

BY THE COMMITTEE ON

**TITLE STANDARDS**

OF THE

**WYOMING STATE BAR**

**WYOMING STATE BAR CONVENTION**  
**REPORT OF TITLE STANDARDS COMMITTEE**

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**WYOMING TITLE STANDARDS**

**CHAPTER I  
THE ABSTRACT  
STANDARD 1.1**



**ABSTRACT IN LONGHAND:** An abstract written in longhand is acceptable if legible and not mutilated.

**Similar Standard:** Model Title Standard 1.1.



  
**STANDARD 1.2**

**MIMEOGRAPHED OR PHOTOSTATIC COPY:** Copies of abstracts made by mimeographing, photostatic process or other similar process are acceptable if properly certified by separate certificates to be correct and complete abstract:

**Similar Standard:** Model 1.2.


### **STANDARD 1.3**






**RE-CERTIFICATION UNNECESSARY:** It is unnecessary that attorneys require the entire abstract to be certified every time an extension is made. For the purpose of examination, an abstract should be considered to be sufficiently certified if it is indicated that the abstracters were bonded at the dates of their respective certificates. It is not a defect that at the date of the examination the statute of limitations may have run against the bonds of some of the abstracters.

**Similar Standard:** Model 2.2.



**STANDARD 1.4**

**ABSTRACT COMPILED BY TITLE OWNER:** Where an abstractor has certified an abstract of title to real estate in which he himself is interested, it is not negligence on the part of an examiner to accept such abstract.



CHAPTER II  
THE TITLE EXAMINER  
STANDARD 2.1

**EXAMINING ATTORNEY'S ATTITUDE:** The purpose of the examination of title and of objections, if any, shall be to secure for the examiner's client a title which is in fact marketable and which is shown by the record to be marketable, subject to no other encumbrances than those expressly provided for by the client's contract. Objections and requirements should be made only when the irregularities or defects reasonably can be expected to expose the purchaser or lender to the hazard of adverse claims or litigation.

**Similar Standard:** Model 2.1.


**STANDARD 2.2**

**PRIOR EXAMINATION:** When an attorney discovers a situation which he believes renders a title defective and he has notice that the same title has been examined by another attorney who has passed the defect, it is recommended that he communicate with the previous examiner, explain to him the matter objected to and afford opportunity for discussion, explanation and correction.

**Similar Standard:** Model 2.2 and Wyo., 1.

### **STANDARD 2.3**

**REFERENCE TO TITLE STANDARDS IN LAND CONTRACT:** An attorney drawing a real estate sales contract should recommend that the terms of the contract provide that marketability be determined in accordance with title standards then in force and that the existence of encumbrances and defects, and the effect to be given to any found to exist, be determined in accordance with such standards.

**Similar Standard:** Model 2.3.



## CHAPTER IV

Note: Chapter 4 addresses the effects of the Wyoming Marketable Title Act (34-10-101 et. seq.). It should be noted that there is extensive interdependence among the provisions of the Act. Because of the structure of the Act, the standards contained in this chapter are also interdependent and should be read in conjunction with all others. The title examiner is therefore cautioned to consider the interrelationships among both the provisions of the Act itself and the title standards which follow before selecting a single provision of either the Act or the standards to apply to a particular title problem.

Additionally, it should be noted that although the Act applies to all real property interests (with the exception of those specified in section 34-10-104 of the Act), the limited scope of the Act (which results from application of the provisions of the Act from the "root of title" only, the notice and possession provisions and various other exceptions) can create a title which is a "Marketable Record Title" under the Act but which is still subject to various legal defects not cured by the Act, thereby leaving the title unmarketable in the traditional legal sense of the term.

## **STANDARD 4.1**

**REMEDIAL EFFECT:** The marketable title Act is remedial in character and should be relied upon as a cure or remedy for such imperfections of title as fall within its scope.

**Authority:** Wyoming Statutes §34-10-105

**Similar Standards:** Model 4.1, Kansas 23.1,  
Michigan 1.1, Utah 45

## **STANDARD 4.2**

**REQUISITES OF MARKETABLE RECORD TITLE:** A “Marketable Record Title” under the Marketable Title Act exists only where (1) a person has an unbroken chain of title of record extending back at least forty years; **and** (2) nothing appears of record purporting to divest such person of title.

Such “Marketable Record Title” is not necessarily free of legal defects, but is subject to interests that may attach under the provisions of standard 4.6.

**Authority:** Wyoming Statute § 34-10-103

**Similar Standards:** Model 4.2, Utah 46, Kansas 23.2

**NOTE:** These two requirements are elaborated in standards 4.4 and 4.5.

**STANDARD 4.3**

**DEFINITION OF RECORD:** For purposes of the Marketable Title Act, "records" includes probate and other official public records, as well as records in the office of the County Clerk and Ex Officio Register of Deeds.

**Authority:** Wyoming Statute § 34-10-101(ii)

## STANDARD 4.4

**UNBROKEN CHAIN OF TITLE OF RECORD:** "An Unbroken Chain of Title of Record," within the meaning of the Marketable Title Act may consist of (1) a single conveyance or other title transaction which purports to create an interest and which has been a matter of public record for at least forty years; or (2) a connected series of conveyances or other title transactions of public record in which the root of title has been a matter of public record for at least forty years.

**Authority:** Wyoming Statute § 34-10-103

**Similar Standard:** Model 4.3, Michigan 1.3, Utah 47, Kansas 23.3

**NOTE:** For a definition of "root of title," see Wyoming Statute § 34-10-101(v).

**Illustration 1:** Assume A is grantee in a deed on record for at least 40 years, and that nothing affecting the described land has been recorded since then. Forty years later A has an unbroken chain of title of record. Instead of a conveyance, the title transaction may be a decree of a probate court or a judgment quieting title or assigning title in a district court which was entered in the court records 40 years ago. Likewise, 40 years later A has an unbroken chain of title.

**Illustration 2:** Suppose that the chain of title is complete down to Frank Jones. The next conveyance is from several persons and spouses who are strangers to the title who convey this property to A. The conveyance to A is over 40 years old and A now claims to be the owner. A has an unbroken chain for the last forty years. The result in the above example is the same if A conveyed to B, and B to C, and C now claims to be the owner because there is a connected series of conveyances. The result in the above example is the same if there is a valid probate court proceeding for the estate of A which assigned this property to W, who now claims to be the owner.

**Illustration 3:** Suppose the chain of title is complete down to Frank Jones, and the next entry is an executor's deed which conveys this property to A. The executor's deed merely recites "John Roberts, executor of the state of Frank Jones, deceased," and is executed properly. The probate court proceedings are not identified and there is nothing further shown. The executor's deed is 40 years old. A has conveyed to B and B to C who now claims to be the owner. C has an unbroken chain of title for the last 40 years.

**Illustration 4:** Suppose that title is complete in Frank Jones and over 40 years ago there appears a conveyance from Mike W. Roberts, attorney-in-fact for Frank Jones, in which the real estate is conveyed over to A. There is no power of attorney shown for Mike W. Roberts anywhere on record or no other reference to any power of attorney. Assuming no subsequent instruments are recorded, A now has an unbroken chain of title for 40 years.

