Volume 1

CHAPTER 1. NATURE AND DEVELOPMENT OF REALTY MORTGAGES

- § 1:1 Definition
- § 1:2 Distinguishing characteristics
- § 1:3 Mortgage as security for unliquidated promise
- § 1:4 Lien theory

CHAPTER 2. EQUITABLE OR IRREGULAR MORTGAGES

- § 2:1 In general
- § 2:2 Nature and establishment
- § 2:3 Proof by parol
- § 2:4 Absolute conveyance as security
- § 2:5 Deed taking effect on payment
- § 2:6 Deed providing for repurchase
- § 2:7 Deposit of title deeds
- § 2:8 Assignment of contract to purchase
- § 2:9 Advance of purchase money
- § 2:10 Purchase at ineffective judicial sale
- § 2:11 Agreement to give money
- § 2:12 Informal or defective mortgages
- § 2:13 Vendors' and vendees' liens

CHAPTER 3. REGULAR MORTGAGES

- § 3:1 Mortgage instruments
- § 3:2 —Construction of instruments
- § 3:3 Mortgage as conveyance; effects
- § 3:4 Types of mortgages—In general
- § 3:5 —Junior residential mortgages
- § 3:6 —Credit line mortgages
- § 3:7 —Graduated payment mortgages
- § 3:8 —Alternative mortgage instruments
- § 3:9 ——Reverse annuity mortgages—Sixty years or older
- § 3:10 ———Seventy years or older

§ 3:11	New York legislation regulating reverse mortgages issued under federal home equity conversion mortgage program
§ 3:12	Reverse cooperative apartment unit loans
§ 3:13	Types of mortgages—Alternative mortgage instruments—Adjustable rate mortgages
§ 3:14	Formal requisites—Statement of names and addresses
§ 3:15	—Description of mortgaged property
§ 3:16	Mortgage conditions—In general
§ 3:17	—Warranty of title
§ 3:18	—Promise to pay debt
§ 3:19	—Payment of taxes, assessments and water rates
§ 3:20	—Statement of amount due
§ 3:21	—Maintenance of property in good repair
§ 3:22	—Removal or demolition of buildings
§ 3:23	—Insurance of mortgagee's interest
§ 3:24	—Proof of insurance
§ 3:25	—Default interest rate
§ 3:26	—Lease terms
§ 3:27	Clauses accelerating maturity
§ 3:28	—Due-on-sale clauses
§ 3:29	—Prepayment clauses and penalties
§ 3:30	Covenant for appointment of receiver
§ 3:31	Practical suggestions
§ 3:32	Forms—Statutory mortgage
§ 3:33	—First mortgage
§ 3:34	—Subordinate mortgage, individual or corporation
§ 3:35	—FNMA/FHLMC forms—Single family mortgage
§ 3:36	—Multifamily mortgage
§ 3:37	—Second mortgage
§ 3:38	—One- to four-family rider
§ 3:39	—Condominium rider
§ 3:40	—Planned unit development rider
§ 3:41	—Adjustable rate riders—One-year treasury index;
, 0,11	rate caps
§ 3:42	— —Fractional one-year treasury index; rate caps
§ 3:43	— One-year treasury index; rate caps; fixed rate
Ü	conversion option
§ 3:44	——Another form
§ 3:45	——Cost of funds index; rate caps
§ 3:46	—Fixed/adjustable rate rider
§ 3:47	— —Ten-year treasury index; rate caps

§ 3:48	—Fixed/ajustable rate rider—Ten-year treasury index rate caps; conversion option
§ 3:49	——One-year treasury index; payment and rate caps
§ 3:50	——One-year treasury index; fixed rated conversion
e o = 1	option
§ 3:51	— — Three-year treasury index; rate caps
§ 3:52	— —Three-year treasury index; rate caps; fixed rate conversion option
§ 3:53	—Certificate of deposit index; rate caps
§ 3:54	— —Three-year treasury index; rate caps
§ 3:55	— —Three-year treasury index; rate caps; fixed rate conversion option
§ 3:56	—Certificate of deposit index; rate caps; fixed rate conversion option
§ 3:57	—Cost of funds index; rate caps; fixed rate conversion option
§ 3:58	——Fixed rate option addendum
§ 3:59	—Biweekly payment rider—Fixed rate
§ 3:60	— — Without conversion
§ 3:61	———HUD notice of rate and payment adjustment
§ 3:62	—Graduated payment rider
§ 3:63	— One-year treasury index; payment and rate caps
§ 3:64	——Another form
§ 3:65	——Fixed rate
§ 3:66	—Balloon rider—Conditional right to refinance
§ 3:67	Prevailing interest rate commitment

CHAPTER 3A. REGULATION OF RESIDENTIAL MORTGAGE BANKERS AND BROKERS

§ 3A:1 In general § 3A:2 Exemptions § 3A:3 Licensing of mortgage bankers —Minimum standards § 3A:4 § 3A:5 Registration of mortgage brokers -Minimum standards § 3A:6 § 3A:7 —Fiduciary obligations of brokers Registration of mortgage loan originators § 3A:8 Registration and regulation of mortgage loan § 3A:9 servicers § 3A:10 Branch offices § 3A:11 —Origination of federally insured loans by mortgage brokers

§ 3A:12	Regulation of industry practices—Advertising
§ 3A:13	—Application and commitment procedures and disclosures
§ 3A:14	— —Disclosure form regarding broker's dual agency role
§ 3A:15	——Preapplication disclosure and fee agreement— Registered mortgage brokers
§ 3A:16	— — Licensed mortgage bankers
§ 3A:17	——Lock-in agreement
§ 3A:18	— — New York interest rate lock commitment
§ 3A:19	—Other prohibited conduct
§ 3A:20	Administrative sanctions
§ 3A:21	Hearing procedures
§ 3A:22	Civil and criminal penalties; liquidated damages
§ 3A:23	Lender payments to mortgage brokers
§ 3A:24	Forms—Application for mortgage banker license; instruction sheet
§ 3A:25	Regulation of dealings of mortgage brokers and home improvement contractors
§ 3A:26	Forms—Application for mortgage banker license; instruction sheet—Individual or partnership application
§ 3A:27	— —Corporation application
§ 3A:28	— — Questionnaire
§ 3A:29	— —Financial statement
§ 3A:30	——Statement of ownership
§ 3A:31	——Certification
§ 3A:32	— —Litigation affidavit
§ 3A:33	——Taxpayer identification information
§ 3A:34	—Certificate of compliance
§ 3A:35	—Application for registration as mortgage broker, with line-by-line instructions
§ 3A:36	——Personal history questionnaire, with line-by-line instructions
§ 3A:37	——Personal financial questionnaire
§ 3A:38	—Fingerprint card (with accompanying notices)
§ 3A:39	—Fingerprint card, FBI
§ 3A:40	—Bond—Licensed mortgage bankers (with deposit
3 011.10	agreement)
§ 3A:41	——Registered mortgage broker—FHA mortgage
, 022,12	loan correspondent application (bond requirements and statutory authority)
§ 3A:42	—Dual agency disclosures

