CHAPTER 14
REAL PROPERTY PRACTICE

PART I. BASIC REAL ESTATE ACQUISITION DOCUMENTS AND SPECIAL CONSIDERATIONS FOR SHORT SALES AND DISTRESSED PROPERTIES.

A. The Listing Agreement.
1. (14.1.1) General Purpose.
2. (14.1.2) Contents.
3. (14.1.10) Brokers.

B. The Earnest Money Receipt and Agreement (Purchase and Sale Agreement).
1. (14.1.11) General Purpose.
4. (14.1.14) The Earnest Money Deposit; Forfeiture as Seller’s Sole Remedy.
5. (14.1.15) The Legal Description.
7. (14.1.20) Encumbrances; Language in Earnest Money Form.
8. (14.1.27) Title Insurance: Refund or Forfeiture of Earnest Money.
11. (14.1.30) Taxes and Other Charges.
15. (14.1.34) Improvements and Fixtures to be Included in the Sale.
17. (14.1.36) Signatures.
22. (14.1.41) On-Site Sewage System (OSS) Obligations.

C. Real Estate Contract.


E. Mortgage Note.

F. (14.1.64) Real Estate Mortgage.

G. (14.1.65) Deeds of Trust in Real Estate Transactions.

H. (14.1.66) Special Considerations for Short Sales and Distressed Properties.

I. Deeds

J. (14.1.87) Format Requirements for Recorded Documents

K. (14.1.88) Selected Checklist of Questions for the Buyer and Seller of Real Estate.
1. Purchase Price.
2. Down Payment.
3. Property Description.
4. Easements.
5. Zoning.
6. Assessments; Public Works.
7. Construction Liens.
8. Public Works; Condemnation.
10. Earnest Money.
12. Sale for Cash; Financing.
13. Sale on Contract or With Assumption.
15. Subordination of Seller’s Security.
16. Condition of Title; Title Insurance.
17. Personal Property.
18. Fire Insurance.
19. Date of Possession.
20. Escrow Agent.
22. Broker’s Claim.
24. Remedies for Nonperformance.
25. Tax Considerations.

PART II  REAL ESTATE FINANCING & SECURITY INTERESTS

A. (14.2.1) INTRODUCTION.

B. WASHINGTON-SPECIFIC CONSIDERATIONS.
   1. (14.2.2) USURY.
   2. (14.2.3) STATUTE OF FRAUDS.
   3. (14.2.4) CREDIT AGREEMENT STATUTE OF FRAUDS (NO ORAL AGREEMENTS).
   4. (14.2.5) LEGAL DESCRIPTION.
   5. (14.2.6) QUALIFICATION TO DO BUSINESS.
   6. (14.2.7) FINANCING FOR MARIJUANA-RELATED BUSINESSES.

C. (14.2.8) GENERAL DRAFTING TIPS—ENTITY NAMES.

D. (14.2.9) PROMISSORY NOTE.
   1. (14.2.10) INTEREST RATE.
   2. (14.2.11) PLACE OF PAYMENT.
   3. (14.2.12) TERMS OF PAYMENT AND PREPAYMENT.
   4. (14.2.13) ACCELERATION.
   5. (14.2.14) COMMUNITY CHARACTER OF LIABILITY.
   6. Practice Tips: Considerations for Lender.
   7. Practice Tips: Considerations for Borrower.

E. (14.2.22) SECURITY INSTRUMENTS, COLLATERAL, AND PRIORITY.
   1. (14.2.23) Designating the Parties.
   2. (14.2.24) Deed of Trust.
   3. (14.2.34) Mortgage.
   4. (14.2.41) Security Agreements and Fixture Filings.
   5. (14.2.42) Assignment of Rents and Leases.
   6. (14.2.43) Real Estate Contract.
   7. (14.2.44) Equitable Mortgage.
   8. (14.2.45) Issues of Priority.

F. (14.2.50) GUARANTY.
   1. (14.2.51) WHEN A GUARANTY IS REQUIRED.
   2. (14.2.52) GUARANTY OF PAYMENT VERSUS COLLECTION.
   3. (14.2.53) SCOPE OF RECOURSE.
   4. (14.2.54) RIGHT TO PURSUE DEFICIENCY AGAINST A GUARANTOR.
G. (14.2.56) INDEMNITY AGREEMENTS.

