
- § 25:21 —Federal Comprehensive Environmental Response,
Compensation, and Liability Act
- § 25:22 —Massachusetts Hazardous Waste Management Act
- § 25:23 —Massachusetts Oil and Hazardous Material Release
Prevention and Response Act
- § 25:24 —Massachusetts Hazardous Waste Facilities Citing
Act
- § 25:25 —Municipal hazard waste ordinances
- § 25:26 —National Environmental Policy Act
- § 25:27 —Massachusetts Environmental Policy Act
- § 25:28 —Federal Clean Air Act
- § 25:29 —Massachusetts air pollution regulations
- § 25:30 —Massachusetts and municipal sewage disposal
regulations
- § 25:31 Land use regulation—Massachusetts billboard
regulations
- § 25:32 —Municipal earth removal regulations
- § 25:33 —Massachusetts Historic District Act
- § 25:34 —Massachusetts historical preservation restrictions
- § 25:35 —Massachusetts conservation restrictions
- § 25:36 —Massachusetts agricultural preservation
restrictions
- § 25:37 —Massachusetts watershed preservation restrictions
- § 25:38 —Massachusetts affordable housing restrictions
- § 25:39 —Municipal scenic mountains regulations
- § 25:40 —Massachusetts public lands and easements
regulations
- § 25:41 —Massachusetts Public Shade Tree Act
- § 25:42 —Municipal Scenic Roads Act
- § 25:43 —Massachusetts forest land controls
- § 25:44 —Massachusetts agricultural land controls
- § 25:45 —Americans with Disabilities Act of 1990
- § 25:46 Spite fences
- § 25:47 Public safety regulation—Lead paint
- § 25:48 —Fire safety
- § 25:49 —UFFI

TABLE OF CONTENTS

- § 25:50 —Radon
- § 25:51 —Asbestos
- § 25:52 Land sales regulation—Land bank commissions
- § 25:53 —Interstate Land Sales Full Disclosure Act
- § 25:54 Land sale regulation—Railroad land sales
- § 25:55 Underground fuel tanks
- § 25:56 Community Preservation Act
- § 25:57 Real estate transactions—Anti-terrorism
- § 25:58 —Anti-money laundering program
- § 25:59 Regional land use regulation—Martha’s Vineyard
Commission
- § 25:60 —Cape Cod Commission
- § 25:61 Regional land use regulation—Quabbin Reservoir,
Ware River and Wachusett Reservoir Watershed
Protection Act
- § 25:62 Federal Endangered Species Act
- § 25:63 Massachusetts Endangered Species Act

CHAPTER 26. WATER RIGHTS

- § 26:1 History of water rights
- § 26:2 Tidewaters—Seashore
- § 26:3 —Rivers
- § 26:4 —Division of flats
- § 26:5 —Changes in flats
- § 26:6 —Docks and wharves
- § 26:7 Fresh water—Rivers
- § 26:8 —Great ponds
- § 26:9 —Mills, dams and reservoirs
- § 26:10 —Drainage: reasonable use doctrine and private
nuisance

CHAPTER 27. ADVERSE POSSESSION

- § 27:1 Public policy and history of adverse possession;
summary of elements of proof
- § 27:2 Requirements (elements of proof)—Actual possession
- § 27:3 Requirements—Open (visible) and notorious to put
record title holder on notice
- § 27:4 —Exclusive
- § 27:5 —Duration—Generally
- § 27:6 — —Tacking
- § 27:7 —Hostile not permissive, but acquiescence is not
permission
- § 27:8 —Color of title
- § 27:9 Parties who can or cannot claim title by adverse
possession

- § 27:10 Property and parties against whom adverse possession may not be claimed
- § 27:11 Extent of possession
- § 27:12 Evidence of adverse possession
- § 27:13 Interruption of adverse possession by commencement of litigation, physical entry by record title holder, or lack of continuous occupation
- § 27:14 Prescriptive easements
- § 27:15 Establishing record title
- § 27:16 Boundary line agreements
- § 27:17 Encroachments
- § 27:18 Standard of proof, burden of production, burden of persuasion (burden of proof) and evidentiary presumptions in adverse possession litigation
- § 27:19 Conveyance of adversely possessed land prior to expiration of statute of limitations transfers both legal title and a right of action to recover possession
- § 27:20 Expiration of the 20-year adverse possession statute of limitations vests good title, which cannot be constitutionally divested
- § 27:21 Adverse possession barred where trespasser's use of the land is prohibited by law or "is against public policy."

CHAPTER 28. CLOSINGS

- § 28:1 Closings—Generally
- § 28:2 Disclosures—Application for loan
- § 28:3 —Truth-in-lending
- § 28:4 RESPA
- § 28:5 Other lender documents—Secondary market documents
- § 28:6 Identification of parties signing
- § 28:7 Payment of purchase price
- § 28:8 Money Laundering Control Act
- § 28:9 Massachusetts deed excise stamps—Generally
- § 28:10 —Deed in lieu of foreclosure
- § 28:11 —Nominee trusts
- § 28:12 —Divorce settlements
- § 28:13 Land bank and other fees
- § 28:14 Rescission
- § 28:15 Certifications, opinions—Title
- § 28:16 —Zoning
- § 28:17 —M.G.L. c. 93 § 70
- § 28:18 Title insurance
- § 28:19 Income tax reporting requirements—Withholding tax

TABLE OF CONTENTS

- § 28:20 —Reporting sales or exchanges
- § 28:21 —Foreclosures
- § 28:22 Responsibility of closing attorney—loan transactions
- § 28:23 Responsibility of buyers' attorney at closings
- § 28:24 Responsibility of closing attorney—Common pitfalls to avoid
- § 28:25 Closings involving FDIC
- § 28:26 Escrows
- § 28:27 Title 5 state septic system regulations and local board of health regulations
- § 28:28 Good funds

CHAPTER 29. HOW TO CONDUCT A RESIDENTIAL CLOSING

- § 29:1 Overview
- § 29:2 Pre-closing activities—Generally
- § 29:3 —Seller's attorney
- § 29:4 —Lender's attorney
- § 29:5 —Buyer's attorney
- § 29:6 The closing
- § 29:7 —Responsibility of the closing attorney
- § 29:8 Post-closing activities

CHAPTER 30. TITLE INSURANCE

- § 30:1 Overview
- § 30:2 Nature of title insurance and risks insured against
- § 30:3 Risks insured—Expanded coverage policy
- § 30:4 Types of policies—Owner's
- § 30:5 —Loan
- § 30:6 —Leasehold owner's
- § 30:7 —Leasehold loan
- § 30:8 Losses covered and liability limitations
- § 30:9 Types of endorsements—Zoning
- § 30:10 —Other
- § 30:11 Exclusions and exceptions
- § 30:12 —Expanded coverage policy
- § 30:13 Affirmative coverage
- § 30:14 Continuation of policy coverage

CHAPTER 31. HOW TO EXAMINE A TITLE

- § 31:1 Introduction
- § 31:2 Registry of deeds records
- § 31:3 Finding a starting point
- § 31:4 Following the chain of title

