

Table of Contents

VOLUME 1

Chapter 1 - The Purchase Agreement 53

| | | |
|------------|---|-----------|
| 1-1 | Generally..... | 61 |
| 1-2 | The Attorney’s Role | 62 |
| 1-3 | The Statute of Frauds | 64 |
| 1-4 | Parties to Include | 66 |
| 1-5 | Types of Agreements | 68 |
| 1-6 | Special Problems | 70 |
| 1-7 | Checklist - Real Estate Purchase Agreement | 77 |

Forms and Resources

| | |
|--|-----|
| Omaha Area Board of Realtors Uniform Purchase Agreement <i>(reproduced with permission of OABR)</i> | 117 |
| Real Estate Purchase Agreement | 127 |
| Purchase Agreement (Short Form)..... | 135 |
| Agreement of Purchase and Sale (Unimproved Ground) | 141 |
| Purchase and Sale Contract (Multi-Tenant Property) | 157 |
| Consumer Guide to Buying and Selling Homes | 185 |
| Seller Property Condition Disclosure Statement | 213 |
| Real Estate Transfer Statement | 217 |
| Residential Purchase Agreement..... | 219 |
| Right of First Refusal Agreement | 225 |

Chapter 2 - Agricultural Purchase Agreements and Leases 231

| | | |
|------------|---|------------|
| 2-1 | Agricultural Purchase Agreements | 237 |
| 2-2 | Agricultural Leases..... | 244 |

Forms

Agricultural Real Estate Purchase Agreement..... 251
Farm Lease..... 259
Lease of Breeding Stock 267
Hunting Lease 269
Pasture Lease 271
Notice of Termination of Lease 275
Miscellaneous Optional Provisions..... 277
Irrevocable Letter of Credit 281

Chapter 3 - Section 1031: Like Kind Exchanges of Real Estate..... 283

3-1 Basic Rules.....289

3-2 Types of Like Kind Exchanges.....294

Resources

Revenue Procedure 2000-37: Reverse Like Kind Exchanges 301

Chapter 4 - Surveys, Descriptions and Boundaries 307

4-1 The Basics313

4-2 Surveys322

4-3 Descriptions326

4-4 Boundaries and Disputed Boundaries.....329

4-5 Minimum Standards for Nebraska Surveys.....334

4-6 Professional Liability of Nebraska Surveyors337

4-7 A Closing Thought337

Resources, Statutes and Form

Resources 338
Statutes of Relevance 339
Board of Examiners for Land Surveyors - Complaint Form 341

Chapter 5 - Financing: Mortgages, Trust Deeds, Land Contracts..... 345

5-1 An Overview355

5-2 Specific Concerns360

| | | |
|--|---|------------|
| 5-3 | Real Estate Mortgages | 371 |
| 5-4 | Trust Deeds | 373 |
| 5-5 | Farm Homestead Protection Act | 377 |
| 5-6 | Land Contract | 384 |
| 5-7 | Fixture Financing | 386 |
| 5-8 | Railroad, Electrical, and Telephone Security Interests | 392 |
| 5-9 | Financing, Assisting the Buyer | 394 |
| Chapter 6 - Title Insurance | | 399 |
| 6-1 | What is Title Insurance? | 405 |
| 6-2 | Owner’s Policy | 405 |
| 6-3 | Loan Policy | 408 |
| 6-4 | Leasehold Policy | 408 |
| 6-5 | First Step - Title Commitment | 408 |
| 6-6 | Endorsements | 411 |
| 6-7 | Regulations | 416 |
| 6-8 | New 2016 ALTA Commitment | 416 |
| Forms | | |
| | ALTA Commitment for Title Insurance (08-01-2016)..... | 419 |
| | ALTA Owner’s Policy (6-17-06)..... | 425 |
| | ALTA Loan Policy (6-17-06)..... | 437 |
| | ALTA Homeowner’s Policy (Revised 12-02-13)..... | 451 |
| Chapter 7 - Construction and Non-Consensual Liens | | 469 |
| 7-1 | Construction Liens | 475 |
| 7-2 | Non-Consensual Liens | 484 |
| Forms | | |
| | Construction Lien..... | 487 |

| | |
|---|-----|
| Amendment to Construction Lien..... | 488 |
| Construction Lien Waiver | 489 |
| Demand to Institute Judicial Proceedings..... | 490 |
| Notice of Commencement | 491 |
| Notice of Lien Liability | 492 |
| Notice of Recording Lien..... | 493 |