§ 4:28

Loan estimate

§ 3A:43	—Questions and answers on dual agency disclosure
§ 3A:44	requirements —Record retention requirements for mortgage
8 9W.44	bankers
§ 3A:45	—Insured closing protection letters by title insurers
§ 3A:46	—Procedures and requirements for mortgage brokers
	to act as FHA mortgage loan correspondents
§ 3A:47	—Supervisory procedure MB 106: Application to act
	as an FHA mortgage loan correspondent
§ 3A:48	—Business conduct rules for loan servicers
CHAI	PTER 4. MORTGAGE OBLIGATION
§ 4:1	In general
§ 4:2	Construction of debt instrument; conflict with mortgage
§ 4:3	Scope of indebtedness; interest
§ 4:4	Consideration
§ 4:5	Mortgage bonds
§ 4:6	Collateral mortgage bonds
§ 4:7	Mortgage notes
§ 4:8	Corporate debentures
§ 4:9	Interest coupons
§ 4:10	Purchase money mortgages
§ 4:11	Mortgage obligations not expressly documented
§ 4:12	Indemnity mortgages
§ 4:13	Future obligations and advances
§ 4:14	—"Dragnet" clauses
§ 4:15	—Future support
§ 4:16	Antecedent indebtedness
§ 4:17	Disclosure of credit terms
§ 4:18	Real Estate Settlement Procedures Act
§ 4:19	Anti-predatory lending legislation
§ 4:20	Banking board restrictions and limitations on high cost home loans
§ 4:21	Subprime home loan legislation
§ 4:22	Industry Efforts to Curb Predatory Lending Abuses
§ 4:23	Escrow accounts; interest
§ 4:24	—Real property tax escrow accounts
§ 4:25	—Insurance draft deposits
§ 4:26	Truth-in-Lending Act
§ 4:27	Disclosure under Consumer Financial Protection Bureau rules

§ 4:29	Closing disclosure
§ 4:30	Truth-in-Lending Act—General disclosures
§ 4:31	Special rules for certain home mortgage transactions relating to consumer credit under Regulation Z—General rules
§ 4:32	—Certain closed-end home mortgages
§ 4:33	—Reverse mortgages
§ 4:34	—Prohibited acts or practices
§ 4:35	Home equity loan disclosures
§ 4:36	—Home equity plans
§ 4:37	—Variable rate transactions
§ 4:38	—Subsequent disclosure requirements
§ 4:39	Home equity loan advertising
§ 4:40	Electronic communications under Regulation Z
§ 4:41	Practical suggestions
§ 4:42	Forms—Statutory bond and mortgage
§ 4:43	—Mortgage note, individual or corporation
§ 4:44	—Purchase-money note and mortgage
§ 4:45	——Partial release of portions of mortgaged property
§ 4:46	—Reverse annuity note rider
§ 4:47	—Real property transfer report instructions
§ 4:48	—Tax escrow account—Notice of Change in Status of
8 4 40	Escrow Accounts
§ 4:49	——Designation of institution to receive tax bills
§ 4:50	— List of Affected Properties
§ 4:51	— Combined real estate tax return, credit line mortgage certificate, and certification of exemption from the payment of estimated personal income tax
§ 4:52	——Supplemental Schedules
§ 4:53	Loan counseling for VA home loan applicants
§ 4:54	FNMA/FHLMC forms—Single family note
§ 4:55	New York single family mortgage
§ 4:56	FNMA/FHLMC New York single family short form
	mortgage
§ 4:57	Adjustable rate rider
§ 4:58	—Multifamily note
§ 4:59	—Condominium rider
§ 4:60	—Planned unit development rider
§ 4:61	—Note on second mortgage
§ 4:62	—Growing equity note
§ 4:63	—Adjustable rate notes—One-year treasury index; rate caps
§ 4:64	——One-year treasury index; payment and rate caps

§ 4:65	——One-year treasury index; rate caps; fixed rate
8 4.00	conversion option
§ 4:66	— —Three-year treasury index; rate caps
§ 4:67	——Fractional one-year treasury index; rate caps
§ 4:68	——Second Home Rider
§ 4:69	——One-to-Four Family Rider
§ 4:70	——Affordable Merit Rate Rider
§ 4:71	— —Three-year treasury index; rate caps
§ 4:72	——Three-year treasury index; rate caps; fixed rate
0 4 = 0	conversion option
§ 4:73	—Fixed/adjustable rate note
§ 4:74	— —Ten-year treasury index; rate cap
§ 4:75	—Cost of funds index; rate caps; fixed rate conversion
	option
§ 4:76	— —Three-year treasury index; rate caps; fixed rate
	conversion option
§ 4:77	 —Certificate of deposit index; rate caps
§ 4:78	——Certificate of deposit index; rate caps; fixed rate
	conversion option
§ 4:79	—Addendum to adjustable rate note
§ 4:80	— Fixed rate option addendum
§ 4:81	—Graduated payment note—One-year treasury
	index; payment and rate cap
§ 4:82	——Fixed rate
§ 4:83	—Note—Biweekly payments; fixed rate
§ 4:84	— Fixed rate; without conversion
§ 4:85	—Balloon note—Fixed rate
§ 4:86	— —Balloon note addendum
§ 4:87	—Adjustable rate note—11th district cost of funds
	index; rate caps
§ 4:88	—Interest first fixed rate note
§ 4:89	—Initial interest adjustable rate note—One year
	treasury index—Assumable during life of loan
§ 4:90	— — — Assumable after initial period
§ 4:91	— —One year LIBOR index—Assumable during life
Ü	of loan
§ 4:92	— — —Assumable after initial period
§ 4:93	—Multifamily loan application
§ 4:94	Residential loan application
§ 4:95	—Personal financial statement
§ 4:96	—Statement of assets and liabilities
§ 4:97	Residential appraisal report
§ 4:98	——Certification and statement of limiting
3 1.00	conditions

§ 4:99	— —New York Consolidation, Extension, and Modification Agreement
§ 4:100	——Agreement to Convert
§ 4:100	—Closing financial statement
§ 4:102	Truth in lending—Loan model form
§ 4:103	
§ 4:104	—Disclosure notice—Convertible one-year adjustable
	rate mortgages
§ 4:105	
§ 4:106	—Variable-rate model clauses
§ 4:107	——Alternate form
§ 4:108	— — Preconsummation disclosures
§ 4:109	——Disclosures after interest rate adjustment
§ 4:110	—Demand feature model clauses
§ 4:111	—Assumption policy model clause
§ 4:112	—Required deposit model clause
§ 4:113	—Rescission model forms—General
§ 4:114	——Refinancing
§ 4:115	—Mortgage with demand feature sample
§ 4:116	—Variable rate mortgage sample
§ 4:117	—Graduated payment mortgage sample
§ 4:118	—Disclosure notice, home equity loans
§ 4:119	—Loan estimate
§ 4:120	—Closing disclosure
§ 4:121	—Information pamphlet for residential mortgage applicants

CHAPTER 5. PARTIES TO MORTGAGE

- § 5:1 In general § 5:2 Mortgagor § 5:3 Discrimination Discrimination under the Fair Housing Act § 5:4 Capacity to mortgage § 5:5 § 5:6 —Citizens and aliens § 5:7 —Infants —Incompetents and conservatees § 5:8 § 5:9 —Corporations, associations and partnerships § 5:10 —Syndicate and group mortgages § 5:11 —Executors, administrators and testamentary trustees
- § 5:12 Trustees of express trusts
- § 5:13 Condominial ownership
- § 5:14 United states as mortgagee

§ 5:15	Joint and common mortgagees; entireties
§ 5:16	Distinguishing between validity and recordability
§ 5:17	Subscription or signature
§ 5:18	Signature—Mark
§ 5:19	—Other person's
§ 5:20	—Fictitious name
§ 5:21	Forms—Consent of shareholders to sale or lease
§ 5:22	—Affidavit of shareholders' vote and director's
	resolution authorizing sale or lease of corporate
	property
§ 5:23	—Affidavit that partnership authorized mortgage
§ 5:24	—Affidavit certifying resolution of board of directors
	authorizing mortgage of corporate real property

