

FAVORITE TITLE EXAMINATION STANDARDS
RELATING TO TITLE INSURANCE

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"Have Judgment Lien Creditors Become 'Bona Fide Purchasers'?", 68 Oklahoma Bar Journal 1071 (March 29, 1997)*;
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ISSUE#1: **What is title insurance?**

RESPONSE:

Statutory Definitions:

Title 36 Section 709 - "Title Insurance" Defined

"Title insurance" is insurance of owners of property or others having an interest therein, or liens or encumbrances thereon, against loss by encumbrance, or defective titles, or invalidity, or adverse claim to title.

Title 36 Section 5004 - "Title Insurance Policy" Defined.

A "title insurance policy" is any written instrument purporting to show the title to real or personal property or any interest therein or encumbrance thereon, or to furnish such information relative to real property, which written instrument in express terms purports to insure or guarantee such title or the correctness of such information.

ISSUE#2: What are the essential steps in the issuance of title insurance?

RESPONSE:

Abstractor Handbook (OLTA: 2003)

1. Abstract
2. Examination of Abstract
3. Issue Commitment for Title Insurance
4. Preparation for Closing
 - (a) Meet title requirements
 - (b) Draft closing documents
5. Conduct Closing
 - (a) Meet terms of contract (title requirements and other steps)
 - (b) Execute documents
 - (c) Disburse funds
 - (d) Verbal Gap Check (title status)
 - (e) File documents
 - (f) Written Gap Check (title status)
6. Issue Title Policy

Statutory Requirements

Title 36 Section 5001(C)

*C. Every policy of title insurance or certificate of title issued by any company authorized to do business in this state shall be countersigned by some person, partnership, corporation or agency actively engaged in the abstract of title business in Oklahoma as defined and provided in Title 1 or by an attorney licensed to practice in the State of Oklahoma duly appointed as agent of a title insurance company, provided that **no policy of title insurance shall be issued in the State of Oklahoma except after examination of a duly certified abstract of title prepared by a bonded and licensed abstractor** as defined herein.*

Attorney General Opinion

The Attorney General opined (1983 OK AG 281, ¶6-7) as follows:

Your second question raises the issue of whether the title examination for purposes of issuing a title policy must be done by a licensed attorney. A previous opinion of the Attorney General held:

"All such examinations of abstract . . . shall be conducted by a licensed attorney prior to issuance of the policy of title insurance." A.G. Opin. No. 78-151 (June 6, 1978).

This opinion was based on the assertion that a title insurance policy "expresses an opinion as to the marketability of title." A.G. Opin. No. 78-151, supra. In reality, title insurance simply insures the policyholder against defects in the title. It does not express an opinion that the title is marketable. Land Title Company of Alabama v. State ex rel. Porter, 299 So.2d 289,295 (Ala.1974). While the rationale of the previous opinion is incorrect, we adhere to the conclusion expressed in that opinion that the examination of the abstract pursuant to 36 O.S. 5001(C) (1981) must be done by a licensed attorney. We reach this conclusion because the examination required by statute would only be useful if the examiner expressed an opinion on the marketability of the title. This constitutes the practice of law by the examiner. Land Title Company of Alabama v. State ex rel . Porter, supra at 295; Kentucky State Bar Association v. First Federal Savings & Loan, 342 S.W.2d 397 (Ky.App. 1961). The theory that the corporation is actually examining the title for itself through an agent or employee and thus not engaged in the practice of law is invalid since laypersons or nonprofessionals cannot perform legal services for their employers. Kentucky State Bar Association v. Tussey, 476 S.W.2d 177 (Ky.App. 1972). There is no prohibition, however, against licensed staff attorneys furnishing title opinions for the company as long as these opinions are not sold or given to third parties. The Florida Bar v. McPhee, 195 So.2d 552 (Fla. 1967); Steer v. Land Title Guarantee & Trust Co., 113 N.E.2d 763 (Ohio Com.Pl. 1953). (underlining added)

ISSUE#3: What quality of title does title insurance anticipate?

RESPONSE:

ALTA Owners Policy:

Insuring Provisions:

“...insures ...against loss or damage...incurred by the insured by reason of:

3.Unmarketability of the title.”

Definition of Terms:

“‘Unmarketability of the title’: an alleged or apparent matter affecting the title to the land, not excluded or excepted from coverage, which would entitle a purchaser of the estate or interest described in Schedule A to be released from the obligation to purchase by virtue of a contractual condition requiring the delivery of marketable title.”