Chapter 8 - Deeds..... 495

| | |
|--------------------------------------|------------|
| 8-1 Introduction..... | 501 |
| 8-2 Types of Deeds | 501 |
| 8-3 Elements of a Deed..... | 512 |
| 8-4 Ancillary Matters | 524 |
| 8-5 Special Conveyances | 525 |

Appendix

| | |
|---|-----|
| Appendix A: Revocable Transfer on Death Deed (Single Owner) | 529 |
| Appendix A: Revocable Transfer on Death Deed (More Than One Owner)... | 537 |
| Appendix B: Real Estate Transfer Statement, Form 521 | 545 |
| Appendix C: Documentary Revenue Stamp Tax Exemptions | 547 |

**Chapter 9 - Real Estate Easements, Covenants
and Restrictions in Nebraska..... 549**

| | |
|--|------------|
| 9-1 General..... | 555 |
| 9-2 General Real Estate Principles | 558 |
| 9-3 Creation, Operation and Enforcement | 559 |

Forms and Samples

| | |
|--|-----|
| Easements | |
| City of Omaha Permanent Sewer Easement | 575 |
| City of Omaha Public Access Easement..... | 579 |
| City of Omaha Easement Release Process..... | 583 |
| OPPD Right-of-Way Easement..... | 585 |
| OPPD Release of Easement Application Form..... | 589 |
| Cox Cable Telecommunications Easement..... | 593 |
| | |
| Covenants and Restrictions | |
| Declaration of Restrictive Covenants | 597 |

| | |
|---|-----|
| Grading, Construction and Ingress and Egress Easement Agreement..... | 601 |
| Master Declaration of Covenants, Conditions, Restrictions, and Easements for Sterling Ridge..... | 615 |
| Declaration of Covenants, Conditions, Restrictions and Easements | 649 |

Chapter 10 - Seller Property Condition Disclosure Statement and Other Disclosure Requirements for Residential Real Property Transactions..... 681

| | |
|--|------------|
| 10-1 Seller Property Condition Disclosure Statement | 687 |
| 10-2 Interrelation of Disclosure Statement and Real Estate Licensee Duties..... | 692 |
| 10-3 Neighborhood Circumstances Disclosures..... | 695 |
| 10-4 Practice Pointer "Take Aways" | 696 |
| 10-5 Conclusion | 700 |

Appendix

| | |
|--|-----|
| Appendix #1 - Title 299 Chapter 5. Disciplinary Matters: Commission Disputes; Discussion by Commissioners; Actions Demonstrating Negligence, Incompetency, or Unworthiness | 701 |
| Appendix #2 - Seller Property Disclosure Statement | 707 |
| Appendix #3 - § 76-2,120. Written disclosure statement required, when; contents; delivery; liability, noncompliance; effect; State Real Estate Commission; rules and regulations | 711 |

VOLUME 2

Chapter 11 - Escrow Procedures and Regulations and Real Estate Closings 715

| | |
|---|------------|
| 11-1 Regulation of the Title Insurance Agent | 721 |
| 11-2 Escrow | 723 |
| 11-3 Duties of an Escrow Agent | 724 |
| 11-4 The Ten "Rules" of Escrow..... | 725 |
| 11-5 Real Estate Closing Agents/Good Funds..... | 726 |
| 11-6 Tax Reporting - IRS Form 1099-S..... | 727 |

| | | |
|--------------|---|------------|
| 11-7 | Foreign Investment in Real Property Tax Act (FIRPTA), 26 U.S.C. § 1445..... | 729 |
| 11-8 | TILA - RESPA - CFPB | 731 |
| 11-9 | Privacy: Gramm-Leach-Bliley Financial Services Modernization Act, 15 U.S.C. § 6801 Et. Seq. | 736 |
| 11-10 | USA Patriot Act..... | 737 |

