



ILLINOIS A- Z UNDERWRITING GUIDE

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A

ACKNOWLEDGMENTS

What is the General Rule for acknowledgements?

- Generally, real estate documents that are to be recorded must be acknowledged by a judge, clerk or deputy clerk, or notary public. A county will not record documentation (deeds, mortgages, POAs, etc.) that is not acknowledged. See [765 ILCS 30](#)

Do all Affidavits need to be notarized?

- Yes, all Affidavits used for a transaction, recorded or not, must also be notarized.

Is a notary stamp/seal required for a valid notarization?

- Yes. See [5 ILCS 312](#)

Are there any short form notarial certificates?

- Yes. See [5 ILCS 312/6-105](#)

ADVERSE POSSESSION

How is Adverse Possession established?

- Generally, to establish adverse possession, an individual must demonstrate possession of real property for a period of 20 years, which is actual, hostile, open, continuous, and exclusive. See [735 ILCS 5/13-101](#) & [Tapley v. Peterson, 141 Ill.App.3d 401 \(1986\)](#). However, the 20 year period may be less if certain requirements for occupation and color of title are met. See [735 ILCS 5/13-107](#), [735 ILCS 5/13-109](#), & [735 ILCS 5/13-110](#)

How to insure title based on a claim of adverse possession?

- The individual must obtain an Order Quietening Title that vests them as the fee simple titleholder with proof of proper notice given to all interested parties.

AFTER-ACQUIRED TITLE

Is the doctrine of After-Acquired Title recognized for vesting?

- Yes. If grantor by general warranty deed conveys what grantor does not own and subsequently acquires title, it inures to the benefit of the grantee. A QCD cannot operate to convey after acquired title, unless there is specific language of intent to do so. See [765 ILCS 5/7](#) & [765 ILCS 5/10](#)

ANTI-PREDATORY LENDING DATABASE PROGRAM

What is the Anti-Predatory Lending Database Program?

- The Program established that in certain counties, (currently being: Cook, Kane, Peoria, and Will) there are special requirements to assist borrower in understanding loan terms for 1-4 unit, owner occupied residential properties. Accordingly, in said counties each mortgage filed requires either a Certificate of Compliance confirming that each requirement was met, or a Certificate of Exemption if the loan does not apply.

Any helpful guidelines for compliance?

- Yes. See [WFG Bulletin IL 2020-07](#) & [Illinois Anti-Predatory Lending Database](#)

ASSESSMENTS

How are special assessments treated?

- Special assessments are a lien when levied, including drainage assessments. Check with municipality for reported assessment liens. See [65 ILCS 5/-2-65](#) & [70 ILCS 605/5-17](#)

What about PACE liens? Where can I find more information about them?

- There are PACE liens in IL. See [50 ILCS 50](#) & [IL Energy Conservation Authority](#). Note, some individual counties also have guides, too.

How should PACE liens be addressed?

- See [2018 PACE Bulletin](#) and [2019 PACE Bulletin](#). Contact underwriting with additional questions.

B

BANKRUPTCY

What are the most common types of Bankruptcy that can be filed?

1. Chapter 7: Liquidation
2. Chapter 9: City/Municipality
3. Chapter 11: Business Reorganization
4. Chapter 12: Family Farmers and Fisheries Reorganization
5. Chapter 13: Individual Reorganization

How do you clear a judgment with a Chapter 7 bankruptcy?

- Avoidance
 - Order to Avoid obtained from the bankruptcy court specifically stating the judgment has been avoided and/or is no longer a valid lien. Avoidance is not effective until discharge.

How do you clear a judgment with a Chapter 13 bankruptcy?

- Same option as Chapter 7 above.
- Chapter 13 Plan
 1. If a Motion to Avoid the judgment is referenced in the Chapter 13 Plan and the Plan is confirmed, then the Confirmation of Plan acts as the Order to Avoid the judgment.
 - The avoidance is not effective until the Plan is completed and discharge is entered.
 2. In this situation the Plan will need to be carefully reviewed to confirm a separate avoidance proceeding isn't required.

How do you clear a junior mortgage lien with a Chapter 7 bankruptcy?

- As of July 2015, you can no longer strip a junior mortgage lien in a Chapter 7 bankruptcy.
 - Why? See [The Caulkett Case](#)
- If an Order stripping a junior mortgage lien was entered in a bankruptcy that was completed prior to July 2015, please send to underwriting for review.

How do you clear a junior mortgage lien with a Chapter 13 bankruptcy?

