Table of Contents

PART I. MAKING AND ENFORCING AN AGREEMENT AFFECTING REAL ESTATE

CHAPTER 1. PURCHASE AND SALE AGREEMENT

TOPIC E: ENCUMBRANCES

§ 1:22 Real estate taxes

TOPIC F: PAYMENT TERMS

§ 1:30 Purchase price; payment; deposit

TOPIC G: CLOSING PROVISIONS

§ 1:31 Time
§ 1:34 Condition of premises; risk of loss

TOPIC H: FAILURE TO PERFORM

§ 1:38 Buyer
§ 1:39 Conditions

CHAPTER 2. PURCHASE AND SALE BY A GOVERNMENTAL AGENCY

TOPIC A: SOURCES OF AUTHORITY

§ 2:3 Counties
§ 2:4 Cities and towns
§ 2:5 Tax titles
§ 2:6 Redevelopment authorities

TOPIC B: PROCEDURAL REQUIREMENTS

§ 2:7 State acquisition and disposition
§ 2:10 Park, conservation and natural resources lands
§ 2:11 Bonding requirements *[New]*

CHAPTER 3. OTHER AGREEMENTS

TOPIC C: FIRST REFUSAL

§ 3:3 Types and consequences

TOPIC D: BROKERAGE

§ 3:4 Fair deals

TOPIC F: BOUNDARY

§ 3:6 Location; cross-conveyance

CHAPTER 4. STATUTE OF FRAUDS

TOPIC B: INSTRUMENTS AFFECTED

§ 4:3 Those that need to comply

TOPIC C: THE WRITING

§ 4:5 Memorandum

TOPIC D: PART PERFORMANCE EXCEPTION

§ 4:7 Required elements

CHAPTER 5. REMEDIES FOR BREACH

TOPIC A: THE REMEDIES

§ 5:1 Specific performance
§ 5:2 Damages
§ 5:3 Rescission

TOPIC B: UNFAIR TRADE PRACTICES

§ 5:4 The statute and its application

TOPIC C: WARRANTY

§ 5:5 Habitability; other

TOPIC D: LIMITATIONS OF ACTIONS

§ 5:6 The statutes

PART II. DETERMINING THE STATUS OF TITLE

CHAPTER 6. TITLE EXAMINATION AND ABSTRACT

TOPIC A: THE BASICS

§ 6:3 Indices; record books
§ 6:4 Mechanics of title search and abstract

TOPIC B: EXECUTION OF INSTRUMENTS FOR RECORDING

§ 6:9 Acknowledgment
§ 6:13 Recording fees
§ 6:14 Deed excise taxes
§ 6:15 Land bank fees

TOPIC C: RECORDED INSTRUMENTS

§ 6:16 Deeds and elements thereof
§ 6:17 Mortgages; related instruments; foreclosure documents
§ 6:22 Mechanics liens

TOPIC D: DOCUMENTS RELATING TO COURT ACTIONS

§ 6:24 Attachment; execution
§ 6:25 Lis pendens

TOPIC E: DOCUMENTS RELATING TO GOVERNMENTAL ACTIONS

§ 6:29 Takings

TOPIC F: PROBATE COURT INSTRUMENTS

§ 6:31 Testate estate—General review
§ 6:33 Sale under power or license or by devisee
§ 6:36 Intestate estate—General review
§ 6:37 Intestate estate—Spousal share
§ 6:38 Descent and distribution
§ 6:40 Guardianship; conservatorship
§ 6:41 Partition
§ 6:42 Other

CHAPTER 7. POSSESSORY TITLE

TOPIC A: ADVERSE POSSESSION

§ 7:1 Fundamentals
§ 7:2 Basic requirements
§ 7:3 Period of possession
§ 7:4 General tests of possession
§ 7:5 Types of dominion
§ 7:6 Color of title
§ 7:7 Open and notorious
§ 7:9 Continuous

TOPIC B: CLAIMS AND DEFENSES

§ 7:10 Permissive use—Specific or implied
§ 7:11 Presumptive permission
§ 7:12 Insufficiency of claim

TOPIC C: EXEMPT AND SUBJECT LAND

§ 7:13 Protective actions
§ 7:16 State lands

TOPIC D: PRESCRIPTIVE EASEMENTS

§ 7:18 Acquisition
§ 7:19 Scope; improvement
§ 7:20 Barring an easement

CHAPTER 8. THE LAND COURT AND TITLE REGISTRATION

TOPIC A: INTRODUCTION

§ 8:2 Land Court jurisdiction
§ 8:3 The essence of title registration

TOPIC B: ORIGINAL REGISTRATION OR CONFIRMATION

§ 8:4 Complaint; plan; notice; examination of title
§ 8:6 Judgment of confirmation

