Table of Contents

Volume 14

CHAPTER 1. OVERVIEW OF REAL ESTATE TRANSACTIONS

I. OVERVIEW OF RESIDENTIAL TRANSACTIONS

§ 1:1 Client's perspective
§ 1:2 Attorney's perspective
§ 1:3 Reasons attorneys do residential closings

II. ATTORNEY'S ROLE

§ 1:4 Differences between Cook County and downstate
§ 1:5 Attorney as legal counselor
§ 1:6 —Negotiator
§ 1:7 —Advisor
§ 1:8 —Coordinator

III. OVERVIEW OF STAGES

§ 1:9 Seller lists property
§ 1:10 Buyer views property
§ 1:11 Review of broker's agreement
§ 1:12 Buyer makes offer
§ 1:13 Date of contract
§ 1:14 Price set
§ 1:15 Earnest money
§ 1:16 Attorney approval obtained
§ 1:17 Inspection obtained
§ 1:18 Buyer obtains financing
§ 1:19 Seller's attorney arranges for closing
§ 1:20 Closing
§ 1:21 After closing

IV. ENGAGEMENT LETTERS

§ 1:22 Purchaser engagement letter
§ 1:23 Seller engagement letter
§ 1:24 General engagement letter

CHAPTER 2. BROKERS AND SALE BY OWNER

I. INITIAL CONSIDERATIONS

§ 2:1 Using a broker
§ 2:2 Sale by owner
§ 2:3 —Practical tips—Fair housing laws
§ 2:4 — —Negotiations
§ 2:5 — —Earnest money
§ 2:6 — — —Dispute over escrow funds

II. BROKER'S ACTIVITIES PRIOR TO ATTORNEY INVOLVEMENT

§ 2:7 Usual procedure
§ 2:8 —Listing broker
§ 2:9 —Listing agent
§ 2:10 —Comparative market analysis
§ 2:11 —Publicizing the property
§ 2:12 —Multiple listing
§ 2:13 —Cooperating broker
§ 2:14 —Pre-approval of buyer
§ 2:15 Mortgage commitment
§ 2:16 Usual procedure—Offer made and contract prepared
§ 2:17 —Earnest money obtained
§ 2:18 —Presenting offer to seller
§ 2:19 —Contract signed
§ 2:20 —Attorney engaged

III. LICENSING OF BROKERS AND LEASING AGENTS

§ 2:21 Real Estate License Act of 2000
§ 2:22 Regulatory system
§ 2:23 —Corporations, limited liability companies and partnerships
§ 2:24 Definition of broker
§ 2:25 Definition of compensation
§ 2:26 Definition of client, licensee and agency
§ 2:27 Definition of brokerage agreement
§ 2:28 Definition of broker—Exceptions to licensing requirement
§ 2:29 Designated agent and confidential information

IV. CLIENT-BROKER RELATIONSHIP

§ 2:30 Nature of relationship

§ 2:31 —Establishment of relationship
§ 2:32 —Broker as agent
§ 2:33 — —Duty to keep principal informed
§ 2:34 — —Duty of seller's broker to exercise good faith towards buyer
§ 2:35 Duty of seller to refer prospects to broker
§ 2:36 Nature of relationship—Broker as agent—Duty to exercise good faith towards buyer—Purchase by broker
§ 2:37 — —No duty to procure documents for the closing
§ 2:38 —Dual agency
§ 2:39 —Limits on broker's authority
§ 2:40 —Duty to disclose
§ 2:41 — —Intentional misrepresentation
§ 2:42 — —Negligent misrepresentation
§ 2:43 — —Latent defects
§ 2:44 — —Exculpatory clauses
§ 2:45 — —Consumer fraud and deceptive trade practices liability
§ 2:46 Broker as buyer's agent
§ 2:47 —Establishment of agency
§ 2:48 "Finders"

V. BROKERAGE RELATIONS UNDER THE REAL ESTATE LICENSE ACT OF 2000

§ 2:49 Intent of Brokerage Relations statute
§ 2:50 Intent of brokerage relations law—Replaces common law agency
§ 2:51 —Private right of action
§ 2:52 — —No right to jury trial
§ 2:53 —Law does not affect contractual relationships
§ 2:54 —Relationship between broker and affiliated licensees (brokers, real estate salespersons or leasing agents)
§ 2:55 —Agency relationship
§ 2:56 —Compensation does not determine relationship
§ 2:57 Brokerage agreement
§ 2:58 Intent of brokerage relations law—Agency relationship disclosures
§ 2:59 Attorney cannot also act as broker
§ 2:60 Timing of agency relationship disclosure
§ 2:61 Dual agency
§ 2:62 —Statutory presumption of informed written consent
§ 2:63 —Timing of presentation of dual agency disclosure form

§ 2:64 —Written confirmation
§ 2:65 —Disclosures
§ 2:66 —No imputed knowledge or information
§ 2:67 —Withdrawal of agent
§ 2:68 Duties of agent to client under Real Estate License Act of 2000
§ 2:69 Duties of agent who is representing client—Showing property to other buyers
§ 2:70 —Compensation based on selling price
§ 2:71 —Broker or agent's liability to client for false information
§ 2:72 —Duty to use care in designating an agent
§ 2:73 Duties of agent towards customer
§ 2:74 —Definition of "customer"
§ 2:75 —Broker's duties to customer
§ 2:76 —Disclosures by seller's broker to customers
§ 2:77 —Liability of broker to customer
§ 2:78 —Broker or agent's liability to customer for false information
§ 2:79 Termination of brokerage agreement
§ 2:80 Vicarious liability of consumer

VI. LISTING AGREEMENTS

§ 2:81 Pre-signing concerns
§ 2:82 Listing (brokerage) agreement
§ 2:83 Listing agreement—Statute of Frauds
§ 2:84 —Oral brokerage agreement
§ 2:85 —Expiration date of brokerage agreement
§ 2:86 —Automatic extension prohibited
§ 2:87 —Grace period allowed
§ 2:88 —Revocation of listing (brokerage agreement)
§ 2:89 —Damages on termination of listing agreement
§ 2:90 —Liquidated damages
§ 2:91 —Termination by revocation—Revocation after broker has secured buyer
§ 2:92 — — —Damages
§ 2:93 Types of listing agreements
§ 2:94 —Exclusive right to sell

VII. BROKER'S RIGHT TO COMMISSION

§ 2:95 Basis of right
§ 2:96 Contract right to commission
§ 2:97 —Listing agreement required
§ 2:98 —Express contract

§ 2:99 — —Ratification of brokerage agreement
§ 2:100 —Implied contract
§ 2:101 — —Unjust enrichment
§ 2:102 —Broker must be procuring cause
§ 2:103 — —Buyer ready, willing and able
§ 2:104 —Offer must conform to listing agreement
§ 2:105 — —Contingencies in offer
§ 2:106 — —Inconsistencies in mortgage commitment
§ 2:107 —Cooperating broker/agent
§ 2:108 —Default by seller
§ 2:109 —Default by buyer
§ 2:110 —Mutual cancellation or rescission of transaction by seller and buyer
§ 2:111 —Breach of fiduciary duty
§ 2:112 —Transfer between owners
§ 2:113 Quasi contract claim for commission
§ 2:114 —Basis for quantum meruit
§ 2:115 —Requirements
§ 2:116 —Difference between quantum meruit and unjust enrichment
§ 2:117 —Sale must occur on seller's terms
§ 2:118 —When only part of property sold
§ 2:119 —Quantum meruit relief if listing contract void
§ 2:120 —Expiration of grace period
§ 2:121 —Amount of recovery
§ 2:122 Statutory requirement of being licensed to have a right to a commission
§ 2:123 Incorrect buyer pre-qualification letter from lender

VIII. PRACTICAL TIPS IN REVIEWING LISTING AGREEMENT

§ 2:124 Explanation to client of broker's exclusive right to sell
§ 2:125 Limitation on commission unless sale closes
§ 2:126 Limiting the commission in case of default by buyer
§ 2:127 Commission rate
§ 2:128 Right to commission
§ 2:129 —Seller's concern as to the timing of the liability for a commission
§ 2:130 —Buyer's broker to look to seller for commission
§ 2:131 —Purchases made after expiration of listing agreement
§ 2:132 —Amending the listing (brokerage) agreement
§ 2:133 Survey and title requirements in brokerage agreement

§ 2:134 Termination date of brokerage agreement
§ 2:135 Early termination

IX. RIGHT TO LIEN TO SECURE COMMISSION

§ 2:136 Situations where lien arises
§ 2:137 Residential property
§ 2:138 Commercial property
§ 2:139 —Definition of commercial real estate
§ 2:140 —Establishment of lien
§ 2:141 —Escrow or release of lien in case of dispute
§ 2:142 Commercial Property—Statute of limitations to enforce lien

X. REAL ESTATE RECOVERY FUND

§ 2:143 Real estate recovery fund
§ 2:144 —Amount of loss
§ 2:145 —Amount of recovery from the Real Estate Recovery Fund
§ 2:146 —Amount of recovery—Attorney's fees and costs
§ 2:147 — —Interest
§ 2:148 — —Procedure to effect recovery
§ 2:149 — —Punitive damages
§ 2:150 —Termination of license in case of payment of claim

XI. BROKER-ATTORNEY RELATIONSHIP

§ 2:151 Completing form contracts
§ 2:152 —Lawyer-broker committees

XII. FORMS

§ 2:153 Commercial Real Estate Broker's Lien Act Affidavit
§ 2:154 Waiver of lien under Commercial Real Estate Broker Lien Act
§ 2:155 Lien notice under Commercial Real Estate Broker Lien Act
§ 2:156 Release of claim for lien under Commercial Real Estate Broker Lien Act
§ 2:157 Owner's affidavit covering broker and payment

CHAPTER 3. ENTERING INTO A CONTRACT

I. BUYER'S INVESTIGATION

§ 3:1 Buyer beware

§ 3:2 Normal procedure
§ 3:3 Existing houses
§ 3:4 —Mechanical and structural elements
§ 3:5 —Real estate taxes
§ 3:6 — —Homeowner exemptions
§ 3:7 — — —"Senior Freeze" exemption
§ 3:8 —Personal property
§ 3:9 —Neighborhood
§ 3:10 Condominiums, townhouses, and cooperatives
§ 3:11 —Homeowners' association
§ 3:12 — —Rules and regulations
§ 3:13 — —Rentals
§ 3:14 — —Parking spaces
§ 3:15 — —Budget for repairs
§ 3:16 — —Special assessments
§ 3:17 New construction
§ 3:18 Earnest money
§ 3:19 Professional inspector
§ 3:20 —Liability of inspector
§ 3:21 —Timing of inspection
§ 3:22 —Unsatisfactory inspection
§ 3:23 — —Definition of unsatisfactory report
§ 3:24 — —Gray areas

II. NEGOTIATING THE SALES CONTRACT

§ 3:25 Written contract required
§ 3:26 Usual procedure
§ 3:27 —Sale by owner
§ 3:28 — —Both parties should be represented by attorneys
§ 3:29 — —Contract terms
§ 3:30 —Sale through a broker
§ 3:31 Attorney's role in pre-contract negotiations

III. DISCLOSURE

§ 3:32 Disclosure duties
§ 3:33 —Need for inspection
§ 3:34 Disclosure duties under common law
§ 3:35 —Common law standard of proof
§ 3:36 —Duty to disclose known material defects
§ 3:37 —Disclosure must be of whole truth
§ 3:38 —Affirmative falsehood
§ 3:39 —Silence versus active concealment
§ 3:40 —Fraudulent concealment

§ 3:41 —Fraud in the inducement
§ 3:42 Radon
§ 3:43 —State radon disclosure requirements
§ 3:44 — —Definition of residential property
§ 3:45 — —Exclusions from the Act
§ 3:46 — —Tenants
§ 3:47 Federal lead based paint disclosure requirements
§ 3:48 —Effective date of regulations
§ 3:49 —Excluded properties
§ 3:50 —Inspection period and acknowledgment
§ 3:51 —Effect of failure to disclose
§ 3:52 Lead-based paint requirements
§ 3:53 State lead-based paint disclosure requirement
§ 3:54 Federal lead-based paint disclosure cause of action
§ 3:55 Residential Real Property Disclosure Act
§ 3:56 —Delivery of disclosure report
§ 3:57 —Option contracts
§ 3:58 —Obligation of seller for completion of disclosure form
§ 3:59 — —Rights of buyer if seller delivers form after signing purchase agreement
§ 3:60 —Disclosures of all material defects not required
§ 3:61 —Obligation of seller for completion of disclosure form—Rights of buyer if seller fails to deliver disclosure form
§ 3:62 —Statutory and common law obligations
§ 3:63 — —Fraud
§ 3:64 —Applicability and definition of residential real property
§ 3:65 —Exceptions
§ 3:66 — —Transfers pursuant to court order
§ 3:67 — —Transfers pursuant to or lieu of foreclosure
§ 3:68 — —Transfers by fiduciary
§ 3:69 — —Transfers of newly constructed residence
§ 3:70 — —Other exceptions
§ 3:71 —Contents of the disclosure form
§ 3:72 —Definition of seller
§ 3:73 —Duties of seller
§ 3:74 — —Scope of disclosure
§ 3:75 — —Seller's knowledge of errors in disclosure
§ 3:76 — —Partial disclosure
§ 3:77 — —Disclosure—Causation
§ 3:78 — —Seller need not investigate
§ 3:79 — —Seller must update disclosure
§ 3:80 —Purchaser can rely on the disclosure report
§ 3:81 —Duties of seller—Buyer's knowledge of error

§ 3:82 —Buyer's right to terminate
§ 3:83 —Damages
§ 3:84 —Liability for damages does not require closing of the sale
§ 3:85 —Statute of limitations
§ 3:86 —Applicable statute if sale is not closed
§ 3:87 —Practical aspects of the disclosure report
§ 3:88 —Practical tips as to the disclosure report—Timeliness of information
§ 3:89 — —Advising seller of duty to fill out form
§ 3:90 — —Advising seller of duty to disclose
§ 3:91 — —Disclosure only covers actual knowledge
§ 3:92 — —As-Is contract
§ 3:93 — —Condominium common area disclosure
§ 3:94 — —Limited usefulness
§ 3:95 —No right to jury trial
§ 3:96 —Attorney fees
§ 3:97 —Obligation of seller for completion of disclosure form—Waiver
§ 3:98 — —Rights of buyer if seller delivers incomplete form or fails to deliver form before closing

IV. POWERS OF ATTORNEY AFFECTING REAL PROPERTY

§ 3:99 In writing
§ 3:100 Witness and notary requirement
§ 3:101 Fiduciary relationship
§ 3:102 —Gift
§ 3:103 —Successor agent
§ 3:104 Limitation on power of attorney
§ 3:105 Term of power of attorney
§ 3:106 —Right of agent to act after court appointment of a guardian
§ 3:107 Agent's duty to keep records
§ 3:108 Statutory short form
§ 3:109 —Term of the power of attorney under the Act
§ 3:110 —Form to be used
§ 3:111 — —Forms comprising the statutory form
§ 3:112 —Agents, successor agents and co-agents
§ 3:113 Non statutory power of attorney—Co-agents
§ 3:114 Statutory short form—Powers of agent
§ 3:115 —Limitations on powers of the agent—Changing insurance beneficiary
§ 3:116 — —Gifts

§ 3:117 —Strict construction of power of attorney
§ 3:118 Practical limitations on power of attorney

V. LETTERS OF INTENT

§ 3:119 Letters of intent
§ 3:120 —In general
§ 3:121 —Creation of contract
§ 3:122 —Omission of items
§ 3:123 —"Subject to" execution of contract
§ 3:124 —Disclaimer
§ 3:125 —Execution of formal contract

VI. CHECKLISTS

§ 3:126 Preparatory steps
§ 3:127 Representation of seller with broker where listing contract has not yet been executed
§ 3:128 Representation of seller where sale contract has not previously been submitted—Preparation of contract
§ 3:129 Representation of seller after submission and prior to acceptance of real estate contract
§ 3:130 Representation of purchaser where sale contract has not previously been submitted—Preparation of contract

VII. FORMS AND PUBLICATIONS

§ 3:131 Homeowner property tax exemptions information
§ 3:132 Guidance on the Lead–Based Paint Disclosure rule
§ 3:133 Seller's disclosure of information on lead-based paint and/or lead-based paint hazards
§ 3:134 Lessor's disclosure of information on lead-based paint and/or lead-based paint hazards
§ 3:135 Illinois Department of Public Health brochure entitled "Get the Lead Out"
§ 3:136 Residential real property disclosure report
§ 3:137 Sample of letter of intent
§ 3:138 Statutory short form of power of attorney for real property
§ 3:139 Notice to agent
§ 3:140 Notice to the individual signing the Illinois statutory short form power of attorney
§ 3:141 Agent's certification and acceptance of authority
§ 3:142 Successor agent's certification and acceptance of authority
§ 3:143 Co-agent's certification and acceptance of authority

§ 3:144 Power of attorney with provisions pursuant to the Durable Power of Attorney Act

CHAPTER 4. TYPES OF OWNERSHIP

I. IN GENERAL

§ 4:1 Generally
§ 4:2 Drafting issues
§ 4:3 Failure to specify type of tenancy

II. TYPE OF OWNERSHIP

§ 4:4 Tenants in common
§ 4:5 —Mineral rights
§ 4:6 Joint tenancy
§ 4:7 —Conveyance by a grantor to himself or herself and another party as grantees
§ 4:8 —Death of a joint tenancy contract purchaser before closing
§ 4:9 —Right of one joint tenant to sell the entire parcel owned in joint tenancy
§ 4:10 —Partition
§ 4:11 —Severance of joint tenancy
§ 4:12 — —No consent needed to sever joint tenancy
§ 4:13 — —Transfer under the Illinois Real Property Transfer on Death Instrument Act
§ 4:14 — —Severance by agreement
§ 4:15 — —Divorce does not sever a joint tenancy
§ 4:16 — —Conveyance by one of several joint tenants
§ 4:17 — —Fraudulent transfer does not sever joint tenancy
§ 4:18 — —Effect of severance
§ 4:19 — —Mortgage by one joint tenant
§ 4:20 — —Levy by creditor
§ 4:21 —Mortgage by one joint tenant—Death of joint tenant mortgagor
§ 4:22 —Bankruptcy of one joint tenant
§ 4:23 —Joint tenancy ownership of the beneficial interest in a land trust
§ 4:24 —Responsibilities of co-tenancy
§ 4:25 Tenancy by the entireties
§ 4:26 —Inclusion of civil unions
§ 4:27 —Language to use to establish tenancy by the entireties
§ 4:28 —Land trusts and co-ops
§ 4:29 —Revocable inter vivos trust

§ 4:30 —Additional grantee(s) to tenants by the entireties
§ 4:31 —Mistaken attempt to create tenancy by the entireties
§ 4:32 —Homestead property
§ 4:33 —Comparison with homestead rules
§ 4:34 —Signatures of both spouses needed for property held as tenants by the entireties
§ 4:35 —Duration
§ 4:36 —Protection from creditors
§ 4:37 — —Inter vivos trust for estate planning purposes
§ 4:38 — —Land trust beneficial interest
§ 4:39 — —Establishing a consensual lien
§ 4:40 — —Protection from IRS seizure
§ 4:41 — —Non-IRS judgments against only one tenant
§ 4:42 — —Family expenses and tenancy by the entireties
§ 4:43 —Severance of tenancy by the entireties
§ 4:44 — —Transfer under the Illinois Real Property Transfer on Death Instrument Act
§ 4:45 —Responsibilities of co-tenancy in tenancy by the entireties
§ 4:46 —Ownership of multiple-unit building and tenancy by the entireties
§ 4:47 —Ownership prior to marriage