CHAPTER 6. EXECUTION OF MORTGAGES

- § 6:1 Execution by agent or attorney in fact § 6:2 Statutory form of power of attorney
- § 6:3 Revocation of agent's authority by death
- § 6:4 Corporate execution
- § 6:5 Religious and membership corporations
- § 6:6 Partial or defective execution
- § 6:7 Practical suggestions
- § 6:8 Checklist—Preparations for closing of mortgage
- § 6:9 Forms—General power of attorney, statutory short form

CHAPTER 7. ACKNOWLEDGEMENT OR PROOF, CERTIFICATION AND AUTHENTICATION

- § 7:1 Acknowledgment in general
- § 7:2 —Signer
- § 7:3 —Married woman
- § 7:4 —Corporation
- § 7:5 Proof by subscribing witness
- § 7:6 Certificate of acknowledgment
- § 7:7 Authentication
- § 7:8 Acknowledgment or proof and authentication within state
- § 7:9 Electronic notarization
- § 7:10 Acknowledgment or proof and authentication within state—Outside New York state
- § 7:11 —Foreign soil
- § 7:12 —Military service

§ 7:13	Practical suggestions
§ 7:14	Uniform form of certificate of acknowledgment
§ 7:15	Uniform form of certificate of proof of execution by a subscribing witness
§ 7:16	Uniform form of certificate of acknowledgment without the state
§ 7:17	Uniform form of proof of execution by a subscribing witness without the state
§ 7:18	Certificate of authenticity of electronically notarized document
§ 7:19	Uniform form of proof of execution by a subscribing witness without the state—Taken in military service
§ 7:20	—Foreign country—Great Britain and Northern Ireland
§ 7:21	Certificate of conformity of acknowledgement to law of sister state

CHAPTER 8. RECORDING MORTGAGES

§ 8:1	Recording acts
§ 8:2	Recording officers
§ 8:3	Registration and recording—Distinctions
§ 8:4	Manner of recording
§ 8:5	Electronic recording of instruments affecting real property
§ 8:6	Indexing
§ 8:7	Formal prerequisites
§ 8:8	Recording in more than one county
§ 8:9	Master forms
§ 8:10	Priority of recording
§ 8:11	Notice from record
§ 8:12	Conveyances before grantor or mortgagor acquires title
§ 8:13	Persons within scope of recording acts
§ 8:14	—Mortgagee and subsequent encumbrancers
§ 8:15	—Mortgagor and mortgagee
§ 8:16	—Grantees of subsequent encumbrancers
§ 8:17	Consideration
§ 8:18	Cancellation of improper recording
§ 8:19	Practical suggestions
§ 8:20	Forms—Master form of mortgage conditions and
	covenants
§ 8:21	——Short form

CHAPTER 9. MORTGAGE RECORDING TAX

§ 9:1 In general

§ 9:2	Instruments subject to tax
§ 9:3	Exemptions
§ 9:4	Advances pursuant to credit line mortgages
§ 9:5	—Personal property
§ 9:6	Amount of tax
§ 9:7	Determination and apportionment
§ 9:8	—Land partly in and partly out of state
§ 9:9	Future advances and open end mortgages
§ 9:10	Correction and supplemental mortgages
§ 9:11	Mortgages for indefinite amounts or contract
	obligations
§ 9:12	Trust mortgages
§ 9:13	Unrecorded, lost or destroyed instruments
§ 9:14	Payment
9:15	Effect of nonpayment
§ 9:16	Refund of mortgage taxes after rescission of certain
	credit transactions
9:17	Tax as lien
§ 9:18	Enforcement
9:19	Payment by trust mortgagees
9:20	Duty of county clerks and recording officers
9:21	Review of action of recording officer
9:22	Form—255 affidavit
§ 9:23	—Mortgage recording tax return
$\S 9:24$	—Mortgage recording tax—Claim for refund

CHAPTER 10. DELIVERY AND ACCEPTANCE

- § 10:1 Necessity § 10:2 Sufficiency
- § 10:3 Delivery to third person
- § 10:4 Conditional delivery
- § 10:5 Mortgages and deeds—Distinctions
- § 10:6 Acceptance

CHAPTER 11. PROPERTY AND INTERESTS MORTGAGED

- § 11:1 In general
- § 11:2 Description
- $\S 11:3$ Reference to maps and other instruments
- § 11:4 Personal property, appurtenances and fixtures
- § 11:5 Property subsequently acquired

§ 11:6	Realty mortgagee and conditional vendor of removables
§ 11:7	Exemptions and reservations
§ 11:8	Crops and timber
§ 11:9	Buildings and improvements
§ 11:10	Accretion, erosion and avulsion
§ 11:11	Title or interest mortgaged
§ 11:12	Life estates
§ 11:13	Leaseholds and rent rights
§ 11:14	Remainders, reversions and executory estates
§ 11:15	Dower consummate
§ 11:16	Interests in decedents' estates
§ 11:17	Vendees' interests
§ 11:18	Trust interests
§ 11:19	Cemetery lands
§ 11:20	Practical suggestions

CHAPTER 12. [Reserved]

CHAPTER 13. BUILDING LOAN MORTGAGES

§ 13:1	Nature and definition
§ 13:2	Statutory requirements
§ 13:3	Priority over mechanics' liens
§ 13:4	Affordable housing development loans
§ 13:5	Practical suggestions
§ 13:6	Forms—Mortgage
§ 13:7	—Bond, individual or corporation
§ 13:8	—Description of materials
§ 13:9	—Covenant subordinating purchase-money mortgage
	to construction loan mortgage

CHAPTER 14. MORTGAGES ON LEASEHOLDS

§ 14:1	Nature
§ 14:2	Distinctions
§ 14:3	Mortgage on lease as conveyance
§ 14:4	Form and interpretation
§ 14:5	Rights under mortgage on lease
§ 14:6	Mortgagee's right to pay lessor
§ 14:7	Equitable mortgage on lease

§ 14:8 Improvements and fixtures § 14:9 Mortgage as covering security deposit § 14:10 Renewal of lease § 14:11 Consent of lessor-owner § 14:12 Duration of mortgage § 14:13 Recording § 14:14 Foreclosure § 14:15 Redemption—Right § 14:16 —Procedure § 14:17 Forms—Ground lease analysis —Statutory mortgage on lease of real property § 14:18

CHAPTER 15. GOVERNMENT-GUARANTEED MORTGAGES

§ 15:1 Government insurance and guarantee programs § 15:2 National Housing Act § 15:3 Federal housing administration § 15:4 FHA home mortgage insurance § 15:5 Insurable home mortgages § 15:6 FHA home mortgages § 15:7 —Prepayment § 15:8 Home mortgage insurance Disaster housing loans § 15:9 § 15:10 Mortgages on government-owned property FHA Condominium project approval—Owner § 15:11 occupancy requirements § 15:12 FHA commitments § 15:13 Guaranteed mortgages of veterans § 15:14 —Definition of veteran § 15:15 —Basic entitlement § 15:16 —Veterans' loan procedures and requirements § 15:17 —Veterans' payments and foreclosure § 15:18 Applicability of New York law § 15:19 Priority of government claims § 15:20 Secret agreements § 15:21 Mortgagor's recourse for unfair treatment § 15:22 Conditional contracts § 15:23 Federal national mortgage association § 15:24 Federal home loan mortgage corporation § 15:25 American Dream Downpayment Act § 15:26 Hope for homeowners program § 15:27 Federally insured reverse mortgages