ISSUE#4: What is marketable title?

RESPONSE:

Summary

In summary, it appears that "marketable title" means (1) the public record affirmatively shows a solid chain of title (i.e., continuous and uninterrupted) and (2) the public record does not show any claims in the form of outstanding unreleased liens or encumbrances.

Real Estate Purchase Contract

The Oklahoma City Metropolitan Board of Realtors standard contract provides:

"7. TITLE EVIDENCE: Seller shall furnish Buyer title evidence covering the Property, which shows marketable title vested in Seller according to the title standards adopted by the Oklahoma Bar Association. . .",

Oklahoma Supreme Court

While [the Oklahoma] Title Examination Standards are not binding upon this Court, by reason of the research and careful study prior to their adoption and by reason of their general acceptance among members of the bar of this state since their adoption, we deem such Title Examination Standards and the annotations cited in support thereof to be persuasive.

Knowles v. Freeman, 1982 OK 89, ¶16, 649 P.2d 532

"Marketable title is determined under §540 [now §570.10] pursuant to the Oklahoma Bar Association's title examination standards."

Hull, et al. v. Sun Refining, 1989 OK 168, ¶9, 789 P.2d 1272

Oklahoma Statutes

D. 1. Except as otherwise provided in paragraph 2 of this subsection, where proceeds from the sale of oil or gas production or some portion of such proceeds are not paid prior to the end of the applicable time periods provided in this section, that portion not timely paid shall earn interest at the rate of twelve percent (12%) per annum to be compounded annually, calculated from the end of the month in which such production is sold until the day paid.

2. a. Where such proceeds are not paid because the title thereto is not marketable, such proceeds shall earn interest at the rate of six percent (6%) per annum to be compounded annually, calculated from the end of the month in which such production was sold until such time as the title to such interest becomes marketable. Marketability of title shall be

determined in accordance with the then current title examination standards of the Oklahoma Bar Association.

52 O.S. § 570.10.D.2a

Title Examination Standard

(copies of the Title Examination Standards Handbook can be found at www.eppersonlaw.com)

1.1 MARKETABLE TITLE DEFINED

A marketable title is one free from apparent defects, grave doubts and litigious uncertainty, and consists of both legal and equitable title fairly deducible of record.

Cross Reference: See Standard 30.1.

Authority: Pearce v. Freeman, 122 Okla. 285, 254 P. 719 (1927); Campbell v. Harsh, 31 Okla. 436, 122 P. 127 (1912); Empire Gas & Fuel Co. v. Stern, 15 F.2d 323 (8th Cir. 1926); Sipe v. Greenfield, 116 Okla. 241, 244 P. 424 (1926); McCubbins v. Simpson, 186 Okla. 417, 98 P.2d 49 (1939); Hawkins v. Wright, 204 Okla. 955, 226 P.2d 957 (1951).

Comment: Marketable title is a title free of adverse claims, liens and defects that are apparent from the record. Any objections should be reasonable and not based on speculation. For purposes of this definition, words describing the quality of title such as perfect, merchantable, marketable and good, mean one and the same thing.

ISSUE#5: What defects are cured by the 30-Year Marketable Record Title Act (MRTA: 16 O.S. §§71-80)?

RESPONSE:

Title Examination Standard (see Standards 30.1-30.14):

Summary Response

All title defects and liens and encumbrances which are recorded before the “root of title” (that deed or decree which has been recorded at least 30 years) can be ignored, except for the following:

1. The Patent, grant or other conveyance from the government;
2. Easements or interests in the nature of an easement;
3. Unreleased leases with indefinite terms such as oil and gas leases;
4. Unreleased leases with terms which have not expired;
5. Instruments or proceedings pertaining to bankruptcies;
6. Use restrictions or area agreements which are part of a plan for subdivision development;
7. Any right, title or interest of the United States;
8. Instruments recorded before the Root of Title but referred to in the Root of Title;
9. Instruments recorded before the Root of Title but referred to in an instrument recorded after the Root of Title;
10. Mineral instruments, if the minerals were severed from the surface before the Root of Title;
11. Any deed imposing restrictions on alienation without prior consent of the Secretary of Interior (Indian titles);
12. Any instruments, if the title stems from a tribe of Indians or from a patent where the US holds title in trust for an Indian.