**Illustration 5:** Suppose title is complete in Frank Jones, and over 40 years ago there appears a conveyance to A from X and Y, who recite in the deed that they are assignees in bankruptcy of Frank Jones. There is nothing on record to show any conveyance to the grantors from Frank Jones or any bankruptcy

proceedings or anything else to indicate how X and Y became vested with title as assignees in bankruptcy for Frank Jones. However, assuming no subsequent instruments are recorded, A has an unbroken chain of title for the last 40 years.

**Illustration 6:** Suppose that the title is complete in the Wyoming Land Corporation, who acquired the property over 40 years ago. Subsequently, and over 40 years ago, there is a deed from several persons who merely recite in the deed that they are owners of all of the corporate stock of said Wyoming Land Corporation, which has now been dissolved. There is nothing else on record concerning the Wyoming Land Corporation. Since the deed to A was given over 40 years ago, A has an unbroken chain of title.

**Illustration 7:** Suppose A is the grantee in a deed, executed and delivered over 40 years ago but recorded less than 40 years ago. A does not have an “unbroken chain of title of record” since 40 years have not elapsed subsequent to the recording of his deed. He will not have the “unbroken chain” required by the statute until 40 years have elapsed from the date of its recording.

## STANDARD 4.5

**MATTERS PURPORTING TO DIVEST:** Matters “Purporting to Divest” within the meaning of the Marketable Title Act are those matters appearing of record which, if taken at face value, warrant the inference that the interest has been divested.

**Authority:** Wyoming Statute § 34-10-103

**Similar Standards:** Model 4.4, Michigan 1.4, Utah 48, Kansas 23.4

**Illustration 1:** The most obvious case of a recorded instrument purporting to divest is a conveyance to another person. Assume that the title is complete in A who acquired this property over 40 years ago. The records show that A conveyed to B within the last 40 years. Although A acquired the property over 40 years ago, the deed which he gave to B within the last 40 years is an instrument which purported to divest the title and broke the chain; and therefore, A could not have a marketable record title.

**Illustration 2:** Suppose that title is complete in A who acquired the property over 40 years ago. A deed for the same land from X to Y was recorded 20 years ago, and it contains the following recital: “being the same land heretofore conveyed to me by A.” Y now attempts to convey a clear title, claiming a 40-year chain starting with A who acquired it over 40 years ago. There is a break in the chain of title since there is no deed from A to X, and the instrument from X to Y was an instrument purporting to divest within the terms of the Act. Therefore, neither A nor Y can claim a good title under the Marketable Title Act.

**Illustration 3:** Suppose that A acquired a good title over 40 years ago. Twenty years ago there is a conveyance from A to X, but the conveyance was executed by B, Attorney-in-fact for A. There is no power of attorney on record from A to B. This is a break in the title, and this is an instrument purporting to divest within the terms of the Act. There is no marketable record title in A or X.

**Illustration 4:** Suppose that A has acquired title over 40 years ago. Twenty years ago A conveyed the property to X, and in this deed there is a recital as follows: “Subject to a life estate in C, the mother of A.” X now attempts to give a clear title, claiming the 40-year chain beginning with A. The reservation in the deed from A to X is an instrument purporting to divest within the terms of the Act, and X cannot give a good title until the life estate of C has been determined.

**Illustration 5:** Suppose that A acquired title over 40 years ago. A conveyed to B 20 years ago, and 15 years ago B conveyed to C. In this conveyance to C there is a recital as follows: “Subject to a mortgage on this property to the XYZ Finance Company.” There is no mortgage on record on this property to the XYZ Finance Company, and there is no other reference to a mortgage to said XYZ Finance Company. C now is attempting to convey a good merchantable title claiming a 40-year unbroken chain from A. C does have an unbroken chain of title. However, it is subject to the possibility that the XYZ Finance Company might have an interest in this property by virtue of an unrecorded mortgage. The title examiner is put on notice to determine what interest the XYZ Finance Company might have in the property.

**Illustration 6:** Suppose A is the last grantee in a recorded chain of title, the last deed of which was recorded over 40 years ago. A deed of the same land was recorded 40 years ago, from X to Y, which recites that A died intestate and that X is his only heir. The deed from X to Y is one purporting to divest within the terms of the Act. This is the conclusion to be reached whether the recital of heirship is true or not. A recorded instrument may also purport to divest even though there is not a complete chain of record title connecting the grantee in the divesting instrument with the 40-year chain.

**Illustration 7:** Suppose that A is the last grantee in a chain of title which he acquired over 40 years ago. Prior to the expiration of 40 years since A acquired his title, there was recorded an affidavit by X, a stranger to the title, which recited that X and his predecessors have been “in continuous, open, notorious and adverse possession of said land as against all the world for the preceding thirty years.” This is an instrument purporting to divest A of his interest, within the terms of the Act.

**Illustration 8:** Suppose A acquired title 40 years ago. Twenty years ago there was recorded a mortgage from X to Y of the same land, containing covenants of warranty. The mortgage is not an instrument purporting to divest within the terms of the Act.



## STANDARD 4.6

### **EFFECT OF MARKETABLE RECORD TITLE ON PRIOR INTEREST:**

A person who has marketable record title in any interest in land, as stated in Standard 4.2, holds free from: any other interests, claims or charges, the existence of which depends upon any act, transaction, event or omission which antedates the beginning of the unbroken chain of record title extending back at least forty years: provided that (1) such unbroken chain of record title includes no reference containing a specific identification of a recorded title transaction creating such other interest, claim or charge and no notice of claim based thereon has been filed in accordance with Wyoming Statutes § 34-10-106 and § 34-10-107 and (2) such unbroken chain of record title is not made subject to such other interest, claim or charge by any provision of Wyoming Statutes § 34-10-104.

**Authority:** Wyoming Statute § 34-10-105

**Similar Standard:** Michigan 1.6

**NOTE:** The interests to which an unbroken chain of record title may be subject are discussed in Standards 4.7, 4.8, 4.9, 4.10, and 4.11.

**Illustration 1:** Suppose 43 years ago a deed was recorded conveying a certain tract of land “to A for life, remainder to B and his heirs.” A year later (42 years ago) a mortgage was recorded from B to X in which B mortgaged his remainder “subject to A’s life estate.” Forty years ago a deed was recorded in which B conveyed his remainder to C in fee simple, there being no reference to the mortgage to X. Forty years later, A, the life tenant, still being alive, C has a marketable record title to the remainder under the terms of the Act, and X’s mortgage is extinguished. But, being a remainder subject to a life estate, no one but the life tenant is likely to desire to buy it, and it cannot be said to be commercially marketable. Note that the title cannot be commercially marketable to any greater extent than the extent to which such interest is marketable in the first instance.

**Illustration 2:** Suppose A conveyed a tract of land to B by deed recorded 45 years ago which deed contained one of the following: (a) a condition subsequent that the grantor or his heirs could re-enter in the event of a breach of certain conditions specified in the conveyance; or (b) a special limitation that the land was conveyed “so long as” it was used for a specified purpose. Forty years ago B conveyed the tract of land to C by recorded deed, which deed made no mention of, or reference to, such condition or limitation. Since the recording of the deed from B to C, the chain of title contains no reference to such interest or notice of claim based thereon. At the end of the 40 year period since the recording of the deed from B to C, C holds title to the land free from the condition or limitation since it does not appear in the muniments of which his 40-year chain of record title is formed.