TOPIC C: DEALING WITH REGISTERED LAND

§ 8:7 Conveyance of fee title
§ 8:10 Condominiums
§ 8:13 Corrective proceedings

TOPIC D: REMEDIES AND PROBLEMS

§ 8:16 Deregistration

CHAPTER 9. TITLE INSURANCE

TOPIC B: POLICY FORMS

§ 9:2 Owner's, mortgagee's, other

TOPIC C: COVERAGES; EXCLUSIONS

§ 9:4 Owner's policy

TOPIC D: EXCEPTIONS

§ 9:9 Survey

TOPIC F: RECOVERY; REMEDIES

§ 9:19 General

CHAPTER 10. MARKETABILITY; CURATIVE PROCEDURES; CURATIVE STATUTES

TOPIC B: CURATIVE PROCEDURES

§ 10:4 Clearing a cloud on title
§ 10:5 Disposing of old mortgages
§ 10:8 Testing the validity and extent of zoning provisions
§ 10:10 Curative instruments

TOPIC C: CURATIVE STATUTES

§ 10:12 Outdated mortgages
§ 10:13 Long-term leases
§ 10:17 Limits on zoning enforcement
§ 10:21 Disposing of indefinite references
§ 10:22 Protecting against unrecorded trust instruments
§ 10:23 Statutory Rule Against Perpetuities

PART III. DETERMINING THE STATUS OF USABILITY

CHAPTER 11. ZONING

TOPIC A: HISTORY AND SCOPE OF ZONING

§ 11:2 Purposes

§ 11:3 Examples
§ 11:4 Special types
§ 11:5 General limitations
§ 11:6 Statutory limitations
§ 11:7 Protection of lower cost housing
§ 11:8 Federal protection of telecommunications

TOPIC B: ADOPTION AND AMENDMENT

§ 11:9 Law and procedure

TOPIC C: NONCONFORMANCE

§ 11:10 The statutory scheme
§ 11:11 Changes in use or structure
§ 11:13 Pre-existing residential lots—Applications

TOPIC D: ZONING FREEZES

§ 11:15 Permit freeze
§ 11:17 Plan freeze—Applications

TOPIC E: VARIANCE

§ 11:18 Criteria
§ 11:19 Application and procedure

TOPIC F: SPECIAL PERMIT

§ 11:20 Types
§ 11:21 Application and procedure

TOPIC G: JUDICIAL REVIEW

§ 11:22 Jurisdiction; procedure
§ 11:23 Standing

TOPIC H: ENFORCEMENT

§ 11:24 Jurisdiction; procedure
§ 11:25 Statutes of limitation
§ 11:25.50 Transfer development rights zoning *[New]*

TOPIC I: BOSTON ZONING

§ 11:26 History
§ 11:27 Similarities and differences

CHAPTER 12. SUBDIVISION CONTROL

TOPIC A: THE STATUTORY CONCEPT

§ 12:1 Statutory applicability
§ 12:2 Definition of subdivision

TOPIC B: APPROVAL NOT REQUIRED

§ 12:3 Three modes
§ 12:4 Effect

TOPIC C: APPROVAL OF SUBDIVISION

§ 12:5 Preliminary plan
§ 12:6 Definitive plan
§ 12:7 Planning board action
§ 12:8 Securing performance
§ 12:9 Modifications

TOPIC D: PLANNING BOARD RULES AND REGULATIONS

§ 12:11 General requirements
§ 12:12 Rules concerning ways
§ 12:13 Waiver

TOPIC E: ENFORCEMENT; JUDICIAL REVIEW

§ 12:14 Enforcement
§ 12:15 Judicial review

CHAPTER 13. ENVIRONMENTAL CONTROLS

TOPIC B: ENVIRONMENTAL IMPACT REVIEW

§ 13:3 Massachusetts regulation—MEPA

TOPIC C: WATERS, WATERWAYS AND WETLANDS

§ 13:4 Background
§ 13:8 Massachusetts clean water control
§ 13:9 Massachusetts wetland protections
§ 13:10 Local controls
§ 13:12 Massachusetts licensing of structures and fill
§ 13:13 Other Massachusetts controls

TOPIC D: HAZARDOUS SUBSTANCES; SEWAGE

§ 13:18 Massachusetts hazardous materials release law
§ 13:19 Underground storage tanks
§ 13:20 On-site sewage disposal

TOPIC E: OTHER LAWS

§ 13:21 Air pollution controls
§ 13:22 Other controls

CHAPTER 14. GOVERNMENTAL REGULATIONS AFFECTING USE AND SALE

TOPIC A: INTRODUCTION

§ 14:2 Urban renewal

TOPIC B: REGULATION OF SALE OR USE

§ 14:4 Preemptive rights: forest, agricultural and recreational lands
§ 14:5 Former railroad lands

TOPIC C: HISTORIC PRESERVATION

§ 14:7 Local action

TOPIC E: REGULATION OF PHYSICAL CONDITIONS

§ 14:11 Building elements
§ 14:12 Manufactured housing

TOPIC F: REGIONAL CONTROLS

§ 14:13 Martha's Vineyard
§ 14:14 Cape Cod

TOPIC G: FINANCIAL EXACTIONS

§ 14:16 Other municipalities
§ 14:17 Community Preservation Act

CHAPTER 15. SERVITUDES: EASEMENTS AND RESTRICTIONS

TOPIC A: INTRODUCTION

§ 15:2 Private easements

TOPIC B: EASEMENTS

§ 15:3 Origin and status
§ 15:4 M.G.L.A. c. 183, § 58
§ 15:5 M.G.L.A. c. 187, § 5
§ 15:6 Location; relocation
§ 15:7 Uses; encroachment
§ 15:8 Improvement
§ 15:9 Overburden; surcharge
§ 15:10 Termination
§ 15:11 Public easements