III. LAND TRUST

§ 4:48 Definition
§ 4:49 Difference between a land trust and a common law trust
§ 4:50 Benefits of land trust
§ 4:51 —Secrecy of ownership
§ 4:52 Statutory definition of "land trust"
§ 4:53 Statutory definition of "beneficial interest"
§ 4:54 Distinctive characteristics of a land trust
§ 4:55 Right of beneficiary to assign beneficial interest
§ 4:56 No right in beneficiary to partition
§ 4:57 Responsibility of beneficiary for obligations of ownership
§ 4:58 Who may serve as trustee
§ 4:59 —Creditor as land trust trustee
§ 4:60 Setting up a land trust
§ 4:61 —Forms
§ 4:62 —Deed in trust
§ 4:63 — —Deed in trust distinguished from a trust deed
§ 4:64 —Trust agreement
§ 4:65 Definition—Setting up a land trust—Form of

ownership by multiple owners of the beneficial interest
§ 4:66 Setting up a land trust—Power of direction
§ 4:67 —Due-on-sale clause in mortgage
§ 4:68 Land Trustee's duties
§ 4:69 Trustee's duties—Exculpation clause in contracts executed by trustee
§ 4:70 Right of third party to rely on documents executed by trustee
§ 4:71 Right of beneficiary to execute contracts as beneficiary
§ 4:72 Right of beneficiary to execute real estate sale contract
§ 4:73 Equitable conversion does not apply to installment contract executed by beneficiary
§ 4:74 Right of beneficiary to act instead of the land trustee
§ 4:75 —Beneficiary has no authority to execute contracts as agent of the trust, but may execute contracts as beneficiary with power of direction
§ 4:76 Proper parties in a dispute as to ownership of beneficial interest
§ 4:77 Collateral assignment of the beneficial interest
§ 4:78 —Foreclosure under a collateral assignment of the beneficial interest
§ 4:79 Assignments of beneficial interest—Recording and transfer tax requirements
§ 4:80 —Transfers of beneficial interest subject to collateral assignment
§ 4:81 —Statute of Frauds
§ 4:82 —Effect of assignment on due-on-sale clause
§ 4:83 —Due on sale clause—Effect of Garn-St. Germain
§ 4:84 Fees of trustee
§ 4:85 Homestead
§ 4:86 Real estate taxes
§ 4:87 Title insurance
§ 4:88 Installment contract for sale
§ 4:89 Terminating a land trust
§ 4:90 —Land trust with more than one property
§ 4:91 —Conveyance of property subject to collateral assignment
§ 4:92 Practical aspects

IV. FORMS

§ 4:93 Surviving joint tenant affidavit/Deceased joint tenant affidavit
§ 4:94 Land trust—Letter of direction
§ 4:95 —Warranty deed in trust

§ 4:96 Land trust agreement
§ 4:97 Frequently used provisions in describing beneficial interest holders
§ 4:98 Land trust—Assignment of beneficial interest
§ 4:99 —Direction to convey

CHAPTER 5. CONTRACT PROVISIONS

I. ATTORNEY DRAFTING/REVIEWING CONTRACT FOR SALE OF REAL PROPERTY

§ 5:1 Preparing the contract
§ 5:2 Importance of contract review
§ 5:3 How to review a contract
§ 5:4 Out-of-state property
§ 5:5 Electronic contract

II. COMMON LAW PRINCIPLES

§ 5:6 Common law principles
§ 5:7 Incorporation of existing law in contracts
§ 5:8 Parol evidence rule
§ 5:9 —Four corners rule
§ 5:10 —Exceptions to parol evidence rule
§ 5:11 —Scope of parol evidence rule

III. CONTRACT PROVISIONS

§ 5:12 Date of contract
§ 5:13 Blank spaces in contract form
§ 5:14 Writing on contract after signature
§ 5:15 What constitutes a signature
§ 5:16 Title of contract
§ 5:17 —Formal counteroffer
§ 5:18 —Identification of document as offer
§ 5:19 —Time limit on offer
§ 5:20 Recitals
§ 5:21 Time and manner of acceptance
§ 5:22 —Deadline
§ 5:23 — —Practical considerations as to time
§ 5:24 — — —Offeree's considerations as to timing
§ 5:25 — — —Offeror's considerations as to timing
§ 5:26 — — —Advising other party
§ 5:27 —Manner of acceptance
§ 5:28 —Manner of delivery of acceptance
§ 5:29 —Manifestation of acceptance

§ 5:30 —Compliance of acceptance with terms of offer
§ 5:31 —Oral acceptance
§ 5:32 —Counteroffers
§ 5:33 —Effect of contract formation
§ 5:34 Matters to which acceptance is subject
§ 5:35 —Acceptance subject to attorney approval
§ 5:36 Offer and acceptance
§ 5:37 Names of seller and purchaser
§ 5:38 —Ascertaining proper sellers and purchasers
§ 5:39 —"Owner of Record"
§ 5:40 — —Inquiries in connection with ownership
§ 5:41 —Signature by agent
§ 5:42 —Husband and wife
§ 5:43 —Spousal rights
§ 5:44 — —Homestead rights
§ 5:45 — —Other marital rights
§ 5:46 — — —Representation as to marital status of seller
§ 5:47 —Joint owners
§ 5:48 —Land trust
§ 5:49 —Trust other than a land trust
§ 5:50 —When owner did not sign contract
§ 5:51 —When purported seller does not own property
§ 5:52 —Unformed legal entity
§ 5:53 —Minor or incompetent
§ 5:54 — —Right of guardian to convey property
§ 5:55 — —Minor's contract
§ 5:56 — —Contract of incompetent
§ 5:57 — —Contract contingent upon court approval
§ 5:58 — — —Certified copy of order to be furnished
§ 5:59 — —Limitation as to guardian's liability
§ 5:60 — —Representation as to majority
§ 5:61 —Representation as to selling signatories
§ 5:62 —Deceased title holder
§ 5:63 — —Joint tenancy or tenant by the entireties
§ 5:64 — —Bond in lieu of probate
§ 5:65 — —Who owns real property during probate?
§ 5:66 — —Independent administration
§ 5:67 — —Intestate
§ 5:68 — —Supervised administration and no power to sell
§ 5:69 — —Sale to heirs/legatees
§ 5:70 — —Right of heir or legatee to disclaim property
§ 5:71 — —Title company requirements
§ 5:72 — —Other requirements in independent administration

§ 5:73 — —Out-of-state real estate
§ 5:74 — —Land trusts
§ 5:75 —Nominee of buyer
§ 5:76 —Form in which buyer is to take title
§ 5:77 — —Lender involvement in buyer's form of title
§ 5:78 Identification of real property
§ 5:79 —Property index number (PIN)
§ 5:80 —Street address
§ 5:81 —Condominiums, cooperatives and town homes
§ 5:82 —Size of property
§ 5:83 — —Survey
§ 5:84 — —Action for fraud
§ 5:85 —Designation of party to supply legal description
§ 5:86 —Zoning
§ 5:87 Chicago zoning certificate requirement
§ 5:88 Purchase price
§ 5:89 —Earnest money
§ 5:90 — —Form of earnest money
§ 5:91 Earnest money—Requirement for earnest money
§ 5:92 —Amount of earnest money
§ 5:93 Earnest money and down payment—Amount of earnest money—Holder of earnest money
§ 5:94 —Earnest money escrow account
§ 5:95 — —Attorney as escrowee
§ 5:96 — — —Setting up the escrow
§ 5:97 — —Uncollected funds
§ 5:98 — —Interest on escrow funds
§ 5:99 — —Timing of deposit of escrow money
§ 5:100 — —Sales agent or broker as seller or buyer
§ 5:101 — —Sale by owner
§ 5:102 —Seller's acceptance of earnest money
§ 5:103 —Refunding earnest money to buyer
§ 5:104 Purchase price—Balance of purchase price
§ 5:105 — —"All cash deal"
§ 5:106 — —Certified funds
§ 5:107 — — —Currency reporting requirements
§ 5:108 — —Mortgage assumption
§ 5:109 — —Contract for deed
§ 5:110 — —Sale at loss to seller
§ 5:111 Requirements as to deed and title
§ 5:112 —Conveyances Act
§ 5:113 —Types of deed
§ 5:114 — —Warranty deed
§ 5:115 — —Special warranty deed

§ 5:116 — —Quitclaim deed
§ 5:117 — — —Acceptable types of quitclaim deeds
§ 5:118 —Affidavit of title
§ 5:119 —Evidence of title
§ 5:120 — —Reference to Torrens System
§ 5:121 — — —Deregistration
§ 5:122 — —Title insurance
§ 5:123 — — —Exceptions to title
§ 5:124 — — —Normally acceptable "permitted exceptions"
§ 5:125 — — —Necessary "permitted exceptions" that require review
§ 5:126 — — —Restrictive covenants
§ 5:127 — — —Seller's attorney's considerations
§ 5:128 — — —Buyer's attorney's considerations
§ 5:129 —Selection of title company
§ 5:130 — —Specification by lender
§ 5:131 —Abstract
§ 5:132 —Recordable title
§ 5:133 —Constructive notice of unrecorded interest
§ 5:134 Condominiums
§ 5:135 Closing
§ 5:136 —Within a "reasonable time"
§ 5:137 —Amount of time needed for closing
§ 5:138 —Amount of time needed—Buyer's time constraints
§ 5:139 — —Seller's time constraints
§ 5:140 — — —Newly constructed residence of seller
§ 5:141 — —Scheduling with title company for the closing
§ 5:142 — —Condominiums
§ 5:143 — —When closing date is essential
§ 5:144 —Place and method of closing
§ 5:145 — —Place of closing
§ 5:146 — —Closing agent
§ 5:147 — — —Services of closing agent
§ 5:148 — — —Who serves as closing agent
§ 5:149 — — —"All cash deal"
§ 5:150 — —Seriatim closings
§ 5:151 "Time is of the essence" clause
§ 5:152 —Computation of time
§ 5:153 —Inclusion of "time is of the essence" clause
§ 5:154 —Enforcement of clause
§ 5:155 —Waiver
§ 5:156 Possession date
§ 5:157 —Possession defined
§ 5:158 —Possession "at closing" compared to possession on a specified date

§ 5:159 —Possession escrow for seller remaining in possession
§ 5:160 — —Mechanics of possession escrow
§ 5:161 — —Escrow agent for possession escrow
§ 5:162 — — —Indemnification of escrow agent
§ 5:163 — — —Escrow instructions for the possession escrow agent
§ 5:164 —Payment when seller to remain in possession for limited period
§ 5:165 — —Determination of time covered by possession escrow
§ 5:166 —Amount of per diem to be paid by seller
§ 5:167 — —Determination of the amount per day to be paid for seller's possession
§ 5:168 — —Not to be construed as landlord-tenant relationship
§ 5:169 — —Post-closing inspection
§ 5:170 — —Damage to premises during seller's possession after closing
§ 5:171 —Early possession by buyer
§ 5:172 Prorations
§ 5:173 —Real estate tax proration
§ 5:174 —Real estate taxes—Usual proration method
§ 5:175 — —Reproration
§ 5:176 — —Prorating based on current assessment and last known equalization factor and tax rate
§ 5:177 — —Homeowner's and senior citizen's allowances and tax freeze
§ 5:178 — —Selecting method of proration
§ 5:179 —Other prorations
§ 5:180 —Errors in proration
§ 5:181 Personal property
§ 5:182 —Fixtures
§ 5:183 — —Trade fixtures
§ 5:184 —Included in contract to sell
§ 5:185 —Factors to consider
§ 5:186 —Removability
§ 5:187 —Disputed fixtures
§ 5:188 —Listing of personal property in contract
§ 5:189 — —Seller's considerations
§ 5:190 — —Buyer's considerations
§ 5:191 —Separate price for personal property
§ 5:192 —Other personal property
§ 5:193 —Bill of sale
§ 5:194 — —Liens

§ 5:195 — — —Seller's considerations
§ 5:196 — — —Buyer's considerations
§ 5:197 — — —UCC search
§ 5:198 —Condition of personal property
§ 5:199 — —Definition of good working condition
§ 5:200 — —Contract silent as to condition
§ 5:201 — —Term "as is" used
§ 5:202 — —Representation of "working order"
§ 5:203 — —Purchase of third-party warranty as to personal property
§ 5:204 — —Removal of debris
§ 5:205 Survey
§ 5:206 —Contract provision
§ 5:207 Notice provisions
§ 5:208 —Transmission, mailing or receipt
§ 5:209 — —Mailbox rule
§ 5:210 —Mailbox rule—Certified mail
§ 5:211 —Fax or e-mail transmission
§ 5:212 —Futile notices
§ 5:213 Condition of premises
§ 5:214 "As is" provision

IV. CONTINGENCIES AND RIDERS

§ 5:215 Contingencies and riders
§ 5:216 Attorney approval clause
§ 5:217 —Effect of attorney notice of disapproval of contract
§ 5:218 —Effect of attorney notice of modification
§ 5:219 —Good faith requirement
§ 5:220 —Deadline for attorney approval or modification
§ 5:221 —Deadline—Manner of notification of attorney modification
§ 5:222 — —Contents of notice of attorney modification
§ 5:223 —Identifying attorney for other side
§ 5:224 —Contact with client
§ 5:225 — —Unfavorable terms
§ 5:226 — —Oral understandings
§ 5:227 —Contact with client's real estate agent
§ 5:228 —Contact with other agent or party
§ 5:229 —Effect of attorney's request for modification
§ 5:230 —Out of state property
§ 5:231 Mortgage commitment contingency
§ 5:232 —Effect of mortgage contingency clause
§ 5:233 —Waiver
§ 5:234 —Notice under mortgage contingency clause

§ 5:235 —Option for seller to secure financing
§ 5:236 —Purchase money financing by seller
§ 5:237 —Buyer to apply for loan
§ 5:238 —Notice of inability to secure financing
§ 5:239 —Pre-qualification of buyer
§ 5:240 Inspection rider
§ 5:241 —Standards for inspection
§ 5:242 —Inspection issues
§ 5:243 —Radon
§ 5:244 —Radon testing
§ 5:245 —Mold and mildew
§ 5:246 —Other testing
§ 5:247 —Procedure upon unsatisfactory inspection report
§ 5:248 —Pre-closing inspection
§ 5:249 Contract contingent on sale of buyer's existing home
§ 5:250 —Issues to consider
§ 5:251 —Seller's protection
§ 5:252 — —Requiring a broker listing
§ 5:253 — —Time for sale by buyer
§ 5:254 — —"Kick-out" clause
§ 5:255 Zoning contingency
§ 5:256 —Nonconforming use
§ 5:257 Building Code Compliance
§ 5:258 —Review in light of planned use
§ 5:259 —Violations
§ 5:260 — —Failure to comply with the Dwelling Unit Installment Contract Act
§ 5:261 — —Waiver and estoppel
§ 5:262 — —Reformation or amendment
§ 5:263 — —Laches
§ 5:264 — —Damages
§ 5:265 Compliance with health codes
§ 5:266 —FHA and VA loans
§ 5:267 Survival of warranties
§ 5:268 Other clauses and contingencies
§ 5:269 Provisions relating to broker
§ 5:270 —Commission obligation if sale does not close
§ 5:271 —Payment of commission
§ 5:272 —Warranty as to other brokers
§ 5:273 Provisions relating to default
§ 5:274 Seller's attorney to furnish documents in advance
§ 5:275 Risk of loss between contract and closing
§ 5:276 —Risk of loss before closing
§ 5:277 —Risk of loss after transfer of title or possession

§ 5:278 —Form contracts regarding risk of loss
§ 5:279 Buyer to have reasonable access to premises
§ 5:280 Email or faxed documents
§ 5:281 —Use of rider
§ 5:282 —Title companies and commercial lenders
§ 5:283 Exculpatory clauses
§ 5:284 Other statutory requirements which accompany the contract
§ 5:285 —Residential Real Property Disclosure Act
§ 5:286 —Lead based paint disclosure requirement
§ 5:287 —Disclosure of insulation
§ 5:288 Other statutory requirements—Chicago energy cost disclosure requirement

V. STATUTE OF FRAUDS

§ 5:289 Statute of Frauds—Liability under contract
§ 5:290 —Issues to be considered
§ 5:291 —Interests covered by the Statute of Frauds
§ 5:292 — —Joint venture or partnership interests
§ 5:293 —Beneficiary of land trust
§ 5:294 Statute of Frauds Compliance—Contract to sell real property
§ 5:295 — —Description of property
§ 5:296 — —Modification of contracts
§ 5:297 — —Escrow agreement as compliance
§ 5:298 —Multiple documents

VI. ENFORCEMENT OF ORAL CONTRACT

§ 5:299 Enforcement of oral contract for sale of real property
§ 5:300 —Full performance by one party
§ 5:301 —Partial performance
§ 5:302 — —Examples of partial performance
§ 5:303 —Estoppel
§ 5:304 —Constructive trust

VII. OPTION CONTRACTS

§ 5:305 Option contracts
§ 5:306 —Requirements for option
§ 5:307 — —Consideration
§ 5:308 —Exercise of option
§ 5:309 — —Form of notice to exercise options
§ 5:310 —Effect of exercise
§ 5:311 —Lease with option to buy

§ 5:312 —Lease with option to buy or extend lease—Consideration
§ 5:313 — —Strict compliance with option terms required
§ 5:314 —Lease with option to buy—Termination of lease

VIII. DEATH OF PARTY TO CONTRACT

§ 5:315 Death while property is under contract
§ 5:316 —Contract to purchase
§ 5:317 —Contract to sell
§ 5:318 —Devise in will
§ 5:319 —Contingency clause as to death
§ 5:320 —Real Property Transfer on Death Instrument Act

IX. RIGHT OF FIRST REFUSAL

§ 5:321 Right of first refusal
§ 5:322 —Different from option
§ 5:323 —Cancellation of third party offer
§ 5:324 —Notice
§ 5:325 —Notice requirements

X. AUCTIONS

§ 5:326 Advance preparation
§ 5:327 Agency of auctioneer

XI. FORMS

§ 5:328 Representation of sellers' ownership
§ 5:329 Signatures of all title holders required
§ 5:330 Certificate of trust
§ 5:331 Spouse of seller—Format for signature to sale contract to cover spouse's rights only
§ 5:332 Beneficiaries of land trustee seller—Beneficiaries' undertakings in sales contract
§ 5:333 Minor seller—Sale contract subject to court approval of execution of contract by representative of a minor seller
§ 5:334 Incompetent seller—Sales contract subject to court approval of execution of contract by representative of an incompetent seller
§ 5:335 Exculpatory clause covering execution of contract by minor's representative
§ 5:336 Exculpatory clause covering execution of contract by incompetent's representative
§ 5:337 Representations that seller is not a minor