Forms

| | |
|---|-----|
| Form 1099S..... | 739 |
| Certification for No Information Reporting on the Sale or Exchange of a Principal Residence..... | 749 |
| Certification of Non-Foreign Status..... | 751 |
| Loan Estimate | 753 |
| TILA RESPA Integrated Disclosure | 757 |
| Privacy Notice..... | 763 |

Chapter 12 - Acknowledgments, Notarial Acts and eNotary 767

| | | |
|-------------|---|------------|
| 12-1 | Acknowledgments, Jurats and Notarial Sins..... | 773 |
| 12-2 | Electronic Notary Public Act | 785 |

Forms

| | |
|---|-----|
| 017.01(A) Initial Electronic Notary Public Registration Form | 789 |
| 017.01(B) Electronic Notary Public Renewal Application and Re-Registration | 791 |
| 017.01(C) Electronic Notary Public Solution Provider Application | 793 |

Chapter 13 - Land Use Controls: Zoning 797

| | | |
|-------------|---|------------|
| 13-1 | Introduction..... | 803 |
| 13-2 | Early Judicial Recognition of Zoning Powers..... | 803 |
| 13-3 | Exercise of Zoning Power in Nebraska | 804 |
| 13-4 | Statutory Authorization of Zoning Power | 805 |
| 13-5 | Jurisdictional Area of Political Subdivisions..... | 807 |
| 13-6 | Relationship of Zoning to Comprehensive Plan..... | 808 |
| 13-7 | Expansion of Zoning Power | 809 |

| | | |
|--------------|---|------------|
| 13-8 | Controlling the Zoning Power | 811 |
| 13-9 | Conditional Zoning..... | 814 |
| 13-9(a) | Contract Zoning..... | 815 |
| 13-9(b) | Conditional Uses | 816 |
| 13-9(c) | Special Permits | 816 |
| 13-9(d) | Planned Unit Development (PUD)..... | 817 |
| 13-9(e) | Overlay Districts..... | 817 |
| 13-9(f) | Design Standards and Guidelines..... | 817 |
| 13-10 | Zoning to Generate Revenue - Impact Fees | 818 |

Chapter 14 - Homeowners' Associations and Condominium Owners' Associations: A 101 Review **821**

| | | |
|-------------|---|------------|
| 14-1 | Condominium Property Regimes | 830 |
| 14-2 | The Nebraska Condominium Act..... | 831 |
| 14-3 | Other Governance Provisions..... | 833 |
| 14-4 | Conclusion | 834 |

Forms and Caselaw

Forms

| | |
|---|-----|
| Articles of Incorporation - Non-Profit HOA..... | 835 |
| HOA By-Laws (Non-Profit)..... | 841 |
| Consent and Waiver of Notice - Director..... | 851 |
| Consent Minutes Organizational Meeting - Board of Directors | 853 |
| Consent and Waiver of Meeting - Incorporator | 855 |
| Minutes of the Organization Meeting of Incorporator..... | 856 |
| HOA Declarations (Non-Profit)..... | 857 |
| COA Declarations | 867 |

Caselaw

| | |
|--|-----|
| <i>McGill v. Lion Place Condo. Ass'n</i> | 875 |
| <i>Curtis Acres Ass'n v. Hosman</i> | 891 |
| <i>Twin Towers Condo. Ass'n v. Bel Fury Invs. Group LLC</i> | 901 |
| <i>Oak Hills Highlands Ass'n, Inc. v. Levasseur</i> | 913 |
| <i>Westin Hills West Three Townhome Owners Ass'n v. Federal Nat. Mortg. Ass'n</i> | 919 |
| <i>Southwind Homeowners Ass'n v. Burden</i> | 929 |
| <i>Regency Homes Ass'n v. Schrier</i> | 935 |
| <i>Skyline Woods Homeowners Ass'n, Inc. v. Broekemeier</i> | 943 |