- § 31:5 What instruments to abstract
- § 31:6 What information to abstract
- § 31:7 Special problems—Generally
- § 31:8 —Mortgages
- § 31:9 —Attachments
- § 31:10 —Trusts
- § 31:11 —Tenancies by the entirety
- § 31:12 —Guardianships and conservatorships
- § 31:13 —Decedents
- § 31:14 —Corporations
- § 31:15 —Bankruptcy
- § 31:16 —Tax titles
- § 31:17 —Tax liens
- § 31:18 —Subdivisions
- § 31:19 —Orders of conditions
- § 31:20 —Delayed recording
- § 31:21 —Idem sonans
- § 31:22 —Estoppel by deed
- § 31:23 Other sources of record title—Generally
- § 31:24 —Probate court
- § 31:25 —City or town clerks
- § 31:26 —Assessors
- § 31:27 —County commissioners' highway and railroad
records, and records of municipal public ways
- § 31:28 —Secretary of state
- § 31:29 Registered land
- § 31:30 Problems involving computerization

CHAPTER 31A. RIGHTS IN OR TITLE TO REAL ESTATE ESTABLISHING AND PROTECTING

- § 31A:1 Registration of title
- § 31A:2 Confirmation of title
- § 31A:3 Action to quiet or determine or remove a cloud on
title
- § 31A:4 Action to try title
- § 31A:5 Declaratory judgment
- § 31A:6 Partition
- § 31A:7 Slander of title action
- § 31A:8 Slander of title: avoiding litigation
- § 31A:9 Actions involving violation of private land use
restrictions
- § 31A:10 Actions involving violation of public land use
regulation

TABLE OF CONTENTS

- § 31A:11 Recorded affidavits
- § 31A:12 Filling Gaps in Title—Missing probates
- § 31A:13 —Missing deed
- § 31A:14 Comparison table

CHAPTER 32. HISTORICAL DATA RELATING TO COUNTIES, CITIES AND TOWNS OF MASSACHUSETTS

- § 32:1 Generally

Volume 28B

PART II. FORMS, OPINIONS, AND STANDARDS

CHAPTER 33. AFFIDAVITS

- § 33:1 Affidavit as to adverse possession
- § 33:2 Affidavit of military service (superior court)
- § 33:3 Affidavit of no divorce—#1
- § 33:4 —#2
- § 33:5 Affidavit of non-use as to paper street
- § 33:6 Affidavit of service (superior court)
- § 33:7 Affidavit under M.G.L. c. 183, § 5B
- § 33:8 Fannie mae affidavit and agreement
- § 33:9 First refusal compliance—Affidavit
- § 33:10 Mortgage foreclosure affidavit—Appraisal and
advertising (*Ruebeck*)
- § 33:11 Mortgagor's estoppel affidavit—Deed in lieu of
foreclosure
- § 33:12 Name affidavit
- § 33:13 Non-foreign seller affidavit
- § 33:14 Plaintiff's affidavit in support of motion for real
estate attachment
- § 33:15 Smoke detector affidavit and indemnification
agreement

CHAPTER 34. ATTACHMENTS

- § 34:1 Discharge of attachment
- § 34:2 Motion for approval of attachment at ex parte hearing
- § 34:3 Motion for approval of attachment (regular)

CHAPTER 35. BANKRUPTCY

- § 35:1 Clerk's certificate—Intended sale

- § 35:2 —Intention to abandon property
- § 35:3 Discharge of debtor
- § 35:4 Motion for relief from automatic stay and for authority to foreclose mortgage
- § 35:5 Notice of Chapter 7 Bankruptcy Case—No proof of claim deadline (for individuals or joint debtors)—B-309A
- § 35:6 —Proof of claim deadline set (for individuals or joint debtors)—B-309B
- § 35:7 —No proof of claim deadline set (corporations or partnerships)—B-309C
- § 35:8 —Proof of claim deadline set (for corporations or partnerships)—B-309D

CHAPTER 36. BROKERAGE AGREEMENTS

- § 36:1 Agreement for Exclusive Right to Sell—Greater Boston Real Estate Board form
- § 36:2 —With Designated Agency—Greater Boston Real Estate Board form
- § 36:3 —With Consent to Dual Agency—Greater Boston Real Estate Board form
- § 36:4 Agreement for Exclusive Agency—Greater Boston Real Estate Board form
- § 36:5 —With Consent to Designated Agency—Greater Boston Real Estate Board form
- § 36:6 —With Consent to Dual Agency—Greater Boston Real Estate Board form
- § 36:7 Buyer Representation Agreement—Greater Boston Real Estate Board form
- § 36:8 —With Consent to Designated Agency—Greater Boston Real Estate Board form
- § 36:9 —With Consent to Dual Agency—Greater Boston Real Estate Board form
- § 36:10 Facilitation Agreement—Greater Boston Real Estate Board form
- § 36:11 Time Extension Agreement—Greater Boston Real Estate Board form
- § 36:12 Agreement to Suspend Marketing—Greater Boston Real Estate Board form
- § 36:13 Massachusetts Consent to Designated Agency—Greater Boston Real Estate Board form
- § 36:14 Notice of Designated Agency—Greater Boston Real Estate Board form
- § 36:15 Massachusetts Consent to Dual Agency—Greater Boston Real Estate Board form
- § 36:16 Notice of Dual Agency—Greater Boston Real Estate Board form

TABLE OF CONTENTS

CHAPTER 37. CERTIFICATES

- § 37:1 Certificate of clerk—General authorization
- § 37:2 —Specific transaction authority
- § 37:3 Certificate of limited partnership
- § 37:4 Certificate of amendment of limited partnership
- § 37:5 Estoppel certificate—Month-to-month tenant
- § 37:6 —Tenant at will
- § 37:7 —Tenant under lease
- § 37:8 Nominee trust certificate of beneficiaries
- § 37:9 Nominee trust certificate of trustees
- § 37:10 Certificate of nominee trustee—Nominal consideration transfer of registered land
- § 37:11 Nominee trustees’ deed and certificate
- § 37:12 Sublease certificate and agreement—Major lessor and sublessee
- § 37:13 Title certificate based on title policy—Unregistered land—Refinancing
- § 37:14 Title certification under Chapter 93—Registered land
- § 37:15 —Unregistered land
- § 37:16 — —Based on title opinion of another attorney
- § 37:17 Urea Formaldehyde Foam Insulation (UFFI) certificate
- § 37:18 Certificate of organization for limited liability company
- § 37:19 Registration statement for limited liability partnership
- § 37:20 Certificate of trustee of non-testamentary trust under M.G.L. c. 184 § 35—Recorded standard real estate trust
- § 37:21 Certificate of trustee of non-testamentary trust under M.G.L. c. 184 § 35—Recorded nominee real estate trust
- § 37:22 Certificate of trustee of non-testamentary trust under M.G.L. c. 184 § 35—Unrecorded real estate trust
- § 37:23 Certificate of trustee as to resignation of trustee, and to appointment of new trustee, and acceptance of appointment by new trustee

CHAPTER 38. COMPLAINTS

- § 38:1 Complaint—Case caption—(Bankruptcy court)
- § 38:2 — —(State courts)
- § 38:3 Complaint to enforce condominium unpaid expense lien
- § 38:4 Complaint to discharge mortgage
- § 38:5 Complaint for paper street removal