**Illustration 3:** Suppose A conveyed a tract of land to B by deed recorded 50 years ago which deed contained one of the following: (a) a condition subsequent that A or his heirs could re-enter in the event of a breach of certain conditions specified in the conveyance; or (b) a special limitation that

the land was conveyed “so long as” it was used for a specified purpose. By deed recorded five years later (45 years ago) B conveyed the land to C subject specifically to the condition or limitation contained in the deed from A to B. C then conveyed the land to D by deed recorded 20 years ago, which deed made no mention of, or reference to, such condition or limitation. No other instrument affecting the land has been recorded since the deed from C to D. D is in possession. Although D holds marketable record title to the tract of land in question, he does not hold such title free from the condition or limitation because reference thereto appears in the deed from B to C which is one of the muniments of which his unbroken 40-year chain of title is formed.

**Illustration 4:** Suppose A conveyed a tract of land to B by deed recorded 50 years ago, which contained a condition subsequent that A or his heirs could re-enter in the event of a breach of certain conditions specified in the conveyance. B conveyed the land to C by deed recorded 45 years ago, which deed made no mention of, or reference to, such condition. Forty-three years ago, a deed to the land was recorded from X, a stranger of title, to Y. Subsequently, by deed recorded 20 years ago, C conveyed the tract of land to D, subject specifically to the condition subsequent contained in the A-B deed recorded 50 years ago. The tract of land in question is unoccupied. At the present time, both D and Y have marketable record titles within the meaning of the Act. D’s title is, however, subject to the condition subsequent for the reasons set forth in Illustration 3 above. Y’s title is not subject to such condition, because it does not appear in the deed to him, which is the only instrument contained in his unbroken chain of title of record.

**Illustration 5:** Suppose A was the grantee in a chain of record title of a tract of land, a deed to which was recorded 50 years ago. Forty-eight years ago, a mortgage of the same land from A to X was recorded. Forty-four years ago a mortgage of the same land from A to Y was recorded. Forty-one years ago a deed of the same land from A to B in fee simple absolute was recorded, which made no mention of the mortgages. Twenty years ago, Y recorded a notice of his mortgage, as provided in Wyoming Statutes § 34-10-106 and 34-10-107. X did not record any notice. B has an unbroken chain of title of over 40 years. Therefore, B has a marketable record title which is subject to Y’s mortgage but not to X’s mortgage. B’s root of title is the deed from A to B recorded 41 years ago. X and Y had 40 years from the date of recording of B’s root of title instrument to record a notice for the purpose of preserving their interests. If X had filed a notice after the running of the 40 year period, it would have been a nullity, since his interest was already extinguished.

**Illustration 6:** Suppose A has the 40-year unbroken record chain of title. Twenty years ago there was filed an affidavit by X stating the following: “I hereby give notice that I have entered into a contract to buy from A a tract of land three acres in size south of the city of Gillette, Wyoming.” There is no further description shown in the affidavit, although it was subscribed, sworn, and recorded. This affidavit would not be effective to establish a notice as set forth in Wyoming Statute § 34-10-107. It appears that the land which A owns is 160 acres in size. This affidavit should not be entitled to be recorded in the notice index as set forth in § 34-10-107.

## STANDARD 4.7

**DEFECTS IN THE FORTY-YEAR CHAIN:** If the recorded instrument which constitutes the root of title, or any subsequent instrument in the chain of record title required for a marketable record title under the terms of the Act, creates interests in third parties or creates defects in the record chain of title, then the marketable record title is subject to such interests and defects.

**Authority:** Wyoming Statute § 34-10-104

**Similar Standards:** Model 4.6, Kansas 23.5, Utah 50

**Illustration 1:** Over 40 years ago A conveyed this land to B; and in this conveyance there is the following reservation: "The grantor A does hereby reserve to himself and his heirs and assigns forever all of the mineral interests which lie under said land." B now claims that he has a clear title and that A has not exercised any right to enjoy the mineral rights. The title is good in B, but it is subject to the reservation of the mineral interests in A, and the 40-year chain does not bar the reservation of A.

**Illustration 2:** Over 40 years ago A, who was a record title holder at that time, conveyed the property to B. In this deed to B there is a reservation as follows: "The grantor A does hereby reserve unto himself and his heirs and assigns a roadway easement over the east 40 feet of this tract." B now attempts to convey to C, claiming that said roadway was never utilized by A and there is no road there. The 40-year chain of title is subject to the prior reservation of a road easement by A, the grantor in the deed, and B cannot convey a clear title to this tract of land without clearing up the interest of the previous reservation of the road easement in A. The above two illustrations, the mineral reservation and the roadway easement, are interests and defects which are inherent in the muniments of which such chain of record title is formed as set forth in Wyoming Statute § 34-10-104(a)(i).

**Illustration 3:** Suppose that A acquired title to a tract of land over 40 years ago, and in this deed to A there appears the following statement: "Subject to a deed to X of the mineral interests in this property." The deed is not further identified, and there is no deed to any mineral interests to X on record. A now attempts to convey claiming a 40-year chain. The reference to a deed to X of a mineral interest is a general reference and is not specific enough to preserve the interest under Wyoming Statute § 34-10-104(a)(i). However, read as a whole, the root purports to create no more than a surface interest and the marketable record title can apply to no greater interest.

**Illustration 4:** Suppose that A acquired title to a tract of land over 40 years ago; but in this deed to A, there appears the following recital: "The grantors in this deed, John Smith and Mary Smith, hereby reserve unto themselves a life estate in this property, so long as they shall live" or other wording to that effect creating life interest. A is now attempting to convey good title and there is nothing on record to indicate any termination of the life estates of John and Mary Smith. The marketable record title of A shall be subject to the life estates of John and Mary Smith. The title examiner should require conveyances from John and Mary Smith or affidavits of death obtained and recorded.

**Illustration 5:** Suppose that there is a conveyance to A which was given over 40 years ago, and in this deed there is contained the following reservation: "The grantor, Frank Jones, hereby reserves unto himself, his heirs and assigns, the right to go upon said property and remove sand and gravel along Sand Creek which runs through this property." The marketable title of A shall be subject to this reservation by Frank Jones.

**Illustration 6:** A acquired title over 40 years ago and now attempts to convey this property to C. X has been using the east 15 feet of this property as a driveway, and the driveway is readily apparent to anyone who makes an inspection of the properties since it leads to X's garage and cuts across the yard of A. This driveway is a right arising from adverse possession by the user of this driveway even though there is no recorded easement on record. This illustration indicates that the Marketable Title Act recognizes acquisition of title by adverse possession (See Wyoming Statute § 34-10-104(a)(iii)). However, if X wishes to perfect and establish a marketable title to his easement, he should either obtain a written easement from A to his 15-foot tract that he is using as a driveway, or else establish a 10-year adverse possession by quiet title suit.

**Illustration 7:** A acquired title over 40 years ago, and he now attempts to convey by warranty deed to B. However, ten years ago X filed an affidavit in which he referred to this property specifically; and in this affidavit X says that he is in possession of this property by virtue of a contract of sale entered into between A and X. There is nothing further shown concerning any contract of sale or the interests of X, the purchaser under said contract of sale. This is a notice in accordance with Wyoming Statute § 34-10-104(a)(ii), and the marketable title shall be subject to this affidavit.

**Illustration 8:** Forty years ago A, by recorded deed, conveyed a certain tract of land to "B and heirs so long as the land is used for residence purposes," thus creating a determinable fee in B and reserving a possibility of reverter in A. Thirty years ago a deed to the land was recorded from B to C and his heirs "so long as the land is used for residence purposes, this property being subject to a possibility of reverter in A." At the end of the 40-year period dating from the records of the deed from A to B, C has a marketable record title to a determinable fee, which is subject to A's possibility of reverter.