| | |
|--|------------|
| Chapter 15 - Water Quality Issues in Real Estate and Jurisdiction Under the Federal Clean Water Act | 961 |
| 15-1 Introduction..... | 967 |
| 15-2 Federal Clean Water Act Permits..... | 967 |
| 15-3 Spill Prevention and Reporting Requirements | 972 |
| 15-4 Waters of the United States..... | 973 |
| 15-5 State Water Quality Laws | 975 |
| 15-6 Summary..... | 977 |
| Chapter 16 - Protecting Water Rights in a Real Estate Transaction..... | 979 |
| 16-1 Identifying Extent and Source of Water Rights | 985 |
| 16-2 Confirming the Ability to Transfer Rights..... | 991 |
| 16-3 Drafting Water Rights Transfer Documents | 995 |
| 16-4 Recording and Filing Documents to Effectuate the Transfer of Water Rights... | 997 |
| Chapter 17 - Environmental Due Diligence in Real Estate Transactions | 999 |
| 17-1 Introduction..... | 1005 |
| 17-2 Common Obstacles | 1005 |
| 17-3 Key Environmental Laws for Real Estate Transactions | 1006 |
| 17-4 Nebraska Environmental Protection Act..... | 1009 |
| 17-5 CERCLA Liability | 1011 |
| 17-6 Level of Diligence | 1018 |
| 17-7 Diligence Documents..... | 1021 |
| 17-8 Mitigating Risks to the Purchaser | 1024 |

Appendix

NDEQ Permit Transfer Guidance 1027

Chapter 18 - Sanitary and Improvement Districts (SIDS)..... 1031

18-1 Formation of SIDS.....1037
18-2 Powers of SIDS.....1039
18-3 SID Operations.....1041
18-4 Miscellaneous.....1044

Chapter 19 - Wind Energy Projects in Nebraska 1045

19-1 Introduction.....1051
19-2 Legislation.....1051
19-3 Practical Considerations1053
19-4 Zoning, Permitting and Environmental Issues1056

Chapter 20 - Oil and Gas: Conveyance, Leasing and Basic Title Problems .. 1059

20-1 Nature of Mineral Estate and Severed Mineral Interest.....1065
20-2 Creation of Varied Interests in the Mineral Estate.....1065
20-3 General Nature of the Rights of the Parties Under an Oil and Gas Lease1071
20-4 Payments Under an Oil and Gas Lease.....1071
20-5 Extension of the Term of the Lease1073
20-6 Relations Between Lessor and Lessee as to the Use of the Surface1077
20-7 Miscellaneous Matters1088
20-8 Basic Title Problems1091
20-9 Loss of Minerals1095
20-10 Inclusion of Minerals in Estates.....1098

Chapter 21 - An Introduction to Tax Increment Financing in Nebraska 1101

- 21-1 History of TIF in Nebraska1109**
- 21-2 Community Redevelopment Authority 1112**
- 21-3 The Redevelopment Contract1127**
- 21-4 Division of Taxes.....1139**
- 21-5 The TIF Bond1144**

Additional Resources and Forms

- Auditor of Public Accounts Report on TIF Projects 1147
- City of Omaha TIF Application 1149
- Notice to Divide Tax for Community Redevelopment Project
- Tax Increment Financing (TIF) Project 1151

Chapter 22 - Nebraska Real Estate Tax Credits 1155

- 22-1 Introduction.....1161**
- 22-2 Nebraska Historic Tax Credit1161**
- 22-3 Nebraska New Markets Tax Credit.....1165**
- 22-4 Nebraska Affordable Housing Tax Credit1169**
- 22-5 Summary.....1171**

Chapter 23 - Foreclosures/Post Foreclosures in Nebraska..... 1173

- 23-1 The Foreclosure Process1181**
- 23-2 The Non-Judicial Foreclosure.....1193**
- 23-3 The Trustor’s Interest, Redemption and Deficiencies.....1209**
- 23-4 Pursuit of Guarantors: Before Foreclosure Sale
and Checking Percentage Guarantees 1211**
- 23-5 The Judicial Foreclosure1212**
- 23-6 Alternatives to Foreclosure and Other Items1221**
- 23-7 Post-Foreclosure Issues and Processes1256**