§ 5:338 Sample disclaimer language for earnest money check
§ 5:339 Escrow agreement for earnest money
§ 5:340 Affidavit of death of joint tenant
§ 5:341 Requirements for acceptance of personal undertaking in lieu of probate
§ 5:342 Disclaimer of interest in property of decedent
§ 5:343 Exculpatory clause covering execution of contract by executor or administrator
§ 5:344 Executor's deed
§ 5:345 Notice of probate and release of estate's interest in real estate
§ 5:346 Naming of purchaser's nominee
§ 5:347 Nominee and trust agreement
§ 5:348 Earnest money by check
§ 5:349 Accepting title subject to existing financing
§ 5:350 —Consent of mortgagee required
§ 5:351 —Purchaser's right to cancel if mortgagee increases interest on transfer
§ 5:352 Purchaser's indemnity of seller if seller remains liable on mortgage and purchaser accepts title subject to existing financing
§ 5:353 Matters to which title is subject
§ 5:354 Limitation on general reference in contract to covenants, conditions and restrictions of record to which title is subject
§ 5:355 Requirement for Chicago certificate of zoning compliance
§ 5:356 Purchaser's right to review declaration of condominium and association bylaws
§ 5:357 Representations of seller regarding assessments
§ 5:358 Acknowledgments and waivers of board of managers
§ 5:359 Condominium insurance
§ 5:360 Special title exceptions for condominiums
§ 5:361 Delivery of possession
§ 5:362 Seller's payments for agreed use and occupancy after closing
§ 5:363 Escrow to guarantee delivery of possession by seller
§ 5:364 Seller's payments for delayed delivery of possession beyond agreed date
§ 5:365 Prorations and adjustments
§ 5:366 Escrow to cover reproration of real estate taxes
§ 5:367 Seller's representation of condition of personal property
§ 5:368 Personal property—Seller's warranty of title and bill of sale
§ 5:369 —Assignment of manufacturer's warranties

§ 5:370 Survey requirement
§ 5:371 Certified legal description order form (Cook County)
§ 5:372 Notices
§ 5:373 Mortgage contingency clause
§ 5:374 Mortgage contingency clause covering variable payment schedule
§ 5:375 Mortgage contingency clause covering variable interest
§ 5:376 Notice of failure to obtain mortgage pursuant to mortgage contingency clause
§ 5:377 —Request for extension of time
§ 5:378 Notice of inability to satisfy contingency and/or Mutual Cancellation Agreement
§ 5:379 Inspection of property
§ 5:380 Inspection clause for inclusion in contract
§ 5:381 Termite inspection
§ 5:382 Mold Disclosure
§ 5:383 Sample contract contingency language covering lead disclosure
§ 5:384 Water and septic system test
§ 5:385 Soil test
§ 5:386 Future sale of other property by purchaser
§ 5:387 Future refinancing of other property of purchaser
§ 5:388 Purchaser's right of first refusal as to seller's alternative sale offer prior to fulfillment of contingency of future sale or refinancing of other property by purchaser
§ 5:389 Right of seller to cancel if another offer is received prior to sale or refinancing of other property by purchaser
§ 5:390 Closing of pending sale of purchaser's other property
§ 5:391 Contract representations—Building code representations
§ 5:392 Survival of representations and warranties
§ 5:393 Seller's warranties or representations
§ 5:394 Purchaser's agreements and representations
§ 5:395 Time of making warranties and representation
§ 5:396 Broker—Format for signature to sale contract
§ 5:397 Purchaser's default—Seller reserves right to hold purchaser liable for damages
§ 5:398 —Earnest money as liquidated damages
§ 5:399 Seller's default
§ 5:400 Material damage to the property prior to closing
§ 5:401 Sample language disclaiming intent to form contract
§ 5:402 Sample option contract

§ 5:403 Memorandum of option agreement
§ 5:404 Right of First Refusal Agreement

CHAPTER 6. NEW CONSTRUCTION

I. TYPES OF NEW CONSTRUCTION

§ 6:1 New construction issues
§ 6:2 Electric vehicle requirements
§ 6:3 Types of new construction—In general
§ 6:4 Custom-built home
§ 6:5 —Acquiring the lot
§ 6:6 — —Acquiring the lot from an independent source
§ 6:7 — —Acquiring the lot from the contractor
§ 6:8 —Risks of custom building a home
§ 6:9 — —Design defects
§ 6:10 — —Construction defects
§ 6:11 — —Financial difficulties of builder
§ 6:12 — —Cost overruns
§ 6:13 — —Timing of completion
§ 6:14 — —Supervision by owner
§ 6:15 — —Liens
§ 6:16 Homes built "on spec"
§ 6:17 Pre-construction of semi-custom home
§ 6:18 —Floor plans
§ 6:19 —Upgrades
§ 6:20 — —Types of upgrades
§ 6:21 — —Costs of upgrades
§ 6:22 —Downgrades
§ 6:23 —Pre-construction risks
§ 6:24 Variations or substitutions in construction

II. BUYER'S PRE-CONTRACT INVESTIGATION

§ 6:25 Architect and builder
§ 6:26 Oral representations of sales person
§ 6:27 Municipal matters
§ 6:28 —Zoning
§ 6:29 —Schools
§ 6:30 —Security
§ 6:31 Condominium, cooperative and townhouse developments
§ 6:32 Planned development

III. NEW CONSTRUCTION CONTRACT

§ 6:33 Contract for custom built home

§ 6:34 Date of contract
§ 6:35 Contract for custom built home—Documents
§ 6:36 — —Definitions
§ 6:37 — —Owner's responsibility
§ 6:38 — —Contractor's responsibilities
§ 6:39 — —Architect's role
§ 6:40 — —Dispute resolution
§ 6:41 — — —Claims
§ 6:42 — — —Consequential damages
§ 6:43 — — —Time limit on claims
§ 6:44 — — —Performance to continue
§ 6:45 — — —Concealed or unknown conditions
§ 6:46 — — —Claims for additional cost
§ 6:47 — —Changes in the work
§ 6:48 — — —Change Order compared to a Request for Change
§ 6:49 — — —Execution of Request for Change
§ 6:50 — — —Minor changes
§ 6:51 — —Time
§ 6:52 — —Payment by owner
§ 6:53 — — —Application for payment
§ 6:54 — — —Concept of progress payments
§ 6:55 — — —Changes in the work
§ 6:56 — — —Materials and supplies
§ 6:57 — — —Architect's decision
§ 6:58 — — —Owner's payment
§ 6:59 — —Substantial completion
§ 6:60 — — —Punch list
§ 6:61 — — —Occupancy by owner
§ 6:62 — — —Warranties
§ 6:63 Waiver of warranties and implied warranty of habitability
§ 6:64 Contract for custom built home—Documents—Substantial completion—Inspection
§ 6:65 — —Final payment
§ 6:66 — — —Accompanying documents
§ 6:67 — — —Contractors' waiver of claims
§ 6:68 — — —Owner's claims
§ 6:69 — —Safety precautions
§ 6:70 — —Insurance
§ 6:71 — — —Contractor's insurance
§ 6:72 — — —Project Management Protective Liability Insurance ("PMPL")
§ 6:73 — — —Owner's insurance
§ 6:74 — — —Contractor's performance bond

§ 6:75 — —Correction and completion of the work
§ 6:76 — —Correction of the work—Correction or completion by owner
§ 6:77 — —Termination or suspension of contract
§ 6:78 — — —Work stoppage and termination by contractor
§ 6:79 — — —Contractor's right to payment after work stoppage
§ 6:80 — — —Payment stoppage and termination by owner for cause
§ 6:81 — — —Owner's rights on termination of the contract
§ 6:82 —Attorney review of contract for new construction
§ 6:83 — —Plans, drawings and specifications
§ 6:84 — — —Responsibility for defects
§ 6:85 — — —Unusual physical conditions on site
§ 6:86 — —Verification by contractor of location of utilities
§ 6:87 — —Owner's designation or approval of subcontractors
§ 6:88 — —Contract warranties
§ 6:89 — —Contractor's insurance
§ 6:90 — —Bonding
§ 6:91 — —Use of bank or title company as escrowee for progress payments
§ 6:92 — —Assurance of sufficient funds for completion
§ 6:93 — —Certificate of occupancy
§ 6:94 Contract for semi-custom home
§ 6:95 —Negotiability of terms
§ 6:96 —Earnest money, down payment and payment for "extras"
§ 6:97 Construction contract provisions—Payment for extras
§ 6:98 —Forfeiture of cost of extras in case of buyer default
§ 6:99 —Delay damages
§ 6:100 —Real estate taxes
§ 6:101 — —Proration
§ 6:102 —Contingencies
§ 6:103 —Specifications and substitutions
§ 6:104 —No oral representations
§ 6:105 — —Four corners rule
§ 6:106 —Pre-closing walk through and punchlist
§ 6:107 —Multiple corrections
§ 6:108 —Closing date
§ 6:109 —Buyer's right to cancel or assign the contract
§ 6:110 —Warranties
§ 6:111 — —Exclusions
§ 6:112 — —Warranty of habitability
§ 6:113 — — —Disclaimer

§ 6:114 — —Time period of warranty
§ 6:115 —Indemnity provisions
§ 6:116 Remedies after closing

IV. NEW CONSTRUCTION FINANCING

§ 6:117 Custom built home
§ 6:118 —Financing terms
§ 6:119 —Permanent financing after construction completed
§ 6:120 —Construction loan process
§ 6:121 Semi-custom home
§ 6:122 —Reasons for stricter mortgage standards
§ 6:123 — —Multi-unit development
§ 6:124 — —Timing of completion
§ 6:125 — —Quality of work
§ 6:126 —Financing arranged by builder

V. HOME REMODELING

§ 6:127 Home Repair and Remodeling Act
§ 6:128 —Definition of Contractor
§ 6:129 —Subcontractor excluded from the Act
§ 6:130 —Repairs following damaging weather
§ 6:131 — —Required notice
§ 6:132 —Written contract
§ 6:133 —Arbitration or jury waiver
§ 6:134 —Consumer rights brochure
§ 6:135 —Insurance requirements
§ 6:136 —Enforcement
§ 6:137 — —Contractor's right to recover on oral contract
§ 6:138 —Attorney's fees
§ 6:139 Adjacent Landowner Excavation Protection Act
§ 6:140 —Duties of landowners under the Act
§ 6:141 —Damages under the Act
§ 6:142 Contractor Prompt Payment Act
§ 6:143 —Owner obligation to pay contractor
§ 6:144 —Contractor obligation to pay subcontractor
§ 6:145 —Damages

VI. FORMS

§ 6:146 Construction contract
§ 6:147 Contract provision making contract subject to approval of recorded documents affecting use of property
§ 6:148 Contract provision for waiver of implied warranty of habitability

§ 6:149 Contractor's statement
§ 6:150 General contractor's sworn statement
§ 6:151 Partial waiver of lien
§ 6:152 Full waiver of lien

CHAPTER 7. MORTGAGE FINANCING

I. INSTITUTIONAL FINANCING

§ 7:1 Overview of mortgage market
§ 7:2 The "secondary market" for mortgage loans
§ 7:3 "Fannie Mae," "Freddie Mac," and "Ginnie Mae"
§ 7:4 Wholesale interest rates and lender's "mark up"
§ 7:5 "Yield spread premium"
§ 7:6 Nonconforming loans
§ 7:7 Insurance and guarantee programs for lenders
§ 7:8 Insurance requirements for borrowers under federally insured mortgages
§ 7:9 —Common law liability of lender or determiner

II. APPLYING FOR A MORTGAGE LOAN

§ 7:10 Attorney's role
§ 7:11 Time to obtain financing
§ 7:12 Traps for borrowers
§ 7:13 Hidden fees
§ 7:14 Overage
§ 7:15 Lender's requirement of obtaining title through specific company is unlawful
§ 7:16 Underwriting standards
§ 7:17 Fair Credit Reporting Act
§ 7:18 Predatory lending database
§ 7:19 —Exempt entities
§ 7:20 Consumer credit scores
§ 7:21 Discrimination in lending—Federal provisions
§ 7:22 —Illinois provisions
§ 7:23 Mortgage as investment—Disclosure as to resale of mortgage
§ 7:24 Loan servicing
§ 7:25 —Problems with transfers
§ 7:26 Private mortgage insurance
§ 7:27 Private insurance—Mandatory disclosures
§ 7:28 Loan modifications

III. TYPES OF MORTGAGES

§ 7:29 Types of mortgages

§ 7:30 —Conventional
§ 7:31 —FHA loans
§ 7:32 —VA loans
§ 7:33 —Adjustable Rate Mortgage (ARM)
§ 7:34 — —Features of an ARM
§ 7:35 — —Reasons for popularity
§ 7:36 — — —Complexity of calculations
§ 7:37 —Negative amortization mortgage
§ 7:38 —Reverse mortgages
§ 7:39 —Convertible fixed-rate mortgage
§ 7:40 —Growing equity mortgage (GEM)
§ 7:41 —Graduated payment mortgage (GPM)
§ 7:42 —Balloon payment loans
§ 7:43 —Construction loans
§ 7:44 —Bi-weekly mortgage
§ 7:45 —"Jumbo" loans
§ 7:46 —Equity sharing arrangements
§ 7:47 —Combination with seller's carryback
§ 7:48 — —Lender's viewpoint
§ 7:49 — —Typical combinations
§ 7:50 — —Lender requirements
§ 7:51 —Junior mortgage
§ 7:52 —Bridge loan
§ 7:53 —Wraparound mortgage
§ 7:54 —Buydown
§ 7:55 —Payment methods
§ 7:56 — —Interest only loans
§ 7:57 — —Balloon payment
§ 7:58 — —Principal plus interest
§ 7:59 — —Fixed payment ARM

IV. THE MORTGAGE APPROVAL PROCESS

§ 7:60 Lender's discretion
§ 7:61 Typical lender requirements
§ 7:62 Mortgage broker
§ 7:63 —Mortgage broker's fees
§ 7:64 —Mortgage broker's services
§ 7:65 —Mortgage broker's relationship to borrower
§ 7:66 Amount of time
§ 7:67 Loan application
§ 7:68 —Notification of action
§ 7:69 —Application fee
§ 7:70 — —No refund if borrower turned down for loan
§ 7:71 —Required documents

§ 7:72 — —Regular loan documentation
§ 7:73 — —"No doc" loans
§ 7:74 — — —"Instant" loan approval
§ 7:75 —Electronic loan application procedures
§ 7:76 —Accuracy of application and documents
§ 7:77 — —Supplying tax returns
§ 7:78 Lender's charges
§ 7:79 —Interest at closing to first full month after closing
§ 7:80 —Points
§ 7:81 —Prepaid points or origination fee
§ 7:82 —Private Mortgage Insurance (PMI)
§ 7:83 — —Payment
§ 7:84 —Private mortgage insurance (PMI)—Mortgage payment insurance for borrower
§ 7:85 —Private Mortgage Insurance (PMI)—Borrower's right to cancel PMI—Federal provisions
§ 7:86 — — —Illinois provisions
§ 7:87 —Appraisal fee
§ 7:88 —Credit report, document processing fees and other mortgage costs
§ 7:89 Real Estate Settlement Procedures Act
§ 7:90 —General RESPA requirements
§ 7:91 —Requirements—Settlement costs to be disclosed
§ 7:92 —RESPA and the Consumer Fraud Act
§ 7:93 —Qualified written request
§ 7:94 Truth-in-Lending disclosure
§ 7:95 —Finance charge
§ 7:96 —Types of lender fees included in finance charges to compute APR
§ 7:97 —Right of rescission
§ 7:98 Lender's tax and insurance escrow
§ 7:99 —How escrow accounts work
§ 7:100 —Illinois Mortgage Escrow Account Act
§ 7:101 — —Purposes of act
§ 7:102 — —Fees
§ 7:103 — —No fee for waiver
§ 7:104 —Choice to have interest bearing deposit instead of escrow account
§ 7:105 Loan commitment
§ 7:106 —Attorney review
§ 7:107 —Typical mortgage commitment conditions to be satisfied at closing
§ 7:108 —Additional requirements
§ 7:109 —Duration of commitment

§ 7:110 —Effect of material change in borrower's economic position prior to closing
§ 7:111 Scheduling closing
§ 7:112 —Timeliness of borrower
§ 7:113 —Contact from parties needed
§ 7:114 Consumer complaints

V. ASSUMING/TAKING SUBJECT TO EXISTING MORTGAGE

§ 7:115 Assumption of existing mortgage
§ 7:116 Taking subject to existing mortgage
§ 7:117 Seller's considerations
§ 7:118 Buyer's considerations
§ 7:119 Due-on-sale clause
§ 7:120 —Enforceability
§ 7:121 —Reasonableness
§ 7:122 —Equitable defenses
§ 7:123 —Assignment of beneficial interest in land trust
§ 7:124 —Assignment to land trust
§ 7:125 —Federal law

VI. INTEREST, LATE CHARGES AND USURY

§ 7:126 Residential mortgage loans
§ 7:127 Late charge
§ 7:128 Interest after default
§ 7:129 Determination of interest rate

VII. REQUIREMENTS FOR A MORTGAGE

§ 7:130 Creation of a mortgage
§ 7:131 Mortgage as investment
§ 7:132 Assignment of note and mortgage by mortgagee
§ 7:133 —Recording assignment
§ 7:134 Consideration
§ 7:135 —Nature of underlying obligation
§ 7:136 —No necessity for note
§ 7:137 —Consideration need not be contemporaneous
§ 7:138 Equitable mortgage
§ 7:139 Conveyance
§ 7:140 —Requirements
§ 7:141 —Applicability of doctrines
§ 7:142 —Statutory language
§ 7:143 —Release of homestead rights
§ 7:144 —Acknowledgment

§ 7:145 Execution-Permanent Index Number (PIN)
§ 7:146 Notices
§ 7:147 —Proof of delivery
§ 7:148 Prepayment
§ 7:149 —Penalty
§ 7:150 —Purchase money mortgage
§ 7:151 —Form for junior mortgage
§ 7:152 —Subordination
§ 7:153 Recording
§ 7:154 —Removal of personal information
§ 7:155 —Effective date of the mortgage
§ 7:156 —Effect—Subsequent purchasers
§ 7:157 —Priority
§ 7:158 — —Electronic recording
§ 7:159 — —Conventional subrogation
§ 7:160 — — —Requirements
§ 7:161 — — —Refinancing by third party
§ 7:162 — —Equitable subrogation
§ 7:163 —Mechanics' liens
§ 7:164 Priority of purchase money mortgage generally
§ 7:165 —Crop lien
§ 7:166 Priority of mortgage over mechanic liens
§ 7:167 Priority of liens in case of sale of property
§ 7:168 Estoppel letter
§ 7:169 Note
§ 7:170 Trust deed
§ 7:171 —Procedures
§ 7:172 —Advantages
§ 7:173 Release of mortgage
§ 7:174 Mortgage Certificate of Release Act

VIII. REFINANCING

§ 7:175 Definition
§ 7:176 When to refinance
§ 7:177 —Using existing lender
§ 7:178 —Prepayment costs on existing loan
§ 7:179 Title insurance
§ 7:180 Attorney involvement

IX. COLLATERAL ASSIGNMENT OF INTEREST IN A LAND TRUST IN LIEU OF OR IN ADDITION TO A MORTGAGE

§ 7:181 Beneficial interest

§ 7:182 —Documentation
§ 7:183 —Multiple beneficiaries—Transfer of interest
§ 7:184 —Power of direction
§ 7:185 —Foreclosure of collateral assignment