**Illustration 9:** Suppose, however, that 43 years ago a deed was recorded conveying a certain tract of land from A, the owner in fee simple absolute, to "B and his heirs so long as the land is used for residential purposes"; and suppose, also, that 40 years ago, a deed was recorded by B to C and his heirs, conveying the same tract of land in fee simple absolute, in which no mention was made of any special limitation or of A's possibility of reverter. There being no other instruments of record at the expiration of the 40-year period from the date of the recording of the deed from B to C, C has marketable record title in fee simple absolute. His root of title is the deed from B to C and not the deed from A to B; and there are no interests in third parties or defects created by the "muniments of which such chain of record title is formed."

**NOTE:** The Wyoming Marketable Title Act is not effective: (a) To bar any lessor or his successor as a reversioner of his right to possession on the expiration of any lease; (b) To bar or extinguish the title to any railroad right-of-way or station grounds or to any easement created or held for any pipeline, highway, railroad or public utility purpose the existence of which is clearly observable by physical evidence of its use; (c) To bar or extinguish any water rights, whether evidenced by decrees, or by certificates or appropriation; (d) To bar or extinguish any title, estate or interest in and to any timber or any minerals (including without limiting the generality of that term, oil, gas and other hydrocarbons) and any development, mining, production or other rights or easements related thereto or exercisable in connection therewith; or (e) To bar any right, title or interest of the state of Wyoming and of the United States.

## STANDARD 4.8

**FORTY-YEAR POSSESSION IN LIEU OF FILING NOTICE:** If an owner of a possessory interest in land under a recorded instrument (1) has been in possession of such land for a period of forty years or more after the recording of such instrument, and (2) such owner is still in possession of the land, any marketable record title, based upon an independent chain of title, is subject to the title of such possessory owner, even though such possessory owner has failed to record any notice of his claim in accordance with Wyoming Statute § 34-10-106.

**Authority:** Wyoming Statutes § 34-10-106

**Similar Standards:** Model 4.8, Utah 52

**Illustration 1:** A was the last grantee in a chain of title to a tract of land recorded 41 years ago. There is no subsequent instrument of record in the chain of title from A. A has been in possession of this land since receiving title 41 years ago and continues in possession. Forty years ago there is a conveyance from X to Y. There are no other instruments with respect to the chain of title to this land. At present, ignoring any potential inherent defect through fraud in Y's root, both A and Y have a marketable record title. A did not file any notice as provided by Wyoming Statute § 34-10-106. However, Y is not in possession. It should be noted that A was not required to file any notice as provided in Wyoming Statute § 34-10-106 since he had been in possession of the land continuously for a period of 40 years, and his possession is deemed equivalent to the filing of a notice immediately preceding the termination of the 40-year period as described in Wyoming Statute § 34-10-106(a). As a result, Y's marketable record title is still subject to A's interest.

**Illustration 2:** Suppose that you have the same fact situation as set out in Illustration 1 above except for the fact that sometime within the last 30 years A went out of possession of this property and Y is now in possession. However, neither A nor Y has filed any notice as provided in Wyoming Statute § 34-10-106. Y is in possession, but his possessory interest does not extend back for a period of 40 years as required by the statute in order that his possessory interest shall be deemed equivalent to the filing of a notice. However, Y does have a 40-year root title which is subsequent to the title of A, and he should have a marketable record title, free of A's interest.

**Illustration 3:** Suppose that you have the same fact situation as set forth in Illustration 1. That is, A claims to have been in continuous possession for the past 41 years and is now in possession. However, A and Y both claim to be owners of this property. Y claims to be the owner because he has a 40-year root chain of title which is subsequent to A's chain of title, but A claims that he has been in possession continuously for the past 41 years. Since there is some dispute as to the facts of possession during the last 40 years, it is going to be necessary that a quiet title suit be instituted by either A or Y to determine the respective rights of both parties. The Wyoming Marketable Title Act does not establish a good title by adverse possession if there is some dispute between the parties concerning possession during the last 40 years.

## STANDARD 4.9

**EFFECT OF ADVERSE POSSESSION:** A marketable record title is subject to any title by adverse possession which accrues at any time subsequent to the effective date of the root of title, but not to any title by adverse possession which accrued prior to the effective date of the root of title if no notice of claim has been filed in accordance with Wyoming Statutes § 34-10-106.

**Authority:** Wyoming Statute § 34-10-104(a)(iii)

**Similar Standards:** Model 4.9, Kansas 23.8, Utah 53

**Illustration 1:** Suppose that A is the last grantee in a 40-acre tract of land which was recorded over 40 years ago. A enters into a contract to sell this property to B. Upon inspection of the premises, B finds that X is occupying a tract of land approximately one acre in size in the northwest corner of this 40-acre tract, and that there is a house on it and it has been fenced off. Upon further investigation, X claims that he has been in possession of this property for a period exceeding 20 years. Although A has a 40-year marketable record title, it is subject to X's adverse possession, which according to X continued for a period exceeding 20 years. This adverse possession title by X, however, must be perfected by a quiet title suit.

**Illustration 2:** Suppose you have a fact situation as follows: A is the last grantee in a deed to a tract of land which was recorded over 40 years ago. In the same year that the deed to A went on record, X entered into possession and claimed adversely for a period exceeding 10 years, but went out of possession over 40 years ago. Forty years ago, A conveys this property to B and B goes into immediate possession. No other instruments concerning the land appear of record. B now has a marketable record title which extinguished X's title by adverse possession which he acquired over 40 years ago and which he gave up over 40 years ago, prior to the effective date of B's root of title.

**Illustration 3:** Suppose that you have the same fact situation as above, except for the fact that X entered into possession and claimed adversely to all the world for a period exceeding 10 years, but went out of possession sometime within the last 40 years. In this case B has a marketable record title, but it is subject to X's title which he acquired by adverse possession since X has not been out of possession for at least 40 years. Therefore, a quitclaim deed should be obtained from X and his spouse, if married, or title quieted against him.

**STANDARD 4.10**

**EFFECT OF RECORDING INSTRUMENT OF CONVEYANCE DURING FORTY-YEAR PERIOD:** A marketable record title is subject to an instrument of conveyance recorded subsequent to the effective date of the root of title which shall have the same effect in preserving any interest conveyed as the filing of the notice provided for in Wyoming Statute § 34-10-106.

**Authority:** Wyoming Statute § 34-10-104(a)(iv)

**Similar Standards:** Model 4.10, Utah 54



#### STANDARD 4.11

**INTERESTS EXEMPTED:** Under Wyoming Statutes § 34-10-104 a marketable record title is subject to certain specified interests which are exempted from operation of the marketable title act. In order for such exemption to apply the interest must have been created, or in the case of a mineral estate it must have been severed from the surface rights, prior to the termination of the 40 year period subsequent to the opponents root of title.

**Authorities:** Wyoming Statutes § 34-10-104(a)(v) and § 34-10-108

**Illustration 1:** Over 40 years ago A conveyed this land to B; and in this conveyance there is the following reservation: "The grantor A does hereby reserve to himself and his heirs and assigns forever all of the mineral interests which lie under said land." B now attempts to convey to C, claiming that he has a clear title and that A has not exercised any right to enjoy the mineral rights. The title is good in B, but it is subject to the reservation of the mineral interests in A, and the 40-year chain does not bar the reservation of A.