§ 15:28	Covid-19 emergency legislation
§ 15:29	State of New York Mortgage Agency
§ 15:30	Forms—Guaranteed/insured mortgage application (VA, FmHA, HUD)
§ 15:31	—Request for certificate of eligibility for VA home loan benefits
§ 15:32	—VA loan summary sheet
§ 15:33	— —Loan Analysis
§ 15:34	Debt questionnaire
§ 15:35	Forms—VA certification of commitment
§ 15:36	—Alternate form
§ 15:37	—HUD certification of commitment
§ 15:38	—Application for property appraisal (VA, HUD)
§ 15:39	—VA request for determination of reasonable value
§ 15:40	—VA certification of reasonable value
§ 15:41	—VA rider for home improvement loan application
§ 15:42	—VA report and certification of loan disbursement
§ 15:43	—Description of materials (VA, FmHA, HUD)
§ 15:44	—VA warranty of construction completion
§ 15:45	—VA request for certificate of eligibility
§ 15:46	——Request for determination of loan guarantee eligibility—Unmarried surviving spouses
§ 15:47	—Statement of Purchaser or Owner Assuming Seller's Loan
§ 15:48	—Verification of employment (VA, FmHA, HUD)
§ 15:49	—Verification of deposit (VA, HUD)
§ 15:50	—VA certification of loan disbursement
§ 15:51	—Creditor disclosures
§ 15:52	Application for assistance in acquiring specially adapted housing

CHAPTER 16. CONVEYANCE OF PROPERTY AND ASSUMPTION OF MORTGAGE

- $\S~16:1~$ Personal and property liability distinguished
- § 16:2 Alienability of mortgaged realty
- § 16:3 Conveyance subject to mortgage
- § 16:4 Grantee's assumption of mortgage
- § 16:5 Conveyance without subjection or assumption
- § 16:6 Assumption agreement
- § 16:7 Mortgagor-grantor's recourse
- § 16:8 Practical suggestions

CHAPTER 17. SUBSEQUENT TRANSACTIONS AFFECTING MORTGAGE

§ 17:1	In general
§ 17:2	Rights of junior mortgagee
§ 17:3	—Surety's right of subrogation
§ 17:4	Effect of receiver's certificate on mortgage lien
§ 17:5	Tacking
§ 17:6	—Payoff of senior debt by junior mortgagee
§ 17:7	Substitution or renewal of mortgage
§ 17:8	Extension and modification agreements
§ 17:9	—Statute of frauds
§ 17:10	Single point of contact for modifying delinquent home loans
§ 17:11	Extension and modification agreements—Recording modification agreements
§ 17:12	—Effect on sureties
§ 17:13	Subordination
§ 17:14	—Agreements
§ 17:15	Consolidation agreements
§ 17:16	Spreader agreements
§ 17:17	Divider agreements
§ 17:18	Wraparound mortgages
§ 17:19	Slum rehabilitation receivership
§ 17:20	Repair or removal of dangerous buildings and structures
§ 17:21	Practical suggestions
§ 17:22	Forms—Extension agreement
§ 17:23	-Extension and consolidation agreement
§ 17:24	—Subordination agreement—Mortgage
§ 17:25	——Lease
§ 17:26	—Wraparound mortgage clauses
§ 17:27	—Wraparound note
§ 17:28	 Agreement of spreader, consolidation and modification of mortgage and note
§ 17:29	Bankruptcy proceedings—In general
§ 17:30	—Automatic stays
§ 17:31	—Chapter 7 proceedings
§ 17:32	—Chapter 11 proceedings
§ 17:33	—Chapter 13 proceedings
§ 17:34	—Practical suggestions

CHAPTER 18. ASSIGNMENT OF MORTGAGE

_		
§	18:1	In general
§	18:2	Effecting assignment
§	18:3	—Contents of assignment instrument
§	18:4	—Notice of assignment
§	18:5	Assignment and certificate of discharge
§	18:6	Estoppel
§	18:7	—Corporate assignor
§	18:8	—Defenses
§	18:9	Latent equities against assignee
§	18:10	Defense to secured negotiable instruments
§	18:11	Partial assignment
§	18:12	Recording
§	18:13	Practical suggestions
§	18:14	Forms—Statutory assignment of mortgage
§	18:15	Statutory assignment of mortgage—Alternate form
§	18:16	—Assignment of mortgage with covenant, individual
		or corporation
§	18:17	—Assignment of mortgage without covenant,
		individual or corporation
_	18:18	—Mortgage assignment as collateral security
_	18:19	—Mortgage assignment without recourse
§	18:20	Partial assignment of mortgage
§	18:21	Statutory assignment of mortgage—Owner's estoppel certificate
§	18:22	—Lienor's estoppel certificate
Ş	18:23	—Certificate of time of filing

CHAPTER 19. PARTICIPATING INTERESTS

§ 19:1	Securing more than one debt
§ 19:2	Partial assignment
§ 19:3	Trust mortgages
§ 19:4	-Enforcement of bondholders' rights by trustee
§ 19:5	—Right of Bondholders To Act
§ 19:6	— Requirement of demand by bondholders
§ 19:7	Priority and enforcement between participating interests
§ 19:8	Priority between several debts secured
§ 19:9	Practical suggestions
§ 19:10	Forms—Share ownership agreement
§ 19:11	—Mortgage participation agreement

CHAPTER 20. RIGHTS AND OBLIGATIONS UNDER MORTGAGES

_	
§ 20:1	Nature and source
§ 20:2	Possession and control of property
§ 20:3	Insurance
§ 20:4	—Mortgagee's insurable interest
§ 20:5	—Subrogation
§ 20:6	—Recovery of insurance proceeds
§ 20:7	Action for waste and damages
§ 20:8	—Elements of action
§ 20:9	—Measure of damages
§ 20:10	Taxes
§ 20:11	Repairing mortgaged property
§ 20:12	Condemnation and damage awards
§ 20:13	Paramount rights under police power
§ 20:14	Vendees' and judgment liens
§ 20:15	Right of reentry and power of sale
§ 20:16	Lender liability for hazardous waste
§ 20:17	—Inactive hazardous waste disposal site registry
	index
§ 20:18	Prepayment
§ 20:19	Mortgagee's rights to recover for property damage sustained by reason of acts or omissions of third parties
§ 20:20	Mortgagee's rights against title companies
§ 20:21	Forms—Demand for relief after default in failure to
0	insure premises
§ 20:22	—Demand for relief after payment of fire insurance
	premiums by mortgagee and prayer for recovery of
	amount of payment
§ 20:23	—Demand for relief after default in failure to pay
00004	taxes
§ 20:24	—Demand for relief after payment of taxes by
	mortgagee and prayer for recovery of amount of payment
§ 20:25	—Mortgage provision for notice of litigation affecting
g 20.20	mortgaged property
§ 20:26	—Mortgage provision for assignment of condemnation
	awards
§ 20:27	—Real property transfer gains tax questionnaire—
-	Transferee
8 20.28	— —Transferor