- Order Stripping a junior mortgage lien
 1. Order entered by the bankruptcy court specifically stating the junior mortgage lien is stripped/avoided/void as a lien.
 2. Generally, an Order only stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. The Order MUST also state that the lien is stripped/avoided/void.
 3. Best practice is to record the Order to avoid future clearance issues.
- Chapter 13 Plan
 1. If a Motion to strip the junior mortgage lien is referenced in the Chapter 13 Plan and the Plan is confirmed, the Confirmation of Plan acts as the Order to Strip the mortgage lien.
 2. Language in the Plan stating the mortgage is deemed unsecured is not sufficient to clear a junior mortgage lien. It must state that the lien is stripped/avoided/void.

What happens if an Order to Avoid or Strip the Mortgage is obtained in a Chapter 13 bankruptcy that is subsequently converted to a Chapter 7?

- Generally, the Order is considered void and the lien is still effective.
 - A new Order to Strip the mortgage cannot be filed in the subsequent Chapter 7.

What if the bankruptcy has been dismissed?

- If the bankruptcy has been dismissed, it is as if the bankruptcy never occurred. All Orders are considered void and cannot be relied upon.

What is required to refinance, sell, or purchase property while in an active Chapter 7 bankruptcy?

- An Order authorizing the refinance, sale, or purchase of property (also known as an Order to incur debt) from the bankruptcy court.
 1. For an Order authorizing the sale of property, there is a 14 day appeal period from the date of the Order unless that period is waived by the court. If there has been no appeal/objection to the sale after those 14 days, the sale can proceed.

What is required to refinance, sell, or purchase property while in an active Chapter 13 bankruptcy?

- Authorization in the Chapter 13 Plan allowing the sale/refinance/purchase of property without additional court order.
- If no authorization in the Plan, same requirements as a Chapter 7 bankruptcy.

What is required to refinance/sell/purchase property while in a Chapter 7 bankruptcy that has been discharged but not yet closed?

- One of the following:
 1. Letter from the bankruptcy trustee formally abandoning the subject property
 2. An Order abandoning the subject property.
 3. An Order authorizing the refi/sale/purchase.
 4. Wait for the bankruptcy to close.

What is required to refinance/sell/purchase property while in a Chapter 13 bankruptcy that has been discharged but not closed?

- One of the following:
 - Authorization allowing the sale/refinance/purchase of property without additional court order; OR Same above options as in a Chapter 7.

C

CHILD SUPPORT LIENS

What is the statute of limitations for Child Support Liens?

- Even though a child support judgment is an ongoing obligation, the judgment is a lien only if payments are due and owing. There is no SOL for child support judgment liens. See [735 ILCS 5/12-108](#) & [735 ILCS 5/12-101](#)

CLOSING PROTECTION LETTERS (“CPL”)

Any guidance on issuing CPLs?

- Yes. See [IL CPL Charge Bulletin](#)

COMMITMENT

Where can you find WFG’s commitment form?

- In 2021, ALTA issued a new version of the Commitment for Title Insurance. See [WFG Underwriting](#)

CONDOS

How are condominiums governed?

- The Condominium Property Act. See [765 ILCS 605/ et seq.](#)

How are condos created?

- Recording a Declaration. See [765 ILCS 605/2\(a\)](#)

How are condo liens created?

- Unpaid assessments are automatic liens from the date of assessment. No limitation period. See [765 ILCS 605/9](#)

What documentation needs to be obtained from the association on a transaction?

- An estoppel letter showing all assessments are current. Any delinquencies will need to be addressed.

COVENANTS, CONDITIONS, & RESTRICTIONS (“CC&Rs”)

How are CC&Rs addressed on policies?

- All policies generally contain an exception relating to covenants, conditions, or restrictions. Consult your underwriter if you are looking to waive or require an endorsement to proceed without exception.

D

DECEDENT ESTATES

What are the General Considerations for addressing a deceased titleholder's interest?

- Titleholder dies testate (with a Will).
 - Will to be submitted to probate court immediately upon death. See 755 [ILCS 5/6-1](#)
Note, no time limit on probating Will. Will contest period is 6 months from the time the Will is admitted to probate. See [755 ILCS 5/Art. VIII](#)
 - Executor is typically appointed and Letters Testamentary issued. See [755 ILCS 5/6](#)
- Titleholder dies intestate (without a Will).
 - Administrator is typically appointed and Letters of Administration issued. See [755 ILCS 5/9](#)
 - Intestate Succession is further outlined in [755 ILCS 5/2](#)

What documentation should be obtained for an estate review?

- At minimum, typically the Petition for Probate, Will (if there is one), Letters Testamentary/Administration, and Inventory should be reviewed.

On a refinance/sale, what is generally required to properly transfer a decedent's interest to the end party?