**Illustration 2:** Suppose A acquired title to certain land 50 years ago under a recorded deed. Forty-five years ago, a stranger to the title conveyed the land by a recorded deed to B. Through recorded instruments, B conveyed to C 40 years ago and C conveyed to D 25 years ago. At the expiration of the 40-year period dating from the recording of the deed to C from B, D will have acquired marketable record title, provided A has filed no notice of claim or been continuously in possession of the land. If A conveys the minerals to X after the expiration of the 40-year period dating from B's deed, D will continue to hold a marketable record title in both the surface and mineral rights.

**STANDARD 4.12**

**QUITCLAIM DEED OR TESTAMENTARY RESIDUARY CLAUSE IN FORTY-YEAR CHAIN:** A recorded quitclaim deed or residuary clause in a recorded will can be a root of title or a link in a chain of title, for purposes of a forty-year record title under the Wyoming Marketable Title Act.

**Authority:** Wyoming Statute § 34-10-101(v), (vi)

**Similar Standards:** Model 4.10, Utah 55

### **STANDARD 4.13**

**FORTY-YEAR ABSTRACT:** The model marketable title act has not eliminated the necessity of furnishing an abstract of title for a period in excess of forty years.

**Authority:** Wyoming Statute § 34-10-108

**Similar Standards:** Model 4.10, Utah 56, Kansas 23.9

**NOTE:** Wyoming Section 34-10-108 names several interests which are not barred by the act, to-wit: rights of reversioners in leases, apparent easements and interests in the nature of easements, water rights, mineral and timber interests and interests of the state of Wyoming and of the United States. These interests must be determined from an examination of the abstract for a period beginning from Government Patent.

## STANDARD 4.14

**CONFLICTING MARKETABLE RECORD TITLES:** Where two or more “marketable record titles” (as defined in standard 4.2) exist, a conflict may be resolved by the operation of Wyoming Statutes § 34-10-105. Under said section, the holder of a “marketable record title holds free of interests, claims and charges the existence of which cannot be discovered by an examination of the records covering the period relied upon to make up the “unbroken chain of title of record.”

**Authority:** Wyoming Statutes § 34-10-105

**Similar Standards:** Michigan 1.7

**Illustration 1:** Suppose A acquired title to certain land 50 years ago under a recorded deed. Forty-five years ago, a deed from a stranger to the title conveying the land in question to B was recorded. Forty-one years ago B conveyed to C. Twenty-five years ago C conveyed to D. Nothing else appears of record affecting the title to the land, which is unoccupied. At present, therefore, A and D each has a “marketable record title” within the meaning of the Wyoming Marketable Title Act. A’s deed is an instrument recorded more than 40 years in the past which purports to create an interest in him; no deed in D’s chain purports to divest A of his interest; and there is no one in “hostile possession.” A thus has a “marketable record title.” D has an unbroken chain of title of record; there is nothing “purporting to divest” him of such interest, and there is no one in “hostile possession.” Thus D also has a “marketable record title.” D, however, holds free of A’s title. It is to be noted that although no deed “purports to divest” the interest of A, the deed from B to C nevertheless is an instrument which “purports to create” an interest in C and hence in B’s ultimate successor to title, D, and may therefore constitute the basis for the creation of a new “marketable record title” upon the expiration of 40 years from the date of its recording. Under Wyoming Statute § 34-10-105, the respective titles of A and D are held “free and clear of all interests . . . the existence of which depends upon any . . . transaction . . . that occurred prior to the effective date of the root of title.” It seems clear that the Wyoming Marketable Title Act benefits A with respect only to claims which arose prior to 50 years ago, because he must use his recorded deed of 50 years ago to make up his “unbroken chain of title of record.” § 34-10-105 does not benefit A with respect to D’s title which depends on transactions recorded subsequent to the inception of A’s title, and which could be discovered by an examination of the records covering the period upon which A relies. On the other hand, since the inception of D’s 40-year period was 41 years ago with the recording of the deed from B to C constituting the effective date of D’s root of title, D and his successors in interest are entitled to hold the title free and clear of the claim of A, whose title “depends . . . upon . . . (a) transaction . . . that occurred prior to the effective date of the root of title.” The existence of A’s claim cannot be ascertained by an examination of the records covering the period upon which D and his successors would rely to make up “the unbroken chain of title of record.” The stranger’s deed to B cannot serve as D’s root of title because of its inherent fraudulent defect.

**Illustration 2:** Suppose the same facts as in Illustration 1, except that X died intestate 40 years ago, his estate was probated, the land was inventoried therein, and the order assigning the residue of his estate recorded. Neither the heirs of X nor D is entitled to benefit of Wyoming Statute § 34-10-105 as against the other. D is not entitled to the benefit of § 34-10-105 as against the heirs of X, even though it is true that the title of such heirs “depends in part” upon the deed to A 50 years ago, which is a transaction occurring prior to the 40-year period relied upon by D and his successors. The Wyoming Marketable Title Act bans only those claims the existence of which cannot be ascertained by an examination of the records during the 40-year period. Since the deed from A to X, and the record of the probate of X’s estate are matters of record during the 40-year period upon which D relies, the Act does not operate in favor of D as against claims arising therefrom. By the same token, the heirs of X, although they have a “marketable record title” within the meaning of the Act, are not entitled to the benefits of § 34-10-105 as against D, since the transactions on which D depends are of record within the 40-year period following the inception of the title of the heirs of X. The competing claims must be adjudicated in accordance with other principles, since neither claimant is entitled, as against the other, to benefit of § 34-10-105 of the Act.

**Illustration 3:** Suppose that A is the last grantee in the regular chain of title to a certain tract of land by deed recorded 43 years ago. A deed from a stranger to the title conveying the land in question to X was recorded 42 years ago. Subsequent conveyances from X to Y and from Y to Z were recorded 40 and 30 years ago, respectively. Four years ago, A executed and recorded a notice under oath in conformance with Wyoming Statute § 34-10-106 and 34-10-107. Nothing else appears of record for the past 43 years affecting the title to the land, which is unoccupied. Neither A nor Z is entitled to the benefit of § 34-10-105 as against the other. Z is not entitled to the benefit of the Act as against A, because § 34-10-106 provides that “a person claiming an interest in land may preserve and keep effective” such interest by the filing for record of such a notice. The existence of A’s claim can be ascertained by an examination of the public records covering the period upon which Z relies to make up his “unbroken chain of record.”

**NOTE:** The Wyoming Marketable Title Act does not affect the operation of applicable statute of limitation or the doctrine of adverse possession (Wyoming Statute § 1-3-103). It is, therefore, possible that either A or Z may have extinguished the title of the other through open, notorious, continuous and adverse possession of the land in question for the statutory period.

**Illustration 4:** Assume that the same facts as Illustration 3, except that A executed and recorded his notice in conformance with Wyoming Statutes § 34-10-106 and 34-10-107 two years ago. Although A delayed the filing of his notice for more than 40 years from the time he acquired his interest, he acted within 40 years after the deed from X to Y was recorded, which is sufficient under the Act.