X. REVERSE MORTGAGES

§ 7:186 Reverse equity mortgage—Features
§ 7:187 —Who qualifies for a reverse mortgage
§ 7:188 —Borrower obligations
§ 7:189 —Balance due if repaid
§ 7:190 —Effect on heirs
§ 7:191 Types of reverse loans
§ 7:192 —Uninsured reverse mortgage
§ 7:193 —FHA-guaranteed reverse mortgage
§ 7:194 — —Requirement of maintaining a homestead in reverse mortgage property
§ 7:195 — —Terms of reverse mortgage loan
§ 7:196 — —Amount of loan
§ 7:197 —Single-purpose reverse mortgage
§ 7:198 Costs of reverse mortgage loans
§ 7:199 Reverse equity mortgage causes of action
§ 7:200 Illinois Reverse Mortgage Act
§ 7:201 Attorney counseling

XI. SELLER FINANCING

§ 7:202 Reasons for seller financing
§ 7:203 Seller financing under mortgage contingency clause
§ 7:204 Sales contract provisions

XII. METHODS OF SELLER FINANCING

§ 7:205 Types of seller financing
§ 7:206 Purchase money mortgage
§ 7:207 —Assignment of rents
§ 7:208 Sale Contract—Equitable conversion
§ 7:209 Articles of agreement—Contract for deed
§ 7:210 Articles of Agreement—Contract for deed—Date of contract
§ 7:211 Articles of agreement—Equitable conversion
§ 7:212 —Equitable conversion is enforceable only between the parties
§ 7:213 —Installment sale of beneficial interest in land trust
§ 7:214 —Due-on-sale clause in existing financing
§ 7:215 — —"Due-on-sale" language

§ 7:216 —"Silent assumption"
§ 7:217 —Default of buyer under an installment contract
§ 7:218 —Default of buyer—Reinstatement or redemption
§ 7:219 — —Application of foreclosure law
§ 7:220 — —If foreclosure law does not apply
§ 7:221 — —Defenses to forcible entry and detainer action
§ 7:222 — —Other avenues for relief
§ 7:223 —Acceleration clause
§ 7:224 —Condominiums
§ 7:225 —Recording
§ 7:226 — —Effect of recording
§ 7:227 — —Right to record contract
§ 7:228 —Use of land trust and escrow
§ 7:229 — —Exculpatory provision
§ 7:230 — —Changes in status of seller
§ 7:231 —Statutory requirements
§ 7:232 — —Property in existing land trust
§ 7:233 — —Disclosure of building violations
§ 7:234 — —Security deposits
§ 7:235 — —Internal Revenue Code reporting requirement
§ 7:236 —Buyer's right to cure default on existing mortgage
§ 7:237 —Place of payment
§ 7:238 — —Payments to a neutral party
§ 7:239 —Interest rate considerations
§ 7:240 —Federal tax considerations regarding interest
§ 7:241 —Late charges
§ 7:242 —Prepayment
§ 7:243 —Risk of loss
§ 7:244 —Insurance
§ 7:245 — —Proof of payment of premiums
§ 7:246 — —Adjustment of loss and distribution of insurance proceeds
§ 7:247 —Tax and insurance escrow
§ 7:248 — —Underlying mortgage tax and insurance escrow
§ 7:249 — —No underlying mortgage tax and insurance escrow requirement
§ 7:250 — —Real estate tax proration
§ 7:251 —Mechanics' liens
§ 7:252 —Evidence of merchantable title
§ 7:253 —Title insurance
§ 7:254 —Seller's right to increase or refinance mortgage
§ 7:255 — —Maximum amount of mortgage
§ 7:256 — —Monthly payments under new mortgage
§ 7:257 — —Term of mortgage
§ 7:258 — —Subordination of contract to new mortgage

§ 7:259 — — —Buyer's requirements to subordinate to new mortgage
§ 7:260 —Maintenance of property
§ 7:261 — —Notice to buyer
§ 7:262 — —Offset
§ 7:263 —Assignability of contract
§ 7:264 —Contract balance
§ 7:265 —Attorney's fees
§ 7:266 —Recording
§ 7:267 —Memorandum of Agreement
§ 7:268 —Broker's commissions

XIII. FORMS

§ 7:269 Example of uniform residential loan application and accompanying documents given to borrower
§ 7:270 Example of federal Truth-in-Lending disclosure statement
§ 7:271 Example of tax escrow information and Escrow Account Act notice given to borrower
§ 7:272 Example of mortgage loan commitment
§ 7:273 Accepting title subject to existing financing—Consent of mortgagee required
§ 7:274 Contract subject to release of seller if purchaser takes title subject to existing financing
§ 7:275 Purchaser's indemnity of seller if seller remains liable on mortgage and purchaser accepts title subject to existing financing
§ 7:276 Restrictions on purchaser's right to transfer if seller remains liable on existing mortgage or seller gives a purchase money mortgage
§ 7:277 Clause prohibiting assignment by purchaser without consent
§ 7:278 Restriction on purchaser's use of property if seller remains liable on existing mortgage or seller gives a purchase money mortgage
§ 7:279 Accepting title subject to existing financing
§ 7:280 —Seller's representation that consent of mortgagee not required
§ 7:281 —Purchaser's right to cancel if mortgagee increases interest on transfer
§ 7:282 Assumption by purchaser of existing financing
§ 7:283 Example of mortgage—Fannie Mae/Freddie Mac form
§ 7:284 Loan prepayable
§ 7:285 Mortgage provision identifying purchase money mortgage

§ 7:286 Mortgage note provision identifying purchase money mortgage
§ 7:287 Mortgage subrogation agreement
§ 7:288 Example of Fannie Mae/Freddie Mac note
§ 7:289 Individual note—Interest semi-annually, one principal payment at maturity
§ 7:290 Assignment of beneficial interest
§ 7:291 Example of release deed
§ 7:292 Partial release (general)—Another form
§ 7:293 Satisfaction of mortgage
§ 7:294 Release of part of mortgaged premises
§ 7:295 Release of judgment lien
§ 7:296 Certificate of release
§ 7:297 Record of payment in lieu of release of mortgage
§ 7:298 Predatory lending database memorandum
§ 7:299 Requirements for recording under Illinois Anti-Predatory Lending Program
§ 7:300 Mortgage contingency clause
§ 7:301 Mortgage contingency clause prepayment
§ 7:302 Mortgage note provision identifying security as a purchase money mortgage
§ 7:303 Mortgage provision identifying mortgage as a purchase money mortgage
§ 7:304 Assignment of rents—Example
§ 7:305 —Land trust
§ 7:306 Articles of agreement (DuPage County Bar Association)
§ 7:307 Articles of agreement escrow (documents retained, title and collection)
§ 7:308 Articles of agreement escrow (documents retained, title, no collection)
§ 7:309 Articles of agreement escrow (documents retained)

CHAPTER 8. MORTGAGE FORECLOSURE

I. FEDERAL AND STATE BORROWER SUPPORT

§ 8:1 Federal response to foreclosure crisis

II. OVERVIEW OF MORTGAGE FORECLOSURE LAW

§ 8:2 Overview of Illinois mortgage foreclosure
§ 8:3 Mortgage foreclosure—Deed in lieu of foreclosure
§ 8:4 —Federal non-judicial foreclosure
§ 8:5 Mortgage and mechanic lien foreclosure compared

III. MORTGAGE FORECLOSURE COMPLAINT

§ 8:6 Mortgagee or agent as proper party plaintiff
§ 8:7 Assignment of note and mortgage by mortgagee
§ 8:8 Additional lender requirements in beginning foreclosure action
§ 8:9 Necessary parties—Right of junior mortgagee not listed as defendant in foreclosure
§ 8:10 —Deceased mortgagor
§ 8:11 — —Effect of failure to file claim against the estate
§ 8:12 Statute of limitations for action in foreclosure
§ 8:13 Mortgage foreclosure—Mortgagee failure to obtain Residential Mortgage License
§ 8:14 Defense to complaint—Defense of alteration
§ 8:15 Vacating default judgment for lack of standing

IV. SHORT SALE

§ 8:16 Short sale in foreclosure
§ 8:17 —Profit on resale by mortgagee

V. REDEMPTION PERIOD

§ 8:18 Right of junior mortgagee to redeem

VI. JUDGMENT OF FORECLOSURE

§ 8:19 Deficiency judgment
§ 8:20 —Right of mortgagor to credit the profit on a sale by mortgagor/purchaser against a deficiency judgment
§ 8:21 Mortgagee possession rights—Residential cases
§ 8:22 —Non-residential cases
§ 8:23 —Assignment of rents

VII. JUDICIAL SALE

§ 8:24 Mortgagor purchaser at foreclosure sale
§ 8:25 Sale by owner after foreclosure sale and before confirmation of sale

VIII. CONFIRMATION OF SALE

§ 8:26 Confirmation of sale
§ 8:27 Permissible defenses at confirmation of sale
§ 8:28 —Unconscionable terms—Sale price
§ 8:29 Distribution of sale proceeds
§ 8:30 —Real estate taxes
§ 8:31 Tenant rights in foreclosed property

§ 8:32 —Chicago ordinance

IX. BONA FIDE PURCHASER

§ 8:33 Bona fide purchaser before confirmation of sale
§ 8:34 Bona fide purchaser after confirmation of sale

X. ATTORNEY'S FEES

§ 8:35 Mortgage foreclosure—Attorneys' fees—Borrower's right to fees
§ 8:36 — —Lender's right to fees

XI. ILLINOIS SUPREME COURT RULES ON MORTGAGE FORECLOSURE CASES

§ 8:37 Mortgage foreclosure—Supreme Court Rules 113 and 114 on Mortgage Foreclosure Cases

Volume 15

CHAPTER 9. PREPARING FOR CLOSING

I. ATTORNEY'S PREPARATIONS FOR CLOSING

§ 9:1 Blueprint for preparations
§ 9:2 Seller's attorney's responsibilities before closing
§ 9:3 Buyer's attorney's responsibilities before closing
§ 9:4 Attorney should avoid dual representation
§ 9:5 Order title insurance
§ 9:6 Order survey
§ 9:7 —Practical aspects of ordering survey
§ 9:8 —Time to order survey
§ 9:9 —Older survey with affidavit of no change
§ 9:10 —Affidavit of no change in survey—Form
§ 9:11 —Information needed to give surveyor
§ 9:12 Condominium—Obtain paid assessment letter and waiver of right of first refusal letter
§ 9:13 —Obtain paid assessment and right of first refusal—Definition
§ 9:14 —Obtain paid assessment and homeowner's association forms and fees
§ 9:15 Obtain paid assessment—Timing
§ 9:16 Property insurance requirements
§ 9:17 —In the case of a free-standing home

§ 9:18 —For a condominium or townhouse or similar unit with a central association
§ 9:19 —General requirements
§ 9:20 Monitor status of contract contingency clauses
§ 9:21 —Sale of existing home contingency
§ 9:22 —Mortgage contingency
§ 9:23 — —Content of request for extension of mortgage contingency date
§ 9:24 — —Timing for giving notice of failure to get a mortgage
§ 9:25 Obtain release of prior mortgages
§ 9:26 Mortgage Certificate of Release Act
§ 9:27 Obtain payoff letter for existing mortgage
§ 9:28 —Contents of payoff letter
§ 9:29 —Contents—Sufficiency of payoff letter
§ 9:30 —Ordering the payoff letter
§ 9:31 —Accuracy of mortgage payoff payment
§ 9:32 —Mortgage payments
§ 9:33 —Real estate tax and insurance escrow balances
§ 9:34 —Fax payoff letters
§ 9:35 Obtain deed from land trust
§ 9:36 —Ordering a trustee's deed
§ 9:37 Evidence of payment of real estate taxes

II. TRANSFER TAXES AND REQUIREMENTS

§ 9:38 In general—State and county transfer taxes
§ 9:39 —Municipal transfer taxes
§ 9:40 State transfer tax
§ 9:41 —State tax declaration
§ 9:42 — —Contents of declaration
§ 9:43 — —Sales information questions
§ 9:44 — —Financing information questions
§ 9:45 — —Land trust
§ 9:46 —Stamps
§ 9:47 —Value of personal property
§ 9:48 County tax
§ 9:49 —Declaration form
§ 9:50 Exemptions from transfer tax
§ 9:51 —Assignments of beneficial interest
§ 9:52 Municipal transfer taxes and other requirements
§ 9:53 —Constitutionality of municipal transfer taxes
§ 9:54 —City of Chicago
§ 9:55 — —Senior citizen refund
§ 9:56 —Chicago requirements—Summary

§ 9:57 — —Transfers included
§ 9:58 — —Chicago transfer tax—Penalty for late purchase of transfer stamps
§ 9:59 — —Exemptions
§ 9:60 — — —Burden of proof
§ 9:61 — —Chicago building registration certificate—Where to obtain copy of building registration certificate
§ 9:62 — —Chicago water certification
§ 9:63 — — —Form of water certification
§ 9:64 — — —Necessary information
§ 9:65 — — —Where to obtain water certification
§ 9:66 — — —Exempt transfers
§ 9:67 — — —Cost and time to order
§ 9:68 — —Chicago heating cost disclosure
§ 9:69 — —Chicago zoning certification
§ 9:70 — — —Application
§ 9:71 — — —Contest
§ 9:72 — — —Waiver
§ 9:73 —Vacant building ordinances
§ 9:74 — —Chicago Vacant Building Ordinance
§ 9:75 — — —Mortgagee requirements
§ 9:76 — — — —Affirmative defenses
§ 9:77 — —Cook County Vacant Building Ordinance
§ 9:78 —Municipal transfer taxes
§ 9:79 —Municipal codes
§ 9:80 —Assignments of beneficial interest in land trust
§ 9:81 —Other municipal requirements
§ 9:82 —Inspection
§ 9:83 —Evanston—Registration of rental residential buildings

III. SELLER'S ATTORNEY'S DRAFTING RESPONSIBILITIES

§ 9:84 Documents needed
§ 9:85 —Seller-provided mortgage
§ 9:86 When sellers will not attend closing
§ 9:87 —Power of attorney
§ 9:88 —"Pay proceeds" letter
§ 9:89 —Special problems with pre-signature by sellers
§ 9:90 — —Need for signature of principal
§ 9:91 — —Signatures must be notarized
§ 9:92 — —Counterparts
§ 9:93 Forms
§ 9:94 Allowing advance review by buyer's attorney

§ 9:95 Broker's fees and earnest money
§ 9:96 Seller's closing
§ 9:97 —Transmittal of closing statement
§ 9:98 —Difference between seller's closing statement and the Closing Disclosure
§ 9:99 —Closing Disclosure—Party responsible for preparation
§ 9:100 — —Exemptions
§ 9:101 — —Timing
§ 9:102 — —Confidentiality requirements
§ 9:103 —Information in closing statement
§ 9:104 — —Operative principles
§ 9:105 — —Seller's settlement
§ 9:106 — —Optional information
§ 9:107 — —Closing statement
§ 9:108 Scheduling the closing
§ 9:109 —Scheduling closing with the title company
§ 9:110 —Scheduling closing with the lender
§ 9:111 —With lender—Attorney contact with lender
§ 9:112 — —Necessity of contact with lender
§ 9:113 — —Lenders' closing policies
§ 9:114 — — —General policies
§ 9:115 — —Relationship to underwriting
§ 9:116 —Seriatim closings

IV. CHECKLISTS

§ 9:117 Seller's time docket and checklist
§ 9:118 Seller's closing checklist
§ 9:119 Purchaser's time docket and checklist
§ 9:120 Purchaser's closing checklist

V. FORMS AND EXAMPLES

§ 9:121 Example of paid assessment right of first refusal letter
§ 9:122 Condominium /townhome section 22.1 resale disclosure requirements
§ 9:123 Request to condominium association for closing documentation
§ 9:124 Example of association questionnaire
§ 9:125 Example of insurance binder for condominium property
§ 9:126 Contract provision covering future sale of other property by purchaser
§ 9:127 Notice of failure to obtain mortgage pursuant to mortgage contingency clause

§ 9:128 Response to buyer's request to delay closing
§ 9:129 Request for possession prior to closing
§ 9:130 Possession and escrow agreement for possession prior to closing
§ 9:131 Buyer's pre-closing possession agreement
§ 9:132 Seller's post-closing possession agreement
§ 9:133 Request for extension of time
§ 9:134 Request for mortgage or lien pay-off statement
§ 9:135 Example of payoff letter
§ 9:136 Direction to convey
§ 9:137 Illinois real estate transfer declaration—Form PTAX-203
§ 9:138 —Supplemental Form A (nonresidential: sale price over $1 million)—PTAX-203-A
§ 9:139 —Supplemental Form B (beneficial interest transfers)—PTAX-203-B
§ 9:140 Illinois real estate transfer tax payment document (nonrecorded transfers)—PTAX-203-NR
§ 9:141 Allocation of personal property in contract
§ 9:142 Cook County transfer tax declaration form
§ 9:143 Chicago Revenue Procedures Ruling #2 regarding reasonable cause for late payment
§ 9:144 City of Evanston real estate transfer tax declaration
§ 9:145 Village of Skokie real estate transfer tax form and information sheet
§ 9:146 Chicago utilities full payment certificate application form
§ 9:147 Village of Wheeling application for real estate transfer
§ 9:148 Chicago certificate of zoning compliance
§ 9:149 Cook County zoning certificate application
§ 9:150 Cook County multiple dwelling unit registration (MDU)
§ 9:151 Closing statement
§ 9:152 Seller's settlement
§ 9:153 Buyer's settlement
§ 9:154 Insurance and rent schedules to be attached to closing statement
§ 9:155 Sample closing disclosure

Appendix 9A. Municipal Code of Chicago, Chapter 13-10, Registration of Multiple Dwellings

Appendix 9B. Summary of Transfer Taxes

Appendix 9C. Illinois Statutory Provisions Relating to Real Property Transfers

CHAPTER 10. DEED, BILL OF SALE, AND AFFIDAVIT OF TITLE

I. ATTORNEY'S DRAFTING RESPONSIBILITIES

§ 10:1 Required documents
§ 10:2 General considerations
§ 10:3 —Legal requirements
§ 10:4 —Recordability of deed
§ 10:5 —Constructive notice of unrecorded interest
§ 10:6 —Coordination with title insurance company and lender
§ 10:7 — —Additional grantors (sellers)
§ 10:8 — — —Signature of spouse
§ 10:9 — — —Estates, partnerships, corporations, LLC's and trusts
§ 10:10 — —Customary forms

II. DRAFTING THE DEED

§ 10:11 Information and items included in deed
§ 10:12 Interpretation of deed
§ 10:13 Requirements for valid deed—Conveyances Act
§ 10:14 Date of deed
§ 10:15 Types of deeds
§ 10:16 —Types of warranties and covenants
§ 10:17 Words of conveyance
§ 10:18 —"Grant"
§ 10:19 —Statutory forms
§ 10:20 Warranty deed
§ 10:21 —Warranties of title
§ 10:22 —Breach of warranty
§ 10:23 — —Buyer's knowledge of breach
§ 10:24 —After-acquired title
§ 10:25 —Statutory form
§ 10:26 Special warranty deed
§ 10:27 —Statutory form
§ 10:28 —"Grant, bargain and sell"—Implied covenant of good title and quiet enjoyment
§ 10:29 Quitclaim deed
§ 10:30 —Language used
§ 10:31 —Corporate, trustee's, executor's deeds
§ 10:32 —Custom as to use of word "quitclaim"
§ 10:33 —If more than one quitclaim deed
§ 10:34 —After-acquired title