H. DUE DILIGENCE CONSIDERATIONS.
   1. (14.2.59) COLLATERAL.
   2. (14.2.60) AUTHORITY TO EXECUTE LOAN DOCUMENTS.

I. (14.2.61) GLOSSARY.

J. (14.2.62) ENFORCEMENT.

PART III. TITLE INSURANCE AND CLOSINGS
A. Title Insurance.
   1. (14.3.1) In General; Purposes and Limitations of Title Insurance.
   2. (14.3.2) Preliminary Commitment for Title Insurance.
   3. (14.3.3) Title Insurance Policy.
B. Closing Real Estate Transactions.
   1. Proration Between Seller and Purchaser.
   2. (14.3.18) Affidavit Regarding Contractors’ Liens.
   3. (14.3.19) Closing and Issuance of the Title Insurance Policy.
C. Escrows.
   1. (14.3.20) Nature of Escrow Agreement.
   2. (14.3.21) Situations in Which Escrows are Commonly Used.
   3. (14.3.22) Who Acts as Escrow Holder?

PART IV. UNLAWFUL DETAINER PROCEDURE IN WASHINGTON
A. (14.4.1.) Scope of this section.
B. (14.4.2) Causes of Action.
   1. (14.4.3) FORCIBLE ENTRY.
   2. (14.4.4) FORCIBLE DETAINER.
   3. (14.4.5) UNLAWFUL DETAINER.
C. (14.4.6) Pre-Eviction Notices.
   1. (14.4.7) PRE-EVICTION NOTICE.
   2. (14.4.8) EXCEPTIONS.
   3. (14.4.9) FORM AND CONTENT OF NOTICE.
   4. (14.4.10) TIME AND MANNER OF SERVICE.
   5. (14.4.11) LEASES MAY CONTAIN ADDITIONAL REQUIREMENTS.
   6. (14.4.12) POST-FORECLOSURE.
D. (14.4.13) Summons and Complaint.
E. (14.4.18) Answer
F. (14.4.19) Default
G. (14.4.20) Show Cause Hearing
H. (14.4.25) Trial
I. (14.4.29) Revision of a Commissioner’s Order.
J. (14.4.30) Appeal.
K. (14.4.31) Restitution of Premises.

PART V. RESIDENTIAL LANDLORD-TENANT LAW
A. (14.5.1) Scope of This Section.
C. (14.5.5) Tenant’s remedies for breaches of the Act by the landlord.
D. (14.5.6) Landlord’s remedies for breaches of the Act by the tenant
E. (14.5.7) Unlawful detainer actions.

PART VI. THE MANUFACTURED/MOBILE HOME LANDLORD-TENANT ACT
A. (14.6.1) Scope of this Section.
B. The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA).
C. The Landlord-Tenant Relationship.

1. (14.6.7) Landlord Duties.
2. (14.6.8) Deny Right to Sell.
4. (14.6.10) Prohibit Tenant Meetings.
5. (14.6.11) Prohibit Meeting with Public Officials or Candidates.
6. (14.6.12) Retaliation Against a Tenant.

E. (14.6.17) Tenant's Remedies for Breaches of the MHLTA by the Landlord.

F. (14.6.18) Tenant's Duties and Responsibilities to the Landlord.

G. (14.6.19) Landlord’s Remedies for Breaches of the Rental Agreement or the MHLTA.


I. Moving Out.

J. (14.6.24) The Manufactured/Mobile Home Dispute Resolution Program.

PART VII. QUIET TITLE AND EJECTMENT ACTIONS

A. Introduction.
1. (14.7.1) Quiet Title.
2. (14.7.2) Ejectment.

B. Statutory Basis: RCW Ch.7.28, Adverse Possession.
1. (14.7.3) RCW 7.28.
2. (14.7.4) Litigation Alternatives.

C. Litigation.
1. (14.7.5) Jurisdiction.
2. (14.7.6) Service of Summons by Publication.
3. (14.7.7) Right to a Jury.
4. (14.7.8) Description of Property; Superior Title Prevails.
5. (14.7.9) Proper Parties.