**Illustration 5:** Suppose that a certain tract of land was conveyed to A, B, and C, as tenants in common, by deed recorded 48 years ago. A deed from B and C purporting to convey the entire fee simple estate in the land to X was recorded 43 years ago. Subsequent conveyances from X to Y and from Y to

Z, of the entire fee simple estate in the land, were recorded 33 and 30 years ago, respectively. Nothing else appears of record for the last 48 years affecting the title to the land, which is unoccupied. Although A has a "marketable record title" to an undivided one-third interest in the land, Z has a "marketable record title" to the entire fee simple estate for the reasons set forth in Illustration 1. Z and his successors in interest are entitled to hold the title free and clear of A's claim because the latter's claim "depends . . . upon . . . (a) transaction . . . that occurred prior to the effective date of the root of title" of Z. The existence of A's claim cannot be discovered by an examination of the records covering the period upon which Z relies to make up his "unbroken chain of title of record."

**Illustration 6:** Suppose the chain of title is complete in Frank Jones who died, and his property was assigned over to X and Y in a probate court proceeding. The proceeding is over 40 years old. Suppose that 15 years ago Y conveyed to A the entire interest in this property, and A has conveyed to B, B to C, and C now claims to be the owner of the full title. All of the deeds are absolute conveyances with no restrictions or reservations whatever. The title is not good in C since his chain is not extended back at least 40 years. We have a situation here in which there is one root of title and two marketable record titles. X has a one-half interest and C has a one-half interest. Suppose, however, in the above illustration that this conveyance from Y to A was over 40 years ago, and it was an absolute conveyance and purported to convey the entire fee with no reservation or restrictions as to the undivided one-half interest in X. This conveyance over 40 years ago from Y to A started a new chain of title with a new root since it was an absolute conveyance with no restrictions or reservations, and A would have a good title since his conveyance extended back over 40 years and the creation of X's interest antedates C's root of title.

CHAPTER V  
STANDARD 5.1

**RULE OF IDEM SONANS:** Differently spelled names are presumed to be the same when they sound alike, or when their sounds cannot be distinguished easily, or when common usage by corruption or abbreviation has made their pronunciation identical.

**Similar Standard:** Model 5.1.

  
**STANDARD 5.2**

**USE OR NON-USE OF MIDDLE NAMES OR INITIALS:** The use in one instrument and non-use in another of a middle name or initial ordinarily does not create a question of identity affecting title, unless the examiner is otherwise put on inquiry.

**Similar Standard:** Model 5.2.






**STANDARD 5.3**

**ABBREVIATIONS:** All customary and generally accepted abbreviations of first and middle names should be recognized as the equivalent thereof.

**Similar Standard:** Model 5.3.




**STANDARD 5.4**

**RECITALS OF IDENTITY:** A recital of identity, contained in a conveyance executed by the person whose identity is recited, may be relied upon unless there is some reason to doubt the truth of the recital.

**Similar Standard:** Model 5.4.

**STANDARD 5.5**

**EFFECT OF SUFFIX:** Although identity of name raises the presumption of identity of person, the addition of a suffix such as "Jr." or "II" to the name of a subsequent grantor may rebut the presumption of identity with the prior grantee.

**Similar Standard:** Model 5.5.

## **STANDARD 5.6**

**VARIANCE BETWEEN SIGNATURE OR BODY OF DEED AND ACKNOWLEDGMENT:** Where the given name or names, or the initials, as used in a grantor's signature on a deed vary from his name as it appears in the body of the deed, but his name as given in the certificate of acknowledgment agrees with either the signature or the body of the deed, the certificate of acknowledgment should be accepted as providing adequate identification.

**Similar Standard:** Model 5.6.

### **STANDARD 5.7**

**STATEMENT INDICATING IDENTITY OF MARRIED WOMAN:** If, in a conveyance or mortgage by a married woman, there occurs in the body, signature or acknowledgment of such instrument a statement indicating her former name, that statement is sufficient evidence to show identity with her former name as grantee in a prior instrument, unless there is some reason to doubt the truth of the statement. Such a statement is implied where a surname is added to her former name.

**Similar Standard:** Model 5.7.

### **STANDARD 5.8**

**VARIANCE IN NAME OF WIFE:** If the grantees in one instrument of conveyance are “John Smith and Mrs. John Smith,” and the grantors in a succeeding instrument in the chain of title are “John Smith and Mary Smith,” further evidence should be required to show that Mrs. John Smith is the same person as Mary Smith. The same conclusion should be reached if the grantees were “John Smith and Mary Smith” and the grantors in a succeeding instrument in the chain of title were “John Smith and Mrs. John Smith.”

**Similar Standard:** Model 5.8.


**STANDARD 5.9**

**VARIANCE IN INDICATION OF SEX:** If a recorded instrument contains one or more personal pronouns indicating that a person named therein is of a certain sex; and a subsequent instrument in the chain of title contains one or more personal pronouns indicating that such person is of the opposite sex, such variance does not make the title unmarketable.

**Similar Standard:** Model 5.9.

CHAPTER VI  
EXECUTION, ACKNOWLEDGMENT, AND RECORDING  
STANDARD 6.1

**REMEDIAL EFFECT OR CURATIVE LEGISLATION:** The Comprehensive Curative Act, Wyoming Statutes, 1957, Sec. 34-107 through 34-111 is a valid remedial measure, and eliminates objections based upon the imperfections of title which fall within its scope. Action corrective of such imperfections is unnecessary.

**Similar Standard:** Model 6.1, Wyo., 14.



## STANDARD 6.2

**DATES: OMISSIONS AND INCONSISTENCIES:** Omission of the date of execution from a conveyance or other instrument affecting title does not, in itself, impair marketability. Even if the date of execution is of peculiar significance, an undated instrument will be presumed to have been timely executed if the dates of acknowledgment and recordation, and other circumstances of record, support that presumption.

Inconsistencies in recitals or indications of dates, as between dates of execution, attestation, acknowledgment, or recordation, do not, in themselves, impair marketability. Absent a peculiar significance of one of the dates, a proper sequence of formalities will be presumed notwithstanding such inconsistencies.

**Similar Standard:** Model 6.2.

### **STANDARD 6.3**

**DELIVERY; DELAY IN RECORDATION:** Delivery of instruments acknowledged and recorded is presumed in all cases. Specifically, delay in recordation, with or without record evidence of the intervening death of the grantor, does not dispel the presumption. As an added, exceptional protection to his client, an examiner may satisfy himself as to the facts by certain inquiries.

**Similar Standards:** Model 6.3, Wyo., 16.

  
**STANDARD 6.4**

**FEDERAL REVENUE STAMPS:** The absence of federal revenue stamps from an instrument or its record does not impair marketability or necessitate inquiry.

**Similar Standard:** Model 6.4, Wyo. 8.


## **STANDARD 6.5**

**CORRECTIVE INSTRUMENTS:** A grantor who has conveyed by an effective, unambiguous instrument, cannot, by executing another instrument, make a substantial change in the name of the grantee, decrease the size of the premises or the extent of the estate granted, impose a condition or limitation upon the interest granted, or otherwise derogate from the first grant, even though the latter instrument purports to correct or modify the former. However, marketability dependent upon the effect of the first instrument is not impaired by the second instrument.

**Similar Standard:** Model 6.5.

**STANDARD 6.6**

**NONCOMPLIANCE WITH THE STATUTORY ACKNOWLEDGMENT REQUIREMENTS:** Noncompliance with the statutory acknowledgment requirements does not, in itself, impair marketability unless the record discloses evidence of an adverse interest.