- Typically, the Executor/Administrator will deed. You may also encounter a Notice of Probate and Release of Estate's Interest in Real Estate from the estate representative, if it's an independent (unsupervised) estate.
 - NOTE: The Notice of Probate and Release of the Estate's interest in Real Estate is acceptable to transfer title without a deed. A certified copy will need to be recorded along with a certified copy of the Order releasing the Estate's interest.
- If there's a Will, look to see if Executor has power to sell. Also, see if it's a supervised or independent estate. If no restrictions on Executors powers in the Will and it's an independent estate, Executor deed should work.
- If no Will, consider if independent or supervised estate. If independent, Administrator deed should work. See [755 ILCS 5/28-8](#)
- In either a testate or intestate situation, if it's a supervised estate, it may require additional Order from the probate court for Executor/Administrator to act. See [755 ILCS 5/, et. seq.](#)

Is there a state estate or inheritance tax?

- Yes. These last for 10 years from date of death/gift. See [IL Attorney General](#) & [35 ILCS 405/1 et. seq.](#)
- NOTE: Federal estate tax also applies if the value of the decedent's estate meets the filing threshold. [IRS: Estate Tax](#)

What about creditor claims against the estate?

- With a probated estate, creditors have 6 months from notice or publishing. With an unprobated estate, creditors have up to two years from decedent's death to file claim. See [755 ILCS 5/18-12](#)

Are there any alternatives to probate?

- Affidavits of Heirship with Personal Undertaking
 - In some situations, affidavits of heirship can be used with a personal undertaking from heirs. However, if death is within two years, an exception for creditor claims or bond in lieu

of probate may be needed. For bond in lieu of probate (aka risk premium), if death has been less than one year, typical charge is 2% of the purchase price. If the death has been over a year, but not more than 2 years, the typical charge is 1% of the purchase price. Check with your underwriting counsel on use and negotiation of risk premium as needed, further. When using affidavits of heirship, make sure to do lien searches on heirs as well.

DEEDS

What are some common types of deeds?

1. Warranty Deed: See [765 ILCS 5/9](#)
2. Quitclaim Deed: See [765 ILCS 5/10](#)
3. Special (Limited) Warranty Deed: See [765 ILCS 5/8](#)
4. Fiduciary Deed: Via Guardian/Executor/Administration/Trustee/Custodian
5. Deed in fulfillment of Installment Contract for Deed (type as agreed upon by the parties in said Contract)

DEMOLITION LIENS

Is there a statute of limitations on these?

- No. See [65 ILCS 5/11-31-1](#), [55 ILCS 5/5-1080](#), [55 ILCS 5/5-1121](#), & [60 ILCS 1/85-50](#)

DIVORCE

Can a divorce be recorded in lieu of a deed to transfer an interest in property?

- No. Court may need to execute deed instead. See [735 ILCS 5/2-1304](#)

Does a divorce sever a joint tenancy between spouses?

- Generally yes, unless the divorce decree states that the parties will continue as joint tenants.

What about liens? Appeals?

- Watch out for liens granted in the divorce and address.
- The divorce becomes final 30 days from the entry of the Judgment of Dissolution, unless a party files an appeal.

E

EASEMENTS & RIGHTS OF WAY

What are some policy considerations for easements and rights of way?

- Exception on the policy should be taken for all easements and rights of way.

ENDORSEMENTS

Where can I find what endorsements are available?

- Find endorsement forms and rates at [WFG Underwriting](#)

ENTITIES

What is needed for an entity to sell or refinance property?

- An entity selling or refinancing must be active, in good standing, and able to provide the applicable documentation showing who has authorization to sign on its behalf.

Who governs entities?

- The Office of the IL Secretary of State. See [Business Entity Search](#)

What are common types of entities and what documentation is needed to show authority to sign?

- **Corporation** - See [805 ILCS 5-40/](#) & [805 ILCS 105-155/ \(specific to Nonprofit Corporations\)](#)
 - Generally, a Corporate Resolution is needed to show who has the authority to sign.
- **LLC & PLLC** - See [805 ILCS 180/](#) & [805 ILCS 185/](#)
 - Generally, an Operating Agreement or Resolution signed by all members is needed to show who has the authority to sign.
- **General or Limited Partnership** – See [805 ILCS 206/](#) & [805 ILCS 215/](#)
 - Generally, the review of Partnership Agreement is needed to show who has the authority to sign.

ESCROW AGREEMENT/STRICT JOINT ORDER ESCROW AGREEMENT

What should be included in an escrow agreement?

- See underwriter for sample, as needed.

F

FEDERAL TAX LIENS

What is the general rule for a federal tax lien?

- A federal tax lien attaches to all property, including after-acquired property, by the debtor in the county the federal tax lien is recorded in.

What is the statute of limitations for a Federal Tax Lien?

- The statute of limitations on a Federal Tax Lien is 10 years and 30 days from the latest date of Assessment (section D).