§ 10:35 —Statutory form
§ 10:36 Trustee's deed
§ 10:37 —Signature by land trustee
§ 10:38 Conservator's deed
§ 10:39 —Title held by minor
§ 10:40 Executor's deed
§ 10:41 Deed issued under order of court
§ 10:42 Judicial sale
§ 10:43 —Equitable powers
§ 10:44 —Judgment lien
§ 10:45 —Statutory form—Sheriff's deed
§ 10:46 Tax deed
§ 10:47 —In rem jurisdiction
§ 10:48 —Notice procedures for tax deed
§ 10:49 — —Chain of title—Constructive notice
§ 10:50 — —Constructive notice—Inquiry notice
§ 10:51 —Strict compliance requirement for tax deed
§ 10:52 —Procedures for obtaining tax deed
§ 10:53 —Persons entitled to redeem prior to issuance of tax deed
§ 10:54 —Redemption period prior to issuance of tax deed
§ 10:55 — —Extension of period of redemption
§ 10:56 —Redemption period after petition for tax deed has been filed—Extension of period of redemption
§ 10:57 —Redemption procedures after tax sale
§ 10:58 —Equitable redemption
§ 10:59 —Challenging a tax deed
§ 10:60 —Time limit to take tax deed
§ 10:61 —Prior liens
§ 10:62 —Indemnity fund in tax foreclosure
§ 10:63 —Existing easements and covenants
§ 10:64 Grantor and grantee
§ 10:65 —Variations in name
§ 10:66 —Fictitious or erroneous grantee
§ 10:67 —Conveyance to self
§ 10:68 —Names of grantors (sellers)
§ 10:69 —Marital status of grantor
§ 10:70 — —Civil unions
§ 10:71 —Entity as grantor or grantee
§ 10:72 —Unincorporated association
§ 10:73 —Corporate grantor
§ 10:74 — —Corporate certificate of good standing
§ 10:75 — —Approval by shareholders in corporate sale of all or substantially all of its assets

§ 10:76 — —Approval by board of directors for corporate sale in ordinary course of business
§ 10:77 — —Language to be used in corporate conveyance
§ 10:78 — —Who should sign corporate deed
§ 10:79 —Partnership grantor
§ 10:80 — —Who should sign partnership deed
§ 10:81 —Deed in trust
§ 10:82 — —Power of trustee
§ 10:83 — —Language to be used in deed in trust
§ 10:84 — —Conveyance from land trust to land trust
§ 10:85 — —Land trust—Contract provision covering trustee's power to convey to another trustee
§ 10:86 Consideration not needed
§ 10:87 Extent of estate conveyed
§ 10:88 —Mineral rights
§ 10:89 Description of property
§ 10:90 —Description to use
§ 10:91 Homestead
§ 10:92 —Entitlement to homestead
§ 10:93 —Types of ownership
§ 10:94 — —Inter vivos trust
§ 10:95 Exceptions from homestead exemption
§ 10:96 Homestead—Exemption
§ 10:97 —Not applicable in partition
§ 10:98 —Waiver of homestead rights
§ 10:99 — —Must be acknowledged
§ 10:100 — —Language to use if both spouses are grantors
§ 10:101 — —Language to use if only one spouse is grantor
§ 10:102 —Application to mortgages and trust conveyances
§ 10:103 —Effect of non-waiver
§ 10:104 —Where one spouse not owner
§ 10:105 — —Spouse's "veto power"
§ 10:106 —Loss of homestead rights of spouse
§ 10:107 P.I.N. and common address
§ 10:108 —Requirement of P.I.N
§ 10:109 Exceptions to title
§ 10:110 Exceptions—Language used
§ 10:111 — —Special provisions for condominiums
§ 10:112 — — —Solar energy
§ 10:113 Restrictions
§ 10:114 Signature of grantor
§ 10:115 —Signature of corporate grantor
§ 10:116 —Signature of partnership grantor
§ 10:117 Signature of LLC grantor
§ 10:118 Signature of grantor—Signature by mark

§ 10:119 —Type or print name of grantor
§ 10:120 —Date
§ 10:121 —Seal
§ 10:122 —Witnesses
§ 10:123 Acknowledgment
§ 10:124 —Acknowledgment of signatures before a notary
§ 10:125 —Sample statutory form of acknowledgment—Individual acting in his or her own right
§ 10:126 — —Corporation
§ 10:127 — —Partnership
§ 10:128 — —Individual acting as principal by an attorney in fact
§ 10:129 — —By any public officer, trustee, or personal representative
§ 10:130 — —Conveyances Act form acknowledgment
§ 10:131 — —For person or spouse in military service by any commissioned officer
§ 10:132 —Acknowledgment of signatories in a foreign country
§ 10:133 —Certificate of acknowledgment
§ 10:134 — —Electronic acknowledgments
§ 10:135 —Electronic document certification
§ 10:136 —Electronic notarial certificate—Form
§ 10:137 —Remote and electronic notarization
§ 10:138 —Remote notarization
§ 10:139 — —Establishing the signature is that of the person
§ 10:140 — —Audio-video communication requirements
§ 10:141 —Electronic notary
§ 10:142 — —Residence of notary
§ 10:143 — —Electronic notary process
§ 10:144 —Presumption of validity
§ 10:145 —Proof of execution
§ 10:146 —Presumption of delivery
§ 10:147 —Not proof of mental capacity
§ 10:148 —Mechanics of acknowledgment
§ 10:149 —Effect of no acknowledgment

III. DELIVERY AND ACCEPTANCE

§ 10:150 Delivery
§ 10:151 —What is delivery
§ 10:152 —Intent
§ 10:153 —Methods of delivery
§ 10:154 — —Manual delivery
§ 10:155 — —Escrow

§ 10:156 —Effect of delivery
§ 10:157 — —Relationship to recording
§ 10:158 —Lost deed
§ 10:159 — —Gift
§ 10:160 Presumption of delivery
§ 10:161 Acceptance
§ 10:162 —Where deed entails obligation
§ 10:163 —Possession of property
§ 10:164 —Presumption of acceptance

IV. RECORDING REQUIREMENTS

§ 10:165 Non-Cook County
§ 10:166 Cook County
§ 10:167 Necessity that deed be recorded
§ 10:168 —Presumption of validity
§ 10:169 —Timing of recording
§ 10:170 — —Exceptions
§ 10:171 Subrogation
§ 10:172 Necessity that deed be recorded—Timing of recording—Exceptions—Conventional or equitable subrogation
§ 10:173 —Prohibition against recording void
§ 10:174 Requirements as to format
§ 10:175 —Failure to comply with standardization of forms
§ 10:176 —Standardization not applicable to older documents
§ 10:177 Where to record
§ 10:178 —Unorganized county
§ 10:179 Land trust facsimile assignment of beneficial interest
§ 10:180 Land trust facsimile—Preparing the facsimile
§ 10:181 —Recording the facsimile
§ 10:182 Special Cook County requirements
§ 10:183 —"Grantor-grantee statement" in exempt transactions
§ 10:184 —Tax billing information forms ("mapping form")
§ 10:185 — —Applicability to mortgages and other recordable documents
§ 10:186 — —When tax billing name and address not changed
§ 10:187 Torrens system
§ 10:188 Payment of transfer taxes
§ 10:189 —Exempt transfers
§ 10:190 —Municipal taxes and requirements

V. BILL OF SALE AND AFFIDAVIT OF TITLE

§ 10:191 Bill of sale

§ 10:192 —Seller's warranties of title to personal property
§ 10:193 — —Uniform Commercial Code
§ 10:194 —Bulk transfers
§ 10:195 — —What is a bulk transfer
§ 10:196 — —Coordination with tax regulations
§ 10:197 — — —10-day notice to state required
§ 10:198 — — —State timing requirements
§ 10:199 — —Priority of state lien
§ 10:200 — —Illinois Department of Employment Security
§ 10:201 — — —Priority of lien
§ 10:202 —Drafting the bill of sale
§ 10:203 — —Condition of personal property
§ 10:204 — — —Inspection
§ 10:205 — — —Escrow to repair inspected items
§ 10:206 — — —Escrow to repair items which could not be inspected
§ 10:207 — — —Third-party warranty
§ 10:208 Affidavit of title
§ 10:209 —Purposes of affidavit of title
§ 10:210 —ALTA Statement

VI. PROBLEMATIC TRANSFERS

§ 10:211 Fraudulent conveyances
§ 10:212 —Uniform Fraudulent Transfer Act
§ 10:213 — —Types of fraudulent transfers
§ 10:214 — —Intent to hinder, delay or defraud creditor(s)
§ 10:215 — —Definition of insolvency
§ 10:216 — —Creditor's claim arose before the transfer
§ 10:217 — —Valuation of assets
§ 10:218 — —Contingent assets or liabilities
§ 10:219 — —Applicability to obligations
§ 10:220 — —Penal damages
§ 10:221 —County property fraud alert systems
§ 10:222 —Transfer to tenancy by the entireties
§ 10:223 —Joint tenancy—Fraudulent transfer does not sever joint tenancy
§ 10:224 —Uniform Fraudulent Transfer Act—Remedies available to creditors
§ 10:225 — —Remedies available to creditor—Limitation
§ 10:226 Equitable mortgage
§ 10:227 —Factors taken into account
§ 10:228 —Existence of a debt
§ 10:229 —Clear and convincing evidence
§ 10:230 —Parol evidence

§ 10:231 —Foreclosure and redemption
§ 10:232 Undue influence
§ 10:233 —Confidential relationship
§ 10:234 — —Determination of existence of confidential relationship
§ 10:235 —Power of attorney
§ 10:236 — —Proving transaction was fair
§ 10:237 — —Gift from principal to agent
§ 10:238 Incompetent grantor
§ 10:239 —Determining capacity to convey property
§ 10:240 Forged deed
§ 10:241 Effect of marriage and divorce
§ 10:242 —Explanation on deed
§ 10:243 —Concept of "marital property"
§ 10:244 —Intent to defeat marital rights
§ 10:245 —Dissolution of marriage
§ 10:246 — —Wills
§ 10:247 — —Effect on pre-existing ownership—Court-directed transfer
§ 10:248 — — —Joint tenancy
§ 10:249 — —Effect on mortgage or pre-existent liens
§ 10:250 Parol Evidence Rule
§ 10:251 —Four corners rule
§ 10:252 Statute of Frauds
§ 10:253 Reformation of deed
§ 10:254 Resulting trust
§ 10:255 —Burden of proof
§ 10:256 —Presumption of gift between family members
§ 10:257 — —Presumption of gift between spouses
§ 10:258 Vendor's lien
§ 10:259 Prohibited transfer fees

VII. CHECKLIST

§ 10:260 Items and information in deed
§ 10:261 Recording requirements—Non-Cook County
§ 10:262 —Cook County
§ 10:263 —Chicago

VIII. FORMS

§ 10:264 Warranty deed—Individual to individual
§ 10:265 —Joint tenancy
§ 10:266 —Tenancy by the entireties
§ 10:267 Special warranty deed
§ 10:268 Quitclaim deed

§ 10:269 Trustee's deed
§ 10:270 Administrator's deed
§ 10:271 Executor's deed
§ 10:272 Guardian's deed
§ 10:273 Judge's deed and affidavit—Dissolution of marriage
§ 10:274 Judge's deed
§ 10:275 Affidavit of grantee to support issuance of judge's deed
§ 10:276 Sheriff's sale information sheet—Kendall County
§ 10:277 Sheriff's deed—Judicial sale
§ 10:278 Sheriff's certificate of sale
§ 10:279 Judicial sale deed
§ 10:280 Corporate resolution authorizing sale
§ 10:281 Contract clause—Provision for deed from corporate seller
§ 10:282 Naming of purchaser's nominee
§ 10:283 Special provision for deed (condominium)
§ 10:284 Special provision for deed regarding tenant's rights in conversion to condominium
§ 10:285 Special provision for description in mortgage (condominium)
§ 10:286 Illinois standardization of forms and Cook county recording requirements of documents to accompany conveyance
§ 10:287 Cook county clerk instructions to correct a previously recorded document
§ 10:288 Corrective recording affidavit
§ 10:289 Affidavit for clerk's labeling of signatures as copies
§ 10:290 Land trust recording information
§ 10:291 Land trust—Facsimile assignment of beneficial interest
§ 10:292 Grantor/Grantee affidavit: Statement by grantor and grantee
§ 10:293 Bill of sale
§ 10:294 Chicago Title Insurance Company Customer News, new recording requirements in Cook County and sample "Mapping System"
§ 10:295 Notice of sale, purchase, or transfer of business assets
§ 10:296 City of Chicago bulk sales notification
§ 10:297 Seller's representation of condition of personal property
§ 10:298 Personal property—Assignment of manufacturer's warranties
§ 10:299 Affidavit of title
§ 10:300 ALTA statement

CHAPTER 11. DESCRIPTION AND SURVEY

I. GENERAL APPROACH

§ 11:1 Real property purchases

II. REAL PROPERTY DESCRIPTIONS

§ 11:2 Purpose
§ 11:3 Description must be definite
§ 11:4 —Agreement between owners to establish borders
§ 11:5 —Mechanic Lien Act
§ 11:6 Legal description
§ 11:7 —Street address
§ 11:8 —City and state
§ 11:9 —Use of term "adjacent"
§ 11:10 Inconsistent descriptions
§ 11:11 Types of descriptions
§ 11:12 —Metes and bounds description
§ 11:13 — —How metes and bounds descriptions work
§ 11:14 — —Monuments
§ 11:15 — —Incorporation by reference not permitted
§ 11:16 — —Reviewing a metes and bounds description
§ 11:17 —Rectangular survey system
§ 11:18 — —Basis of rectangular system
§ 11:19 — —Townships
§ 11:20 — —Ranges
§ 11:21 — —Township squares
§ 11:22 — —Sections
§ 11:23 —Lot-and-block system
§ 11:24 — —How the lot-and-block system works
§ 11:25 — —Resubdivision
§ 11:26 Acreage
§ 11:27 Boundaries
§ 11:28 Re-establishing lost boundaries
§ 11:29 —Monuments and field notes
§ 11:30 —Boundary fence beyond property line
§ 11:31 —Fence on boundary line
§ 11:32 —Tree on boundary line
§ 11:33 —Waterfront property
§ 11:34 —Crops
§ 11:35 — —Doctrine of emblements

III. SURVEYS

§ 11:36 Surveyor

§ 11:37 Contents of survey
§ 11:38 —Requirement of survey
§ 11:39 — —Contract provisions
§ 11:40 —Importance of survey
§ 11:41 Survey standards
§ 11:42 —Contract provisions
§ 11:43 —Types of surveys
§ 11:44 —Plat
§ 11:45 —Perimeter survey
§ 11:46 —Spotted survey
§ 11:47 —Staked survey
§ 11:48 —Survey for purposes of permit
§ 11:49 —ALTA/NSPS land title surveys
§ 11:50 Certification of surveyor
§ 11:51 —Liability for negligence
§ 11:52 —Affidavit of no new improvements
§ 11:53 Reviewing the survey

IV. DIVISIONS AND CONSOLIDATIONS OF PARCELS

§ 11:54 Statutory purpose
§ 11:55 Terminology
§ 11:56 Plat Act
§ 11:57 —Requirements
§ 11:58 —Annexation by city
§ 11:59 —Statutory dedication of public streets and other public uses
§ 11:60 —Exemptions
§ 11:61 — —Recording
§ 11:62 — —Applicability of exemption
§ 11:63 — —Exemption form
§ 11:64 — —Violation of Plat Act
§ 11:65 —Contract requirements
§ 11:66 Need for survey
§ 11:67 —Statutory requirements
§ 11:68 Conformity with local ordinances
§ 11:69 —Planned development ("PUD")
§ 11:70 Consolidation of parcels
§ 11:71 New P.I.N (Permanent Index Number)

V. STREETS AND ALLEYS

§ 11:72 Conveyance
§ 11:73 —Use of platted streets and alleys

§ 11:74 Vacated roads and streets
§ 11:75 —Statutory plat
§ 11:76 —Common law plat
§ 11:77 —Unrecorded utility easements

VI. FORMS

§ 11:78 Survey requirement in contract
§ 11:79 Affidavit of no change
§ 11:80 Affidavit appended to existing survey
§ 11:81 Plat Act affidavit—General form
§ 11:82 —County of Cook
§ 11:83 —County of Shelby
§ 11:84 —County of Boone
§ 11:85 —County of Iroquois
§ 11:86 Contract provision for closing documentation
§ 11:87 Lake County request for consolidation or division of tax parcels

Appendix 11A. Land Measurements Map (Showing Acreage and Distances)

Appendix 11B. Minimum Standards of Practice for Surveys

CHAPTER 12. TITLE AND TITLE INSURANCE

I. EXCEPTIONS TO TITLE

§ 12:1 General approach
§ 12:2 Definition of term "exception"
§ 12:3 Common exceptions
§ 12:4 Treatment in sales transactions—Title
§ 12:5 Treatment in sales transaction—Finding out about exceptions
§ 12:6 —Common sources of information about exceptions
§ 12:7 Handling title exceptions
§ 12:8 —Contract provisions
§ 12:9 —Prior title insurance over exception
§ 12:10 —Timing

II. EASEMENTS AND LICENSES

§ 12:11 Easements
§ 12:12 —Different from licenses
§ 12:13 —Practical aspects
§ 12:14 —Preparing for closing

§ 12:15 —Creation of easement
§ 12:16 —Does not create ownership interest
§ 12:17 —Notice to purchasers
§ 12:18 — —Chain of title—Constructive notice
§ 12:19 — — — —Inquiry notice
§ 12:20 —Ancient Document Rule
§ 12:21 —Easement in gross
§ 12:22 —Easement appurtenant
§ 12:23 — —Dominant and servient estate
§ 12:24 —Continuance of easement appurtenant
§ 12:25 —Run with the land
§ 12:26 —Use by owner of dominant estate
§ 12:27 — —Extension to accommodate additional land
§ 12:28 — —Right to repair or improve
§ 12:29 —Responsibilities of owner of easement
§ 12:30 —Improvement of servient estate
§ 12:31 —Obstruction
§ 12:32 — —Servient owner
§ 12:33 —Common usage by owners of servient and dominant estates
§ 12:34 —Location and modification of easement
§ 12:35 —Location—Floating easement
§ 12:36 —Non-use
§ 12:37 —Termination of an easement by abandonment
§ 12:38 —Termination of easement by merger
§ 12:39 —Revesting title in owner on termination of easement
§ 12:40 —Drainage easement
§ 12:41 — —Rights of owner
§ 12:42 — —Covered drain
§ 12:43 — —Rights of servient owner
§ 12:44 — — —Good husbandry exception
§ 12:45 — — —Damages
§ 12:46 —Drafting
§ 12:47 — —Between the parties
§ 12:48 — —Intent of the parties
§ 12:49 — —"Four corners rule"
§ 12:50 — —Ambiguity
§ 12:51 — —Language
§ 12:52 — — —Grant of "right" in property
§ 12:53 — — —Use of words "convey and warrant"
§ 12:54 — —Limitation to anticipated purpose
§ 12:55 —Mechanic liens
§ 12:56 —Drafting—Limitation to anticipated purpose—Easement for access

