



# MISSOURI A - Z UNDERWRITING GUIDE

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# A

## **ACKNOWLEDGMENTS**

### **What is the General Rule for acknowledgements?**

- All real estate documents that are to be recorded must be acknowledged by a judge, justice, clerk, or notary public. A county will not record documentation (deeds, mortgages, POAs, etc.) that is not acknowledged. See [MO ST 442.150](#)

### **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 [MO Secretary of State: Notary FAQ](#)

## **ADVERSE POSSESSION**

### **How is Adverse Possession established?**

- Generally, to establish adverse possession, an individual must demonstrate possession of real property for a period of 10 years, which is actual, hostile, open, continuous, and exclusive. See [MO ST 516.010](#)

### **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.

## **ASSESSMENTS**

### **Are there special assessment liens?**

- Yes. Typically they are assessed and paid through the taxes. See [MO Chapter 67](#)

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

- Yes, there are PACE liens in MO. See [MO DNR: PACE Assessments](#) & [MO ST 67.2800-67.2840](#)

### **How should PACE liens be addressed?**

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

## **ATTORNEY LIENS**

### **Can liens for attorney fees attach to real property?**

- Not automatically. An attorney lien only attaches to the proceeds resulting from any verdict, report, decision of judgment in their client's favor. In order for an attorney to lien a client's property they would need to obtain a separate judgment for attorney fees. See [MO ST 484.130](#)
  - That said, if an attorney lien is recorded it still creates a cloud on title that requires additional scrutiny to determine whether it needs to be addressed.

# 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 in 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:
  1. Authorization allowing the sale/refinance/purchase of property without additional court order.
  2. Same above options as in a Chapter 7.

## **BENEFICIARY DEEDS**

### **What is a Beneficiary Deed?**

- A deed effective on the death of the owner. This deed conveys an interest in real property to a grantee and expressly states that the deed is not to take effect until the death of the owner. See [MO ST 461.025](#)
- Equivalent of a Transfer on Death Deed.

### **What are the general requirements for a valid Beneficiary Deed?**

- Must designate a grantee beneficiary/beneficiaries.
- Must expressly state it doesn't take effect until death of owner.
- Must be recorded prior to owner's death.

### **Can a Beneficiary designation be revoked?**

- Yes, a beneficiary designation can be revoked or changed in whole or in part during the lifetime of the owner:
  - A subsequent beneficiary deed revokes a prior beneficiary deed.

- A transfer during the owner's lifetime of the owner's interest in property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.
- See [MO ST 461.033](#)

**What happens if there are multiple beneficiaries and one predeceases the owner? Who gets the deceased beneficiary's interest?**

- It depends on multiple factors such as a designation for lineal descendants per stripes (LDPS) on the deed, whether the deceased beneficiary had any lineal descendants, etc. See [MO ST 461.045](#) for which scenario applies to your transaction.

## C

### CHILD SUPPORT LIENS

**What is the statute of limitations for Child Support Liens?**

- 3 years from date of filing. See [MO ST 454.515](#)

### COMMITMENT

**Where can you find WFG's commitment form?**

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

### CONDOS

**What statutes govern condominiums?**

- Condominiums are governed by [MO ST Chapter 448](#)

**How are condos created?**

- Recording a Declaration. See [MO ST 448.030](#)

**How are condo liens created?**

- Unpaid assessments are automatic liens from the date of assessment. The association has 3 years from the date of assessment to file suit. See [MO ST 448.3-11](#)
- NOTE: Condo liens do not need to be recorded.

**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.

### CONSERVATORSHIP

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

- Yes. See [MO ST 475.094](#)



## **COVENANTS & RESTRICTIONS**

### **How are covenants and restrictions addressed on policies?**

- All policies generally contain an exception relating to covenants, conditions, or restrictions.
  - Loan policies for residential property usually contain a general catch-all exception.
  - Owner's policies and Commercial loan policies contain specific exceptions showing the recording information for each covenant, condition, or restriction.