- § 38:6 Complaint to remove cloud on title—Paper street—
Proceeding *in rem*
- § 38:7 Complaint to remove paper street—In rem decree
- § 38:8 Complaint for permission to foreclose mortgage
(superior court)
- § 38:9 Complaint to quiet title
- § 38:10 Complaint to recover possession
- § 38:11 Complaint to try title
- § 38:12 Signature—Firm
- § 38:13 —Sole practitioner
- § 38:14 Complaint to eliminate a right of entry—Condition
expired under M.G.L. c. 260 § 31A
- § 38:15 Complaint to foreclose mortgage—No statutory power
of sale
- § 38:16 Complaint, notification and affidavit of service for
voluntary withdrawal of land from registration
system under M.G.L. c. 185, § 52
- § 38:17 Notice of voluntary withdrawal of land from
registration system by private owner(s) and public
entity under M.G.L. c. 185, § 52
- § 38:18 Withdrawal of condominium from registration
- § 38:19 Case caption—Land court
- § 38:20 Certificate of service
- § 38:21 Complaint for declaratory judgment, adverse
possession, negligent misrepresentation, intentional
misrepresentation and M.G.L. c. 93A
- § 38:22 Proceedings—Declaratory judgment—Verified
complaint—Unenforceable purchase and sale
agreement
- § 38:23 Verified complaint to rescind ANR plan approval
- § 38:24 Verified complaint to enforce violations of
condominium provisions and motion for issuance of
lis pendens
- § 38:25 Complaint for slander of title

CHAPTER 39. CONDOMINIUMS

- § 39:1 Agreement as to real estate taxes—Condominium
- § 39:2 Association by-laws—Condominium
- § 39:3 Condominium association trust—Long form
- § 39:4 Operating agreement for unit owners association LLC
- § 39:5 —Rules and regulations
- § 39:6 Condominium association trust—Short form
- § 39:7 Condominium master deed—Long form
- § 39:8 —Another form
- § 39:9 —Roof deck addendum

TABLE OF CONTENTS

§ 39:10	—Short form
§ 39:11	Condominium unit deed
§ 39:12	—Assignable parking space—Exclusive storage area and patio easement
§ 39:13	— —Exclusive storage area
§ 39:14	FNMA and FHLMC clauses—Form
§ 39:15	Model certificate of no unpaid expenses—Condominium
§ 39:16	Condominium management agreement
§ 39:17	Operating agreement for condominium association limited liability company—Existing condominium
§ 39:18	Notice of intention to collect rents pursuant to M.G.L. c. 183A § 6(c)
§ 39:19	Notice and direction to tenant to pay rent directly to condominium association pursuant to M.G.L. c. 183A § 6(c)
§ 39:20	Notice to mortgage of intention to institute action to enforce lien—30-Day-letter pursuant to M.G.L. c. 183A § 6(c)
§ 39:21	Notice of delinquency of unit owner—60-Day-letter pursuant to M.G.L. c. 183A § 6(c)
§ 39:22	Complaint to enforce lien for unpaid, common expenses pursuant to M.G.L. c. 183A § 6(c)
§ 39:23	Order for judgment—Complaint to enforce lien for unpaid, common expenses pursuant to M.G.L. c. 183A § 6(c)
§ 39:24	Notice of sale of real estate under M.G.L. c. 183A § 6
§ 39:25	Deed and affidavit of sale of real estate under M.G.L. c. 183A § 6
§ 39:26	Amendment to master deed—Legitimizing improvements made by unit owners in common areas
§ 39:27	Phased condominium—Master deed—Provision for removal of remaining land
§ 39:28	— —Residential property—Ten-year phasing
§ 39:29	—Residential property—Last amendment

CHAPTER 40. CORPORATIONS

§ 40:1	Statement of resignation of registered agent
§ 40:2	Annual report for professional and foreign professional corporations
§ 40:3	Application for reinstatement following administrative dissolution
§ 40:4	Application for reinstatement of authority to transact business
§ 40:5	Application of reservation of name

- § 40:6 Articles of amendment
- § 40:7 Articles of charter surrender upon conversion to a foreign other entity
- § 40:8 Articles of charter surrender upon foreign non-profit conversion
- § 40:9 Articles of charter surrender
- § 40:10 Articles of correction
- § 40:11 Articles of domestication
- § 40:12 Articles of entity conversion of a domestic business corporation to a domestic other entity
- § 40:13 Articles of entity conversion of a domestic other entity to a domestic business corporation
- § 40:14 Articles of entity conversion of a foreign other entity to a domestic business corporation
- § 40:15 Articles of foreign non-profit domestication and conversion
- § 40:16 Articles of merger domestic entities
- § 40:17 Articles of merger foreign corporations or entities
- § 40:18 Articles of organization (chapter 156A)
- § 40:19 Articles of organization (chapter 156D)
- § 40:20 Articles of revocation of dissolution
- § 40:21 Articles of share exchange involving domestic corporations and domestic other entities
- § 40:22 Articles of share exchange involving domestic or foreign corporations or foreign other entities
- § 40:23 Articles of voluntary dissolution of corporation which has not issued shares or has not commenced business
- § 40:24 Articles of voluntary dissolution
- § 40:25 Certificate of amendment
- § 40:26 DBA attachment
- § 40:27 Foreign application for transfer of authority
- § 40:28 Foreign certificate of withdrawal upon conversion to a nonfiling entity
- § 40:29 Foreign certificate of withdrawal
- § 40:30 Foreign corporation certificate of registration
- § 40:31 Fees
- § 40:32 Restated articles of organization
- § 40:33 Statement of appointment of registered agent
- § 40:34 Statement of change of registered agent/registered office

CHAPTER 41. DEEDS

- § 41:1 Agreement for delivery of deed in escrow
- § 41:2 Confirmatory deed

TABLE OF CONTENTS

§ 41:3	Corporation quitclaim deed
§ 41:4	Mortgagor's deed in lieu of foreclosure to lender
§ 41:5	Mortgagor's deed in lieu of foreclosure to subsidiary of lender
§ 41:6	Nominee trust quitclaim deed
§ 41:7	Non-statutory fiduciary deed—Executors
§ 41:8	Quitclaim deed—Long form
§ 41:9	Warranty deed—Long form
§ 41:10	Unregistered land—Individual grantors—Metes and bounds description
§ 41:11	Unregistered lands—Nominee trust grantors—Confirmatory deed—Running description
§ 41:12	Registered land—Individual grantors—Plan reference only
§ 41:13	Unregistered land—Nominee trust grantors—Attached description—Certificate in deed
§ 41:14	—Corporate grantor—Attached description
§ 41:15	—Fiduciary grantors—Attached description
§ 41:16	Boundary line agreement
§ 41:17	Deed to children reserving life estate and right to sell in parent with trust for sale proceeds
§ 41:18	Deed—Life estate in marital home to second spouse, remainder to grantor's heirs or devisees
§ 41:19	Deed from one of the heirs with counterpart clause
§ 41:20	Revocable license to stop adverse possession
§ 41:21	Developer's deed of every lot in a multi-lot development except the last lot
§ 41:22	Developer's deed for the last lot in a multi-lot single phase or multi-phase
§ 41:23	Developer's deed of every lot in phase one of a multi-lot, multi-phase development

CHAPTER 42. EASEMENTS

§ 42:1	Access easement
§ 42:2	Beach purposes easement
§ 42:3	Street and way easement
§ 42:4	—Grantee's right to grant utility line easements to utility companies
§ 42:5	Notice to prevent acquisition of easements
§ 42:6	Water line easement
§ 42:7	View easement
§ 42:8	Landscape and view easement
§ 42:9	Forfeiture of easement clauses
§ 42:10	Subordination of mortgage to easement
§ 42:11	Conservation easement