23-8 Conclusion1261

Forms, Statutes and Caselaw

Statutory References 1263

Foreclosure Forms

Letter to Borrower..... 1265

Assignment of Beneficial Interest Under Deed of Trust..... 1267

Substitution of Trustee 1268

Notice of Default..... 1269

Fair Debt Collection Practices Act Notice 1271

Notice of Trustee’s Sale 1273

Trustee’s Deed..... 1275

Corporation Warranty Deed 1277

Notice to Occupant of Pending Acquisition..... 1279

 Request for Occupied Conveyance 1283

 Request for Verification of Employment 1284

 Conditions for Continued Occupancy..... 1285

 Temporary Nature of Continued Occupancy 1286

Federal Government §7425 Notice Provisions

Internal Revenue Manual - 5.12.4 Judicial/Non-Judicial Foreclosures..... 1287

Instructions for Preparing a Notice of Nonjudicial Sale of Property
and Application for Consent to Sale 1297

Notice of Nonjudicial Sale of Property..... 1301

Application for Consent to Sale of Property Free of the Federal Tax Lien ... 1303

How to Prepare an Application Requesting the United State
to Release Its Right to Redeem Property Secured by a Federal Tax Lien 1307

Collection Advisory Group Numbers and Addresses 1309

521 Forms

Real Estate Transfer Statement 1311

Manufactured Housing Transfer Statement 1313

Caselaw

Klein v. Oakland/Red Oak Holdings, LLC..... 1315

First Neb. Educators Credit Union v. U.S. Bancorp..... 1325

Doty v. West Gate Bank, Inc. 1331

Marcuzzo v. Bank of the West..... 1341

Federal National Mortgage Association v. Marcuzzo 1353

Westin Hills West Three Townhome Owners Ass’n v. Federal Nat. Mortg. Ass’n
..... 1361

Russell v. United States 1371

City of Lincoln v. Hershberger..... 1379

VOLUME 3

Chapter 24 - Property Valuation Protests and Appeals..... 1385

| | | |
|-------------|--|-------------|
| 24-1 | Factors of Property Tax..... | 1391 |
| 24-2 | The Process..... | 1392 |
| 24-3 | The Appeal Process..... | 1402 |
| 24-4 | Special Issues for Agricultural and Horticultural Land..... | 1406 |
| 24-5 | Other Real Property Issues..... | 1409 |

Forms

| | |
|--|------|
| Property Tax Valuation Protest and Appeal Timeline..... | 1413 |
| FORM 191 - Vacant or Unimproved Lot Application..... | 1419 |
| FORM 422, 422A - Property Valuation Protest..... | 1421 |
| FORM 451 - Exemption Application..... | 1425 |
| FORM 451A - Statement of Reaffirmation of Tax Exemption..... | 1427 |
| FORM 456 - Special Valuation Application..... | 1429 |

Chapter 25 - Tax Foreclosures..... 1431

| | | |
|-------------|---|-------------|
| 25-1 | Introduction..... | 1437 |
| 25-2 | County Action Prior to Foreclosure..... | 1437 |
| 25-3 | Lien Method of Foreclosure Neb. Rev. Stat. § 77-1901..... | 1439 |
| 25-4 | Certificate Method of Foreclosure Neb. Rev. Stat. § 77-1902..... | 1443 |
| 25-5 | Practice Tips..... | 1455 |
| 25-6 | Timeline for Tax Foreclosure - Lien Method..... | 1456 |
| 25-7 | Timeline for Tax Foreclosure - Certificate Method..... | 1457 |

Forms

| | |
|---|------|
| Complaint for Foreclosure of Certificate of Tax Sale..... | 1459 |
| Praecipe for Summons..... | 1465 |
| Proof of Service..... | 1467 |
| Motion for Service by Publication..... | 1471 |
| Affidavit in Support of Publication (Option No. 1)..... | 1473 |
| Order for Service by Publication (Option No. 1)..... | 1475 |