# **D**

## **DECEDENT'S ESTATES**

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

- Titleholder dies testate (with a Will).
  - Will needs to be submitted to probate within one year of the decedent's death. See [MO ST 473.050](#)
  - Executor needs to be appointed and Letters Testamentary should be issued. See [MO ST 473.120](#)
- Titleholder dies intestate (without a Will).
  - Estate needs to be probated within one year of the decedent's death. See [MO ST 473.050](#)
  - Administrator needs to be appointed and Letters of Administration should be issued. See [MO ST 473.123](#)
  - Intestate Succession references can be found under [MO ST 474.010](#)

### **What documentation should be obtained for an estate review?**

- At minimum, the Application/Petition for Administration, Will (if there is one), Letters Testamentary/Administration, and Inventory need to be reviewed.

### **On a refinance, what is generally required to properly transfer a decedent's interest to the refinancing party?**

- A deed out of the estate to the party taking title to the property. See [MO ST 473.617](#)
  - Generally, the Executor/Administrator and all heirs will all need to sign an estate deed to confirm all interests have been accounted for.
  - If there was a Will with a specific devise of the property, the PR is free to convey to the devisee only without the other heirs needing to join.
- Alternatively, a certified copy of a Decree of Final Distribution can be recorded to transfer property to the heir/devise. See [MO ST 473.844](#)

### **On a sale, what is generally required to properly transfer a decedent's interest to the buyer?**

- If no Will, a deed out of the estate from the Executor/Administrator and all beneficiaries of the estate to buyer. Spousal joinder may also be required.
- If a Will, a deed out of the estate from the Executor/Administrator and devise of the property to buyer. We generally require the devisee to join on the deed out of the estate from the Executor/Administrator to buyer.
- In the alternative, the Executor/Administrator can obtain an Order to Sell the property from the Probate Court. See [MO ST 473.493](#) & [MO ST 473.500](#)

### **Is there a state estate or inheritance tax?**

- Only for deaths prior to January 1, 2005. See [MO ST 145.011](#) & [MO DOR Estate Tax Clarification](#)
- NOTE: Federal estate tax still applies if the value of the decedent's estate meets the filing threshold. See [IRS: Estate Tax](#)

### **What about creditor claims against the estate?**

- Creditors have up to six months from the first publication of Notice or, if no probate, one year following the date of the decedent's death to file claims. See [MO ST 473.360](#) & [MO ST 473.444](#)

### **Are there any alternatives to probate in Missouri?**

- Order Determining Heirship
  - If an Order Determining Heirship is obtained and a certified copy is recorded title to the decedent's real property is transferred to the decedent's heirs named in the Order. See [MO ST 473.663](#)
- Small Estate Affidavit
  - If the value of the estate does not exceed \$40,000 and the process in [MO ST 473.097](#) is followed, the Affidavit can be used to transfer title.
    - Evidence confirming the value of the estate/property does not exceed \$40,000 should be obtained.
- Affidavits of Heirship
  - Occasionally Affidavits of Heirship are used in Missouri if it has been more than a year since the decedent's death. These are reviewed by underwriting on a case by case basis.

## **DEED OF TRUST/MORTGAGE**

### **What is the statute of limitations for a Deed of Trust/Mortgage?**

- 20 years after the maturity date, or if there is no maturity date then 20 years after recording, provided that there are no foreclosure actions taken during that time. See [MO ST 516.150](#)

### **What mortgage theory is recognized?**

- The title theory, in which title is held in trust by Deed of Trust Trustee until final payment is made on the Deed of Trust. Upon final payment, lender/beneficiary under the Deed of Trust will record a Deed of Reconveyance/Release to evidence the transfer of title to grantor/borrower.

## **DEEDS**

### **What are some common types of deeds in Missouri?**

1. Warranty Deed
2. Quitclaim Deed
3. Special/Limited Warranty Deed
4. Fiduciary Deed: Via Conservator/PR/Trustee/Custodian
5. Deed in fulfillment of Contract for Deed as agreed upon by the parties in the Contract for Deed

## **DIVORCE**

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

- Yes. The divorce needs to award one party the property free and clear and contain a recital allowing it to be recorded as a conveyance in lieu of a deed. See [MO ST 452.330](#)

## **Does a divorce sever a joint tenancy or tenancy by the entirety between spouses?**

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

## **What about liens? Appeals?**

- Liens may be granted in a divorce decree in favor of parties or attorneys.
- The divorce becomes final 30 days from the entry of the Judgment of Dissolution unless a party files an appeal. See [Missouri Courts: Dissolution of Marriage](#)

# **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 in Missouri?**

- Find MO endorsement forms, manual, 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 Corporations Unit of the Missouri Secretary Of State. See [MO SOS: Corporations](#)

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

- **Corporation** - See [Chapter 351: General and Business Corporations](#)
  - Generally, a Corporate Resolution is needed to show who has the authority to sign.
- **LLC** - See [Chapter 347: Limited Liability Companies](#)
  - 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 [Chapter 358: Uniform Partnership Law](#) & [Chapter 359: Uniform Limited Partnership Law](#)
  - Generally, the review of Partnership Agreement is needed to show who has the authority to sign.