- § 42:12 Conservation easement
- § 42:13 Termination of easement
- § 42:14 Slope and drainage easement
- § 42:15 Temporary construction easement
- § 42:16 Grant of Title 5 covenant and easement
- § 42:17 Check list for easements, licenses and profits a
prendre
- § 42:18 Deed granting driveway easement
- § 42:19 Deed granting drainage easement
- § 42:20 Quitclaim deed termination easement
- § 42:21 Shared septic system—Grant of easement among
parties
- § 42:22 —Grant of Title 5 covenant and easement to dep and
municipal board of health
- § 42:23 —Declaration of trust among parties
- § 42:24 Access easement—Mutual enforcement provisions
and indemnities—Grantor’s right of relocation
- § 42:25 Grant of fence encroachment easement to address
future zoning violation
- § 42:26 Grant of building encroachment easement to address
future zoning violation
- § 42:27 Notice to prevent easement by prescription, M.G.L. c.
187, § 3

CHAPTER 43. ESTATE TAX LIENS

- § 43:1 Application for certificate discharging property subject
to estate tax lien—Federal
- § 43:2 Application for certificate of discharge of property from
federal tax lien—Federal—Instructions
- § 43:3 Application for certificate releasing massachusetts
estate tax lien
- § 43:4 Certificate releasing massachusetts estate tax lien

CHAPTER 44. ETHICAL OPINIONS AND STANDARDS

- § 44:1 Boston bar association opinion 93-3: What to do when
a lawyer represents a company making a business
transaction with a second company also represented
by the same lawyer?
- § 44:2 Massachusetts bar association opinion 90-3: When can
a lawyer represent a bank and close institutional
mortgage loans when the borrower is also the
lawyer’s client?
- § 44:3 Massachusetts Rules of Professional Conduct—Rule
1.7. Conflict of Interest: Current Clients

TABLE OF CONTENTS

- § 44:4 —Rule 1.8. Conflict of Interest: Current Clients:
Specific Rules
- § 44:5 —Rule 1.9. Duties to Former Clients
- § 44:6 —Rule 1.10. Imputed Disqualification: General Rule
- § 44:7 —Rule 1.11. Special Conflicts of Interest for Former
and Current Government Officers and Employees
- § 44:8 —Rule 1.12. Former Judge, Arbitrator, Mediator or
Other Third-Party Neutral

CHAPTER 45. GUARANTY

- § 45:1 Guaranty of borrower's obligations
- § 45:2 Guaranty of tenant's obligations

CHAPTER 46. LEASES

- § 46:1 Assignment of leases and rentals
- § 46:2 Commercial building lease
- § 46:3 —Retail tenant
- § 46:4 —Retail tenant's use obligations including "not going
dark"
- § 46:5 Office building lease—Partial floor—Law practice
- § 46:6 Notice of lease
- § 46:7 Notice of lease amendment
- § 46:8 Notice of lease termination
- § 46:9 Purchase option—Tenant
- § 46:10 Standard leases and addenda for apartments, single
family dwellings and condominiums—Greater
Boston Real Estate Board forms
- § 46:11 Exclusive right to lease or sell commercial property—
Greater Boston Real Estate Board forms
- § 46:12 Sublease—Long form
- § 46:13 —Short form
- § 46:14 Subordination and attornment agreement
- § 46:15 Right of first refusal—Landlord to tenant
- § 46:16 Ground lease—95-year term—Optional clauses for
use of premises, subordination of fee by landlord

CHAPTER 47. LIS PENDENS

- § 47:1 Regular motion and memorandum, finding and
affidavit for lis pendens—Verified complaint
- § 47:2 —Unregistered land—Verified complaint
- § 47:3 Ex parte motion and memorandum, finding and
affidavit for lis pendens—Registered land
- § 47:4 —Unregistered land
- § 47:5 Motion to dissolve (or modify) lis pendens

- § 47:6 Special motion to dismiss under lis pendens statute
(M.G.L. c. 184, § 15(c))

CHAPTER 48. LOAN CLOSINGS

- § 48:1 Affidavit of owner occupancy
- § 48:2 Assignment of mortgage
- § 48:3 Attorney's homeowner's insurance memorandum
- § 48:4 Amendment to note
- § 48:5 Certificate of nonforeign status (individual)
- § 48:6 Compliance agreement
- § 48:7 Construction loan agreement
- § 48:8 Conventional loan checklist
- § 48:9 Escrow agreement—Title 5 compliance
- § 48:10 Escrow agreement for curing title defects
- § 48:11 Escrow agreement to secure seller's agreement to
provide water service
- § 48:12 Extension of mortgage
- § 48:13 Fire insurance memorandum
- § 48:14 Fixed rate mortgage disclosure statement
- § 48:15 HUD-1 and HUD-1A settlement statements and
closing disclosure
- § 48:16 Initial escrow account statement
- § 48:17 Lead paint notice
- § 48:18 Loan disbursement authorization
- § 48:19 Mortgage and security agreement (fee)
- § 48:20 Mortgage and security agreement (leasehold)
- § 48:21 Mortgage—Long form
- § 48:22 Mortgage commitment letter—Commercial
- § 48:23 —Residential
- § 48:24 Multistate 1–4 family rider—Assignment of rents—
(FNMA/FHLCA)
- § 48:25 Multistate fixed rate note—(FNMA/FHLMC)
- § 48:26 Multistate adjustable rate note—(FNMA/FHLCA)
- § 48:27 Non-recourse provision—Mortgage
- § 48:28 Notice of right to cancel
- § 48:29 Notice regarding real estate taxes
- § 48:30 Partial release of mortgage
- § 48:31 Participation agreement
- § 48:32 Performance mortgage
- § 48:33 Quality control review program
- § 48:34 Real estate tax adjustment
- § 48:35 Recognition and non-disturbance agreement
- § 48:36 Request for taxpayer identification number and
certification

TABLE OF CONTENTS

§ 48:37	Second mortgage uniform instrument— (FNMA/FHLMC)
§ 48:38	Single family adjustable rate rider—Multistate
§ 48:39	—Form 3108—(FNMA)
§ 48:40	—Form 3118—(FNMA)
§ 48:41	Single family mortgage—(FNMA/FHLMC)
§ 48:42	Mortgage—FNMA/FHLMC—MERS modified—Single family—Massachusetts—Uniform instrument Form 3022 01/01
§ 48:43	Single family multistate condominium rider— (FNMA/FHLMC)
§ 48:44	Stipulation of municipal charges
§ 48:45	Subordination and attornment agreement
§ 48:46	Subordination, non-disturbance, and attornment agreement
§ 48:47	Tax report of proceeds from real estate transactions
§ 48:48	Title insurance affidavit
§ 48:49	Title insurance election
§ 48:50	Verification of billing address
§ 48:51	Explanation of title certificate exceptions to borrowers and buyers
§ 48:52	Title 5 septic system inspections
§ 48:53	Commercial mortgage loan—Real estate only— Document agenda and list of forms
§ 48:54	Certificate of borrower's accountant
§ 48:55	Certificate of borrower's manager with exhibits
§ 48:56	Certificate of clerk of corporate guarantor
§ 48:57	Opinion letter—Borrower's and guarantors' counsel
§ 48:58	Commercial real estate promissory note
§ 48:59	Mortgage, security agreement and assignment
§ 48:60	Assignment of leases and rents
§ 48:61	Rider to UCC financing statement
§ 48:62	Guaranty of corporate guarantor
§ 48:63	Guaranty of individual guarantor
§ 48:64	Oil and hazardous materials indemnification agreement
§ 48:65	Affidavit of financial and business condition
§ 48:66	Representation letter
§ 48:67	Title insurance affidavit
§ 48:68	Subordination, nondisturbance and attornment agreement
§ 48:69	Agreement as to partial release of mortgage
§ 48:70	Zoning opinion letter
§ 48:71	Commitment letter
§ 48:72	List of closing documents from lender's counsel