§ 12:57 — — —Pipelines
§ 12:58 — —Description
§ 12:59 — —Maintenance of easement
§ 12:60 —Easement by implication
§ 12:61 — —Easement based on pre-existing use
§ 12:62 — —Easement by necessity
§ 12:63 — — —Requirements for an easement by necessity
§ 12:64 — — —Continuous use of easement by necessity
§ 12:65 — —Applicability to grant and reservation of easement
§ 12:66 — —Time of determination
§ 12:67 — —Area covered by easement
§ 12:68 —Easement by prescription
§ 12:69 — —Adverse use
§ 12:70 —Acquiescence by servient owner
§ 12:71 —Easement by prescription—Adverse use—Consent of owner
§ 12:72 — —Requirement to show necessity
§ 12:73 —Acquiescence by servient owner—Exclusive use
§ 12:74 — —Continuous use
§ 12:75 — — —Seasonal use
§ 12:76 — —Uninterrupted use
§ 12:77 — —Under a claim of right
§ 12:78 — — —Permissive use
§ 12:79 — —For a 20-year period
§ 12:80 — — —Tacking
§ 12:81 — —Use by owner
§ 12:82 — —Maintenance and alterations by dominant owner
§ 12:83 —Easement by estoppel
§ 12:84 —Restrictions arising from general plan of development
§ 12:85 — —Requirements
§ 12:86 — —Omission from deed and plat
§ 12:87 —Intentional interference with an easement—Damages
§ 12:88 — —Balancing equities
§ 12:89 Covenants running with land
§ 12:90 —Original intent of parties
§ 12:91 —Touch and concern land
§ 12:92 —Privity of estate
§ 12:93 —Enforcement
§ 12:94 —Violations of restrictions in the subdivisions
§ 12:95 —Change in character of the area
§ 12:96 —Recording of the restrictive covenant

§ 12:97 —Variance procedure
§ 12:98 Licenses
§ 12:99 —Different from easements
§ 12:100 —Cannot give rise to prescriptive easement
§ 12:101 —Revocation
§ 12:102 — —Methods of revocation
§ 12:103 —Termination of license
§ 12:104 —Oral easement may be license
§ 12:105 —Trespass
§ 12:106 License—Trespass—Right to injunctive relief
§ 12:107 — —Roof encroachment

III. ENCROACHMENTS

§ 12:108 Definition
§ 12:109 Unintentional encroachments
§ 12:110 Intentional encroachments
§ 12:111 Tree roots and similar issues
§ 12:112 Encroachment onto public street
§ 12:113 Title insurance for encroachment

IV. PARTY WALLS, COMMON DRIVEWAYS OR COMMON PARKING AREAS

§ 12:114 Common ownership
§ 12:115 —Party walls
§ 12:116 —Practical aspects
§ 12:117 Seller's considerations
§ 12:118 Buyer's considerations

V. ZONING ORDINANCES AND OTHER GOVERNMENTAL RESTRICTIONS

§ 12:119 Title considerations regarding zoning
§ 12:120 Seller's considerations regarding zoning
§ 12:121 Buyer's considerations regarding zoning
§ 12:122 Buyer's considerations—Seller's representations regarding zoning
§ 12:123 —Non-conforming use
§ 12:124 — —equitable estoppel
§ 12:125 —Other governmental restrictions

VI. STREETS AND ROADS

§ 12:126 Public highway
§ 12:127 —Definition of "highway"

§ 12:128 —Statutory dedication
§ 12:129 —Plat Act
§ 12:130 — —Intention
§ 12:131 — —Existence of grantee
§ 12:132 —Acceptance by municipality
§ 12:133 — —Timeliness
§ 12:134 — —Express acceptance
§ 12:135 —Implied acceptance by municipality
§ 12:136 —Termination by adverse possession
§ 12:137 —Effect on mortgage
§ 12:138 —Implied consent of mortgagee
§ 12:139 —Common law dedication
§ 12:140 — —Donative intent
§ 12:141 — —Created by plat reference
§ 12:142 — —Acceptance
§ 12:143 — —Death of owner before acceptance
§ 12:144 — —Easement for owners within subdivision
§ 12:145 —Prescription
§ 12:146 — —Requirements to establish a public way by prescription
§ 12:147 — —Maintenance by public authorities
§ 12:148 —Condemnation
§ 12:149 —Abandonment
§ 12:150 — —Estoppel
§ 12:151 —Foreclosure
§ 12:152 Rights of owners in platted subdivision to platted roads
§ 12:153 Vacating platted roads by owners of property
§ 12:154 Vacating platted roads by the municipality
§ 12:155 —Ownership of vacated road

VII. ADVERSE POSSESSION

§ 12:156 Definition
§ 12:157 Presumptions
§ 12:158 Requirements
§ 12:159 Satisfying the requirements
§ 12:160 Start of 20-year period
§ 12:161 Continuous
§ 12:162 —Tacking
§ 12:163 Abandonment
§ 12:164 Hostile or adverse
§ 12:165 —Vacant land in urban area
§ 12:166 Actual possession
§ 12:167 Permissive possession

§ 12:168 Claim by tenant
§ 12:169 Open, notorious and exclusive
§ 12:170 —Knowledge by community
§ 12:171 —Exclusive
§ 12:172 Claim of title inconsistent with true owner
§ 12:173 Boundaries
§ 12:174 —Mistaken boundary cases
§ 12:175 Corporate officer claim to corporate property
§ 12:176 Adverse possession against government
§ 12:177 —Exception
§ 12:178 Adverse possession by payment of taxes and with color of title
§ 12:179 Good faith requirement for adverse possession under color of title
§ 12:180 Adverse possession by payment of taxes and with color of title—Document required for claim of adverse possession under color of title
§ 12:181 —Actual possession
§ 12:182 —Payment of property taxes
§ 12:183 —Good faith
§ 12:184 —Color of title distinguished from claim of title
§ 12:185 Title insurance for property claimed by adverse possession

VIII. REAL PROPERTY TRANSFER ON DEATH INSTRUMENT ACT

§ 12:186 Real Property Transfer on Death Instrument Act
§ 12:187 —Form of ownership
§ 12:188 —Multiple beneficiaries
§ 12:189 —Requirements for execution of transfer instrument
§ 12:190 —Recording
§ 12:191 —Effectuating the transfer
§ 12:192 —Time limitation on contesting the transfer
§ 12:193 —Probate of estate
§ 12:194 —Creditors
§ 12:195 —Probate of estate—Beneficiary predeceases the owner
§ 12:196 —Revocation of transfer instrument

IX. RIPARIAN RIGHTS

§ 12:197 Riparian rights
§ 12:198 —Abutting land owners
§ 12:199 —Navigable or non-navigable rivers and streams

§ 12:200 —Common law rule and civil law rule regarding lakes
§ 12:201 —Rights to private non-navigable lake
§ 12:202 —Accretion
§ 12:203 —Artificial bodies of water

X. GENERAL REAL ESTATE TAXES AND SPECIAL ASSESSMENTS

§ 12:204 Lien for real estate taxes
§ 12:205 —Joint tenants
§ 12:206 —Priority of lien for real property taxes
§ 12:207 —Extinguishment of lien
§ 12:208 —Special assessments
§ 12:209 —Practical considerations
§ 12:210 — —Current taxes
§ 12:211 — — —Proration
§ 12:212 — —Taxes already billed
§ 12:213 — —Special assessments

XI. MORTGAGES, JUDGMENT LIENS, MECHANICS LIENS AND OTHER LIENS

§ 12:214 Existing financing
§ 12:215 —Effect of recording
§ 12:216 Existing Financing—Effect of recording—Chain of title—Constructive notice
§ 12:217 Existing financing—Effect of recording—Constructive notice—Unrecorded interest
§ 12:218 Lawsuits and judgments
§ 12:219 —Ancient Document Rule on real estate claims
§ 12:220 —Common law lis pendens
§ 12:221 —Statutory lis pendens and constructive notice
§ 12:222 — —Chain of title
§ 12:223 — —When lis pendens may be filed
§ 12:224 — —Binding effect
§ 12:225 — —Effect only on subsequent parties
§ 12:226 —Judgment lien
§ 12:227 — —Memorandum of judgment
§ 12:228 — — —Scrivener's error
§ 12:229 — —Revival of judgment
§ 12:230 — —Land trust
§ 12:231 — —Death of debtor
§ 12:232 — —Partnership
§ 12:233 — —Representative capacity

§ 12:234 — —Constructive trust
§ 12:235 —Mechanics' liens
§ 12:236 —Vendee's lien
§ 12:237 —Mechanics' liens—Requirements
§ 12:238 — — —Summary of notices to owner
§ 12:239 — — —Equipment added to property
§ 12:240 — — —Owner obligations in subcontractor claims
§ 12:241 —Federal tax liens
§ 12:242 —I.R.S—Paying off an I.R.S. lien
§ 12:243 —Priorities between federal tax liens and other liens
§ 12:244 — —Perfection of lien
§ 12:245 —State tax liens
§ 12:246 —Municipal demolition lien
§ 12:247 —Other liens
§ 12:248 —Personal information affidavit
§ 12:249 Necessity of removing liens prior to closing
§ 12:250 —Practical procedures

XII. TITLE EVIDENCE

§ 12:251 Liens—Knowledge of lienor of no legitimate basis for the lien
§ 12:252 Contract specification
§ 12:253 —References to Torrens system
§ 12:254 —Abstracts
§ 12:255 — —Abstract and merchantable title
§ 12:256 — —Standards for abstracts
§ 12:257 — —Use of abstracts
§ 12:258 — —Combination of abstract and title insurance
§ 12:259 —Merchantable title
§ 12:260 — —Determination of merchantability
§ 12:261 — —Environmental problems
§ 12:262 — —Restrictive covenants
§ 12:263 — —Effect of title insurance

XIII. TITLE INSURANCE

§ 12:264 Purpose of title insurance
§ 12:265 —Construction of title insurance policy
§ 12:266 —Parties insured
§ 12:267 —Regulation of title insurance companies in Illinois
§ 12:268 —Prejudgment interest
§ 12:269 —Claims
§ 12:270 Allocation of costs of title insurance
§ 12:271 —Customary seller's costs

§ 12:272 —Customary buyer's costs
§ 12:273 —Negotiation of costs of title insurance
§ 12:274 Timing
§ 12:275 —Lender involvement
§ 12:276 Other contract provisions relating to title insurance
§ 12:277 Standardization of policies
§ 12:278 Elements of 2006 ALTA owner's title policy
§ 12:279 Schedule A
§ 12:280 —Attorney's review of Schedule A
§ 12:281 Basic policy coverage
§ 12:282 —Right of access
§ 12:283 — —Legal and other expenses of defending title
§ 12:284 —Landmark designation
§ 12:285 Exclusions in 2006 ALTA owner's title policy
§ 12:286 Exclusions—Endorsements over exclusions
§ 12:287 Schedule B
§ 12:288 —Special exceptions
§ 12:289 — —Attorney's review of special exceptions on Schedule B
§ 12:290 Endorsements
§ 12:291 —Encroachment
§ 12:292 —Access
§ 12:293 —Contiguity
§ 12:294 —Survey
§ 12:295 —Conformity
§ 12:296 —Zoning
§ 12:297 —Location
§ 12:298 —Plat Act
§ 12:299 —Comprehensive
§ 12:300 —Leaseholds
§ 12:301 —Contract purchaser
§ 12:302 —Option to purchase
§ 12:303 —Zoning
§ 12:304 —P.I.N. endorsement
§ 12:305 —Easement endorsement
§ 12:306 —Covenants, restrictions, and building lines
§ 12:307 —Transfers of interests in property
§ 12:308 —Condominium
§ 12:309 —Homeowner's association
§ 12:310 —ABI
§ 12:311 Mortgage policy
§ 12:312 Title indemnity agreements
§ 12:313 Other title company services

XIV. CHECKLIST

§ 12:314 Common exceptions to title

XV. FORMS

§ 12:315 Time of purchaser to object to title evidence—Contract provision
§ 12:316 Reservation to seller of easement for ingress and egress
§ 12:317 Easement—General form
§ 12:318 —Creating right of way
§ 12:319 —For gas pipe line
§ 12:320 Example of common driveway cross easement agreement
§ 12:321 Seller's representations on zoning
§ 12:322 Matters to which title is subject
§ 12:323 Listing of leases and right to review leases
§ 12:324 Schedule of tenancies
§ 12:325 Memorandum of judgment
§ 12:326 Tenant's estoppel letter
§ 12:327 Representation of rental income
§ 12:328 Seller's agreement not to execute leases without purchaser's consent
§ 12:329 Seller's protection against loss of rents
§ 12:330 Allocation of rents received after closing
§ 12:331 Seller's right to sue tenant for rental arrearages
§ 12:332 Security deposit indemnity
§ 12:333 Affidavit of 20 years adverse possession
§ 12:334 Transfer on Death Act—Transfer on death instrument (TODI)
§ 12:335 —Transfer on death instrument (TODI) revocation
§ 12:336 —Notice of death affidavit and acceptance of transfer on death instrument (TODI) deed
§ 12:337 Lis pendens notice—Cook County form
§ 12:338 Personal information affidavit
§ 12:339 Special assessment affidavit
§ 12:340 How to apply for a Certificate of Discharge from Federal Tax Lien (IRS Pub. 783)
§ 12:341 Delay in delivering title evidence caused by purchaser's mortgagee
§ 12:342 2006 Owner's policy of title insurance
§ 12:343 2006 Loan policy of title insurance
§ 12:344 Chicago Title Insurance Company requirements for utility letters for extended coverage—Customer news
§ 12:345 —General exceptions
§ 12:346 Chicago Title Insurance Company—Extended coverage requirements—Chicago
§ 12:347 — —Cook County (Non-Chicago)

§ 12:348 Chicago Title Insurance Company requirements for utility letters for extended coverage—Extended coverage requirements
§ 12:349 —Title insurance—Addresses for utility letters for extended coverage (Commonwealth Edison)
§ 12:350 —Extended coverage affidavit
§ 12:351 Tenancy by the entirety judgment lien affidavit
§ 12:352 Tenancy by the entirety affidavit (survivorship marital property affidavit)
§ 12:353 Owner's statement of property manager and property manager waiver of lien
§ 12:354 Owner's affidavit of no property manager
§ 12:355 Surviving Joint Tenant Affidavit/Deceased Joint Tenant Affidavit
§ 12:356 Scrivener's affidavit
§ 12:357 Corrective recording affidavit

Appendix 12A. Standards for Examination of Abstracts

CHAPTER 13. CLOSING

I. IMMEDIATELY BEFORE CLOSING

§ 13:1 Buyer's walk-through
§ 13:2 —Dealing with pre-closing walk-through problems
§ 13:3 — —Major repairs
§ 13:4 — —Minor repairs
§ 13:5 New construction—The "punchlist"
§ 13:6 —Pre-closing problems
§ 13:7 Title company's preparation for closing
§ 13:8 What to bring to closing
§ 13:9 —Seller
§ 13:10 — —Buyer
§ 13:11 —Seller's attorney
§ 13:12 —Buyer's attorney

II. PRORATIONS

§ 13:13 Contract specifications
§ 13:14 —Proration at closing
§ 13:15 —Proration at possession
§ 13:16 —Seller financing
§ 13:17 —Rents
§ 13:18 —Rents due after closing
§ 13:19 —Rents accrued before closing
§ 13:20 —Security deposits

§ 13:21 —Security Deposit Return Act
§ 13:22 — —Life Care Facilities Act
§ 13:23 — —Extended or continuing care facility
§ 13:24 —Attorneys' fees for violation of Security Deposit Return Act
§ 13:25 —Attorneys' fees—Liability for repayment of security deposits
§ 13:26 —Attorney's fees—Interest on security deposits
§ 13:27 —Service contracts
§ 13:28 —Water and utility bills
§ 13:29 —Taking subject to existing mortgage
§ 13:30 Real estate taxes
§ 13:31 —Basis for proration
§ 13:32 — —Reproration
§ 13:33 —How to prorate real estate taxes
§ 13:34 —Ascertainable tax bill
§ 13:35 —Mistake in proration of real estate taxes
§ 13:36 Special assessments

III. ISSUES RELATING TO POSSESSION

§ 13:37 Contract specifications
§ 13:38 —Possession at closing
§ 13:39 —Failure to deliver deed
§ 13:40 —Possession after closing
§ 13:41 —Payments for use and occupancy
§ 13:42 — —Agreed payments
§ 13:43 — —Unagreed holdover
§ 13:44 —Buyer's possession before closing

IV. ESCROW

§ 13:45 Closing escrows
§ 13:46 —Difference between trustee and escrowee
§ 13:47 —Escrow instructions
§ 13:48 —Effect of closing escrow on underlying contract
§ 13:49 —Deed and money escrow
§ 13:50 — —Money-lender's escrow or lender's instructions
§ 13:51 —Agency closing
§ 13:52 — —Cook County residential closing
§ 13:53 New York style closing
§ 13:54 Closing escrows—Agency closing—Cook County residential closing—Closing procedures for agency closing
§ 13:55 — — —Cost of agency closing
§ 13:56 — — —Use of escrow or agency closing

§ 13:57 —Other types of escrow
§ 13:58 —Disbursement of sale proceeds—Deposits of $50,000 or more from a single party
§ 13:59 — —Deposits of less than $50,000 from a single party
§ 13:60 Statement regarding disbursement by escrow agents before escrow deposits have cleared

V. DURING CLOSING

§ 13:61 Closing and settlement
§ 13:62 —The role of the closer
§ 13:63 —"Dry closing"
§ 13:64 — —Personal undertaking
§ 13:65 — —Title indemnity agreement
§ 13:66 Steps for seller's attorney
§ 13:67 Steps for buyer's attorney
§ 13:68 Reviewing the Closing Disclosure
§ 13:69 —Applies to every federally related mortgage
§ 13:70 —Relation to good faith estimate—Bound to original good faith estimate
§ 13:71 — —Revised good faith estimate
§ 13:72 —Other requirements and prohibitions—Lender disclosures
§ 13:73 — —Kickback and unearned fee prohibition; attorney title agent safe harbor
§ 13:74 — —Escrow limit
§ 13:75 Reviewing the RESPA—Exceptions to RESPA
§ 13:76 —Enforcement
§ 13:77 Items not shown on the Closing Disclosure
§ 13:78 For seller
§ 13:79 Seller's settlement charges
§ 13:80 For buyer
§ 13:81 Buyer's settlement charges
§ 13:82 Borrower's three day right of rescission
§ 13:83 Foreign Investments in Real Property Tax Act (FIRPTA)

VI. FORMS

§ 13:84 Prorations and adjustments
§ 13:85 Assignment of service contract
§ 13:86 Proration of real estate taxes based on last known amount plus a percentage
§ 13:87 Reproration of real estate taxes
§ 13:88 Reproration of real estate taxes if increase or decrease exceeds a certain amount

§ 13:89 Reproration of real estate taxes if improved property is assessed as vacant or partially improved property
§ 13:90 Escrow to cover reproration of real estate taxes
§ 13:91 Seller's warranties or representations
§ 13:92 Delivery of possession
§ 13:93 Seller's payments for agreed use and occupancy after closing
§ 13:94 Seller's payments for delayed delivery of possession beyond agreed date
§ 13:95 Escrow to guarantee delivery of possession
§ 13:96 Escrow
§ 13:97 Escrow trust instructions—Deed and money escrow
§ 13:98 Escrow Instructions—Deed and money escrow—Sale without gap coverage
§ 13:99 —Deed and money escrow with gap coverage
§ 13:100 Escrow instructions—Sale—New York style closing
§ 13:101 Escrow Instructions—Loan
§ 13:102 Settlement sheet
§ 13:103 Example of title company escrow disbursement agreement
§ 13:104 Example of personal undertaking
§ 13:105 —Another example
§ 13:106 Personal undertaking (assignment of beneficial interest endorsement)
§ 13:107 Personal undertaking with title indemnity deposit agreement
§ 13:108 Title insurance——Personal undertaking (GAP agreement)
§ 13:109 Indemnity agreement (construction—mechanics' liens)