## **EXCEPTIONS**

### **Any specific guidance from WFG on MO exceptions?**

- Yes. See [WFG Underwriting: Missouri Guidelines](#)

# 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 [MO ST 400.9-515](#)

### **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 [MO Secretary of State: UCC Forms](#)

### **What about UCCs on manufactured homes?**

- 30 years from date of filing. See [MO ST 400.9-515](#)

### **Any special considerations for UCCs for solar panels?**

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

## FORECLOSURE

### **What kind of foreclosures are an option?**

- Judicial foreclosure via the Circuit Court and Non-judicial via a Trustee's Sale. Non-judicial foreclosures are the most common in Missouri. See [MO ST 443.190](#) & [MO ST 443.410](#)

### **Who receives Notice of the non-judicial foreclosure?**

- Notice must be provided not less than 20 days prior to the scheduled date of sale by certified or registered mail to the following:
  - Mortgagor/grantor
  - Record Owner of the property
  - Any lienholders or parties that have requested notice under [MO ST 443.325](#)

- Notice must also be published typically once a week for 4 successive weeks, the last of which is to not be more than one week prior to sale. See [MO ST 443.320](#)

### **Is there a redemption period after sale?**

- Generally no. However, if the foreclosed borrowers provide notice of intent to redeem and post a bond for all costs and fees within 20 days of sale, the redemption period is one year from the date of sale. See [MO ST 443.410](#) & [MO ST 443.420](#)

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

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

### **What if there is an IRS lien that's a junior interest to the foreclosed mortgage? Do they need notice?**

- Yes, IRS must be given specific notice of foreclosure. See [IRS: Judicial/Non-Judicial Foreclosures](#)

## **FORMS**

### **Where can you find common MO WFG Forms?**

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

# **G**

## **GOOD FUNDS**

### **Is there a good funds requirement?**

- Yes. See [MO ST 381.412](#) & [MO Bulletin 08-01: Certified Funds Requirement for Real Estate Closings](#)

# **H**

## **HOMEOWNER ASSOCIATIONS (HOAs)**

### **What statutes govern HOAs?**

- There are no statutory acts that regulate homeowner's associations in Missouri.

### **How are HOA liens created?**

- The HOA declaration for each HOA defines how liens are created for any unpaid assessments. Most HOAs will typically file a lawsuit to obtain a monetary judgment for unpaid assessments.

### **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 [MO ST 430.230](#)
- NOTE: A monetary judgment in favor of a hospital is not a hospital lien, it is a judgment lien. A hospital lien will typically state on its face that it is not a lien on real estate.

## I

## INSURANCE

### **Who regulates title insurance premiums?**

- The Missouri Department of Insurance. See [Missouri Dept of Insurance: Title Insurance Law](#)

## J

## JUDGMENTS

### **What is the statute of limitations for judgments in Missouri?**

- 10 years. See [MO ST 516.350](#)

### **Can Judgment liens be renewed?**

- Yes, for an additional 10 years. See [MO ST 516.350](#)

### **Do PMM take priority to judgment liens against buyer?**

- Generally yes. However if you have any questions regarding the attachment of a particular lien please contact underwriting.

### **Is there TBE debt protection for judgment liens?**

- Yes. If spouses hold title as tenants by the entirety, a civil money judgment against only one spouse does not attach to the property unless the parties divorce or the non-debtor spouse dies. See [MO ST 454.528](#)
- NOTE: TBE debt protection does not apply to federal liens.

## K

## L

## LAND CONTRACTS AKA CONTRACTS FOR DEED

### **What happens when parties enter into a land contract (contract for deed)?**

- When a contract for deed is executed, the contract for deed purchaser is given an equitable interest in the subject property, while the contract for deed seller retains the legal interest.