- § 48:73 Initial letter to borrowers
- § 48:74 Title holding characteristics and differences
- § 48:75 Letter to borrowers as to closing process
- § 48:76 Closing attorney privacy policy
- § 48:77 Information for borrowers as to insurance,
condominiums and title holding
- § 48:78 Letter to prior lender enclosing payoff check
- § 48:79 Verbal mortgage information payoff
- § 48:80 Closing information
- § 48:81 Memorandum to borrower as to attorneys duties—
Another version
- § 48:82 Mortgage payoff request authorization
- § 48:83 [New] request for title examination
- § 48:84 Home equity line of credit closeout letter
- § 48:85 Subordination of homestead to mortgage and
agreement
- § 48:86 Estate tax affidavit

CHAPTER 49. MASSACHUSETTS ASSOCIATION OF REGISTERS AND ASSISTANT REGISTERS OF DEEDS

- § 49:1 Standard No. 1—Mailed-in documents
- § 49:2 Standard No. 2—Corrections
- § 49:3 Standard No. 3—Mailing charges

CHAPTER 50. MISCELLANEOUS

- § 50:1 Betterments assessment
- § 50:2 Business certificate
- § 50:3 Disclaimer
- § 50:4 Durable power of attorney
- § 50:5 Hazardous materials compliance and indemnification
agreement
- § 50:6 Joint venture agreement
- § 50:7 License
- § 50:8 Lot owners association
- § 50:9 Notice of contract—M.G.L. c. 254, § 2
- § 50:10 Order of conditions—Massachusetts Wetlands
Protection Act
- § 50:11 Statutory share of surviving spouse under Mass.
Uniform Probate Code, M.G.L. c. 190B, § 2-102
“Share of spouse”
- § 50:12 Tripartite agreement
- § 50:13 Opinion—Title—Long form
- § 50:14 —Zoning

TABLE OF CONTENTS

§ 50:15	Option to purchase—Buyer—Fixed price or at fair market value
§ 50:16	—Recordable memorandum
§ 50:17	Colonial Ordinance of 1641–47
§ 50:18	Opinion—Authority as to mortgagor
§ 50:19	—Environmental
§ 50:20	Cluster development—List of documents
§ 50:21	—Conservation restriction from corporate nominee trustee developer to town
§ 50:22	—Conservation restriction from LLC developer to town
§ 50:23	—Agreement and declaration by individual trustees of association trust
§ 50:24	—Operating agreement for LLC association of lot owners
§ 50:25	—Certificate of organization for LLC association of lot owners
§ 50:26	—Declaration of easements and restrictions by corporate nominee trustee developer
§ 50:27	—Declaration of easements and restrictions by LLC developer
§ 50:28	—Deed from corporate nominee trustee developer of private way and open space to individual trustees of association trust
§ 50:29	—Deed from LLC developer of private way and open space to LLC association of lot owners
§ 50:30	—Deed from corporate nominee trustee developer to lot owner
§ 50:31	—Deed from LLC nominee trustee developer to lot owner
§ 50:32	—Certificate of corporate nominee trustee developer as to construction approval
§ 50:33	—Certificate of LLC developer as to construction approval
§ 50:34	—Certificate of individual trustees of association trust as to common charges
§ 50:35	—Certificate of LLC association of lot owners as to common charges
§ 50:36	Engagement letter for residential real estate purchase
§ 50:37	Engagement letter—Sellers of residential real estate—No like kind exchange anticipated
§ 50:38	Operating agreement for limited liability company
§ 50:39	—Alternative form
§ 50:40	Mechanics liens—Notice of contract under M.G.L. c. 254 § 2

- § 50:41 —Notice of substantial completion under M.G.L. c. 254 § 2A
- § 50:42 —Notice of termination under M.G.L. c. 254 § 2B
- § 50:43 —Notice of contract under M.G.L. c. 254 § 4
- § 50:44 —Notice of identification under M.G.L. c. 254 § 4
- § 50:45 —Surety bond under M.G.L. c. 254, § 12
- § 50:46 —Surety bond under M.G.L. c. 254 § 14
- § 50:47 —Partial waiver and subordination of lien under M.G.L. c. 254 § 32
- § 50:48 Indemnity letter agreement
- § 50:49 Confidential non-disclosure agreement
- § 50:50 Real estate holding entities—Overview
- § 50:51 Partition—Notice of recording in registry of deeds
- § 50:52 Form MPC 550 “Notice of Informal Probate and Return of Service”
- § 50:53 Form MPC 551 “Informal Probate Publication Notice”
- § 50:54 Form MPC 150 “Petition for Informal Probate of Will/Appointment of Personal Representative”
- § 50:55 Form MPC 160 “Petition for Formal Probate of a Will/Adjudication of Intestacy/Appointment of a Personal Representative”
- § 50:56 Form MPC 170 “Voluntary Administration Statement”
- § 50:57 Operating agreement for limited liability company with voting and non-voting members and percentage share adjustments for voluntary capital contributions
- § 50:58 Revocable license to stop adverse possession
- § 50:59 Model escrow agreement for simple issues
- § 50:60 Radon fact sheet by Massachusetts Department of Health
- § 50:61 Petition for sale of real estate (personal representative; M.G.L. c. 202, § 19)—Form MPC 210
- § 50:62 Checklist for petition for sale of real estate (personal representative; M.G.L. c. 202, § 19)—Form MPC 973
- § 50:63 Decree of sale of real estate personal representative (M.G.L. c. 202, §§ 37 & 38)—Form MPC 794
- § 50:64 Petition for sale of real estate administrator/executor debts, legacies, charges of administration—Form CJ-P 75
- § 50:65 An ordinance allowing short-term rentals in the City of Boston
- § 50:66 M.G.L. c. 93A demand letter to private company foreclosing tax lien on homeowner