**STANDARD 6.7**

**OMISSION OF EXPIRATION DATE:** Omission of date of expiration of term of office of acknowledging officer does not impair marketability of title.



**CHAPTER VII**  
**DESCRIPTIONS**  
**(Reserved)**

**CHAPTER VIII**  
**THE USE OF AFFIDAVITS AND RECITALS**  
**STANDARD 8.1**

**IN GENERAL:** (1) Employment of affidavits and factual recitals in conveyances is sound, liberal practice. Adequate affidavits or recitals should be accepted and relied upon in conformity with statutes providing for their use, in accordance with these standards, and in keeping with recognized liberal usage.

(2) Absent extraordinary circumstances, they should not be accepted in lieu of the usual, recognized conveyancing, probate or judicial procedures. They should not be required unless there is a definite need for explanation or supporting evidence.




**STANDARD 8.2**

**WHOSE AFFIDAVITS OR RECITALS ACCEPTABLE:** Affidavits or recitals should be made by persons competent to testify in court, state facts, rather than conclusions, and disclose the basis of the maker's knowledge. The value of an affidavit or recital is not substantially diminished by the fact that the maker is interested in the title or the subject matter of the affidavit or recital.


**STANDARD 8.3**

**CERTIFICATES OF DEATH, BIRTH, OR MARRIAGE PREFERRED:**

In general, certified copies of certificates of death, birth, and marriage are preferable to affidavits or recitals to establish the facts of death, birth, and marriage.

CHAPTER IX  
MARITAL INTERESTS  
STANDARD 9.1

**RECITAL OF STATUS; NO SHOWING OF MARRIAGE:** Where the record chain of title does not show that a grantor was ever married, a conveyance by him or her as single, unmarried, widow or widower is sufficient indication of marital status without inquiry or further evidence.

**Similar Standard:** Model 9.1.

## **STANDARD 9.2**

**WIDOW OR WIDOWER:** Designation of a grantor as “a Widow” or “a Widower” is equivalent, insofar as the existence of marital interests is concerned, to the designations “a single woman” or “a single man.”

**Similar Standard:** Model 9.2.


**STANDARD 9.3**

**RECITAL OF STATUS; MARRIAGE SHOWN:** Where the record chain of title shows that a grantor had been married, a conveyance by him or her as widow or widower, is sufficient as a recital of the death of the spouse and of the fact that the grantor had not remarried.

**Similar Standard:** Model 9.3.

#### **STANDARD 9.4**

**RELEASE BY JOINDER:** If the spouse of the owner has joined in the execution and acknowledgment of a conveyance in which the statutory release of homestead appears, the fact that the name of the spouse does not appear on the deed, and the fact that no mention is made of the marital interest of the spouse, do not prevent effective release of the marital interest or require corrective action.

**Similar Standard:** Model 9.4.

### **STANDARD 9.5**

**BAR OR PRESUMPTION OF NON-EXISTENCE OF MARITAL 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 instruments of record for not less than ten (10) years unless such marital interest has been established or asserted by proceedings or other matters of record. Inquiry or corrective action is unnecessary.

**Similar Standard:** Model 9.7.

**CHAPTER X**  
**CO-TENANCIES**  
**STANDARD 10.1**

**CONVEYANCES BY CO-TENANTS:** While title is in two or more persons, including spouses, in any form of co-tenancy, an otherwise effective conveyance by them without reference to the tenancy is sufficient. An erroneous reference to the type of tenancy, or an indication of a mistaken impression as to the type of tenancy is unobjectionable. After all co-tenants have effectively conveyed, all questions as to the type of tenancy which existed are moot, and any indication of a mistaken impression by the co-tenants or their grantor as to the type of tenancy which existed is unobjectionable.

**Similar Standard:** Model 10.1.





## STANDARD 10.2

**ONE GRANTEE:** A conveyance to a single grantee, although purporting to convey to joint tenants or being a joint tenancy form of deed, should be treated as a conveyance to the named grantee only and requires no corrective action.



**Similar Standard:** Model 10.2.



**STANDARD 10.3**

**IDENTIFICATION AND MARITAL RELATIONSHIP OF PLURAL GRANTEES:** The failure to identify or state the marital relationship of plural grantees in a conveyance does not impair marketability if such identity or relationship is otherwise established by or can be readily inferred from, other recorded instruments, acknowledgments or affidavits.

**Similar Standard:** Model 10.3.

CHAPTER XI  
CONVEYANCES BY AND TO TRUSTEES  
STANDARD 11.1

**EFFECT OF DESIGNATION "TRUSTEE":** When the word "trustee" follows the name of a party to an instrument, and neither this instrument nor any other recorded instrument in the chain of title sets forth a definition of the trust or the powers of such person, a title from such person can be approved without any investigation of the powers of such person to convey.

**Similar Standard:** Model 11.1.

**CHAPTER XII**  
**CORPORATE CONVEYANCES**  
**STANDARD 12.1**

**NAME VARIANCES:** Corporations are satisfactorily identified although their exact names are not used and variations exist from instrument to instrument if, from the names used and other circumstances of record, identity of the corporation can be inferred with reasonable certainty. Among other variances, addition or omission of the word "the" preceding the name; use or non-use of the symbol "&" for the word "and"; use or non-use of abbreviations for "company", "limited," "corporation" or "incorporated"; affidavits and recitals of identity may be used and relief upon to obviate variances too substantial or too significant to be ignored. Where a place or location preceded by "of" or "in" is a part of the title of a corporation and a variance relative thereto appears in the record, it is proper to require the execution of another instrument or an appropriate showing of identity.

**Similar Standard:** Model 12.1, Wyo., 3.


**STANDARD 12.2**

**NAME OMITTED FROM SIGNATURE:** The signature to a corporate instrument is sufficient notwithstanding the omission of the corporate name over the signature of the signers, if the corporation appears in the body of the instrument as the party to the instrument, the person signing the instrument is identified as an officer of the corporation, and the instrument is otherwise properly executed and acknowledged.

**Similar Standard:** Model 12.2, Wyo., 12.

**STANDARD 12.3**

**AUTHORITY OF PARTICULAR OFFICERS EXECUTING INSTRUMENTS:** Where an instrument of a private corporation appears in the title, and the instrument is executed, acknowledged and sealed in proper form, the examiner may assume that the persons executing the instrument were the officers they purported to be, and that such officers were authorized to execute the instrument on behalf of the corporation.

**Similar Standard:** Model 12.3.


**STANDARD 12.4**

**CORPORATE EXISTENCE:** Where an instrument of a private corporation appears in the title, and the instrument is executed in proper form, the examiner may assume that the corporation was legally in existence at the time the instrument took effect.

**Similar Standard:** Model 12.4.

  
**STANDARD 12.5**

**ULTRA VIRES:** Where an instrument of a private corporation appears in the title, an examiner may assume that the corporation was authorized or not forbidden to acquire and sell the real property affected by the instrument.

**Similar Standard:** Model 12.5.




**STANDARD 12.6**

**FOREIGN CORPORATIONS:** Where an instrument of a corporation organized and doing business under the laws of another state appears in the title, an examiner need not inquire whether such corporation was authorized to do business in this state or to acquire and dispose of the real property affected by the instrument.