- Ideally, at minimum a memorandum of contract for deed should be recorded.

### **What should be used to convey an equitable interest?**

- An Assignment of contract for deed or deed can be used to convey a contract for deed purchaser interest.

## **LEGAL DESCRIPTIONS**

### **What legal description system is used?**

- The 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.
- See [MO Dept of Agriculture: Land Survey Index](#)

### **What types of legal descriptions are there?**

- Common descriptions are done via: metes and bounds, plat/subdivisions, certified survey maps, condos, assessor's plats, and government lots.

## **LICENSING**

### **Who handles title insurance licensing?**

- The Missouri Department of Insurance. See [MO Dept of Insurance: Producer Licensing](#)

### **What are some requirements for a Missouri title agent to be licensed?**

- Agents need at least one title insurance producer license and one qualified principal license.
  - Agents can conduct closings without obtaining a separate escrow license.

## **LIENS**

### **Does WFG have a Missouri lien chart?**

- Yes. See [WFG MO Real Estate Lien Summary](#) . You can refer to other sections in this guide for a deeper dive into specific liens including: attorney liens, child support liens, hospital liens, mechanic's liens, and federal and state tax liens. Finally, please make sure you verify no municipal lien issues with your transaction.

## **LIFE ESTATES**

### **Is an enhanced life estate available?**

- Yes, enhanced life estate deeds are recognized in Missouri via various case law.
  - The deed must specifically give the enhanced life estate holder the power to sell/mortgage/convey/etc. without joinder of the remaindermen in order for it to be valid.
  - Enhanced Life Estate deeds are the equivalent of Ladybird Deeds. They are not Transfer on Death/Beneficiary Deeds.

## **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 [MO ST 527.260](#)

# 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 [Manufactured Housing | Missouri Public Service Commission](#) & [US HUD- Manufactured Housing FAQ](#)

### 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.
- Generally, an [Affidavit of Affixation \(Form 5312\)](#) must be filed with the Department of Revenue along with the ownership docs (evidenced by [Form 5315](#) or [5314](#)) and recorded with the Recorder of Deeds Office in the county where the real estate is located. See [MO ST 442.015](#), [MO ST 700.320](#), [MO ST 700.111](#), and [DOR MO Manufactured Homes](#)

### 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 MO 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. See [MO ST 474.150](#) & [513.475](#)

### What are the signing options?

- We generally require that a non-titled spouse either execute the deed of trust, or execute and record an acceptable Waiver of Marital Rights and Assent to Execution for each transaction. For exception otherwise, confirm with your WFG underwriters.

### 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.



**Is marital status required on deeds/conveyances of real property?**

- Yes. See [MO ST 442.130](#)

**MARKETABLE TITLE**

**What is the marketable record title period?**

- No marketable title act exists. See Search Standards at [WFG Underwriting](#) & MO Title Standard No. 4

**MECHANIC'S LIENS**

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

- Generally, 6 months from the date the lien claimant last performed work or supplied material. Shorter period pay apply if it concerns rental equipment and machinery. See [MO ST 429.080](#)

**Is there any authority on who a mechanic's lien claimant can be?**

- Yes. See [MO ST 429.010 – 429.015](#)

**Is there any way to shorten the time lien claimant has to file a Mechanic's Claim of Lien Statement?**

- Yes. The period may be shortened with the sale of a residential property to a BFP by recording a Notice of Intended Sale 45 days prior to close and meeting the other requirements in [MO ST 429.016](#), so long as lien claimant does not timely record a Notice of Rights pre-sale.

**Once a Mechanic's Claim of Lien is filed how long does the lien claimant have to file suit to enforce the Claim of Lien?**

- 6 months. See [MO ST 419.170](#) & [429.190](#)

**MUTUAL INDEMNITY AGREEMENT**

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

- No.

**N**

**O**

**OIL, GAS, & MINERAL RIGHTS**

**Do oil, gas, and mineral rights issues arise?**

- Yes. See [MO ST 259.220](#)

**Is there a standard exception that must be used?**

- Yes. See [WFG Underwriting](#) for exception and removal guidelines.

## **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 [Missouri County Plat Books \(mo.gov\)](#)

## **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.

### **Can durability be presumed?**

- No. See [MO ST 404.705](#)

### **Are witnesses required?**

- No. Only a notary acknowledgment is required. See [MO ST 442.360](#)

### **Is there a statutory POA form?**

- No.