Volume 28C

CHAPTER 51. MORTGAGES

- § 51:1 Subordination of mortgage
- § 51:2 Uniform adjustable rate loan rider
- § 51:3 Certificate of entry to foreclose
- § 51:4 Notice of intention to foreclose under M.G.L. c. 244
§ 14
- § 51:5 Interlocutory decree authorizing foreclosure (Superior
Court)
- § 51:6 Memorandum of sale
- § 51:7 Mortgage discharge including assignment of leases
and rents and UCC financing statements
- § 51:8 Release of mortgage reserving claim for debt
- § 51:9 Notice of intention to foreclose and of deficiency
under M.G.L. c. 244, § 17B
- § 51:10 Order of notice (Superior Court)
- § 51:11 Power of attorney to make an entry
- § 51:12 Release deed
- § 51:13 Waiver of entry
- § 51:14 Discharge of mortgage—Statutory form
- § 51:15 Notice of mortgagee's sale of real estate—Separate
lots and entire premises
- § 51:16 Discharge of mortgage by servicer—Service
agreement or power of attorney recorded previously
or herewith
- § 51:17 Discharge of mortgage by servicer with attached
affidavits of mortgager and attorney—Servicing
agreement or power of attorney not available
- § 51:18 Discharge of mortgage by servicer with attached
affidavits of subsequent owner in possession and
attorney—Servicing agreement or power of attorney
not available
- § 51:19 Discharge of mortgage by note holder with attached
note and transfer endorsements—Original or copy
- § 51:20 Discharge of mortgage by affidavit under M.G.L. c.
183 § 55
- § 51:21 Mortgage providing for a dragnet clause
- § 51:22 Subordination agreement—Second mortgage to first
mortgage
- § 51:23 Notice of mortgagee's sale of real estate—Single lot
- § 51:24 Assessment information
- § 51:25 Additional terms and conditions
- § 51:26 Memorandum of sale
- § 51:27 Foreclosure deed and affidavit

- § 51:28 Subordination of homestead to mortgage and agreement
- § 51:29 Discharge of mortgage by affidavit under M.G.L. c. 183 § 55—Mortgagor unlocatable—Mortgage payoff paid into court
- § 51:30 Acknowledgement—Individual
- § 51:31 —Attorney-in-fact
- § 51:32 —Trustee
- § 51:33 —Corporate officer
- § 51:34 Affirmation
- § 51:35 Copy certification
- § 51:36 Jurat
- § 51:37 Signature witnessing
- § 51:38 Oath
- § 51:39 Affidavit to accompany recording of unacknowledged or incomplete discharge of mortgage
- § 51:40 Affidavit for recording mortgage servicer discharge authority documents
- § 51:41 Affidavit for recording note to support discharge by off-record note holder
- § 51:42 Affidavit of attorney to accompany mortgagors affidavit
- § 51:43 Affidavit by mortgagor regarding discharge of mortgage by mortgage servicer or off-record note holder
- § 51:44 Demand letter to mortgagee, mortgage servicer or off-record note holder for confirmatory discharge, documents supporting authority to discharge, recording fees and/or damages

CHAPTER 52. PARTNERSHIPS AND LIMITED PARTNERSHIPS

- § 52:1 Limited partnership agreement
- § 52:2 General partnership agreement

CHAPTER 53. PURCHASE AND SALE AGREEMENTS

- § 53:1 Purchase and sale agreement clauses—Access to premises
- § 53:2 —Affidavits and certificates
- § 53:3 —Broker commission payment contingency
- § 53:4 —Brokerage representation
- § 53:5 —Buyer's due diligence
- § 53:6 —Common expenses

TABLE OF CONTENTS

§ 53:7	—Condition of premises at closing
§ 53:8	—Definitions
§ 53:9	—Deposits
§ 53:10	—Encumbrances premises subject
§ 53:11	—Inspection contingency
§ 53:12	—Lender’s extension and place for performance change
§ 53:13	—Liquidated damages for buyer’s default
§ 53:14	—Maintenance of premises
§ 53:15	—Real estate bar association standards
§ 53:16	—Mortgage contingency
§ 53:17	—No hazardous substances
§ 53:18	—No other agreements
§ 53:19	—Notices
§ 53:20	—Pest contingency
§ 53:21	—Plan endorsement
§ 53:22	—Post-closing compliance and adjustments
§ 53:23	—Premises compliance
§ 53:24	—Purchase money financing
§ 53:25	—Rent control compliance
§ 53:26	—Sale “as is”
§ 53:27	—Sale by fiduciary—Highest price
§ 53:28	—Sale by administrator or executor—License to sell
§ 53:29	—Seller’s continued occupancy
§ 53:30	—Seller’s extension
§ 53:31	—Seller’s nonperformance
§ 53:32	—Seller’s reasonable efforts
§ 53:33	—Sellers representations—120 days
§ 53:34	—Seller’s representations—180 days
§ 53:35	—Social security numbers
§ 53:36	—Survival of representations
§ 53:37	—Title insurance contingency
§ 53:38	—Asbestos and lead paint
§ 53:39	—Use of purchase price to discharge encumbrances
§ 53:40	—Waiver of title defects
§ 53:41	—When agreement is binding
§ 53:42	—Like kind exchange rider—Seller
§ 53:43	— —Buyer
§ 53:44	—Closing adjustments
§ 53:45	—Alternative dispute resolution
§ 53:46	—Pending litigation or other action affecting premises
§ 53:47	—Keys and security systems
§ 53:48	Offer to purchase contingency addendum (mortgage,

- inspection, radon, pest, lead paint)—Greater Boston
real estate board form
- § 53:49 Sewage disposal system contingency addendum—
Greater Boston real estate board form
- § 53:50 Inspection contingency addendum (oil and hazardous
material)—Greater Boston real estate board form
- § 53:51 Property transfer lead paint notification—
Massachusetts Department of Health form
- § 53:52 Offer to purchase real estate—Greater Boston real
estate board form
- § 53:53 Standard form commercial purchase and sale
agreement—Greater Boston real estate board form
- § 53:54 Standard form condominium purchase and sale
agreement—Greater Boston real estate board form
- § 53:55 Condominium documents addendum—Greater Boston
real estate board form
- § 53:56 Standard form purchase and sale agreement—
Greater Boston real estate board form
- § 53:57 Standard form land purchase and sale agreement—
Greater Boston real estate board form
- § 53:58 Use and occupancy agreement—Post-closing
- § 53:59 —Pre-closing
- § 53:60 Explanation of alternative dispute resolution clause
to seller or buyer
- § 53:61 Check list for real estate purchasers
- § 53:62 Purchase and sale agreement clauses—Sale by
trustee of nominee trust
- § 53:63 —Deposit released to seller and performance
mortgage to secure seller's performance
- § 53:64 —Recording agreement
- § 53:65 —Status of "offer to purchase real estate"
- § 53:66 —Legal advice
- § 53:67 —Counterparts
- § 53:68 —Oral information
- § 53:69 —Prior communication
- § 53:70 —Extensions
- § 53:71 —Extension authority
- § 53:72 —Permits
- § 53:73 —Seller's documents
- § 53:74 —Taking
- § 53:75 Purchase and sale clauses—Warranties and
representations
- § 53:76 Purchase and sale agreement clauses—Assignability
- § 53:77 —Weekend and holiday extensions
- § 53:78 —Facsimile signatures
- § 53:79 —Authority

TABLE OF CONTENTS

- § 53:80 —Additional closing conditions
- § 53:81 —Invitation to bid—Multiple buyers
- § 53:82 Purchase and sale agreement for real estate
(improved residential, non-condominium property)
- § 53:83 Agreement to acquire missing probate interest—
50–50 sharing of net sales proceeds
- § 53:84 Purchase and sale agreement for real estate
(commercial property, one broker, due diligence
period, like kind exchange for seller)
- § 53:85 Extension agreement—real estate offer and/or
purchase and sale agreement
- § 53:86 Purchase and sale agreement for real estate
(residential condominium)
- § 53:87 Purchase and sale agreement for real estate
(unimproved residential land)
- § 53:88 Outstanding mortgage details
- § 53:89 Representations as to existing insurance policy