CHAPTER 21. MORTGAGEE IN POSSESSION

§ 21:1 Creation of right to possession Assignment of rents § 21:2 § 21:3 Mortgage or contractual provisions § 21:4 Possession under defective foreclosure sale § 21:5 Mortgagee as mortgagor's agent § 21:6 Duration of mortgagee's possession Ouster by foreclosure and receivership § 21:7 § 21:8 Mortgagee's status § 21:9 Obligations and expenditures Application of proceeds to principal and interest § 21:10

Forms—Assignment of rents and profits

CHAPTER 22. PRIORITIES

§ 22:1 Determination

Accounting

- § 22:2 Purchase money mortgages
- § 22:3 Vendees' liens
- § 22:4 Vendors' liens
- § 22:5 Assignees

§ 21:11

§ 21:12

- § 22:6 Mortgages securing future advances
- § 22:7 Credit line mortgages
- § 22:8 Equitable mortgages and liens
- § 22:9 Bondholders of tenants
- § 22:10 Mechanics' liens
- § 22:11 Judgment liens
- § 22:12 Land contracts and purchase money mortgages
- $\S~22:13$ Liens for unpaid realty taxes, water rates, sewer rents
- § 22:14 Liens in exercise of police power
- § 22:15 —City of New York liens
- § 22:16 Condominium liens for unpaid common charges
- § 22:17 Transactions involving family members

CHAPTER 23. PRIORITY OF FEDERAL TAX LIENS

- § 23:1 Federal tax liens
- § 23:2 State and federal sovereignties
- § 23:3 Accrual of federal general tax liens
- § 23:4 Statutory priorities before 1966

§ 23:5 Federal Tax Lien Act of 1966
§ 23:6 Circular priorities
§ 23:7 Insolvency or bankruptcy of taxpayer
§ 23:8 Duration of federal tax lien
§ 23:9 Cutting off lien by foreclosure
§ 23:10 Release of federal tax liens
§ 23:11 Practical suggestions

CHAPTER 24. PAYMENT ON MORTGAGES

- § 24:1 Obligation to pay
- § 24:2 Terms
- § 24:3 Place
- § 24:4 Time
- § 24:5 —Prepayment
- § 24:6 —Prepayment bonus in demolition acceleration
- § 24:7 —Late charges
- § 24:8 Demand for statement of balance due
- § 24:9 Tender
- § 24:10 —Keeping tender good by deposit
- § 24:11 —Tender after default
- § 24:12 —Tender after foreclosure begun
- § 24:13 Payment of assigned mortgage
- § 24:14 Methods of payment—Agent
- § 24:15 —One of joint mortgagees
- § 24:16 —Offset
- § 24:17 —Setoff of rents
- § 24:18 —Check
- § 24:19 —Promissory note
- § 24:20 —Compromise or reduction
- § 24:21 —Condemnation under eminent domain
- § 24:22 Ancient mortgages; loss of instrument
- § 24:23 Effect of payment
- § 24:24 Certificate of discharge
- § 24:25 Mortgage guaranty insurance
- § 24:26 Forms—Mortgagee's certificate of reduction
- § 24:27 —Prepayment with penalty

CHAPTER 25. PARTIAL RELEASE AND SATISFACTION

- § 25:1 Partial release
- § 25:2 Mortgagor's right to partial release
- § 25:3 Exercise of right

§ 25:4	Conditions of exercise of right
§ 25:5	Exercise by mortgagor in default
§ 25:6	Release by holder of participating interest
§ 25:7	Release by fiduciary
§ 25:8	Preparation and effectuation of release
§ 25:9	Satisfaction piece
§ 25:10	Satisfaction by multiple holders or trustees
§ 25:11	Satisfaction by holders of participating interests
§ 25:12	Satisfaction of mortgage held by unrepresented intestate
§ 25:13	Separate satisfaction pieces
§ 25:14	Satisfaction by attorney in fact or trustee
§ 25:15	Practical suggestions
§ 25:16	Forms—Statutory release of part of mortgaged premises
§ 25:17	—Release of part of mortgaged premises
§ 25:18	——Alternate form
§ 25:19	—Statutory satisfaction of mortgage
§ 25:20	—Satisfaction of mortgage, individual or corporation
§ 25:21	—Order to show cause why partial release of lien of mortgage should not be ordered
§ 25:22	—Petition for partial release of lien of mortgage
§ 25:23	—Order partially releasing lien of mortgage of record

CHAPTER 26. PERSONAL ACTIONS ON DEBT

- § 26:1 Derivation and nature § 26:2 Election of remedies
- § 26:3 Foreclosure deficiency as exclusive remedy
- § 26:4 Leave of court
- § 26:5 Contractual restrictions
- § 26:6 Limitation of actions
- § 26:7 Effect of death of mortgagor or guarantor

CHAPTER 27. FORECLOSURE, IN GENERAL

- § 27:1 Theory of foreclosure
- § 27:2 Kinds of foreclosure
- § 27:3 Election of remedies
- § 27:4 Maturity
- § 27:5 Effects of foreclosure—Fire insurance
- § 27:6 —Tax liens

- § 27:7 —Title
 § 27:8 —Personal property lien
 § 27:9 Effects on foreclosure—Mortgagor's bankruptcy
- § 27:10 —Condemnation of mortgaged property

CHAPTER 28. ACCELERATION AND THE RIGHT TO FORECLOSE

- § 28:1 Introduction to acceleration
- § 28:2 Forms of mortgages
- § 28:3 Mortgage as contract
- § 28:4 Acceleration clause
- § 28:5 Acceleration and election of remedies
- § 28:6 Acceleration as not self-executing
- § 28:7 Notice requirements for acceleration
- § 28:8 Default as prerequisite to acceleration
- § 28:9 Manifesting election to accelerate
- § 28:10 Tender of arrears and timing of acceleration
- § 28:11 Strict view of acceleration
- § 28:12 Acceleration—Breach of any condition
- § 28:13 —Due on sale clause
- § 28:14 ——Federal preemption of state law
- § 28:15 —Tax defaults
- § 28:16 —Lack of repair
- § 28:17 —Miscellaneous defaults
- § 28:18 Equitable principles—In general
- § 28:19 —Waiver of acceleration
- § 28:20 —Estoppel
- § 28:21 —Unconscionable conduct
- § 28:22 —Doctrine of unclean hands
- § 28:23 —Laches
- § 28:24 Revocation of acceleration
- § 28:25 Forms—Due-on-transfer rider
- § 28:26 —Acceleration clause; default of prior mortgage

Volume 2

CHAPTER 29. REPRESENTING MORTGAGORS

- § 29:1 In general
- § 29:2 Covid-19-related legislation

§ 29:3	Recovery of attorney fees
§ 29:4	—Relationship of attorney fees to defensive posture
§ 29:5	Redemption and mechanics of foreclosure
§ 29:6	Loss mitigation under Title X
§ 29:7	Loss mitigation under New York banking regulations
§ 29:8	Defensive posture toward deficiency judgments
§ 29:9	Acceleration and tender—In general
§ 29:10	—Tender
§ 29:11	—Acceleration
§ 29:12	Defensive posture toward surplus monies
§ 29:13	Defenses
§ 29:14	Practical suggestions

CHAPTER 30. DEED IN LIEU OF FORECLOSURE

§ 30:1	In general
§ 30:2	Effectiveness
§ 30:3	Procedure
§ 30:4	Consideration
§ 30:5	Objections to transaction
§ 30:6	Time of conveyance
§ 30:7	—After foreclosure begun
§ 30:8	Senior encumbrances
§ 30:9	Junior encumbrances
§ 30:10	Merger
§ 30:11	Forms—Estoppel affidavit