D. Defenses to Quiet Title and Ejectment Claims.
1. (14.7.16) Affirmative Defenses.
2. (14.7.17) Adverse Possession.
3. (14.7.18) Damages and Counterclaims.

PART VIII. CONSTRUCTION LIENS


B. Overview of Statutory Provisions Creating Liens.
1. (14.8.2) Introduction.
2. (14.8.3) Definitions.

C. Requirements as to Lienable Labor, Materials and Equipment.
2. Labor Liens.
6. (14.8.15) Services and Supplies Not Lienable Under Ch. 60.04 RCW.

D. Real Property Subject to Construction Liens.
1. (14.8.16) Generally.
Washington Lawyers Practice Manual
Copyright© 1977-2019 King County Bar Association/Young Lawyers Division

PART IX. FORECLOSURE AND REALIZATION

A. (14.9.1) Comparison of Mortgage and Deed of Trust.
   1. (14.9.2) Both Secure Note or Other Obligation.
   2. (14.9.3) Property Covered.
   4. (14.9.8) Trust Deed.

B. (14.9.9) Methods of Realization.
   1. (14.9.10) Voluntary Conveyance.
   2. (14.9.13) Private Sale by Trustee.
   4. (14.9.15) Suit on Note.

   2. (14.9.18) Conditions Precedent to Foreclosure of Deed of Trust.
   3. (14.9.23) Foreclosure of Deed of Trust.

   2. (14.9.48) Initial Steps.

E. Necessity of Consent by Owner or Owner’s Agent.

F. Preliminary Notice by Materialmen and Professional Service Providers.
   1. (14.8.28) Pre-claim Notices.
   4. (14.8.38) Additional Notices Pursuant to RCW 19.27.095 and RCW 60.04.230.
   5. Delivery of Pre-claim Notice.

G. Perfection of Liens.
   1. Construction Liens.
   2. (14.8.53) Perfection of Construction Liens Against Condominiums — Ch. 64.34 RCW.

H. Priority of Liens.
   2. Priorities with Respect to Construction Liens.

I. Foreclosure of Liens.
   1. Foreclosure Procedures.
   2. Amounts Recoverable.

J. Sale and Redemption.
   2. (14.8.79) Waiver of Foreclosure Right and Redemption.

   1. (14.8.82) The Reputation and Experience of the Contractor, Subcontractor or Supplier.
   2. Contractual Clauses.


M. (14.8.91) Summary Chart
3. (14.9.54) Determination of Theory.
4. (14.9.60) Preparation of Complaint.
5. (14.9.65) Lis Pendens. RCW 4.28.320.
7. (14.9.69) Special Consideration if VA Insured Mortgage.

E. (14.9.76) Sheriff’s Sale.
1. (14.9.77) Technical Requirements. RCW Ch. 6.21.
2. (14.9.81) Bidding at Sale.

F. (14.9.87) Redemption Period.
2. (14.9.94) Redemption.
3. (14.9.100) Expenditures Recoverable by Purchaser.
5. (14.9.104) Sheriff’s Deed.


1. (14.9.112) Representing the Mortgagor.

PART X. FORFEITURE OF REAL ESTATE CONTRACTS
B. (14.10.2) Summary.
C. (14.10.3) Application.
D. (14.10.4) Conditions Precedent.
E. (14.10.5) Required Notices.
F. (14.10.8) Cure of Defaults.
G. (14.10.9) Effect of Forfeiture.
H. (14.10.10) Purchaser’s Remedies.
I. (14.10.11) Penalties of Seller.