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

- Language granting general powers and not excluding authority to buy/sell/convey/mortgage, etc. can work without an express grant of each power. However, certain powers re: making gifts, etc. must still be expressly stated. See [MO ST 404.710](#)

### **Should a POA be recorded?**

- Yes, unless it's a military POA the POA should be recorded. See [MO ST 442.380](#)

### **Any WFG education on POAs?**

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

## **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?**

- Generally, real property taxes have priority over recorded liens regardless of recording priority. See [MO ST 141.250](#)

### **When are real property taxes typically due?**

- Taxes are assessed on January 1<sup>st</sup> and due by December 31<sup>st</sup>. See [MO ST 137.075](#), [MO ST 137.085](#), and your County Collector for more information.

### **Do any real property tax exemptions exist?**

- Yes. See [MO ST 137.100](#)

### **Where can I find more information on real property taxes?**

- See [MO ST Chapter 137](#)

# Q

## QUIET TITLE

### Is quiet title an available action?

- Yes. See [MO ST 527.150](#)

# 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

### How are rates regulated?

- Rates are filed with the Missouri Department of Insurance.

### What are WFG's rates?

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

## REAL ESTATE BROKERS & SALESPERSONS

### How are real estate brokers and salespersons regulated?

- Under MO Statutes and the MO Division of Professional Registration's Real Estate Commission. See [MO ST Title XXII, Chapter 339](#) and [Real Estate Commission](#)

## 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. See [Home | recassnmo](#)

### **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 [MO ST 442.390](#)

### **What are the recording requirements?**

- We recommend visiting the specific county's website to view their specific requirements for recording. Also, See [MO ST 59.310](#)

## **RON**

### **Has RON been adopted?**

- Yes. See [MO ST Chapter 486](#) and [WFG Underwriting – National](#)

# **S**

## **SEARCH STANDARDS**

### **Does WFG have guidelines on search standards?**

- Standard search for 1-4 residential is 45 years. See [Missouri - Title Search Standards.pdf \(wfgunderwriting.com\)](#)

## **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 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. Consult your WFG underwriter if you need assistance.

## SURVEYS

### Are there any specific survey requirements?

- Yes. See [Land Survey Program](#)

### 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?

- 10 years, but can be renewed for another 10 years. See [MO ST 143.902](#)

## TAX SALES

### What does a tax sale look like?

- The specific tax sale foreclosure procedure can be found in [Microsoft Word - 2019 Collectors' Tax Sale Manual updated & MO ST Chapters 140 & 141](#)

### How are tax sales insured?

- Generally, WFG looks for a deed from the prior owner who lost the property at tax sale and releases from all lienholders, or an Order Quietening Title to the tax sale purchaser, with all parties properly noticed. An insurable tax title turns on adequate notice. Insurance without deed/release, or QT may work if more than 27 years have passed since tax deed was recorded. See Section 24, Title Examination Standards of the MO Bar

### Is there any way to redeem?

- Yes, can be redeemed one year following sale. Payment to be made to County Collector and Certificate of Redemption to be obtained. See [MO ST 140.340](#), [MO ST 140.405](#), [MO ST 140.110](#), & [MO ST 140.420](#)

## 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.
- c) **Tenancy by the Entirety:** A tenancy held by marital couples. Can be presumed.

See [MO ST 442.450](#)

### Any WFG education on tenancy?

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

## TRANSFER TAX

Is there deed property transfer tax (revenue stamps)?

- No.

Is there a mortgage tax?

- No.

## TRUSTS

Is a Certificate of Trust used?

- Yes. See [MO ST 456.10-1013](#)

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 on UPL?

- Yes. See [MO ST 484.020](#) & [484.010](#) and [In Re First Escrow, Inc.](#)

## USURY

What are the Usury guidelines re: interest rate?

- See [MO ST 408.030](#) & [408.035](#) and [Usury Law | Missouri Division of Finance](#)

# 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 [MO DONR](#)

### 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?

- See [MO Statutes Chapter 89](#) & [64](#)

### Other Helpful Links:

[Missouri Land Title Association](#)

**NOTE:** The information contained in this underwriting guide is current as of **June 8, 2023**. It contains general information and guidelines for issues that arise during title insurance transactions in the State of Missouri. 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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