Detailed Standard:

30.13 ABSTRACTING

Abstracting under the Marketable Record Title Act shall be sufficient when the following is shown in the abstract:

A. The patent, grant or other conveyance from the government.

B. The following title transactions occurring prior to the first conveyance or other title transaction in "C." below: easements or interests in the nature of an easement; unreleased leases with indefinite terms such as oil and gas leases; unreleased leases with terms which have not expired; instruments or proceedings pertaining to bankruptcies; use restrictions or area agreements which are part of a plan for subdivision development; any right, title or interest of the United

States.

C. The conveyance or other title transaction constituting the root of title to the interest claimed, together with all conveyances and other title transactions of any character subsequent to said conveyance or other title transaction; or if there be a mineral severance prior to said conveyance or other title transaction, then the first conveyance or other title transaction prior to said mineral severance, together with all conveyances and other title transactions of any character subsequent to said conveyance or other title transaction.

D. Conveyances, title transactions and other instruments recorded prior to the conveyance or other title transaction in "C." which are specifically identified in said conveyance or other title transaction or any subsequent instrument shown in the abstract.

E. Any deed imposing restrictions upon alienation without prior consent of the Secretary of the Interior or a federal agency, for example, a Carney Lacher deed.

F. Where title stems from a tribe of Indians or from a patent where the United States holds title in trust for an Indian, the abstract shall contain all recorded instruments from inception of title other than treaties except (1) where there is an unallotted land deed or where a patent is to a freedman or inter-married white member of the Five Civilized Tribes, in which event only the patent and the material under "B.", "C.", "D." and "E." need be shown, and (2) where a patent is from the Osage Nation to an individual and there is of record a conveyance from the allottee and a Certificate of Competency, only the patent, the conveyance from the allottee, the Certificate of Competency, certificate as to degree of blood of the allottee and the material under "B.", "C.", "D." and "E." need be shown.

The abstractor shall state on the caption page and in the certificate of an abstract compiled under this standard:

"This abstract is compiled in accordance with Oklahoma Title Standard No. 30.13 under 16 O.S. §§ 71-80."

ISSUE#6: What defects are cured by the 10-Year Simplification of Land Titles Act (SLTA: 16 O.S. §§61-63,66)?

RESPONSE:

Title Examination Standard (see Standards 29.1-29.6):

Summary Response

Through the proper application of the SLTA, the examiner can rely upon deeds and decrees as being valid which are part of the record being relied upon to establish the continuous chain of title, although there might have been “off the record” defects (e.g., recorded powers of attorney that are invalid according to unknown facts which are outside the official record). Such deeds and decrees must have been recorded for at least 10 years, and the person relying upon such passage of time must be a subsequent purchaser for value rather than being the grantee under the subject deed or decree. Such 10-year window of opportunity for the filing of any challenges to such recorded deed or decree was deemed sufficient by the state legislature.

A purchaser for value, who acquires an interest in real estate from a person who is claiming title under a conveyance which is at least 10-years old, shall have a valid title (as to that instrument) even if such earlier conveyance was defective (for one of the reasons listed below) even if the new purchaser for value knew of the defect.

The title defects which are extinguished by the passage of 10 years include the following:

1. Conveyances of incompetent persons unless the county or court records reflect a determination of incompetency or the appointment of a guardian;
2. Corporate conveyances to an officer without authority;
3. Conveyances executed under recorded power of attorney which has terminated for reasons not shown in the county records;
4. Nondelivery of a conveyance;

5. Guardian's or personal representative's conveyances approved or confirmed by the court as against (a) named wards, and (b) the State of Oklahoma or any other person claiming under the estate of a named decedent, the heirs, devisees, representatives, successors, assigns or creditors.
6. Decrees of distribution or partition of a decedent's estate as against the estates of decedents, the heirs, devisees, successors, assigns or creditors. For decrees of distribution or partition which cover land in a county other than the county in which such decrees are entered and recorded, 16 O.S. § 62(c) (2) does not require that they also be recorded in the county in which the land is located;
7. Sheriff's or marshal's deeds executed pursuant to an order of court having jurisdiction over the land;
8. Final judgments of courts determining and adjudicating ownership of land or partitioning same;
9. Receiver's conveyances executed pursuant to an order of any court having jurisdiction;
10. Trustee's conveyances referring to a trust agreement or named beneficiaries or indicating a trust where the agreement is not of record;
11. Certificate tax deeds or resale tax deeds executed by the county treasurer, as against any person.