TOPIC C: PRIVATE RESTRICTIONS

§ 15:13 Thirty-year limitation
§ 15:14 The modern scheme
§ 15:15 Interpretation and enforcement
§ 15:16 Touch and concern

TOPIC D: PUBLIC RESTRICTIONS

§ 15:22 Legal status; enforcement; termination

PART IV. FORMS OF OWNERSHIP

CHAPTER 16. INDIVIDUAL AND BUSINESS FORMS

TOPIC A: INDIVIDUAL FORMS

§ 16:2 Homestead
§ 16:3 Tenancy in common
§ 16:4 Joint tenancy
§ 16:5 Tenancy by the entirety

TOPIC C: TRUSTS AND NOMINEES

§ 16:14 Trusts

CHAPTER 17. CONDOMINIUMS

TOPIC A: INTRODUCTION

§ 17:3 Statutory particulars

TOPIC B: CREATION OF A CONDOMINIUM

§ 17:5 Descriptions and plans
§ 17:6 Unit percentages
§ 17:7 Purposes and restrictions
§ 17:8 Other master deed matters

TOPIC C: ORGANIZATION OF UNIT OWNERS

§ 17:9 Types
§ 17:11 Bylaw provisions
§ 17:12 Assessments and collection

TOPIC D: PHASING

§ 17:13 Background
§ 17:15 Complex
§ 17:16 Timing; tax

TOPIC E: SALE AND PURCHASE

§ 17:17 Marketing; sale agreement
§ 17:18 Unit deed; 6(d) certificate
§ 17:19 Resales; foreclosure

TOPIC F: OPERATION AND MANAGEMENT

§ 17:20 Basic management
§ 17:21 Assessment and collection of common expense funds
§ 17:22 Maintenance and repair
§ 17:23 Casualty; insurance
§ 17:24 Improvements

TOPIC G: SPECIAL TYPES

§ 17:25 Conversion

CHAPTER 18. COOPERATIVES; HOMEOWNERS' ASSOCIATIONS; TIME SHARES

TOPIC A: COOPERATIVES

§ 18:4 Management

TOPIC B: HOMEOWNERS' ASSOCIATIONS

§ 18:5 The concept

TOPIC C: TIME SHARES

§ 18:9 Legal status
§ 18:10 The documents

PART V. DOCUMENTS AND CLOSING

CHAPTER 19. DEEDS

TOPIC B: ELEMENTS

§ 19:4 Consideration
§ 19:5 Words of conveyance, covenants, habendum
§ 19:6 Description

TOPIC C: EXECUTION

§ 19:10 Signature
§ 19:11 Acknowledgement

TOPIC D: DELIVERY AND ACCEPTANCE; RECORDING

§ 19:16 Delivery and acceptance

CHAPTER 20. MORTGAGES

TOPIC A: INTRODUCTION

§ 20:1 Basics
§ 20:2 Mortgage covenants
§ 20:4 Power of sale

TOPIC C: PAYMENT PROVISIONS

§ 20:13 Variants

TOPIC D: CONDITIONS

§ 20:20 Other

TOPIC E: GOVERNMENTAL REGULATIONS

§ 20:21.50 Protecting home ownership *[New]*
§ 20:23 Predatory practices

§ 20:24 Attorney certification requirements

TOPIC F: POST-CLOSING ACTIONS

§ 20:29 Assignment

TOPIC G: DISCHARGE

§ 20:30 The statutes
§ 20:31 Mistakes

TOPIC H: FORECLOSURE

§ 20:32 Introduction
§ 20:32.50 MERS *[New]*
§ 20:33 Soldiers' and Sailors' Civil Relief Act
§ 20:34 Entry and possession
§ 20:34.50 Protecting tenants *[New]*
§ 20:35 Foreclosure by sale
§ 20:37 Foreclosure deed and affidavit
§ 20:38 Bankruptcy issues
§ 20:39 Other issues
§ 20:41.50 Surplus *[New]*
§ 20:43 Right to cure default on residential mortgage *[New]*

CHAPTER 21. CONDUCTING THE CLOSING

TOPIC B: THE CLOSING ITSELF

§ 21:6 RESPA
§ 21:6.50 TILA-RESPA Integrated Disclosure *[New]*
§ 21:8 IRS and Department of Revenue requirements *[Retitled]*
§ 21:9 Opinions and certifications

Appendices

Appendix I. Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys *[Retitled]*

Appendix T. Organization Chart of Massachusetts Government *[New]*

Table of Laws and Rules

Table of Cases

Index