| | |
|---|------|
| Affidavit and Application (Option No. 2) | 1477 |
| Order (Option No. 2)..... | 1479 |
| Notice of Foreclosure..... | 1481 |
| Affidavit of Mailing Notice..... | 1483 |
| Proof of Service | 1485 |
| Soldiers' and Sailors' Relief Act Affidavit | 1486 |
| Notice of Trial | 1487 |
| Affidavit of Douglas D. Cyr (Option No. 1)..... | 1489 |
| Affidavit of County Treasurer (Option No. 2) | 1491 |
| Decree of Foreclosure (Option No. 1) | 1493 |
| Decree of Foreclosure (Option No. 2) | 1501 |
| Praecipe for Order of Sale..... | 1505 |
| Order of Sale..... | 1507 |
| Motion to Dismiss..... | 1509 |
| Order | 1510 |
| Motion for Release and Discharge..... | 1511 |
| Order Releasing Property..... | 1513 |
| Notice of Hearing (Option No. 1)..... | 1515 |
| Notice of Hearing (Option No. 2)..... | 1517 |
| Motion to Confirm Sale (Option No. 1)..... | 1519 |
| Motion for Confirmation of Sale (Option No. 2)..... | 1521 |
| Motion for Confirmation of Sale..... | 1523 |
| Order Confirming Sale..... | 1525 |

Chapter 26 - Issuance of Treasurer's Tax Deeds 1527

| | |
|---|-------------|
| 26-1 Tax Sale Certificates Sold and Issued Between January 1, 2010 and December 31, 2017 | 1533 |
| 26-2 Tax Sale Certificates Sold and Issued After December 31, 2017..... | 1537 |
| 26-3 Miscellaneous - Applicable to Both the Aforementioned Tax Sale Certificates | 1543 |
| 26-4 Caveats | 1543 |

Forms

| | |
|---|------|
| Notice of Application for Tax Deed (For Tax Certificates Sold Between January 1, 2010, and December 31, 2017) | 1545 |
| Notice of Application for Tax Deed (For Tax Certificates Sold After December 31, 2017)..... | 1547 |
| Application for Tax Deed (For Tax Certificates Sold Between January 1, 2010, and December 31, 2017) | 1549 |

| | |
|--|------|
| Application for Tax Deed (For Tax Certificates Sold After December 31, 2017)..... | 1550 |
| Affidavit of Service of Notice (For Tax Certificates Sold Between January 1, 2010, and December 31, 2017) | 1551 |
| Affidavit of Service of Notice (For Tax Certificates Sold After December 31, 2017)..... | 1553 |
| Affidavit of Determination of Owner-Occupied Real Property (For Tax Certificates Sold After December 31, 2017)..... | 1555 |

Chapter 27 - Transfer on Death Deeds..... 1557

| | |
|--|-------------|
| 27-1 Introduction..... | 1563 |
| 27-2 Analysis: When a TODD is Found of Record..... | 1563 |
| 27-3 Transactions by Transferor When TODD is of Record..... | 1568 |
| 27-4 Powers of Attorney and TODD..... | 1571 |
| 27-5 Designated Beneficiary Predeceases Transferor..... | 1572 |
| 27-6 After the Death of the Transferor..... | 1573 |
| 27-7 Security Instruments..... | 1576 |
| 27-8 Miscellaneous Words to the Wise..... | 1577 |

Forms (contributed by William J. Lindsay, Jr., Gross & Welch, PC LLO)

| | |
|---|------|
| Revocable Transfer on Death Deed (Single Owner)..... | 1579 |
| Revocable Transfer on Death Deed (More Than One Owner)..... | 1587 |
| Revocation of Transfer on Death Deed..... | 1595 |

Chapter 28 - Quiet Title Actions..... 1597

| | |
|---|-------------|
| 28-1 Nature and Scope of Remedy..... | 1603 |
| 28-2 Right to Maintain Action..... | 1603 |
| 28-3 Proceedings..... | 1611 |
| 28-4 Limitation on Actions..... | 1615 |
| 28-5 Appeal..... | 1616 |
| 28-6 Conclusion..... | 1617 |

Forms

Master Information List and Checklist for Quiet Title Complaint 1619
Progression Checklist..... 1621
Complaint..... 1623
Affidavit of Nonmilitary Service 1627
Praeceptum..... 1628
Application for Service by Publication..... 1629
Affidavit for Service by Publication 1631
Order for Service by Publication 1633
Affidavit of Mailing Notice of Hearing on Complaint 1634
Motion for Entry of Default of Defendants 1635
Affidavit in Support of Motion for Entry of Default of Defendants 1637
Notice of Hearing on Motion for Entry of Default of Defendants 1639
Order for Entry of Default 1641
Decree and Judgment..... 1643