CHAPTER 54. REAL ESTATE TAX ABATEMENTS

- § 54:1 Appearance—Appellate tax board form
- § 54:2 Application for abatement
- § 54:3 “Applications for exemption based on personal status”
- § 54:4 “Applications for organization exemptions”
- § 54:5 Letter to clients—Real estate tax abatements
- § 54:6 Petition for late entry—Appellate tax board form
- § 54:7 Petition under formal procedure—Appellate tax board
form
- § 54:8 Statement under informal procedure with waiver of
appeal and election of informal procedure—
Appellate tax board form
- § 54:9 “Agreement as to fair cash value and decision—
Appellate tax board form
- § 54:10 Withdrawal—Appellate tax board form
- § 54:11 Certificate of service—Appellate tax board form
- § 54:12 Real estate tax appeals: appellate tax board guide for
taxpayers and assessors

CHAPTER 55. RESTRICTIONS ON LAND USE

- § 55:1 Conservation restrictions—Cluster subdivision;
developer’s reservation
- § 55:2 —Single lot; grantors’ reservation
- § 55:3 Declaration of restrictive covenant—Approval
authority for all structures, 50-year duration

- § 55:4 Declaration of restriction—No improvements, uses, earth removal, 90-year duration
- § 55:5 Declaration of restrictions—Only single family dwellings, 30-year duration
- § 55:6 Preservation restriction agreement—Charitable corporation
- § 55:7 —National park service
- § 55:8 Restriction as to building height; trees, shrubs and other vegetation
- § 55:9 Declaration of subdivision restrictive covenants
- § 55:10 Conservation restriction to municipality
- § 55:11 Declaration of nominee trust as title holder of new subdivision
- § 55:12 Schedule of beneficial interest holders of nominee trust
- § 55:13 Certificate of organization of LLC homeowners association to manage new subdivision
- § 55:14 Operating agreement for LLC homeowners association

CHAPTER 56. RIGHT OF FIRST REFUSAL

- § 56:1 Right of first refusal agreement—In gross or appurtenant to benefited land
- § 56:2 Recorded notice of first refusal agreement
- § 56:3 Notice of exercise of right of first refusal
- § 56:4 Affidavit of compliance releasing right of first refusal
- § 56:5 Right of first refusal in deed—In gross or appurtenant to benefited land
- § 56:6 Right of first refusal in lease—In gross or appurtenant to benefited land
- § 56:7 Termination of right of first refusal
- § 56:8 Notice of right of first refusal for site of manufactured housing community under M.G.L., c. 140, § 32R

CHAPTER 57. TRUSTS

- § 57:1 Nominee trust declaration—No trust bank accounts
- § 57:2 — —Termination by any beneficiary
- § 57:3 —For use in like-kind exchange
- § 57:4 Nominee trust—Schedule of beneficial interests
- § 57:5 — —Alternate form
- § 57:6 —Assignment of beneficial interests
- § 57:7 —Revised schedule of beneficial interests
- § 57:8 — —Alternate form
- § 57:9 —Certificate of trustees
- § 57:10 Certificate of trustee as to resignation of trustee, and

TABLE OF CONTENTS

- to appointment of new trustee, and acceptance of
appointment by new trustee
- § 57:11 Nominee trust—Certificate of beneficiaries
- § 57:12 —Indemnity agreement
- § 57:13 Resignation of trustee
- § 57:14 Declaration of trust creating Massachusetts business
(corporate) trust with voting and non-voting shares
of stock
- § 57:15 Massachusetts business (corporate) trust—Short
version

PART III. COMMONWEALTH OF MASSACHUSETTS LAND COURT GUIDELINES ON REGISTERED LAND FEBRUARY 27, 2009

CHAPTER 58. LAND COURT FORMS

A. INTRODUCTION

- § 58:1 Use of Land Court forms is mandatory in registration,
confirmation, tax foreclosure and Servicemembers
Civil Relief Act cases

B. REGISTRATION OR CONFIRMATION OF TITLE TO LAND

- § 58:2 Checklist for commencement of registration or
confirmation case
- § 58:3 Land Court Form LCP-8: Complaint to register or
confirm title under M.G.L. c. 185, §§ 26 *et seq.*
- § 58:4 Appointment of resident agent by out of state
plaintiff under M.G. L. c. 185, § 35
- § 58:5 Answer to complaint under M.G. L. c. 185, § 41
- § 58:6 Land Court Form LCA-1: Assessor's certificate of
adjoining owners and examiner's report
- § 58:7 Author's Recommended Form: Notice of filing
complaint—Registration or confirmation
- § 58:8 Land Court Form LCN-3: Notice of filing complaint—
Registration or confirmation
- § 58:9 Motion for substitution
- § 58:10 Motion to sever and dismiss
- § 58:11 Motion to sever and retain jurisdiction in separate
cases
- § 58:12 Complaint, notification and affidavit of service for

- voluntary withdrawal of land from registration system under M.G. L. c. 185, § 52
- § 58:13 Notice of voluntary withdrawal by private owner(s) and public entity of land from registration under M.G. L. c. 185, § 52
- § 58:14 *[Reserved]*
- § 58:15 Withdrawal of condominium from registration
- § 58:16 Pre-file review of proposed subdivisions of registered land
- § 58:17 Petition for approval of plan of registered land
- § 58:18 Petition for new certificate after death
- § 58:19 Complaint for new certificate after divorce
- § 58:20 Petition to amend certificate of title
- § 58:21 Petition to amend certificate of title by expunging mortgage

C. MORTGAGE FORECLOSURE

- § 58:22 Mortgagee's affidavit under M.G. L. c. 244, § 35A
- § 58:23 Procedures for filing complaints under Servicemembers Civil Relief Act, 50 U.S.C.A. 3901–4043
- § 58:24 Complaint to determine military status under Servicemembers Civil Relief Act, 50 U.S.C.A. 3901–4043
- § 58:25 Procedures for filing complaints under Servicemembers Civil Relief Act, 50 U.S.C.A. 3901–4043—Order of notice
- § 58:26 —Affidavit of military service
- § 58:27 —Motion for judgment
- § 58:28 —Motion to dismiss complaint
- § 58:29 —Registered land affidavit

D. TAX LIEN FORECLOSURE

- § 58:30 Complaint to foreclose tax lien
- § 58:31 Notice of filing complaint—Foreclose tax lien
- § 58:32 Motion to withdraw petition to foreclose rights of redemption
- § 58:33 —Tax lien answer with certificate of service
- § 58:34 —Tax lien motion and notice of hearing with certificate of service

E. LOW VALUE TAX LIEN FORECLOSURE

- § 58:35 Petition to affirm title under “low value” tax sale
- § 58:36 Notice of filing complaint—Affirm title under “low value” tax sale