CHAPTER 30A. HOME EQUITY THEFT PREVENTION

§ 30A:1	Purpose of Home Equity Theft Prevention Act
§ 30A:2	Key provisions of the Act
§ 30A:3	Distressed property consulting contracts
§ 30A:4	Notice required in distressed property consulting contract
§ 30A:5	Notice of cancellation of distressed property consulting contract

CHAPTER 31. FORECLOSURE BY ACTION

- § 31:1 Development of foreclosure action § 31:2 Nature of foreclosure action
- § 31:3 Choice of procedure

§ 31:4 Checklist

CHAPTER 32. PARTIES TO FORECLOSURE ACTION

§ 32:1	Necessary and proper parties
§ 32:2	Indispensability of necessary parties
§ 32:3	Omission of proper parties
§ 32:4	Plaintiffs
§ 32:5	Defendants—Record owners
§ 32:6	—Mortgagors and obligors
§ 32:7	——Guarantors
§ 32:8	—Prior encumbrancers
§ 32:9	—Subsequent encumbrancers
§ 32:10	—Surviving spouse
§ 32:11	——Persons in possession
§ 32:12	Lessees and tenants
§ 32:13	—Adverse claimants
§ 32:14	—Vested and contingent remainders
§ 32:15	Judgment creditors
§ 32:16	—Contract vendees
§ 32:17	—General creditors
§ 32:18	—State of New York
§ 32:19	—United States
§ 32:20	—Tax sale purchasers and lienors
§ 32:21	—Mortgagor's vendee
§ 32:22	Assignee for the benefit of creditors
§ 32:23	Death of party
§ 32:24	—Substitution for deceased party
§ 32:25	Infants
§ 32:26	Incompetents and conservatees
§ 32:27	Representatives, heirs, devisees and legatees of mortgagor
§ 32:28	Nonparty intervenors
§ 32:29	Affidavit on motion to amend complaint to include additional defendants
§ 32:30	Order granting motion to amend complaint to include additional defendants

CHAPTER 33. PROCEDURE IN FORECLOSURE ACTION

§ 33:1 Jurisdiction and venue § 33:2 Notice of pendency

§ 33:3	Service of process
§ 33:4	Requirement of notice under Home Equity Theft Prevention Act
§ 33:5	Requirement of notice to borrowers prior to action upon home loans
§ 33:6	Special notice and filing requirements in reverse mortgage foreclosures
§ 33:7	Notice to debtor of foreclosure of cooperative apartment loan
§ 33:8	Notice required of foreclosure of reverse cooperative apartment unit loan
§ 33:9	Foreclosure Abuse Prevention Act
§ 33:10	Consumer Bill of Rights
§ 33:11	Protection for tenants in foreclosed residential real property
§ 33:12	Filing notice of residential foreclosures with Superintendent of Banks following 90-day notice
§ 33:13	Registration of residential mortgages in default
§ 33:14	Duty to maintain foreclosed property
§ 33:15	Duty to maintain vacant or abandoned property prior to foreclosure
§ 33:16	Foreclosure actions involving abandoned properties
§ 33:17	Personal service within state
§ 33:18	—Substituted service
§ 33:19	Service by publication
§ 33:20	Personal service outside state
§ 33:21	Personal service by mail
§ 33:22	Statement of service by mail and acknowledgement of receipt
§ 33:23	Special summons requirement in private residence cases
§ 33:24	Appearance
§ 33:25	Mandatory settlement conference in actions brought upon home loans
§ 33:26	Face-to-face meeting for foreclosure of reverse cooperative apartment unit loan
§ 33:27	Protecting Tenants at Foreclosure Act of 2009
§ 33:28	Verifying accuracy of documents filed
§ 33:29	Certificate of merit to accompany complaint in residential foreclosure action
§ 33:30	Complaint
§ 33:31	Stipulations
§ 33:32	Answer and reply

§ 33:33	Default judgments
§ 33:34	Motion practice
§ 33:35	Successive actions and the savings clause
§ 33:36	Motions addressed to the pleadings
§ 33:37	Summary judgment
§ 33:38	—In lieu of complaint
§ 33:39	Trial
§ 33:40	Reference to compute
§ 33:40 § 33:41	Proceedings on the reference
§ 33:42	Report and confirmation
§ 33:43	Abandoned dwellings
§ 33:44	Practical suggestions
§ 33:45	Stipulations of settlement
§ 33:46	Checklist
§ 33:40 § 33:47	
-	Forms—Notice of pendency of action
§ 33:48	Notice of pendency of action—Alternate form
§ 33:49	—Summons
§ 33:50	Notice required under Home Equity Theft Prevention Act
§ 33:51	Notice to tenant of foreclosure of dwelling
§ 33:52	Notice to debtor of foreclosure of cooperative apartment loan
§ 33:53	Notice of foreclosure of reverse cooperative apartment unit loan
§ 33:54	Notice to borrowers prior to action upon home loans
§ 33:55	Notice to borrowers prior to action upon reverse mortgage home loan
§ 33:56	Attorney's affirmation confirming factual accuracy of court filings
§ 33:57	Certificate of merit in residential foreclosure action
§ 33:58	Notice of pendency of action—Affirmation of service
, 55.55	by mail
§ 33:59	—Affidavit of service
§ 33:60	—Complaint
§ 33:61	Complaint–Allegations required in action to foreclose on residential mortgage loan covering one to four family dwelling
§ 33:62	Notice of pendency of action—Complaint— Complaint—Allegation of compliance with banking law provisions regarding high-cost or subprime home loan
§ 33:63	——Alternate form
§ 33:64	——Amended complaint
5	r

§ 33:65	—Answer
§ 33:66	——Alternate form
§ 33:67	——Answer to amended complaint
§ 33:68	——Defense that a High-Cost Home Loan Violates the Banking Law
§ 33:69	—Affirmation of no answer and that notice of pendency has been filed
§ 33:70	Request for judicial intervention
\$ 33:71	Notice of mandatory settlement conference
\$ 33:72	Foreclosure settlement conference worksheet
§ 33:73	Notice of pendency of action—Notice of motion for summary judgment with affidavits in support
§ 33:74	—Order for summary judgment
\$ 33:75	——Alternate form
\$ 33:76	—Order of Reference
\$ 33:77	—Referee's oath
\$ 33:78	——Alternate form
§ 33:79	—Report of amount due
§ 33:80	——Referee's report of amount due with affidavit
§ 33:81	—Abstract of documentary evidence
§ 33:82	—Order of discontinuance and to cancel lis pendens
§ 33:83	Notice of motion for default judgment, order of reference and judgment of foreclosure and sale
§ 33:84	Affirmation in support of motion for default judgment, order of reference and judgment of foreclosure and sale
§ 33:85	Plaintiff's bill of costs
§ 33:86	Default judgment and judgment of foreclosure and sale

CHAPTER 34. RECEIVERS OF RENT AND PROFITS 8 34.1 Right to annointment in general

§ 34:1	Right to appointment in general
§ 34:2	Application
§ 34:3	Procedures for qualification
§ 34:4	Powers and duties
§ 34:5	—Capacity to sue and be sued
§ 34:6	—Administrators distinguished
§ 34:7	Right to rent and profits
§ 34:8	Tenants, owners in possession and receivers
§ 34:9	Fees, commissions and expenses
§ 34:10	Extension of receivership