Detailed Standard:

29.2 PROTECTION AFFORDED BY THE ACT

The Simplification of Land Titles Act, 16 O.S. §§ 61-63, 66 (§§ 64-65 repealed effective April 10, 1980), protects any purchaser for value, with or without actual or constructive notice, from one claiming under a conveyance or decree recorded or entered for ten (10) years or more in the county, as against adverse claims arising out of:

A. (1) Conveyances of incompetent persons unless the county or court records reflect a determination of incompetency or the appointment of a guardian, (2) corporate conveyances to an officer without authority, (3) conveyances executed under recorded power of attorney which has terminated for reasons not shown in the county records, (4) nondelivery of a conveyance.

B. Guardian's or personal representative's conveyances approved or confirmed by the court as against (1) named wards, (2) the State of Oklahoma or any other person claiming under the estate of a named decedent, the heirs, devisees, representatives, successors, assigns or creditors.

C. Decrees of distribution or partition of a decedent's estate as against the estates of decedents, the heirs, devisees, successors, assigns or creditors. For decrees of distribution or partition which cover land in a county other than the county in which such decrees are entered and recorded, 16 O.S. § 62(c) (2) does not require that they also be recorded in the county in which the land is located.

D. (1) Sheriff's or marshal's deeds executed pursuant to an order of court having jurisdiction over the land, (2) final judgments of courts determining and adjudicating ownership of land or partitioning same, (3) receiver's conveyances executed pursuant to an

order of any court having jurisdiction, (4) trustee's conveyances referring to a trust agreement or named beneficiaries or indicating a trust where the agreement is not of record, (5) certificate tax deeds or resale tax deeds executed by the county treasurer, as against any person, or the heirs, devisees, personal representatives, successors or assigns of such person, who was named as a defendant in the judgment preceding the sheriff's or marshal's deed, or determining and adjudicating ownership of or partitioning land, or settlor, trustee or beneficiary of a trust, and owners or claimants of land subject to tax deeds, unless claimant is in possession of the land, either personally or by a tenant, or files a notice of claim prior to such purchase, or within "one year from October 27, 1961, the effective date of 16 O.S. §§ 61-66 or from October 1, 1973, the effective date of 16 O.S. § 62 as amended in 1973." The State of Oklahoma and its political subdivisions or a public service corporation or transmission company with facilities installed on, over, across or under the land are deemed to be in possession.

ISSUE#7: When does the lack of recital of the grantor's marital interest, or the lack of signature by a spouse cease being a title defect?

RESPONSE

Summary Response:

If a deed or other conveyance has been of record for at least 10 years, the absence of the grantor's marital status or the lack of a signature by a spouse ceases to be a threat to marketable title, assuming no lawsuit has been filed in the interim raising such issue.

Detailed Response:

Under 16 O.S. §4:

"No deed, mortgage, or contract affecting the homestead exempt by law, except a lease for a period not exceeding one (1) year, shall be valid unless in writing and subscribed by both husband and wife, if both are living and not divorced, or legally separated, except as otherwise provided for by law."

Under 16 O.S. §13:

"The husband or wife may convey, mortgage or make any contract relating to any real estate, other than the homestead, belonging to him or her, as the case may be, without being joined by the other in such conveyance, mortgage or contract."

Because it is impossible to determine whether any tract of land is homestead – since that depends on the current mental decision of either of the spouses – the only practical approach is to assume that every tract is homestead.

Title Standard 7.1 and 7.2 provide:

7.1 MARITAL INTERESTS: DEFINITION; APPLICABILITY OF STANDARDS; BAR OR PRESUMPTION OF THEIR NON-EXISTENCE

The term "Marital Interest", as used in this chapter, means the rights and restrictions placed by law upon an individual landowner's ability to convey or encumber the homestead and the protections afforded to the landowner's spouse therein.

Severed minerals cannot be impressed with homestead character and therefore, the standards contained in this chapter are inapplicable to instruments relating solely to previously severed mineral interests.

Marketability of title is not impaired by the possibility of an outstanding marital interest in the spouse of any former owner whose title has passed by instrument or instruments which have been of record in the office of the county clerk of the county in which the property is located for not less than ten (10) years after the date of recording, where no legal action shall have been instituted during said ten (10) year period in any court of record having jurisdiction, seeking to cancel, avoid or invalidate such instrument or instruments on the ground or grounds that the property constituted the homestead of the party or parties involved.

Authority: 16 O.S. § 4.

Comment: See Title Examination Standard 6.7 as to use of powers of attorney.