TABLE OF CONTENTS

F. DISCHARGE OF MORTGAGE

§ 58:37 Complaint to discharge mortgage

**G. FORMS FOR ACTIONS CONCERNING RIGHT,
TITLE OR INTEREST IN LAND**

- § 58:38 Complaint for writ of entry pursuant to M.G. L. c. 237
- § 58:39 Complaint for partition under M.G. L. c. 241
- § 58:40 Notice of filing of complaint for partition, required by M.G. L. c. 241, § 7
- § 58:41 Complaint for declaratory judgment under M.G. L. c. 231A, with additional claim for equitable relief under M.G. L. c. 185, § 1(k)
- § 58:42 Complaint for action to require adverse claimant to try title under G.L. c. 240, §§ 1–5
- § 58:43 Complaint for action to quiet title under M.G. L. c. 240, §§ 6–10
- § 58:44 Complaint to determine validity or application of land use restriction under M.G. L. c. 240, §§ 10A–10C
- § 58:45 Land Court Civil Action Cover Sheet for all miscellaneous cases (except cases under Servicemembers Civil Relief Act)
- § 58:46 Form for appearance of counsel
- § 58:47 Notice of limited appearance under Trial Court Rule XVI
- § 58:48 Withdrawal of limited appearance under Trial Court Rule XVI
- § 58:49 Uniform Protocol for Limited Assistance Representation Training in the Massachusetts Trial Court issued under Trial Court Rule XVI
- § 58:50 Joint case management conference statement under Land Court Standing Order 1-04
- § 58:51 Land Court Notice of Motion to schedule a hearing for a non-dispositive motion
- § 58:52 Land Court complaint for registered land, to declare certain provisions void, pursuant to M.G.L. c. 184, § 23B and Land Court Standing Order 2-21

**CHAPTER 59. COMMONWEALTH OF
MASSACHUSETTS LAND COURT
GUIDELINES ON REGISTERED LAND
FEBRUARY 27, 2009**

§ 59:1 Land court guidelines on registered land

CHAPTER 60. LAND COURT CASES, LITIGATION RULES AND STANDING ORDERS

- § 60:1 William H. Whitman, petitioner
- § 60:2 Bodwell et al. v. Bradstreet
- § 60:3 Curtis Manufacturing Co. v. City of Worcester et al
- § 60:4 South Framingham Cooperative Bank, petitioner
- § 60:5 Land Court Litigation Rules
- § 60:6 Notice under M.G.L. c. 185, § 39, Land Court
Standing Order No. 1-97 (Notice to City or Town of
Registration Case Involving Determination of Line
of Public Way)
- § 60:7 Land Court Litigation Time Standards, Standing
Order No. 1-04
- § 60:8 Processing and Hearing of Claims for Judicial Review
of Matters on the Administrative Record, Standing
Order No. 2-06
- § 60:9 Limited Assistance Representation, Trial Court Rule
XVI (Superseding Land Court Standing Order No.
1-12)
- § 60:10 Exceptions to the Notice Requirement of Trial Court
Rule VIII, Uniform Rules of Impoundment
Procedure, Land Court Standing Order 1-15
- § 60:11 Electronic recordation of proceedings, Land Court
Standing Order 1-18
- § 60:12 Videoconferencing of Court Events, Land Court
Standing Order 1-20
- § 60:13 Dismissal without prejudice of prematurely filed
complaints for certificate after death, Land Court
Standing Order, 1-21
- § 60:14 Remedies for void provisions under chapter 184,
§ 23B, Land Court Standing Order, 2-21
- § 60:15 Land Court Department electronic filing procedures,
standards, and guidelines, Land Court Standing
Order 1-23
- § 60:16 Implementation of mandatory electronic filing for
attorneys in certain case types in the Land Court
Department, Land Court Standing Order 2-23

CHAPTER 61. LAND COURT REGISTERED LAND MEMOS FROM CHIEF TITLE EXAMINER

- § 61:1 Joint Ventures (November 18, 2008)
- § 61:2 Power of Attorney for Mortgage Discharges and
Foreclosures (November 18, 2008)

TABLE OF CONTENTS

§ 61:3	Foreign LLC, LLP and LP (November 20, 2008)
§ 61:4	Chapter 282 of the Acts of 2010 (enacting new M.G.L. c. 183, § 54B) (November 9, 2010)
§ 61:5	New Homestead Law (Chapter 395 of the Acts of 2010, enacting new M.G.L. c. 188) (March 16, 2011)
§ 61:6	Massachusetts Secretary of State E-Certificates (February 24, 2011)
§ 61:7	Affidavits of No Divorce (April 11, 2012)
§ 61:8	New Affidavits for Foreclosure Recordings Affecting Registered Land (August 7, 2012)
§ 61:9	Land Court Guideline 14. Death: The Effect of Death upon Registered Land Titles (October 31, 2019)
§ 61:10	Foreclosure Deeds (November 1, 2012)
§ 61:11	Mortgage Foreclosures of Timeshares (M.G.L. c. 183, § 29A) and Foreclosure of Timeshare Condominium Liens (M.G.L. c. 183B, § 29B) (March 22, 2014)
§ 61:12	Chapter 287 of the Acts of 2014 (Section 82), amending M.G.L. c. 185, § 52 (October 8, 2014)
§ 61:13	M.G.L. c. 183, § 5B Affidavits: Notary public's acknowledgment certificate (February 7, 2017)
§ 61:14	M.G.L. c. 244, §§ 35B & 35C Affidavits (June 14, 2018)
§ 61:15	Interim Procedure for Remote Approvals (March 25, 2020)
§ 61:16	Interim Procedure for Remote Processing of Subsequent Cases & Condominium Documents (April 10, 2020)
§ 61:17	Chapter 71 of the Acts of 2020: An Act Providing for Virtual Notarization to Address Challenges Related to COVID-19 (the "Act")
§ 61:18	Form of acknowledgments and powers of attorney (February 4, 2021)
§ 61:19	Procedures for the processing of subsequent cases, condominium documents and document approvals (August 3, 2021)
§ 61:20	Prohibited Restrictions Under M.G.L. c. 184, § 23B; mandatory legends to be added to newly issued certificates of title; Land Court Standing Order 2-21 (July 1, 2021, reissued September 30, 2021)
§ 61:21	Repeal of electronic notarization as authorized by Section 12 of Chapter 22 of the Acts of 2022 and enactment of "Remote Online Notarization" (March 31, 2023, updated December 29, 2023)
§ 61:22	Form of instruments of taking for tax delinquencies (G.L. c. 60, §§ 53, 54) and voluntary acknowledgment (January 9, 2024)
§ 61:23	Execution/signature date on mortgage instruments presented for registration (June 14, 2024)

- § 61:24 Updated procedures for registering Land Court orders, endorsements, and approved documents (October 28, 2024)
- § 61:25 Land Court Guideline 63 (Voluntary Withdrawal, G.L. c. 185, § 52) and Guideline 64 (Withdrawal From Registration, G.L. c. 183A, § 16) (January 27, 2025)
- § 61:26 Amendment of Section 114 under Chapter 185 of the General Laws as Authorized by Section 49 of Chapter 150 of the Acts of 2024 (January 27, 2025)

CHAPTER 62. DEED INDEXING STANDARDS

- § 62:1 Deed Indexing Standards for the Commonwealth of Massachusetts (January 1, 2025)
- § 62:2 January 1, 2025 Deed Indexing Standards for the Commonwealth of Massachusetts replaces prior edition dated January 1, 2018
- § 62:3 Barnstable Registry of Deeds E-File Submitter Agreement
- § 62:4 Plymouth Registry of Deeds E-File Submitter Agreement
- § 62:5 Norfolk Registry of Deeds E-File Guide

Table of Laws and Rules

Table of Cases

Index