Chapter 29 - Partition Actions 1645

29-1 Introduction.....1651
29-2 Complaint for Partition.....1651
29-3 Service of Process.....1653
29-4 Answer1653
29-5 Trial.....1653
29-6 Motions for Judgment1654
29-7 Judgment1654
29-8 Referee.....1654
29-9 Sale1655
29-10 Notice of Sale1655
29-11 Sale of Property.....1656
29-12 Completion of Sale.....1656
29-13 Fees1658

Forms

Form 1 - Complaint in Partition..... 1661
Form 2 - Motion for Service by Publication..... 1665
Form 3 - Notice for Publication..... 1667
Form 4 - Motion for Summary Judgment and Default Judgment..... 1669
Form 5 - Notice of Hearing on Motion for Summary and Default Judgment
..... 1671
Form 6 - Notice of Hearing on Appointment of Referee 1673
Form 7 - Default Judgment..... 1675
Form 8 - Summary Judgment 1677
Form 9 - Report of Referee..... 1679
Form 10 - Order Confirming Report of Referee and Directing Sale 1681
Form 11 - Bond of Referee 1683
Form 12 - Notice of Sale..... 1685
Form 13 - Instructions to Publisher 1686
Form 14 - Referee's Report of Sale..... 1687
Form 15 - Motion to Confirm Report of Sale 1689
Form 16 - Notice of Hearing on Motion to Confirm Report of Sale 1691
Form 17 - Referee's Accounting 1693
Form 18 - Confirmation of Sale and Order for Deed..... 1695
Form 19 - Motion for Distribution of Sale Proceeds 1697
Form 20 - Notice of Hearing on Motion for Distribution of Sale Proceeds .. 1699
Form 21 - Order for Distribution of Sale Proceeds..... 1701

Chapter 30 - Condemnations 1703

30-1 Introduction.....1709
30-2 The Power of Eminent Domain1709
30-3 Condemnation Procedures in Nebraska1710
30-4 The Law of Just Compensation1717

Chapter 31 - Corrective Instruments [or how to] Identify Defects, Apply Curative Statutes, and Draft Corrective Instruments 1723

31-1 Forward1729
31-2 Certain Recorded Instrument Requirements.....1729
31-3 Patent and Latent Defects in Recorded Documents1731
31-4 Statutory Remedies as Curative Measures.....1735

| | | |
|-------------|---|-------------|
| 31-5 | Scrivener’s Affidavit v. Corrective Instrument..... | 1737 |
| 31-6 | Other Affidavits, Quitclaim Deeds, Releases, and Certificates..... | 1741 |
| 31-7 | Exhibit: Statute of Limitations Table..... | 1749 |

Forms

| | |
|--|------|
| Affidavit of Possession..... | 1757 |
| Scrivener’s Affidavit | 1758 |
| Corrective Warranty Deed..... | 1759 |
| Affidavit: One and the Same Person | 1760 |
| Affidavit of Marital Status | 1761 |
| Affidavit of Same Corporate Entity | 1762 |
| Affidavit of True and Correct Copy | 1763 |
| Affidavit of Correct Date | 1764 |
| Affidavit | 1765 |
| Affidavit Regarding Oil and Gas Lease | 1766 |
| Receipt and Release of Lien on Specific Property..... | 1767 |
| Nebraska Security Instrument Satisfaction Act Letter..... | 1769 |
| Nebraska Security Instrument Satisfaction Act Certificate..... | 1771 |