Volume 16

CHAPTER 14. ACTIONS AND REMEDIES

I. DAMAGES

§ 14:1 Offer to perform
§ 14:2 —Anticipatory breach
§ 14:3 —Anticipatory repudiation—Repudiation of the contract
§ 14:4 Seller's inability to deliver title
§ 14:5 —Seller's default
§ 14:6 — —Measure of damages

§ 14:7 — —Foreseeable buyer's costs
§ 14:8 — —Fair market value
§ 14:9 — — —Evidence
§ 14:10 —Contract provisions
§ 14:11 Buyer's default
§ 14:12 —Conditional mortgage commitment
§ 14:13 —Default provisions
§ 14:14 —Contract review
§ 14:15 —Forfeiture of earnest money
§ 14:16 —Option to forfeit earnest money or sue for actual damages
§ 14:17 —Seller's option
§ 14:18 —Exclusive remedy
§ 14:19 —Liquidated damages
§ 14:20 —Return of earnest money as liquidated damages
§ 14:21 —Broker involvement
§ 14:22 Liquidated damages
§ 14:23 Damages for misrepresentation
§ 14:24 Seller's common law duty to disclose defects in property
§ 14:25 —Fraud—Damages
§ 14:26 Damages for defects found after conveyance
§ 14:27 Construction
§ 14:28 —Defective work
§ 14:29 — —Implied warranty of workmanlike performance
§ 14:30 —Uncompleted work
§ 14:31 —Recovery of contract price by contractor
§ 14:32 — —Duty of contractor
§ 14:33 — —Quasi contract
§ 14:34 — —Contractor may not lien property owned by contractor
§ 14:35 — —Member of LLC may lien property owned by same LLC
§ 14:36 —Extras outside the scope of the contract
§ 14:37 — —Quasi-contract or unjust enrichment
§ 14:38 Damage to real property
§ 14:39 Demolition of property
§ 14:40 —Notice requirements
§ 14:41 Farm crop losses
§ 14:42 —Evidence
§ 14:43 Wrongful tree cutting
§ 14:44 —Damages
§ 14:45 Snow and ice removal—Common law
§ 14:46 — —Actual or constructive knowledge
§ 14:47 — —Voluntary undertaking to remove snow or ice

§ 14:48 Snow and Ice Removal Act—Snow and ice removal from sidewalks—Immunity from liability
§ 14:49 —Snow and ice removal from walkways or driveways
§ 14:50 —Snow and ice accumulation due to design defects
§ 14:51 —Willful or wanton misconduct
§ 14:52 Attorney's fees
§ 14:53 —Tender
§ 14:54 —Prevailing party
§ 14:55 — —To defendant
§ 14:56 — —To plaintiff
§ 14:57 — —Multiple claims
§ 14:58 —Statutory provisions—Mandatory
§ 14:59 —Contract provision
§ 14:60 —Rescission
§ 14:61 —Proof of fees
§ 14:62 — —Lease termination
§ 14:63 — —Contingent fee
§ 14:64 — —Reasonableness
§ 14:65 — —Time records
§ 14:66 —Trial judge discretion
§ 14:67 —Right to hearing
§ 14:68 —Pro se attorney
§ 14:69 — —Supreme Court Rule 137
§ 14:70 Discrimination
§ 14:71 Seller's contractual warranties or representations
§ 14:72 —"As is" provision
§ 14:73 —Contract representations
§ 14:74 — —Good faith
§ 14:75 — —Types of representations
§ 14:76 — —Representation that systems are in good working order
§ 14:77 — —Action for breach
§ 14:78 —Construction or repair
§ 14:79 —Strict liability in tort
§ 14:80 —Personal property
§ 14:81 —Seller's misrepresentations—Used home
§ 14:82 Implied warranty of habitability
§ 14:83 —Caveat emptor
§ 14:84 —Subsequent purchaser
§ 14:85 — —Privity
§ 14:86 —Basis
§ 14:87 —Parties liable
§ 14:88 —Exception to doctrine of merger
§ 14:89 —Elements of cause of action

§ 14:90 — —Defect must be substantial
§ 14:91 — —Definition of "latent defects"
§ 14:92 — —Reasonable time
§ 14:93 — —Covers new and rehabilitated property
§ 14:94 — —Covers improved land
§ 14:95 — —Covers condominiums and certain common elements
§ 14:96 — —Defendant must be builder
§ 14:97 — —Privity
§ 14:98 — —Standing to sue
§ 14:99 — — —Original owner
§ 14:100 — — —Subsequent owner
§ 14:101 — —Statute of limitations
§ 14:102 — —Contractor
§ 14:103 — —Subcontractor
§ 14:104 — —Insolvency of builder-vendor
§ 14:105 —Disclaimer
§ 14:106 — —Words "as-is" not effective
§ 14:107 — —Effective disclaimer
§ 14:108 — — —Purchaser's knowledge
§ 14:109 —Waiver of warranty by purchaser
§ 14:110 — —"As-is" purchase
§ 14:111 — —Subsequent purchaser
§ 14:112 —Remedies
§ 14:113 — —Rescission
§ 14:114 —Punitive damages
§ 14:115 Doctrine of merger
§ 14:116 —Misrepresentation or mutual mistake and the doctrine of merger
§ 14:117 —Warranty or representation of condition and the doctrine of merger
§ 14:118 —Effect of inspection and the doctrine of merger
§ 14:119 —Effect of inspection—Warranty of habitability
§ 14:120 — —Executory agreements in contract
§ 14:121 —Tax proration
§ 14:122 —Negotiations

II. SPECIFIC PERFORMANCE AND TORTIOUS INTERFERENCE WITH A CONTRACT

§ 14:123 Damages
§ 14:124 Nature of remedy
§ 14:125 —Other equitable doctrines
§ 14:126 —Action by seller
§ 14:127 —Other damages

§ 14:128 — —Rents
§ 14:129 Requirements for specific performance
§ 14:130 —Valid contract
§ 14:131 — —Not all parties signatory
§ 14:132 —Essential contract terms
§ 14:133 — —Description of property
§ 14:134 — — —Ambiguity
§ 14:135 — — —Reference to ownership
§ 14:136 — —Price and method of payment
§ 14:137 — —Supplied by implication
§ 14:138 — — —Time of payment
§ 14:139 —Oral contract
§ 14:140 —Compliance with contract by plaintiff
§ 14:141 —Performance must be possible to effectuate
§ 14:142 —Equitable result
§ 14:143 — —Case by case basis
§ 14:144 — —Adverse effect on third party
§ 14:145 — —Change in circumstances
§ 14:146 — —Forfeiture not favored
§ 14:147 —Default by purchaser
§ 14:148 — —Liquidated damages clause and the right to specific performance
§ 14:149 — —Seller default and return of earnest money as liquidated damages
§ 14:150 — —Option to perform or pay damages
§ 14:151 — —Award of actual damages
§ 14:152 Tortious interference with a contract

III. MISTAKE, MISREPRESENTATION AND RESCISSION

§ 14:153 Rescission generally
§ 14:154 Rescission—Timeliness of exercise
§ 14:155 —Impossibility of performance
§ 14:156 Mistake of fact
§ 14:157 —Materiality of mistake
§ 14:158 —Unilateral mistake
§ 14:159 —Difference between rescission and reformation
§ 14:160 Misrepresentation
§ 14:161 —Fraudulent misrepresentation and negligent misrepresentation
§ 14:162 —Fraudulent misrepresentation
§ 14:163 — —Reliance
§ 14:164 — —Standard of proof
§ 14:165 —Negligent misrepresentation

§ 14:166 —Statement of opinion
§ 14:167 —Statement of law
§ 14:168 —Concealment as misrepresentation
§ 14:169 —Justifiable reliance
§ 14:170 *[Reserved]*
§ 14:171 Unjust enrichment
§ 14:172 —Remedy for unlawful or improper conduct
§ 14:173 —Express contract
§ 14:174 Restoring status quo

IV. CONSUMER FRAUD ACT

§ 14:175 Definition
§ 14:176 Legislative declaration
§ 14:177 Elements of cause of action
§ 14:178 —Illinois Attorney General or State's Attorney action
§ 14:179 —Standard of proof
§ 14:180 —Difference between common law fraud and fraud under the Consumer Fraud Act
§ 14:181 —Deceptive act or practice
§ 14:182 — —Unfair act or practice
§ 14:183 — — —Bait and switch
§ 14:184 —Unfair act or practice
§ 14:185 —Deceptive act or practice—Uniform Deceptive Trade Practices Act
§ 14:186 — —Federal Trade Commission Act
§ 14:187 — —Intent irrelevant under the Consumer Fraud Act
§ 14:188 — —Case by case test
§ 14:189 — —Incomplete disclosure or half truth included
§ 14:190 — —Active concealment included
§ 14:191 — —"Puffing" excluded
§ 14:192 — —Mere contract disputes excluded
§ 14:193 — —Broker liability for latent defects excluded
§ 14:194 — —Misrepresentations of law excluded
§ 14:195 — — —Zoning ordinances
§ 14:196 —Reliance
§ 14:197 —Damage to the plaintiff
§ 14:198 —Must involve trade or commerce
§ 14:199 —Single sale suffices if other than sale of home by owner
§ 14:200 —Must involve trade or commerce—Proximate cause
§ 14:201 —Real estate transactions included
§ 14:202 —Lenders included

§ 14:203 — —Requiring use of specific title insurer
§ 14:204 — —Truth-in-Lending Act claims
§ 14:205 —Real estate brokers included
§ 14:206 — —Innocent misrepresentations
§ 14:207 — —Self-dealing
§ 14:208 —Title insurance companies included
§ 14:209 —Landlords included
§ 14:210 —Home inspectors included
§ 14:211 —Sale by owner not included
§ 14:212 —Attorneys not included
§ 14:213 —Appraiser's opinions not included
§ 14:214 No right to jury trial
§ 14:215 Types of remedies
§ 14:216 —Actual damages
§ 14:217 —Punitive damages
§ 14:218 Attorney's fees
§ 14:219 —Standards for award
§ 14:220 Venue
§ 14:221 Statute of limitations
§ 14:222 —Discovery rule
§ 14:223 Predatory lending database cause of action under Consumer Fraud Act
§ 14:224 Investigation by Attorney General
§ 14:225 Mortgage Rescue Fraud Act
§ 14:226 —Required right to cancel contract clauses
§ 14:227 —Exemptions

V. TITLE INSURANCE CLAIMS

§ 14:228 Contract claims
§ 14:229 —Claim must be by insured party
§ 14:230 —Rights of transferee of property
§ 14:231 —Transfer to entity transferor owns or controls
§ 14:232 —Claim must relate to insured land
§ 14:233 —Claim must relate to insured risk
§ 14:234 — —Applicability of special exception
§ 14:235 — —Applicability of exclusion
§ 14:236 —Alternative theories of liability
§ 14:237 Notifying insurance company
§ 14:238 Insurance company's duties
§ 14:239 —Effective date of policy
§ 14:240 — —Tortious act of party insured

VI. REFORMATION OF DOCUMENTS

§ 14:241 Reformation of contract

§ 14:242 —Mutual mistake
§ 14:243 — —Scrivener's error
§ 14:244 —Unilateral mistake
§ 14:245 —Mistake as to law
§ 14:246 —Presumption
§ 14:247 —Mistake of fact—Difference between reformation and rescission
§ 14:248 —Damages for unjust enrichment
§ 14:249 —Evidence required
§ 14:250 Reformation of deed
§ 14:251 —Types of mistakes
§ 14:252 — —Difference between reformation and rescission
§ 14:253 —Mistake must exist at time of signing
§ 14:254 —Bona fide purchaser
§ 14:255 —Standard of proof

VII. PARTITION

§ 14:256 Statutory remedy
§ 14:257 Venue for partition action
§ 14:258 Interests subject to partition
§ 14:259 —Tenancy by the entireties
§ 14:260 —Life estates and leaseholds
§ 14:261 —Mineral rights
§ 14:262 Statutory requirements for partition—Necessary parties to partition action
§ 14:263 —Determination if property is to be divided in kind or sold
§ 14:264 — —Division in kind
§ 14:265 — —Sale of property and division of proceeds
§ 14:266 —Limitations on partition
§ 14:267 — —Limited right in dissolution of marriage
§ 14:268 — —Owelty
§ 14:269 — —Land trust
§ 14:270 Attorney's fees

VIII. WASTE

§ 14:271 Definition
§ 14:272 —Life tenant
§ 14:273 —Remedies

IX. FLOODING

§ 14:274 Wrongful diversion
§ 14:275 —Limitations

§ 14:276 —Damages

X. PRIVATE NUISANCE

§ 14:277 Definition
§ 14:278 Balancing
§ 14:279 No right of action by successor owner if prior owner had a judgment or settled

XI. SLANDER OF TITLE AND QUIET TITLE ACTIONS

§ 14:280 Components of slander of title
§ 14:281 —Malice
§ 14:282 Slander of title—Punitive damages
§ 14:283 —Attorney's fees
§ 14:284 Action to quiet title
§ 14:285 —Requirement of title
§ 14:286 —Requirement of possession
§ 14:287 —Venue
§ 14:288 — —Probate
§ 14:289 —Owner of an easement
§ 14:290 —Forged deed
§ 14:291 —Attorney's fees
§ 14:292 —Probate citation to recover real estate
§ 14:293 —Constructive notice of unrecorded interest

XII. STATUTE OF LIMITATIONS ISSUES

§ 14:294 General limitation period for real estate claims
§ 14:295 —Estoppel not applicable
§ 14:296 —"Wild deed"
§ 14:297 Written contract
§ 14:298 —Payable in installments
§ 14:299 —Definition
§ 14:300 Oral contract and miscellaneous
§ 14:301 Residential Real Property Disclosure Act
§ 14:302 Cases involving construction
§ 14:303 —Acts or omissions
§ 14:304 —Parties covered
§ 14:305 —Improvement to real property
§ 14:306 —Start of timing for four-year statute of limitations
§ 14:307 —Outside limit
§ 14:308 — —"Discovery rule"
§ 14:309 — —Repairs and investigation does not toll the statute

§ 14:310 —Third-party and counterclaims
§ 14:311 —Outside limit—Indemnity
§ 14:312 —Legislative intent
§ 14:313 —Precedence over other statutes
§ 14:314 —Applicability
§ 14:315 — —Must be construction-related
§ 14:316 —Definition of "improvement to real property"
§ 14:317 —Exception for fraudulent misrepresentations
§ 14:318 —Exception for express warranty or guarantee
§ 14:319 Laches

XIII. CHECKLISTS

§ 14:320 Summary of statutes of limitations applicable to real estate

XIX. FORMS

§ 14:321 Seller's warranties or representations
§ 14:322 Time of making warranties and representations
§ 14:323 On purchaser's default—Seller reserves right to hold purchaser liable for damages

CHAPTER 15. FEDERAL INCOME TAXATION

I. PURCHASE OF RESIDENCE—TAX CONSEQUENCES

§ 15:1 What a new owner should know
§ 15:2 Original basis of residence
§ 15:3 —Cash or other property paid to seller
§ 15:4 —Liabilities of seller assumed by buyer
§ 15:5 —Liabilities the residence is "subject to"
§ 15:6 —Expenses of purchase added to basis
§ 15:7 —Expenses of purchase not added to basis
§ 15:8 Original basis of home contracted to be built
§ 15:9 Original basis of home received as gift
§ 15:10 Original basis of home acquired by inheritance
§ 15:11 Income tax treatment of real estate taxes
§ 15:12 —Deductibility of real estate taxes
§ 15:13 —Proration of real estate taxes at closing
§ 15:14 —Basis adjustment for real estate taxes paid
§ 15:15 —Reproration of real estate taxes
§ 15:16 Income tax treatment of "points" paid at closing

§ 15:17 —Points generally
§ 15:18 —Points that may be deducted by buyer
§ 15:19 —Points paid on second residence
§ 15:20 —Seller-paid points
§ 15:21 —Points on high principal loans

II. OWNERSHIP OF RESIDENCE—TAX CONSEQUENCES

§ 15:22 Home ownership benefits
§ 15:23 First-time homebuyer tax credit
§ 15:24 Residential energy property tax credit
§ 15:25 Deduction of real estate taxes
§ 15:26 —Sale of residence
§ 15:27 —Effect of escrow of property taxes
§ 15:28 —Deductibility of special assessments against the property
§ 15:29 Deduction of mortgage interest
§ 15:30 —Acquisition indebtedness
§ 15:31 — —Tracing
§ 15:32 —Home equity indebtedness
§ 15:33 —Qualified residence
§ 15:34 —Secured debt
§ 15:35 — —Debt incurred prior to completion
§ 15:36 — —Debt incurred after completion
§ 15:37 — —"Electing out" of Qualified Residence Interest [QRI]
§ 15:38 —Who may deduct mortgage interest
§ 15:39 —Coordination of mortgage interest deduction with alternative minimum tax
§ 15:40 —Mortgage interest credit for low-income taxpayers
§ 15:41 Home office deduction
§ 15:42 —Use of home for business
§ 15:43 — —Exclusive use test
§ 15:44 — —Regular use
§ 15:45 — —Trade or business use
§ 15:46 — —Use as principal place of business
§ 15:47 — — —Administrative and management activities
§ 15:48 — — —Use for more than one business
§ 15:49 —Place to meet patients, clients, or customers
§ 15:50 —Separate structure
§ 15:51 — —Storage of inventory or product samples
§ 15:52 — —Day-care facility
§ 15:53 —Use of home by employee for business

§ 15:54 —Where to deduct expenses for business use of the home
§ 15:55 —Figuring the amount of home office deduction
§ 15:56 —Qualifying home office expenses
§ 15:57 —Applicable business percentage
§ 15:58 —Limitations on home office deduction
§ 15:59 — —Gross income from the business use
§ 15:60 Qualified business income deduction—Rental real estate
§ 15:61 — —Ownership of business
§ 15:62 — —Operator of business
§ 15:63 — —Amount of deduction
§ 15:64 Casualty losses

III. SALE OF RESIDENCE—TAX CONSEQUENCES

§ 15:65 Sales of residence—Tax consequences
§ 15:66 Calculation of gain on sale of residence
§ 15:67 —Amount realized
§ 15:68 — —Prorated property taxes
§ 15:69 — — —Option to buy
§ 15:70 — —Selling expenses
§ 15:71 — —Adjusted basis
§ 15:72 — —Increases to basis
§ 15:73 — — —Repair
§ 15:74 — —Decreases to basis
§ 15:75 Seller's report of sale on tax return
§ 15:76 —Commission when residence not sold
§ 15:77 —Forfeited earnest money
§ 15:78 —Real estate taxes in year of sale
§ 15:79 Exclusion of gain under Section 121
§ 15:80 —Prior law
§ 15:81 —Requirements of Section 121
§ 15:82 —Election out
§ 15:83 —Reduced exclusion
§ 15:84 —Qualifying principal residence
§ 15:85 —Portion of residence used for business or investment
§ 15:86 — —Gain attributable to depreciation
§ 15:87 —Limitation to one sale every two years
§ 15:88 —Ownership and use requirements
§ 15:89 — —Out-of-residence care
§ 15:90 — —Spouses
§ 15:91 — — —Married filing separately
§ 15:92 — — —Married filing jointly