§ 34:11	Receiver's power to retain counsel
§ 34:12	Accounting and discharge
§ 34:13	Practical suggestions
§ 34:14	Forms—Affidavit requesting appointment of receiver
§ 34:15	—Demand for receiver
§ 34:16	—Order appointing receiver in foreclosure
§ 34:17	——Alternate form with affidavit in support
§ 34:18	—Order appointing receiver of rents
§ 34:19	—Oath of receiver
§ 34:20	—Order approving surety
§ 34:21	—Petition of receiver requesting discharge
§ 34:22	—Consent of surety to discharge
§ 34:23	—Notice of motion for order settling account of
	receiver
§ 34:24	—Affidavit in support of motion to settle account of
	receiver
§ 34:25	—Cross-notice of motion to surcharge receiver
§ 34:26	—Affidavit in support of motion to surcharge receiver
	and in opposition to settle receiver's account
§ 34:27	—Affidavit in opposition to plaintiff's motion to
	surcharge receiver
§ 34:28	—Order settling account of receiver
§ 34:29	—Order approving receiver's accounts

CHAPTER 35. DEFENSES IN FORECLOSURE ACTIONS

§ 35:1	In general
§ 35:2	Statute of limitations
§ 35:3	—Part payment
§ 35:4	— Effect of other statutes
§ 35:5	——Acknowledgment or promise
§ 35:6	——Conveyance subject to mortgage
§ 35:7	—Nature of tolling payment
§ 35:8	—Extension of limitation by death
§ 35:9	Laches
§ 35:10	Usury
§ 35:11	—Federal preemption of state law
§ 35:12	—Not applicable to bona fide purchase money
	mortgage
§ 35:13	—Waiver
§ 35:14	—Usurious bank-held mortgages
§ 35:15	—Subsequent usury

MORTGAGES AND MORTGAGE FORECLOSURE IN NEW YORK

§ 35:16	—As a corporate defense
§ 35:17	Fraud
§ 35:18	—Fraudulent conveyances
§ 35:19	Breach of duty
§ 35:20	Duress
§ 35:21	Illegality
§ 35:22	Unconscionable conduct
§ 35:23	Inequities to junior encumbrancers
§ 35:24	Adverse and paramount title
§ 35:25	Payment
§ 35:26	Mortgagee's receipt of insurance proceeds
§ 35:27	Tender
§ 35:28	Want of consideration
§ 35:29	Estoppel
§ 35:30	Waiver of default
§ 35:31	Effect of assignment
§ 35:32	Effect of negotiability
§ 35:33	Champerty
§ 35:34	Mental incapacity of mortgagor
§ 35:35	Another action pending
§ 35:36	Miscellaneous defenses
§ 35:37	Practical suggestions
§ 35:38	Forms—Defense of usury
§ 35:39	—Defenses of fraud and misrepresentation
§ 35:40	—Defense in answer—Nonjoinder of owner of equity
	of redemption
§ 35:41	——Defendant bona fide purchaser
§ 35:42	——Defense that personal obligation on bond was
	discharged in bankruptcy
§ 35:43	——Defense of failure to pay mortgage tax
§ 35:44	——Defense that mortgage was purchased by an
	attorney with intent to bring action
§ 35:45	——Defense of duress
§ 35:46	——Defense of statute of limitations
§ 35:47	——Defense by guardian that mortgagor was
	incapacitated
§ 35:48	——Extension of time for payment
§ 35:49	——Final judgment rendered in action to recover
	debt

CHAPTER 36. JUDGMENT OF FORECLOSURE AND SALE

§ 36:1 Judgment—In general

§ 36:2	—Application
§ 36:3	—Contents
§ 36:4	Interest
§ 36:5	—Escrow funds
§ 36:6	—Late charges
§ 36:7	Reference to sell
§ 36:8	Costs
§ 36:9	—Attorneys' fees
§ 36:10	——Effect of default judgment on fee award
§ 36:11	——Contracting for attorneys' fees as penalty
§ 36:12	—Additional allowances
§ 36:13	Advertising; notice of sale
§ 36:14	—Form of public notices
§ 36:15	Sale—Conduct
§ 36:16	—Payment of bid and taking title
§ 36:17	—Setting aside
§ 36:18	—Adequacy of sale price
§ 36:19	—Stay
§ 36:20	Referee's deed
§ 36:21	Proceeds—Application and distribution
§ 36:22	Dealing with transfer taxes
§ 36:23	Proceeds—Homestead exemption
§ 36:24	Report of sale; confirmation
§ 36:25	Purchaser's rights and obligations
§ 36:26	—Uniform Vendor and Purchaser Risk Act
§ 36:27	Purchaser's obligation; compelling performance
§ 36:28	Purchaser's obligation; resale
§ 36:29	Eviction after foreclosure—Summary proceedings
§ 36:30	—Writ of assistance
§ 36:31	Relationship between foreclosure purchaser and
	tenants protected by rent regulation
§ 36:32	Conclusiveness and effect of judgment
§ 36:33	Amending or modifying judgment
§ 36:34	Reforeclosure
§ 36:35	Opening default judgment or vacating judgment
§ 36:36	Appeal
§ 36:37	Practical suggestions
§ 36:38	Checklist
§ 36:39	Forms—Affidavit of regularity on motion for
	judgment and for reference to compute
§ 36:40	—Judgment of foreclosure and sale
§ 36:41	——Alternate form
§ 36:42	——Alternate form

§ 36:43	—Memorandum of judgment
§ 36:44	—Amended final judgment of foreclosure and sale
§ 36:45	Supplemental notice of sale order—Kings County
§ 36:46	Forms—Costs of plaintiff
§ 36:47	—Provisions for expenses, costs and attorneys' fees
§ 36:48	—Notice of sale
§ 36:49	——Alternate form
§ 36:50	——Notice of adjourned sale
§ 36:51	——Affidavit of posting
§ 36:52	—Affidavit of service of notice of sale
§ 36:53	—Terms of sale
§ 36:54	——Alternate form
§ 36:55	——Alternate form
§ 36:56	——Foreclosure estimate
§ 36:57	—Referee's deed
§ 36:58	——Statutory form
§ 36:59	—Referee's report of sale
§ 36:60	——Alternate form
§ 36:61	——Statutory form
§ 36:62	— —Where plaintiff is purchaser
§ 36:63	—Memorandum of purchase
§ 36:64	—Verification of referee's report
§ 36:65	—Notice of motion to confirm referee's report of sale
0.00.00	with affidavit
§ 36:66	—Notice of filing of referee's report of sale and motion
\$ 90.07	to confirm
§ 36:67	—Notice of motion to confirm referee's report and for final judgment of foreclosure and sale with affidavit
§ 36:68	—Notice of motion for confirmation of report of sale
§ 36:69	—Affidavit in support of motion to confirm where
8 90.09	there is surplus
§ 36:70	—Affidavit as to existence of any other unsatisfied
\$ 00.10	lien on property
§ 36:71	—Certificate of county clerk as to appearance and
3 00.11	notices of claims to surplus monies
§ 36:72	—Certificate of clerk that no exceptions to report of
5	sale have been filed
§ 36:73	—Voucher for surplus monies
§ 36:74	—Order confirming sale where there is surplus
§ 36:75	——Particular provisions where there is deficiency
§ 36:76	—Statement of sale
§ 36:77	——Statutory form
§ 36:78	——Alternate form
3 55.10	