7.2 MARITAL INTERESTS AND MARKETABLE TITLE

Except as otherwise provided in Standard 7.1, no deed, mortgage or other conveyance by an individual grantor shall be approved as sufficient to vest marketable title in the grantee unless:

A. The body of the instrument contains the grantor's recitation to the effect that the individual grantor is unmarried; or

B. The individual grantor's spouse, identified as such in the body of the instrument, subscribes the instrument as a grantor; or

C. The grantee is the spouse of the individual grantor and that fact is recited by the grantor in the body of the instrument.

Comments:

- 1. There is no question that an instrument relating to the homestead is **VOID** unless both husband and wife subscribe it. *Grenard v. McMahan*, 441 P.2d 950 (Okla. 1968). It is also settled that husband and wife must execute the same instrument, as separately executed instruments will both be void, *Thomas v. James*, 84 Okla. 91, 202 P. 499 (1921). It is essential to make the distinction between a valid conveyance and a conveyance vesting marketable title when consulting this standard. 2.*
- 2. While 16 O.S. § 13 states that "The husband or wife may convey, mortgage or make any contract relating to any real estate, other than the homestead, belonging to him or her, as the case may be, without being joined by the other in such conveyance, mortgage or contract," joinder by husband and wife must be required in all cases due to the impossibility of ascertaining from the record whether the property was or was not homestead or whether the transaction is one of those specifically permitted by statute. See 16 O.S. §§ 4 and 6 and Okla. Const. Art. XII, §2. A well-settled point is that one may not rely upon recitations, either in the instrument or in a separate affidavit, to the effect that property was not the*

homestead. Such a recitation by the grantor may be strong evidence when the issue is litigated, but it cannot be relied upon for the purpose of establishing marketability. Hensley v. Fletcher, 172 Okla. 19, 44 P.2d 63 (1935).

3. *If an individual grantor is unmarried and the grantor's marital status is inadvertently omitted from an instrument, or if two grantors are married to each other and the grantors' marital status is inadvertently omitted from an instrument, a title examiner may rely on an affidavit executed and recorded pursuant to 16 O.S. § 82 which recites that the individual grantor was unmarried or that the two grantors were married to each other at the date of such conveyance.*

Caveat: These recitations may not be relied upon if, upon "proper inquiry," the purchaser could have determined otherwise. Keel v. Jones, 413 P.2d 549 (Okla. 1966).

4. *A non-owner spouse may join in a conveyance as part of a special phrase placed after the habendum clause, yet be omitted from the grantor line of a deed, and still be considered a grantor to satisfy paragraph B. of this title standard. Melton v. Sneed, 188 Okla. 388, 109 P.2d 509 (1940).*

ISSUE#8: When does the lack of a written release of mortgage cease being a title defect?

RESPONSE

Summary Response:

When a recorded mortgage has been of record for 30 years, its lien is treated as being extinguished, by statute. (46 O.S. §301)

However, if the mortgage shows a due date for the last payment, then 7 years from that due date, its lien is treated as being extinguished, by statute. (46 O.S. §301)

Detailed Response:

46 O.S. §301 provides:

A. Before November 1, 2001, no suit, action or proceeding to foreclose or otherwise enforce the remedies in any mortgage, contract for deed or deed of trust shall be had or maintained after the expiration of ten (10) years from the date the last maturing obligation secured by such mortgage, contract for deed or deed of trust becomes due as set out therein, and such mortgage, contract for deed or deed of trust shall cease to be a lien, unless the holder of such mortgage, contract for deed or deed of trust either:

- 1. Before October 1, 1981, has filed or caused to be filed of record a written Notice of Extension as provided in paragraph 1 of subsection D of this section; or*
- 2. After October 1, 1981, and within the above described ten-year period, files or causes to be filed of record a written Notice of Extension as provided in paragraph 1 of subsection D of this section.*

B. Beginning November 1, 2001, no suit, action or proceeding to foreclose or otherwise enforce the remedies in any mortgage, contract for deed or deed of trust shall be had or maintained after the expiration of seven (7) years from the date the last maturing obligation secured by such mortgage, contract for deed or deed of trust becomes due as set out therein, and such mortgage, contract for deed or deed of trust shall cease to be a lien, unless the holder of such mortgage, contract for deed or deed of trust, within the seven-year period, files or causes to be filed of record a written Notice of Extension as provided in paragraph 1 of subsection D of this section.