§ 15:93 — — —Deceased spouse
§ 15:94 — —Property owned by spouse or former spouse
§ 15:95 — —Partnership
§ 15:96 — —Grantor trust
§ 15:97 — —Sale of remainder interest
§ 15:98 — —Expatriates
§ 15:99 — —Sale by Chapter 7 or Chapter 11 bankruptcy estate
§ 15:100 —Co-op apartments
§ 15:101 — —Involuntary conversions
§ 15:102 —Reporting by closing agent
§ 15:103 —Tax treatment of escrow accounts
§ 15:104 Installment sales
§ 15:105 —Effect of installment method
§ 15:106 —Installment sale method
§ 15:107 —Reporting installment sale income
§ 15:108 —Election not to report on the installment method
§ 15:109 —Coordination with Section 121
§ 15:110 Short Sale—Tax consequences to seller
§ 15:111 Shared equity finance agreements
§ 15:112 —Summary of requirements of qualified shared equity finance agreement
§ 15:113 — —Fair rental

IV. TAX DEFERRED EXCHANGE OF BUSINESS OR RENTAL USE RESIDENCES

§ 15:114 Tax deferred exchanges of investment or business property
§ 15:115 —Summary of requirements of Section 1031
§ 15:116 —Time limits
§ 15:117 —Tax free exchange using third party
§ 15:118 —"Qualified Exchange Accommodation Arrangements"
§ 15:119 —Qualified intermediary

V. FORMS

§ 15:120 Required Written Assurances—Rev. Proc. 2007-12, 2007 I.R.B. 354
§ 15:121 Sample form—Shared equity finance agreement

CHAPTER 16. CONDOMINIUMS, COOPERATIVES AND COMMON INTEREST COMMUNITY ASSOCIATIONS

I. CONDOMINIUMS AND MASTER ASSOCIATIONS

§ 16:1 Illinois Condominium Property Act
§ 16:2 Determination of condominium law
§ 16:3 —Act governs over declaration and bylaws
§ 16:4 Distinguished from homeowner association
§ 16:5 —Applicability of Condominium Act
§ 16:6 Terminology
§ 16:7 —Common elements
§ 16:8 —Limited common elements
§ 16:9 —Majority of unit owners
§ 16:10 —Majority of board of managers
§ 16:11 —Meeting of board of managers
§ 16:12 —Conversion condominium
§ 16:13 —Add-on condominium
§ 16:14 —Condominium instruments
§ 16:15 —Common expenses
§ 16:16 —Reserves
§ 16:17 —Unit owners' association
§ 16:18 —Master association
§ 16:19 —Property
§ 16:20 —Unit owner
§ 16:21 Establishment of condominium
§ 16:22 —Condominium established on leasehold
§ 16:23 —Leasehold—Definition of leasehold condominium
§ 16:24 — —Leasehold condominium declaration
§ 16:25 —Plat
§ 16:26 —Chicago required property report
§ 16:27 —Chicago required condominium disclosure summary
§ 16:28 Declaration
§ 16:29 —Contract rules govern
§ 16:30 —Limitation to age 55 and older
§ 16:31 —Zoning limitations
§ 16:32 —Leasing Restrictions
§ 16:33 —Change to declaration or bylaws must be recorded
§ 16:34 Restrictions run with the land
§ 16:35 Effect of recording
§ 16:36 —Timing
§ 16:37 —No deed needed

§ 16:38 —Percentage ownership
§ 16:39 —Changes to unit
§ 16:40 —Changes in percentage ownership
§ 16:41 —Action for partition of common elements prohibited
§ 16:42 Bylaws
§ 16:43 Amendment of condominium instruments
§ 16:44 —Limit on votes required
§ 16:45 —Changes to boundaries
§ 16:46 —Omissions and errors
§ 16:47 —Scrivener's error as to percentage of common elements
§ 16:48 —Meeting of unit owners
§ 16:49 —Consent required where rights substantially affected
§ 16:50 — —Procedure
§ 16:51 —Exception for federal mortgage compliance
§ 16:52 Pets
§ 16:53 Solar Energy
§ 16:54 Board of managers
§ 16:55 —Exercise of fiduciary care
§ 16:56 — —Business judgment rule
§ 16:57 — —Limitation of fiduciary duty in bylaws
§ 16:58 — —Constructive fraud
§ 16:59 —Representative capacity
§ 16:60 — —Non-board derivative claims
§ 16:61 — —Exclusive right to enforce condominium claims
§ 16:62 — —Other remedies
§ 16:63 —Repair of common elements
§ 16:64 — —Expenditures
§ 16:65 — —"Repair, replacement or restoration"
§ 16:66 — —Improvement
§ 16:67 —Budget
§ 16:68 —Assessments
§ 16:69 —Personnel
§ 16:70 —Insurance
§ 16:71 —Ownership of units
§ 16:72 —Rules and regulations
§ 16:73 — —Limits on rules
§ 16:74 — — —Restrictive Covenants
§ 16:75 — —Disciplinary action against unit owner
§ 16:76 —Financial records
§ 16:77 —Access to units
§ 16:78 —Taxes
§ 16:79 —Late payment charges

§ 16:80 —Fines
§ 16:81 —Rights in common assets
§ 16:82 —Exercising right of first refusal
§ 16:83 —Dedication for street or utility
§ 16:84 —Cable television
§ 16:85 —Relief from property taxes
§ 16:86 —Handicapped owner
§ 16:87 —Chicago bed bug ordinance
§ 16:88 — —Violation penalties
§ 16:89 —Chicago home sharing ordinance
§ 16:90 Unit owners' association
§ 16:91 —Power to bring suit
§ 16:92 —Power to own property
§ 16:93 Common elements
§ 16:94 —Distinguishing limited common elements
§ 16:95 — —Limited common elements
§ 16:96 — —Condominium instruments
§ 16:97 — —Walls, floors, ceilings
§ 16:98 — —Ducts, wires, bearing walls
§ 16:99 — —Separate appurtenances included in limited common elements
§ 16:100 — —Transfer of limited common elements
§ 16:101 — —Residential Real Property Disclosure Act
§ 16:102 Attorneys' fees
§ 16:103 Assessments
§ 16:104 —Expense prior to conveyance of first unit
§ 16:105 —Unit owner's responsibility for his or her proportionate share
§ 16:106 —Developer's responsibility for its proportionate share
§ 16:107 —No right to offset assessment based on dispute with association
§ 16:108 —Proportionate share—Exception for insurance
§ 16:109 —Budget
§ 16:110 —Reserves
§ 16:111 — —Election to waive reserve requirement
§ 16:112 — —Disclosure of waiver of reserve requirement
§ 16:113 —Limited common elements
§ 16:114 —Amount and time of assessment payments
§ 16:115 —"Special assessments"
§ 16:116 —Right of owners to nullify special assessment or budget
§ 16:117 —Collection of assessment debt pursuant to Fair Debt Collection Practices Act
§ 16:118 — —Bartlett Letter

§ 16:119 Lien for failure to pay assessment
§ 16:120 —Requirement of recording assessment lien
§ 16:121 —Additions to unpaid amount
§ 16:122 —Attorneys' fees
§ 16:123 —Priority of lien
§ 16:124 —Action brought to extinguish lien
§ 16:125 —Notice to encumbrancer
§ 16:126 — —Type of mailing
§ 16:127 — —Effect of notice
§ 16:128 — —Exception
§ 16:129 —Purchaser at judicial foreclosure
§ 16:130 —Liability of mortgagee taking title through foreclosure or deed in lieu of foreclosure
§ 16:131 — —Partial payment of post foreclosure sale assessments
§ 16:132 —Liability of third party purchaser taking title through judicial foreclosure or from mortgagee
§ 16:133 — —Acceleration of an assessment payable in installments
§ 16:134 —Lien in favor of board
§ 16:135 — —Notice of lien
§ 16:136 — —Foreclosure
§ 16:137 — —Forcible entry and detainer
§ 16:138 —Lien in favor of the board—Forcible entry and detainer—Right of board to lease the unit to recover damages
§ 16:139 — — —Attorneys' fees
§ 16:140 — — —Foreclosure controls
§ 16:141 —Lien in favor of board—Homestead as defense
§ 16:142 — —Bidding at foreclosure
§ 16:143 — —Request by encumbrancer for status
§ 16:144 — —Payment of assessments by encumbrancer
§ 16:145 Attachment of other liens
§ 16:146 —Liens incurred during development
§ 16:147 — —Developer to record release
§ 16:148 — —Liens caused by developer after sale of unit
§ 16:149 —Lien against more than one unit
§ 16:150 —Liens arising from action by board of managers
§ 16:151 —Notices to lienholder of eminent domain proceedings
§ 16:152 — —Application to townhouses
§ 16:153 Property taxes
§ 16:154 —Property owned by condominium association
§ 16:155 —Appeal of property taxes
§ 16:156 — —Associations

§ 16:157 Insurance
§ 16:158 Incorporation of not-for-profit corporation
§ 16:159 —Board of directors
§ 16:160 Sale of entire condominium property
§ 16:161 Alterations and combinations of units
§ 16:162 Removal from Condominium Act
§ 16:163 Distressed condominium property
§ 16:164 Records of association
§ 16:165 —Availability
§ 16:166 —Inspection
§ 16:167 — —General Not For Profit Corporation Act
§ 16:168 — —Chicago Condominium Ordinance
§ 16:169 — —Production and timing
§ 16:170 — —Proper purpose
§ 16:171 —Copying costs
§ 16:172 —Attorneys fees
§ 16:173 —Exceptions
§ 16:174 —Public policy
§ 16:175 Disapproval on resale
§ 16:176 Disclosure on resale
§ 16:177 —Time at which information to be furnished
§ 16:178 —Owner to furnish name of lender
§ 16:179 —Association may charge fee
§ 16:180 — —No private right of action
§ 16:181 —Buyer's right to terminate contract
§ 16:182 Disclosure upon initial sale
§ 16:183 —Conversion condominium
§ 16:184 —Time at which information to be furnished
§ 16:185 —Failure to disclose
§ 16:186 — —Liability of third party for condition report in the property report
§ 16:187 — —Liability under Chicago Municipal Code
§ 16:188 —Definition of "initial sale"
§ 16:189 Deposits by purchaser
§ 16:190 Administration of property prior to election of initial board of managers
§ 16:191 —Period prior to initial election
§ 16:192 —Initial election
§ 16:193 —Items to be delivered by developer to board
§ 16:194 Administration of Property prior to election of initial board of managers—Items to be delivered by developer to board—Detailed accounting
§ 16:195 — —Adequate reserves
§ 16:196 Administration of property prior to election of initial board of managers—Contract cancellation period

§ 16:197 — —Cancellation procedure
§ 16:198 —Statute of limitation on action by association
§ 16:199 Conversion condominium requirements
§ 16:200 —Notice of intent
§ 16:201 — —Timing of notice
§ 16:202 — —Owner liability for failure to provide notice
§ 16:203 — —Certificate of developer
§ 16:204 —Schedule of selling prices
§ 16:205 —Right of first refusal
§ 16:206 —Information to tenants as to lease
§ 16:207 — —Right to extend tenancy
§ 16:208 —Chicago Condominium Conversion Ordinance—Required filing and notice to purchaser
§ 16:209 — —Notice to tenants, tenant right of first refusal
§ 16:210 — —Landlord duty to tenant relocation assistance
§ 16:211 — —Violation of the ordinance
§ 16:212 Master ("umbrella") associations
§ 16:213 —Relationship to unit owners' association
§ 16:214 —Necessary provisions
§ 16:215 — —Copy of annual budget
§ 16:216 — —Itemized accounting of common expenses
§ 16:217 — —Written notice of meeting
§ 16:218 — —Open meetings
§ 16:219 — —Recording meetings
§ 16:220 — —Method of notification
§ 16:221 — —Posting of meeting notice
§ 16:222 — —Voting rights of installment sale buyer
§ 16:223 — —Collection of utility services
§ 16:224 — —Fines
§ 16:225 — —Record keeping
§ 16:226 — — —Declaration and other instruments
§ 16:227 — — —Expenditures affecting common area
§ 16:228 — — —Minutes of meetings
§ 16:229 — — —Ballots and proxies
§ 16:230 — — —Not-for-profit corporation records
§ 16:231 — — —Land trust voting rights
§ 16:232 — —Denial of request for records
§ 16:233 — —Record copying fees
§ 16:234 — —Remedy for records not provided
§ 16:235 — —Standing of board for common area matters
§ 16:236 — —Duties of developer
§ 16:237 — —Election of initial board
§ 16:238 — —Developer notice and note distribution information
§ 16:239 — —Failure to timely elect initial board

§ 16:240 — —Duty of developer post-election
§ 16:241 — —Cancellation of developer agreements
§ 16:242 — —Vote required for cancellation
§ 16:243 — —Statute of limitations for association actions
§ 16:244 — —Information provided to prospective buyers
§ 16:245 — —Fee for copying records
§ 16:246 — —30 days to provide information to buyer
§ 16:247 — —Provisions for corrections and amendments
§ 16:248 — —Corrections materially or adversely affecting property rights
§ 16:249 —Applicability
§ 16:250 — —Common interest community associations
§ 16:251 —Forcible entry and detainer
§ 16:252 Practical aspects of contract to sell or buy condominium unit
§ 16:253 Tax returns of condominium associations
§ 16:254 Gross income requirement
§ 16:255 —Taxable income
§ 16:256 —Filing of returns

II. COOPERATIVES

§ 16:257 Background
§ 16:258 —Form of ownership of cooperative building
§ 16:259 Statutory requirements of corporate ownership
§ 16:260 Form of ownership interest of occupant
§ 16:261 Proprietary lease
§ 16:262 —Homestead and ownership as tenants by the entireties
§ 16:263 —Forcible detainer
§ 16:264 Right of first refusal
§ 16:265 Financing
§ 16:266 Real estate taxes
§ 16:267 Closing of sale
§ 16:268 Practical considerations

III. COMMON INTEREST COMMUNITY ASSOCIATIONS

§ 16:269 Common Interest Community Associations
§ 16:270 Common Interest Community Association Act
§ 16:271 —Differences from Condominium Property Act
§ 16:272 —Small association exemption

IV. CHECKLIST

§ 16:273 Required bylaws provisions in condominiums

V. FORMS

§ 16:274 Clause for delivery of condominium documentation on resale
§ 16:275 Special provision for deed
§ 16:276 —Tenant's rights in conversion to condominium
§ 16:277 —Prorations and adjustments
§ 16:278 Representations of seller regarding assessments
§ 16:279 Adjustments and waivers of board of managers
§ 16:280 Prior options of condominium developer to purchase property
§ 16:281 Insurance
§ 16:282 Notice of intent forms

CHAPTER 17. LEASES AND PARTIES IN POSSESSION

I. LEASES AND RIGHTS OF PARTIES IN POSSESSION

§ 17:1 Recordation
§ 17:2 Parties in visible possession
§ 17:3 —Buyer's inspection
§ 17:4 Contractual considerations
§ 17:5 Rental concessions
§ 17:6 —Notice requirements
§ 17:7 Landlord Retaliation Act
§ 17:8 Tenant's possessory rights after foreclosure

II. SECURITY DEPOSITS

§ 17:9 Payment by electronic funds transfer
§ 17:10 Security deposits
§ 17:11 Interest on security deposits
§ 17:12 Landlord's demand for rent and action in possession
§ 17:13 Landlord's right to personal property for rent
§ 17:14 Landlord's lien on personal property
§ 17:15 Landlord's duty to mitigate
§ 17:16 Exculpatory clauses

III. LANDLORD TENANT ORDINANCES

§ 17:17 Landlord tenant ordinances
§ 17:18 —Chicago Landlord Tenant Ordinance
§ 17:19 — —Owner
§ 17:20 — —Owner occupied

§ 17:21 — —Dwelling units
§ 17:22 — —Building
§ 17:23 — —Rent
§ 17:24 — —Purpose
§ 17:25 — —Remedial and penal provisions
§ 17:26 — —Tenant's motives in evoking ordinance
§ 17:27 — —Willfulness
§ 17:28 — —Exculpatory clause
§ 17:29 — —Right of termination of lease for causes other than default
§ 17:30 — —Required disclosure of code violation
§ 17:31 — —Landlord required summaries with the lease
§ 17:32 — — —Security deposit
§ 17:33 — —Security deposit—Commingling
§ 17:34 — — — —Deposit by attorney in IOLTA account
§ 17:35 — — —Interest
§ 17:36 — — —Disclosures
§ 17:37 — — —Willfulness
§ 17:38 — —Right to deduct damages from security deposit
§ 17:39 — —Tenant's damages
§ 17:40 — —Landlord's obligation to accept subtenant
§ 17:41 — —Transfer to new property owner
§ 17:42 — — —Requirement to disclose the financial institution holding the security deposit
§ 17:43 — —Right to withhold rent
§ 17:44 — —Right to terminate the lease
§ 17:45 — —Retaliatory conduct by landlord
§ 17:46 — —Private right of action by tenant for violation of municipal code
§ 17:47 — —Limitations
§ 17:48 — —Security deposit—Damages
§ 17:49 — —Attorney's fees
§ 17:50 — — —Prevailing plaintiff
§ 17:51 — — — —Expanded meaning
§ 17:52 — — —Amount of fees
§ 17:53 — — — —Tender
§ 17:54 — — —Counterclaim or affirmative defense
§ 17:55 — —Properties not covered by the ordinance
§ 17:56 — —Effect of violation on enforceability of balance of the lease
§ 17:57 —Keep Chicago Renting Ordinance
§ 17:58 — —Exclusions
§ 17:59 — —Notice to tenants
§ 17:60 — —Registration of foreclosed rental property
§ 17:61 —Chicago bed bugs ordinance—Landlord obligations

§ 17:62 — —Tenant obligations
§ 17:63 — —Violation penalties
§ 17:64 Safe Homes Act
§ 17:65 —Right of tenant to vacate lease upon imminent threat
§ 17:66 —Tenant notice and support requirements if seeking to obtain new locks upon imminent threat
§ 17:67 —Confidentiality
§ 17:68 —Penalty and attorney's fee
§ 17:69 —Landlord obligation to provide new locks upon imminent threat

IV. SHORT-TERM HOUSING RENTALS

§ 17:70 Chicago home sharing ordinance
§ 17:71 —Terms and definitions
§ 17:72 —Size of building requirement
§ 17:73 —Registration requirements
§ 17:74 —Listing ineligibility
§ 17:75 —Unlawful acts
§ 17:76 —Disputing notice of ineligibility
§ 17:77 —Required listing content
§ 17:78 —Operating requirements
§ 17:79 —Shared housing unit disclosure in lease and in sale
§ 17:80 —Restricted rental zone

V. FORMS

§ 17:81 Keep Chicago Renting Ordinance—Notice to occupants form
§ 17:82 Landlord and tenant rights and laws—Summary from the office of the Illinois Attorney General
§ 17:83 Affidavit for inclusion in prohibited buildings list
§ 17:84 Affidavit for removal from prohibited buildings list
§ 17:85 Chicago Code at a Glance: Bed bugs
§ 17:86 Bed bug pest management plan
§ 17:87 Bed bug fact sheet
§ 17:88 Commissioner's adjustment application for shared housing units and vacation rentals

Table of Laws and Rules

Table of Cases

Index