\$ 20.70	II-a a de a carica
-	—Upset price
§ 36:80	—Notice to quit premises after sale
§ 36:81	—Writ of assistance
§ 36:82	— —Notice of motion
§ 36:83	— — Affidavit
§ 36:84	——Petition for writ of assistance
§ 36:85	—Notice of motion pursuant to Section 1351,
	Subdivision 3, Real Property Actions and
	Proceedings Law
§ 36:86	— — Affidavit
§ 36:87	— —Order
§ 36:88	—Order staying sale
§ 36:89	—Tax form—Supplemental schedule
§ 36:90	——Credit line mortgage certificate
§ 36:91	Notice of motion to set aside foreclosure sale—Failure
	to join necessary party
§ 36:92	Affidavit on motion to set aside foreclosure sale—
	Failure to join necessary party

CHAPTER 37. SURPLUS MONEY PROCEEDINGS

1100	EEDINGS
§ 37:1	Nature
§ 37:2	Claims upon surplus
§ 37:3	Right to notice
§ 37:4	Proceedings before referee
§ 37:5	Other actions or proceedings
§ 37:6	Priority of claims
§ 37:7	Report and confirmation
§ 37:8	Practical suggestions
§ 37:9	Checklist
§ 37:10	Forms—Notice of claim to surplus money
§ 37:11	—Certification of county clerk
§ 37:12	—Notice of motion for surplus money
§ 37:13	-Notice of motion for surplus money where order of
	reference is not requested
§ 37:14	—Affidavit in support of motion for surplus money
§ 37:15	—Order appointing referee in surplus money
	proceedings
§ 37:16	—Oath of referee
§ 37:17	—Notice to attend hearing
§ 37:18	—Report of referee in surplus money proceedings
§ 37:19	—Notice of motion to confirm referee's report

§ 37:20	—Notice of motion to confirm referee's report of sale and to direct distribution of surplus money
§ 37:21	—Affidavit in support of motion to confirm referee's report of sale
§ 37:22	—Affidavit in support of motion to confirm referee's report of sale (alternative form)
§ 37:23	—Order directing distribution of surplus money
§ 37:24	—Order directing distribution of surplus money (alternative form)
§ 37:25	—Receipt from distribution of proceeds
CHAP	TER 38. DEFICIENCY JUDGMENTS
§ 38:1	Nature
§ 38:2	Statutory regulation
§ 38:3	—Exceptions
§ 38:4	Liability for deficiency
§ 38:5	Procedure
§ 38:6	Valuation
§ 38:7	—Determination on affidavits
§ 38:8	—Specialty buildings
§ 38:9	—Valuation factors
§ 38:10	Amount of deficiency judgment
§ 38:11	Practical suggestions
§ 38:12	Checklist
§ 38:13	Forms—Notice of motion to confirm report of sale and for leave to enter deficiency judgment
§ 38:14	—Affidavit in support of motion to confirm report of sale and for leave to enter deficiency judgment
§ 38:15	—Order appointing referee in deficiency judgment
§ 38:16	—Affidavit of expert in deficiency judgment proceedings
§ 38:17	—Referee's report in deficiency judgment proceedings
§ 38:18	—Order to show cause why plaintiff should not be granted deficiency
§ 38:19	—Affidavit in support of motion to grant plaintiff deficiency
§ 38:20	—Order granting hearing on motion to fix deficiency
§ 38:21	—Order awaiting deficiency judgment
§ 38:22	—Order granting deficiency
§ 38:23	—Provision in final judgment for deficiency
§ 38:24	—Judgment (deficiency)

CHAPTER 39. FORECLOSURE OF MORTGAGE BY POWER OF SALE

- § 39:1 Non-judicial foreclosures
- § 39:2 Forms—Notice of sale in foreclosure by power of sale
- § 39:3 ——Power of sale deed

CHAPTER 40. STRICT FORECLOSURE

- § 40:1 Nature and derivation
- § 40:2 Right to strict foreclosure
- § 40:3 Procedure
- § 40:4 Forms—Complaint in strict foreclosure
- § 40:5 —Where necessary party omitted
- § 40:6 —Judgment of strict foreclosure

CHAPTER 41. ACTIONS TO REDEEM

- § 41:1 Right to redeem
- § 41:2 Forms of action
- § 41:3 Jurisdiction
- § 41:4 Venue
- § 41:5 Statutes of limitations
- § 41:6 Laches and estoppel
- § 41:7 Plaintiffs
- § 41:8 Defendants
- § 41:9 Pleadings
- § 41:10 Evidence
- § 41:11 Judgment
- § 41:12 Costs

CHAPTER 41A. ACTIONS BY MORTGAGORS RELATING TO MORTGAGES

- § 41A:1 In general
- § 41A:2 Actions based on fraud
- § 41A:3 —Consumer protection
- § 41A:4 Actions based on mistake
- § 41A:5 Actions based on negligence
- § 41A:6 Actions to recover prepayment premiums
- § 41A:7 Discriminatory practices
- § 41A:8 Pleadings
- § 41A:9 Evidence
- § 41A:10 Judgment

CHAPTER 42. BAR-CLAIM ACTIONS RELATING TO MORTGAGES

§ 42:1 In general § 42:2 Action to discharge barred mortgage § 42:3 Expiration of limitation period Action to effect barred reforeclosure § 42:4 Action to determine ownership of condemnation claim § 42:5 § 42:6 **Parties** § 42:7 Complaint Answer § 42:8 § 42:9 Guardians ad litem § 42:10 Service by publication § 42:11 Presumption of rightful possession § 42:12 Remainders, reversions and dower interests § 42:13 Trial by jury § 42:14 Judgment § 42:15 Costs

CHAPTER 43. SPECIAL STATUTORY PROCEEDINGS

Forms—Complaint

§ 42:16

_		
§	43:1	Statutory special proceedings
§	43:2	Service of process to institute proceedings
§	43:3	Satisfaction or discharge of mortgage— Appropriateness of statutory remedy
§	43:4	—Procedure
§	43:5	Compelling assignment of mortgage
§	43:6	Certificate of discharge
§	43:7	Discharge of ancient mortgage
§	43:8	—Petition
§	43:9	—Requirements
§	43:10	—Exceptions
§	43:11	—Procedure
§	43:12	—Checklist
§	43:13	In rem tax foreclosure actions
§	43:14	—Redemption
§	43:15	—Actions in New York city
§	43:16	—Notice provisions
§	43:17	—Homeowner bill of rights
§	43:18	Forms—Order to show cause in discharge of record of mortgage proceeding

§ 43:19	—Petition in support of discharge
§ 43:20	—Affidavit in opposition to order discharging
	mortgage
§ 43:21	—Order in proceeding to discharge mortgage
§ 43:22	—In rem foreclosure petition
§ 43:23	—In rem foreclosure notice
§ 43:24	——Additional notice to owners
§ 43:25	——Personal notice of commencement of foreclosure
	proceedings

CHAPTER 44. MILITARY SERVICE AFFECTING MORTGAGES

- § 44:1 Soldiers' and Sailors' Civil Relief Act
- § 44:2 Mortgages and mortgage litigation
- § 44:3 Persons and courts affected
- § 44:4 Relief independent of pending litigation
- § 44:5 Default judgment
- § 44:6 Motion to reopen judgment or final order
- § 44:7 Stay—Action or proceeding
- § 44:8 —Judgment or order
- § 44:9 Statutes of limitation
- § 44:10 Mortgage enforcement
- § 44:11 Evasive transfers
- § 44:12 Practical suggestions

APPENDICES

APPENDIX A. Federal Reserve Board Consumer Booklets

Table of Laws and Rules

Table of Cases

Index