Can Federal Tax Liens be renewed?

- Yes, Federal Tax Liens can be renewed.

FINANCING STATEMENTS

What is the statute of limitations for a UCC-1 Financing Statement?

- UCC-1 Financing Statements are a lien for 5 years from the date of recording unless a subsequent continuation is recorded, extending the lien an additional 5 years. See [810 ILCS 5/9-515](#)

Is there a limit on renewing UCC-1 Financing Statements?

- No, there is no limit on extending a UCC. As long as a Continuation Statement is recorded before the 5 years is up, the UCC is extended an additional 5 years.

How is a UCC Financing Statement addressed on a transaction?

- A UCC-1 Fixture Filing will need to be excepted out, terminated, or subordinated to insure. UCC3 is used to terminate. See [Uniform Commercial Code Publications/Forms](#)

What about UCCs on manufactured homes?

- 30 years from date of filing under [UCC Code 9-515\(2\)](#) & See [810 ILCS 5/9-515](#)

Any special considerations for UCCs for solar panels?

- No. If it's a fixture filing it needs to be addressed.

FINANCIAL CRIMES ENFORCEMENT NETWORK ("FinCEN")

Any guidelines on FinCEN requirements?

- Yes. See [FinCEN 2023-02](#)

FORECLOSURE

What kind of foreclosures are an option?

- Judicial foreclosure. See [IL Mortgage Foreclosure Act, 735 ILCS 5/15](#)

What does the foreclosure process look like?

- A foreclosure Complaint is filed with the Court. Summons and Complaint are served on owner and notice is to be given to all necessary parties. Notice of Foreclosure is recorded. If owner does not cure delinquencies timely and fails to respond, a default judgment is entered and judgment of foreclosure issued.

Is there a redemption period?

- Yes. The redemption period ends either seven months from the date the mortgagor was served with a summons, or three months from the date of entry of the judgment of foreclosure, whichever is later. See [735 ILCS 5/15-1603](#)

What about liens/interests recorded prior to the foreclosed mortgage?

- Purchaser takes title subject to any interests senior to the foreclosed mortgage.

What about junior federal liens?

- Generally, where USA has liens, it generally has 120 days from sale to redeem, unless otherwise waived. See [IRS Guidelines 5.12.4.2 to 2.3 on Judicial Foreclosures](#)

Are attorneys required for REO sales?

- No, but their involvement is common and greatly helpful.

FORMS

Where can you find common WFG Forms?

- See WFG Forms List at [WFG Underwriting](#)

G

GOOD FUNDS

Is there a good funds requirement?

- Yes. See [215 ILCS 155/26](#) & [WFG Good Funds Bulletin](#)

GUARDIANSHIP

Is a transaction specific Order required, in addition to the Letters of Guardianship, for a Guardian of the Estate to sell/mortgage/etc. on an incapacitated individual or minor's behalf?

- Yes. See [755 ILCS 5/11a-18](#)

H

HOMEOWNER ASSOCIATIONS (HOAs)

How are HOAs governed?

- Most by the Common Interest Community Association Act v. the Condominium Property Act. See [765 ILCS 160/ et. seq](#)

Are HOA liens automatically created?

- Check the Declaration.

What documentation needs to be obtained from the association on a transaction?

- An estoppel letter showing all assessments are current. Any delinquencies will need to be addressed.

HOSPITAL LIENS

Do these generally attach to real property?

- No. See [770 ILCS 23/](#) Note, these are different than judgment liens in favor of a hospital, which would attach.

I

INSTALLMENT SALES CONTRACT FOR DEED

What happens when parties enter into an installment sales land contract for deed?

- When an installment contract for deed is executed, the purchaser is given an equitable interest/possession of the subject property, while the seller retains the legal interest until the contract is completed.
- Recording contract or memorandum of contract for deed is required to put the world on notice of the buyer's interest. See [765 ILCS 67/1 et seq.](#)

What happens in event of default?

- The contract is to be foreclosed. It may need to be via judicial mortgage foreclosure process. See [735 ILCS 5/15-1106\(c\)](#)

What should be used to convey an equitable interest?

- An Assignment of Installment Sales Contract for Deed. A quit claim deed conveying the equitable interest is also sufficient and preferred over a Release of Installment Contract.

J

JUDGMENTS

What is the statute of limitations for judgment liens?

- 7 years from when the judgment is rendered. See [735 ILCS 5/12-101](#) & [Schindler v. Watson, 2017 IL App \(2d\) 160126](#). If a judgment is not enforced within 7 years, instead of being extinguished, the judgment becomes “dormant” or unenforceable as a lien on real property. Although it may not be enforced, a dormant judgment can exist up to 20 years after the original judgment’s date of entry. Note, real estate that has been levied upon within the seven-year period is allowed one additional year to be sold to enforce the judgment. See [735 ILCS 5/12-108](#)

Can judgment liens be revived/renewed?