C. No suit, action or proceeding to foreclose or otherwise enforce the remedies in any mortgage, contract for deed or deed of trust filed of record in the office of the county clerk, in which the due date of the last maturing obligation secured by

such mortgage, contract for deed or deed of trust cannot be ascertained from the written terms thereof, shall be had or maintained after the expiration of thirty (30) years from the date of recording of the mortgage, contract for deed or deed of trust, and said mortgage, contract for deed or deed of trust shall cease to be a lien, unless the holder of such mortgage, contract for deed or deed of trust either:

- 1. Before October 1, 1981, has filed or caused to be filed of record a written Notice of Maturity Date as provided in paragraph 2 of subsection D of this section; or*

- 2. After October 1, 1981, and within the above described thirty-year period, files or causes to be filed of record a written Notice of Maturity Date as provided in paragraph 2 of subsection D of this section.*

D. 1. The Notice of Extension required under subsection A or B of this section, to be effective for the purpose of this section, shall show the date of recording, the book and page and the legal description of the property covered by the mortgage, contract for deed or deed of trust and the time for which the payment of the obligation secured thereby is extended, and shall be duly verified by oath and acknowledged by the holder of the mortgage, contract for deed or deed of trust.

- 2. The Notice of Maturity Date required under subsection C of this section, to be effective for the purpose of this section, shall show the date of recording, the book and page and the legal description of the property covered by the mortgage, contract for deed or deed of trust and the maturity date to which the last maturing obligation secured thereby is extended, and shall be duly verified by oath and acknowledged by the holder of the mortgage, contract for deed or deed of trust.*

E. Any mortgage, contract for deed or deed of trust barred under this section shall not be a defect in determining marketable record title.

F. The notice required to be filed of record by this section must be recorded in the office of the county clerk of the county or counties where the mortgage is recorded.

G. Nothing contained in this section shall be construed to revive the lien of any mortgage, contract for deed or deed of trust which has expired by limitation before the effective date of this section.

TITLE EXAMINATION STANDARD 24.8:

24.8 UNENFORCEABLE MORTGAGES AND MARKETABLE TITLE

No mortgage, contract for deed or deed of trust barred under the provisions of 46 O.S. § 301 shall constitute a defect in determining marketable record title.

Authority: 46 O.S. § 301.

Caveat: The examiner should be aware that the above Standard may not apply to mortgages, which are part of a nationwide federal program, in which the United States Government, or one of its agencies, is the mortgagee. See United States v. Ward, 985 F.2d 500 (10th Cir. 1993).

Comment: As a result of the repeal of 12A O.S. § 3-122, paragraph B of this standard was repealed in 1995. It provided that, for a debt payable

on demand, the due date of the last maturing obligation for the purposes of 46 O.S. § 301 was the date of execution of the mortgage.

Comment: 46 O.S. § 301.B states that if enough information is provided on the face of the mortgage, contract for deed or deed of trust to calculate the final due date of the last maturing obligation of the instrument, even if the final due date is not specifically stated, the lien is unenforceable after the expiration of seven (7) years from the date of the last maturing obligation.

ISSUE#9: When does (a) the lack of an acknowledgement (or the use of an improper or incomplete acknowledgement), (b) a missing/unfiled Power of Attorney, or (c) a corporate signature defect, cease being a title defect?

RESPONSE

Summary Response:

After the document has been of record for 5 years, without a challenge being filed.

Detailed Response:

TITLE EXAMINATION STANDARD:

Standard 6.1:

6.1 DEFECTS IN OR OMISSION OF ACKNOWLEDGMENTS IN INSTRUMENTS OF RECORD

With respect to instruments relating to interests in real estate:

A. The validity of such instruments as between the parties thereto is not dependent upon acknowledgments, 16 O.S. § 15.

B. As against subsequent purchasers for value, in the absence of other notice to such purchasers, such instruments are not valid unless acknowledged and recorded, except as provided in Paragraph C herein, 16 O.S. § 15.

C. Such an instrument which has not been acknowledged or which contains a defective acknowledgment shall be considered valid notwithstanding such omission or defect, and shall not be deemed to impair marketability, provided such instrument has been recorded for a period of not less than five (5) years, 16 O.S. §§ 27a & 39a.

Standard 6.7:

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Standard 12.3:

12.3 CONCLUSIVE PRESUMPTIONS CONCERNING CORPORATE INSTRUMENTS RECORDED FOR MORE THAN FIVE YEARS

The following defects may be disregarded after an instrument from a corporation has been recorded for five years:

A. the instrument has not been signed by a proper officer of the corporation,

B. the instrument is not acknowledged, and

C. any defect in the execution, acknowledgment, recording or certificate of recording the same.

Authority: 16 O.S. § 27a.