Chapter 32 - Fair Housing Act..... 1773

| | | |
|--------------|--|-------------|
| 32-1 | Introduction..... | 1779 |
| 32-2 | Properties Covered | 1779 |
| 32-3 | Who is Liable..... | 1779 |
| 32-4 | Prohibited Acts | 1781 |
| 32-5 | Harassment..... | 1782 |
| 32-6 | Standing | 1783 |
| 32-7 | Familial Status..... | 1784 |
| 32-8 | Section 3604(f) - Disability Discrimination..... | 1784 |
| 32-9 | Remedies | 1789 |
| 32-10 | Nebraska Fair Housing Act..... | 1790 |
| 32-11 | Practical Considerations/Recent Developments..... | 1791 |

| | |
|---|-------------|
| Chapter 33 - Landlord and Tenant Law | 1793 |
| 33-1 Definitions | 1805 |
| 33-2 Applicability of NRLTA and Mobile Home Act | 1806 |
| 33-3 Tenants in Common as Landlord | 1807 |
| 33-4 Notice Before Suit..... | 1808 |
| 33-5 Contract Law..... | 1811 |
| 33-6 Security Deposits..... | 1815 |
| 33-7 Holdover Tenants | 1817 |
| 33-8 Destruction of the Real Estate | 1819 |
| 33-9 Landlord's Duty to Repair or Maintain the Premises | 1820 |
| 33-10 Forfeiture of Lease and Wrongful Eviction..... | 1821 |
| 33-11 Sale of Property | 1824 |
| 33-12 Pre-Trial Matters | 1824 |
| 33-13 Servicemembers Civil Relief Act | 1830 |
| 33-14 Trial..... | 1834 |
| 33-15 Appeals and Supersedeas | 1838 |
| 33-16 Tort Liability | 1842 |
| 33-17 Statute of Frauds..... | 1846 |
| 33-18 Recording Statutes..... | 1847 |
| 33-19 Effect of Foreclosure of Landlord on the Tenant | 1849 |
| 33-20 Fixtures | 1851 |
| 33-21 Arbitration..... | 1857 |
| 33-22 Waivers..... | 1858 |

| | | |
|-------------------|---|-------------|
| 33-23 | Assignments and Subleases | 1860 |
| 33-24 | Acceleration Clauses | 1861 |
| 33-25 | Abandonment and Mitigation of Damages..... | 1862 |
| 33-26 | Liens on Personal Property | 1863 |
| 33-27 | Percentage Rental Effect..... | 1864 |
| 33-28 | Farm Leases..... | 1864 |
| 33-29 | Personal Guarantees | 1867 |
| 33-30 | Lead-Based Paint | 1867 |
| 33-31 | Disposition of Personal Property: Landlord and Tenant Act | 1868 |
| Forms | | |
| | Complaint and Praecipe | 1871 |
| | Affidavit | 1873 |
| | Order of Judgment Restitution Case | 1874 |
| | Praecipe for Writ of Restitution | 1875 |
| | Writ of Restitution | 1877 |
| | Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards..... | 1879 |
| Chapter 34 | - Commercial Real Estate Leases | 1881 |
| 34-1 | Overview | 1887 |
| 34-2 | The Term..... | 1887 |
| 34-3 | Premises and Improvements | 1888 |
| 34-4 | The Rent..... | 1890 |
| 34-5 | Operating Expenses | 1891 |
| 34-6 | Use of Premises..... | 1893 |
| 34-7 | Signs | 1895 |
| 34-8 | Compliance | 1896 |

| | | |
|--|---|-------------|
| 34-9 | Agreements | 1897 |
| 34-10 | Repairs and Maintenance..... | 1898 |
| 34-11 | Condemnation | 1899 |
| 34-12 | Subordination..... | 1900 |
| 34-13 | Landlord Access | 1901 |
| 34-14 | Default..... | 1901 |
| 34-15 | Miscellaneous Provisions..... | 1901 |
| Chapter 35 - Real Estate Titles in Bankruptcy | | 1903 |
| 35-1 | Introduction..... | 1909 |
| 35-2 | Overview | 1909 |
| 35-3 | Creation of the Estate | 1910 |
| 35-4 | Automatic Stay | 1911 |
| 35-5 | Authority of Fiduciary to Represent Estate | 1913 |
| 35-6 | Disposition of Property of the Estate by Exemption..... | 1914 |
| 35-7 | Abandonment | 1917 |
| 35-8 | Sales By Trustee or Debtor in Possession..... | 1921 |
| 35-9 | Chapters 11, 12 and 13..... | 1929 |
| 35-10 | Dismissal | 1931 |
| 35-11 | Discharge Does Not Affect Liens..... | 1932 |
| 35-12 | Local Filings | 1933 |