- Yes. The revival of a judgment cannot occur before the 7th year after its entry. During the 7th year, the judgment may be revived if the creditor files a petition to revive the judgment in the case in which the original judgment was entered. The petition, if granted, will extend the judgment’s enforcement time-period an additional 7 years. Evidence of the revival is to be recorded.

Does a PMM take priority to judgment liens against buyer?

- Yes. Note, while it is possible to insure lender without paying off the judgment lien, this insurance is not available for the purchaser; the purchaser takes title subject to the lien.

Do judgment liens against a deceased joint tenant attach?

- If a judgment debtor owns land in joint tenancy and the judgment debtor dies before there is an execution and levy and enforcement of the judgment pursuant to [735 ILCS 5/12-119](#), the judgment cannot be enforced against the surviving joint tenant. If the judgment is in favor of a government body release is needed.

Is there TBE debt protection for judgment liens?

- Maybe. If spouses hold title as tenants by the entirety **and property is homestead** (evidenced by tax records and homestead affidavit) it is possible that a civil money judgment against only one spouse may be deemed not to attach to the property. Divorce and death may impact the protection. These are reviewed on a case by case basis, so please contact underwriting if applicable to your transaction.

K

L

LEGAL DESCRIPTIONS

What are common types of legal descriptions?

- The US Public Land Survey System (PLSS)/rectangular survey system
 - Section, Township, & Range: townships that are 6 miles square, divided into 36 sections, and referenced in relation to a north-south line.
- Recorded Plats
- Metes and Bounds
- For more education, See <https://ipaieducation.org/>

LICENSING

Where can I find information about title insurance licensing?

- See [Illinois Department of Financial & Professional Regulation](#)

LIFE ESTATES

Are life estates recognized?

- Yes.

LIS PENDENS

What is the statute of limitations for a Lis Pendens?

- There is no statute of limitations. A Lis Pendens expires when it is released after conclusion of the court proceeding, or if the underlying lawsuit is dismissed. See [735 ILCS 5/2-1901](#)

M

MANUFACTURED/MOBILE AND MODULAR HOMES

What are the basic characteristics?

- a) **Manufactured or Mobile:** Factory built, placed on site, typically steel frame, may or may not be placed on a permanent foundation, and required to meet HUD standards. These homes may be issued a certificate of title.
- b) **Modular:** Factory built, shipped in sections, assembled on site, typically on a permanent foundation, and not required to meet HUD standards, but must conform to local, state, and regional standards like stick-built homes. These homes are not issued a certificate of title.

See [US HUD- Manufactured Housing FAQ](#) & [625 ILCS 5/3—116.2](#)

https://www.ilsos.gov/publications/pdf_publications/vsd973.pdf

How do you evidence affixture?

- Affix the manufactured/mobile home to real property by:
 - Removing the home's wheels;
 - Setting the home on a foundation; and,
 - Connecting the home to utilities.
- Obtain releases for all liens on the Manufactured Home.
- Complete the Affidavit of Affixation and record with the county recording office. See [765 ILCS 170/5-15](#)
- Once recorded, complete the [Illinois SOS: Application for Surrender of Manufactured Home](#) and submit to the Secretary of State along with a certified recorded copy of the Affidavit of Affixation and Original Certificate of Title with all liens released.

What are the common endorsements?

- ALTA 7-06 (owner's & loan policies), 7.1-06 or 7.1-21 (loan policy - conversion), and 7.2-06 or 7.2-21 (owner's policy - conversion). See these IL Endorsements at: [WFG Underwriting](#)

MARIJUANA/CANNABIS PROPERTIES

Will WFG insure these properties?

- Generally, no. See WFG Bulletin NB 2018-07 *Revised* at [WFG Underwriting-National](#)

MARITAL RIGHTS

Is a non-titled spouse generally required to sign something in relation to a Deed of Trust or Conveyance by titled spouse?

- Yes. A non-titled spouse has a marital homestead interest in the property that needs to be addressed. See [735 ILCS 12/904](#)

Can a legal separation terminate marital rights?

- Possibly, but it should be carefully reviewed by your WFG underwriters to confirm if it allows for removal of the general spousal joinder requirement.

MARKETABLE TITLE

What is the marketable record title period?

- Generally, it's 40 years. See [735 ILCS 5/13-118](#)
- However if the claim is made by a party in possession of the property and under claim of color of title, then the period is 75 years. See [735 ILCS 5/13-114](#)

MECHANIC'S LIENS

How long does a lien claimant have to file a Mechanic's Claim of Lien Statement?