PART XI. FORMS
FORM 1 20-DAY NOTICE TO TERMINATE TENANCY
FORM 2 10-DAY NOTICE TO COMPLY WITH RENTAL AGREEMENT OR QUIT PREMISES*
FORM 3 3-DAY NOTICE TO PAY RENT OR VACATE
FORM 4 3-DAY NOTICE TO QUIT FOR WASTE. NUISANCE OR UNLAWFUL USE OF PREMISES
FORM 5 NOTICE TO QUIT PREMISES
FORM 6 AFFIDAVIT OF SERVICE OF NOTICE FOR UNLAWFUL DETAINER
FORM 7 SUMMONS FOR UNLAWFUL DETAINER (COMMERCIAL)
FORM 8 SUMMONS FOR UNLAWFUL DETAINER (RESIDENTIAL)
FORM 9 COMPLAINT FOR UNLAWFUL DETAINER (COMMERCIAL)
FORM 10 COMPLAINT FOR UNLAWFUL DETAINER (RESIDENTIAL)
FORM 11 EX PARTE MOTION FOR ORDER TO SHOW CAUSE
FORM 12 ORDER TO SHOW CAUSE
FORM 13 MOTION AND AFFIDAVIT FOR ORDER OF DEFAULT
FORM 14 ORDER OF DEFAULT
FORM 15 AFFIDAVIT FOR COSTS AND ATTORNEYS’ FEES
FORM 16 AFFIDAVIT OF SUM CERTAIN
FORM 17 FINDINGS OF FACT AND CONCLUSION OF LAW

Copyright© 1977-2019 King County Bar Association/Young Lawyers Division
<table>
<thead>
<tr>
<th>Form Number</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FORM 18</td>
<td>JUDGMENT</td>
</tr>
<tr>
<td>FORM 19</td>
<td>ORDER OF WRIT OF RESTITUTION</td>
</tr>
<tr>
<td>FORM 20</td>
<td>PRAECIPE FOR WRIT OF RESTITUTION</td>
</tr>
<tr>
<td>FORM 21</td>
<td>WRIT OF RESTITUTION</td>
</tr>
<tr>
<td>FORM 22</td>
<td>NOTICE REGARDING ABANDONED PROPERTY</td>
</tr>
<tr>
<td>FORM 31</td>
<td>LIS PENDENS</td>
</tr>
<tr>
<td>FORM 32</td>
<td>MOTION AND AFFIDAVIT FOR ORDER OF DEFAULT</td>
</tr>
<tr>
<td>FORM 33</td>
<td>ORDER OF DEFAULT</td>
</tr>
<tr>
<td>FORM 34</td>
<td>PROPOSED ORDER OF JUDGMENT AND DECREE OF FORECLOSURE</td>
</tr>
<tr>
<td>FORM 35</td>
<td>NOTICE OF INTENT TO FORFEIT</td>
</tr>
<tr>
<td>FORM 36</td>
<td>NOTICE OF DISCONTINUANCE OF FORFEITURE</td>
</tr>
<tr>
<td>FORM 37</td>
<td>DECLARATION OF FORFEITURE</td>
</tr>
<tr>
<td>FORM 38</td>
<td>COVER SHEET FORM FOR RECORDING DOCUMENTS</td>
</tr>
<tr>
<td>FORM 39</td>
<td>LETTER TO CONSTRUCTION INDUSTRY CLIENT &amp; SAMPLE FORMS</td>
</tr>
<tr>
<td>FORM 39A</td>
<td>FORM OF PRE-CLAIM NOTICE (RCW 60.04.031(4))</td>
</tr>
<tr>
<td>FORM 39B</td>
<td>MODEL DISCLOSURE STATEMENT (RCW 18.27.114(1) – FOUR OR FEWER RESIDENTIAL UNITS/SMALL COMMERCIAL PROJECTS</td>
</tr>
<tr>
<td>FORM 39C</td>
<td>FORM OF PRE-CLAIM NOTICE FOR PROFESSIONAL SERVICES (RCW 60.04.031(5))</td>
</tr>
<tr>
<td>FORM 39D</td>
<td>FORM OF CLAIM OF LIEN (RCW 60.04.091)</td>
</tr>
<tr>
<td>FORM 39E</td>
<td>LIEN CLAIM WAIVER AND RELEASE (SAMPLE)</td>
</tr>
<tr>
<td>FORM 39F</td>
<td>NOTICE TO LENDER (RCW 60.04.221)</td>
</tr>
<tr>
<td>FORM 40</td>
<td>NOTICE TO PAY RENT OR VACATE UNDER MHLTA (RCW 59.20)</td>
</tr>
<tr>
<td>FORM 41</td>
<td>LANDLORD’S NOTICE TO COMPLY UNDER MHLTA (RCW 59.20)</td>
</tr>
</tbody>
</table>