- Generally, 4 months from the date the lien claimant last performed work or supplied material. See [770 ILCS 60/7](#)

But what if a subcontractor wants to file a Mechanic's Claim of Lien?

- If the sworn statement of the contractor/subcontractor provided does not give the owner notice of the correct amount due, the subcontractor must also serve notice of intent to file a claim of lien within 90 Days from the date work was last performed. See [770 ILCS 60/24](#)
- This is an additional step, the subcontractor must also file a Claim of Lien within 4 months under [770 ILCS 60/7](#)

How long does a lien claimant have to file suit to enforce the lien?

- 2 years. See [770 ILCS 60/24](#)

MUTUAL INDEMNITY AGREEMENT

Is there a Mutual Indemnity Agreement that WFG is a party to?

- Yes. See [WFG Underwriting: Illinois UW MIA](#)

N

O

OIL, GAS, & MINERAL RIGHTS

Do oil, gas, and mineral rights issues arise?

- Yes. See [765 ILCS 510 et seq.](#)

Is there a standard exception that should be used?

- Yes, a standard exception for oil, gas, and mineral rights is required.

OVER THE LIMIT REQUESTS

What is the process for submitting to WFG?

- See WFG OTL Bulletin at [WFG Underwriting](#)

P

PACA & PSA

What is PACA?

- The Perishable Agricultural Commodities Act, enacted in 1930. See [7 U.S.C. §§ 499a-499t](#)

What is PSA?

- The Packers and Stockyards Act, enacted in 1921. See [7 U.S.C. 181-229](#)

When do we worry about PACA & PSA for title insurance purposes?

- Where the borrower is involved in the meatpacking, produce, grocery, or food business. Following a 2013 state court decision in New York, there is concern that PACA/PSA claimants can have a superior claim over a mortgage.

Is a PACA/PSA exception necessary?

- The 2021 ALTA loan policy and owner's policy include a new Covered Risk for Notices of Enforcement of the PACA-PSA Trust recorded in the Public Records, and exclusion and definition of

PACA-PSA Trust that is substitute for the prior PACA-PSA exception. However, if using a 2006 policy form, you would still need to raise an exception along these lines: "Any claim that the Title is subject to a trust or lien created under The Perishable Agricultural Commodities Act (7 U.S.C. 499a, et seq.) or the Packers and Stockyards Act (7 U.S.C. 181 et seq.) or under similar state laws." To insure without exception check with your underwriter to see if a PACA affidavit will work for your situation: See WFG PACA affidavit at [WFG Underwriting](#)

PLATS

What is a plat/plat map?

- A map dividing a parcel of land into lots (e.g. subdivision).

Where can I find plat maps?

- See [Illinois County Land Ownership Maps and Atlases- Illinois State Library](#)

POAs

What kinds of POA distinctions for real property will you find?

- You may run into a general or limited/specific POA, an immediate or springing POA, a durable or non-durable POA, military, etc.

Is there a Statutory POA Form?

- Yes. See [755 ILCS 45/3-3](#)

Can durability be presumed?

- Yes, durability is presumed on the statutory form under [755 ILCS 45/3-3](#) unless otherwise indicated in the POA. See [755 ILCS 45/2-5](#)
- NOTE: If the statutory form is not used, durability is not presumed and must be expressly stated.

Are witnesses required?

- Yes, one witness is required. See [755 ILCS 45/3-3](#)

Does a POA have to expressly state the powers to convey and encumber for those powers to be exercised?

- If the POA is the Illinois Statutory Short Form POA a general grant of authority to conduct real property transaction on the agent/AIF's behalf is acceptable. See [755 ILCS 45/3-4](#)
- If the POA is not the statutory form, an express grant of authority is required.

Should a POA be recorded?

- Yes, unless it's a military POA the POA should be recorded with the transaction.

Any WFG education on POAs?

- You can find our Guidelines for Powers of Attorney as well as a sample statutory POA at [WFG Underwriting: Illinois](#)

POLICIES

What are common title insurance policies?

- a) Owner's Policy: Protects the owner.
- b) Loan Policy: Protects the lender.

- c) Homeowner's Policy: Protects the owner with additional coverage beyond a standard owner's policy. Discuss this option with your WFG underwriter and See [WFG- ALTA Policy Comparison](#)

What happens when multiple policies are issued?

- This is referred to as simultaneous issue and can result in rate reduction.

Are there WFG guidelines for replacement policies?

- Yes. See NB 2018-04 at [WFG Underwriting-National](#)

PROPERTY TAXES

What priority do real property taxes have?

- Real property taxes have priority over recorded liens regardless of recording priority. See [35 ILCS 200/21-75](#)

When are real property taxes typically due?

- Typically, real property taxes are due on June 1 and September 1. However, the county board may elect for taxes to be paid in 4 installments instead. You should check with the county tax collector to confirm the property tax due dates. See [35 ILCS 200/21-15](#) and [35 ILCS 200/21-25](#)

Do any real property tax exemptions exist?

- Yes. See [35 ILCS 200/15 et. seq.](#)

Where can I find more information on real property taxes?

- See [Illinois DOR- The Illinois Property Tax System](#)

Q

QUIET TITLE

Is quiet title an available action?

- Yes. The party bringing the quiet title actions must possess true title to the property and that title must be superior to other claimants. See [Antoniou v. Heartland Bank and Trust Co., 2015 IL App \(1st\) 150015-U](#)

R

RAILROAD TITLE

What kind of ownership does a railroad have?

- Look to the deed. If it conveys land, it's in fee (be it fee simple determinable or fee simple absolute), but if only a right of way, it's an easement. **Note, for railroad exam you will need to complete chain of title generally dating back as early as the 1830s. Documents can be very hard to read.**

What happens if a railroad abandons a right of way?

- Federal law requires a railroad obtain permission from Surface Transportation Board.

What resources provide additional information on dealing with parcels that has/had any railroad interests?

- Consult your WFG underwriter and See:
 - [Surface Transportation Board](#)
 - [US Department of Transportation](#)

RATES

What are WFG's rates?

- Find IL rates at [WFG Underwriting- Illinois](#) and use WFG rate calculator at [WFG Rate Calculator](#)

REAL ESTATE BROKERS & SALESPERSONS

How are real estate brokers and salespersons regulated?

- Under the IL Department of Financial and Professional Regulation. See [IDFPR-Division of Real Estate](#)

RECEIVERSHIP

What is a real estate related receivership?

- A proceeding in which a Receiver is appointed to take control of property. An alternative to bankruptcy.

What is required to insure where sale of property is done by court appointed receiver?

- Obtain and review Complaint, Motion to Appoint, Order of Appointment, Motion for Sale, Notice of Sale, and Property Order Authorizing Sale, and consult your WFG underwriter to advise if further requirements exist to insure.

RECORDING

Where are documents recorded?

- The County Recorder of Deeds.

What are commonly recorded documents?

- Deeds, mortgages, leases, land contracts, easements and rights of way, miscellaneous liens and UCC financing statements, affidavits, death certificates, POAs, Court Orders, and releases/discharges, etc.

What type of recording priority is recognized?

- Race-notice, which gives priority to who records first, so long as that party had no notice of prior unrecorded claims. See [765 ILCS 5/30](#) and [765 ILCS 5/31](#)

What are the recording requirements?

- We recommend visiting the specific county's website to view their specific requirements for recording.

RON

Has RON been adopted?

- Yes. See [5 ILCS 312/ - Illinois Notary Public Act](#) & [WFG Underwriting – National RON Bulletin](#)

S

SEARCH STANDARDS

Does WFG have guidelines on search standards?

- Standard search for 1-4 residential is 40 years. See [735 ILCS 5/13-118](#)

SHORT SALES

Are there any WFG guidelines for short sales?

- Yes. See WFG national bulletin on Short Sale Deed Restrictions at [WFG Underwriting- National](#)

SPLIT/BIFURCATED CLOSINGS

Who facilitates what?

- There is typically a title company for buyer's side acting as settlement agent who issues a loan policy and CPL, and another title company acting as seller's agent who issues an owner's policy. Issues may arise between the agents.
- NOTE: A simultaneous issue discount does not typically apply in a split closing transaction which could lead to a potential increase in title premium. Consult your WFG underwriter if you have questions.

SURVEYS

Are there any specific requirements or information on surveys?

- Yes. See [Illinois Professional Land Surveyors Association-The Practice of Land Surveying](#)

Is a survey required to issue the ALTA 9 endorsement?

- Generally, yes.

T

TAX LIENS

What is the statute of limitations for state tax liens?

- 20 years. See [35 ILCS 5/1104](#)

TAX SALES

What does a tax sale look like?

- After the county determines the property taxes are considered delinquent they are sold at tax sale.
- The tax sale purchaser obtains a Certificate of Tax Sale, essentially an unrecorded lien on the property.
- Once sold the owner is given a period of time to redeem.
- If there is no redemption within that time period the tax sale purchaser is issued a deed to the property from the County Clerk. See [Illinois DOR- The Illinois Property Tax System](#)

How are tax sales insured?

- Generally, we require either: 1. An Order quieting title to the tax sale purchaser with all parties properly noticed, and releases of any mortgages or federal liens (other than a Federal Tax Lien) in favor of the USA that have not expired; or, 2. A deed from the prior owner who lost the property on tax sale and releases of all liens that have not expired.

Is there any way to redeem?

- Yes, depending on the type and status of the property it can be redeemed 6 months to 2.5 years from the date of sale. See [35 ILCS 200/21-350](#). If the owner wants to redeem they submit payment to the County Clerk or the designated office for the county.

TENANCIES

What tenancies are common?

- a) **Tenancy in Common:** The default tenancy if no tenancy expressly stated and grantees are not married.
- b) **Joint Tenancy:** A tenancy that must be expressly stated, in which two or more persons hold equally a non-divided share in property, and upon the death of a joint tenant that tenant's interest passes automatically to the surviving joint tenant. See [765 ILCS 1005/1](#)
- c) **Tenancy by the Entirety:** A tenancy held by marital couples that must be expressly stated. Tenancy by the entirety is not presumed in Illinois. See [765 ILCS 1005/1c](#)

Any WFG education on tenancy?

- Yes. Some common law tenancy rules are discussed in [WFG Webinar- Types of Tenancy](#)

TRANSFER ON DEATH DEEDS

Are Transfer On Death Deeds recognized?

- Yes. Illinois refers to TODDs as Transfer On Death Deed Instruments, which operate the same as a traditional Transfer On Death Deed. See [755 ILCS 27/1 et. seq.](#)

What is needed for a valid Transfer On Death Deed Instrument?

- In order for a TODI to be valid, it must contain the following:
 - The essential elements and formalities of a properly recordable deed. See [755 ILCS 27/40](#)
 - Must state that the transfer to the beneficiary is to occur at the owner's death. See [755 ILCS 27/40](#)
 - Must be signed by the owner, attested to by two credible witnesses, and acknowledged by a notary public. See [755 ILCS 27/45](#)
 - Must be recorded before the owner's death. See [755 ILCS 27/40](#)

After the owner's death, how is title transferred to the beneficiaries on record?

- If the owner did not convey the property or revoke the TODI before their death, the beneficiaries can execute and record a Notice of Death Affidavit and Acceptance of TODI in the county records to formally transfer the property to them. See [755 ILCS 27/75](#)

Where can I find an example of the TODI and the Notice of Death Affidavit and Acceptance of TODI forms?

- See [Illinois State Bar Association-TODI and Notice of Death Affidavit Forms](#)

TRANSFER TAX

Is there deed property transfer tax (revenue stamps)?

- Yes. See [Illinois DOR- Real Estate Transfer Tax Information](#)

Are there any transfer tax exemptions?

- Yes. See [35 ILCS 200/31-45](#)

Is there a mortgage tax?

- No.

TRUSTS

Is a Certificate of Trust used?

- Yes. See [760 ILCS 3/1013](#)

Does a Certificate of Trust need to be recorded as a separate document?

- Yes.

Any WFG education on Trusts?

- Yes. See [WFG Webinar- Trusts](#)

U

UNAUTHORIZED PRACTICE OF LAW

Is there any authority of information on UPL?

- Yes. See [Illinois State Bar Association- UPL FAQ](#)

USURY

What are the Usury guidelines re: interest rate?

- See [815 ILCS 205/4](#)

V

W

WATER (RIPARIAN) RIGHTS

What kind of water rights exist?

- Riparian rights, are related to land bordering a river, lake, stream, or creek and owners are able to make reasonable use of the water. However, no riparian rights attach to land abutting artificial bodies of water. Riparian rights are not alienable, severable, divisible, or assignable. See [615 ILCS 5/ Rivers, Lakes, and Streams Act](#) & [Illinois DNR- Water Resources](#)

Do water rights change?

- Riparian rights can change with accretion and reliction (adding land) and erosion and avulsion (losing land).

Are there exceptions for water rights?

- Yes. Consult your WFG underwriter as there may be separate exceptions depending on the body of water in question.

Any WFG education on water rights?

- Yes. See [WFG Webinar- Riparian Rights](#) & [WFG News- Riparian and Other Water Related Rights](#)

X

Y

Z

ZONING

Any helpful resources on zoning?

- Every county sets their own zoning requirements based on their ordinances. See [Cook County Government: Building and Zoning](#) as an example. Please check with the applicable county on your transaction for their requirements.

Other Helpful Links:

[-Illinois Land Title Association](#)

NOTE: The information contained in this underwriting guide is current as of **November 16 2023**. It contains general information and guidelines for issues that arise during title insurance transactions in the State of Illinois. If you need clarification or have any questions regarding how these guidelines apply to your specific real estate transaction, please contact your WFG underwriter. This underwriting guide is intended solely for the use of employees of WFG National Title Insurance Company, its title insurance agents, affiliates of its title insurance agents, and approved attorneys. Disclosure to any other person is expressly prohibited unless approved in writing by the WFG National Title Insurance Company's Underwriting Department.

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