**Similar Standard:** Model 12.6

**CHAPTER XIII**  
**CONVEYANCES INVOLVING PARTNERSHIPS AND**  
**UNINCORPORATED ASSOCIATIONS**

**STANDARD 13.1**

**CONVEYANCE OF REAL PROPERTY HELD IN PARTNERSHIP NAME:** Real property acquired by a partnership and held in the partnership name may be conveyed only in the partnership name. Any conveyance from the partnership so made, and signed by one or more members of the partnership, which conveyance appears to be executed in the usual course of partnership business, shall be presumed to be authorized by the partnership in the absence of knowledge of facts indicating a lack of authority; and the recitals in the instrument of conveyance shall be accepted as sufficient evidence of such authority.

**Similar Standard:** Model 13.1.

### **STANDARD 13.2**

**AUTHORITY OF ONE PARTNER TO ACT FOR ALL:** When real property is held by a partnership, and a conveyance is made on behalf of the partnership by one or more, but less than all, of the partners, and the conveyance appears to be executed in the usual course of partnership business, it is presumed, in the absence of evidence to the contrary, that the conveyance was made by the partner or partners executing it for the purpose of carrying on in the usual way the business of the partnership; and no further evidence of authority of such partner or partners to execute the instrument should be required by the title examiner.

### **STANDARD 13.3**

**NO MARITAL RIGHTS IN PARTNERSHIP REAL PROPERTY:** No homestead rights attach to the interest of a married partner in specific partnership real property. If by recitals in instruments in the chain of title, or otherwise, it appears that partnership real property was conveyed, the title examiner should not require any evidence of release or non-existence of such marital rights.

**Similar Standard:** Model 13.3.

#### **STANDARD 13.4**

**CONVEYANCE OF PARTNERSHIP REAL PROPERTY AFTER DEATH OF A PARTNER:** After the death of a partner, real property owned by the partnership may be conveyed by the surviving partner or partners. After the death of the last surviving partner, the partnership property may be conveyed by his legal representative. The title examiner should make the same requirements for a showing of the record of the decease of a tenant in partnership, or of the devolution of title to the estate of the last surviving tenant in partnership, as is made on the death of a joint tenant or the last surviving joint tenant.

**Similar Standard:** Model 13.4.

**STANDARD 13.5**

**CONVEYANCE TO UNINCORPORATED ASSOCIATION:** A conveyance to an unincorporated association does not operate to vest title in such association.

**Similar Standard:** Model 13.5.

**STANDARD 13.6**

**CONVEYANCE OF REAL PROPERTY TO UNINCORPORATED ASSOCIATION:** Where, according to the terms of a recorded conveyance, real property has been acquired in the name of an unincorporated association, other than a partnership, which does not include any of the names of the members of the unincorporated association, the grantor in such conveyance, or his heirs or devisees, should execute a new conveyance to the individual members of the unincorporated association as tenants in common "doing business under the firm name of \_\_\_\_\_ (stating the unincorporated association name)." Thereupon a conveyance from the unincorporated association should be approved if it is executed by all such members and the instrument states that they are all members of the unincorporated association.

CHAPTER XIV  
TITLE THROUGH DECEDENTS' ESTATES  
STANDARD 14.1

**FINALITY OF DECREE OF DISTRIBUTION:** A decree of distribution contrary to the terms of an admitted will or statutes of descent does not make a title based upon such decree unmarketable if the decree has not been appealed from and the time for appeal has expired.

**Similar Standard:** Model 14.1.



  
**STANDARD 14.2**

**JUDGMENTS AGAINST HEIRS:** Where a will directs the executor to sell real estate and such sale is made, judgments against the heirs do not constitute a lien on the land so sold, and the abstract need not disclose a search therefor.

**Similar Standard:** Model 14.2.


**CHAPTER XV**  
**JUDGMENTS**  
**STANDARD 15.1**

**NO EXECUTION ON JUDGMENT AFTER 5 YEARS:** A money judgment upon which no execution has been issued for 5 years shall not be treated as a lien or defect of title.

**STANDARD 15.2**

**NECESSITY FOR COMPLETE JUDICIAL PROCEEDINGS:** A decree, judgment or order entered by a Wyoming court outside the county in which the land is situated will be presumed to be valid without examination of the preceding court record if jurisdictional facts are recited therein and the same has been of record for three months.

CHAPTER XVI  
MORTGAGES AND MORTGAGE FORECLOSURES  
STANDARD 16.1

**MORTGAGE RECORDED PRIOR TO DEED:** The validity of a mortgage is not impaired by the fact that it is recorded prior to the recording of the instrument by which ownership is acquired, except to the extent that rights of third parties may have intervened.

**Similar Standard:** Model 16.1.

  
**STANDARD 16.2**

**AFTER-ACQUIRED TITLE:** A mortgage containing words of warranty given by a person then having no title, but subsequently acquiring it, is valid except to the extent that rights of third parties are involved.

**Similar Standard:** Model 16.2.


### **STANDARD 16.3**

**DEED FROM MORTGAGOR TO MORTGAGEE:** (1) Marketability is not impaired by the fact that title is derived through a conveyance from an owner to the holder of a mortgage. In the absence of an affirmative indication of record that the conveyance was given as additional security, or that the mortgagor has or claims grounds for setting aside the conveyance, inquiry is unnecessary, whether title is held by the mortgagee or by a grantee from him.

(2) Marketability is not impaired by an undischarged mortgage where a warranty deed has been made by a person who was both record holder of the mortgage and record title holder. Inquiry, or discharge of the mortgage, is unnecessary unless the record affirmatively discloses an intention that the mortgage continue in effect.

**Similar Standard:** Model 16.3.

#### **STANDARD 16.4**

**IRREGULARITIES AND DISCREPANCIES IN DISCHARGES:** A discharge of a mortgage is sufficient notwithstanding errors in dates, amounts, book and page of record, property descriptions, names and position of parties, and other information, if, considering all circumstances of record, sufficient data are given to identify with reasonable certainty the security interest sought to be discharged. A quitclaim deed is sufficient as a discharge if, from circumstances of record, it can be inferred with reasonable certainty that discharge was intended.

**Similar Standard:** Model 16.4, Wyo., 7.

**STANDARD 16.5**

**TITLE THROUGH FORECLOSURE; FAILURE TO RELEASE:**  
Marketability of a title derived through foreclosure of a mortgage is not impaired by failure to release of record the instrument which created the interest foreclosed, or any instrument which created a junior lien or interest which was extinguished by the foreclosure.

**Similar Standards:** Model 16.5, Wyo., 19.



**STANDARD 16.6**

**RELEASE OF ASSIGNMENT OF RENTS:** Failure to release an assignment of rents does not impair marketability if, from the record, it can be determined or inferred with reasonable certainty that any release of the encumbrance shall operate as a release of the assignment or that the assignment was given as additional security for an obligation secured by a mortgage which has been discharged of record.

**Similar Standards:** Model 16.6, Wyo., 10.

**STANDARD 16.7**

**RELEASES; CORRECTION OR RE-RECORDED MORTGAGE:**

Where a mortgage is followed by another which can be determined from the record to have been given to correct or modify the former, or to be a re-recording of the former, or to secure the same obligation, marketability is not impaired by a failure to discharge one of the mortgages if the other is discharged of record.

**Similar Standards:** Model 16.7, Wyo., 6.

**STANDARD 16.8**

**RELEASE OF LIEN BY ONE JOINT OBLIGEE:** A release of any lien given by any one of two or more joint obligees shall be sufficient release of the lien.

**STANDARD 16.9.**

**ENCUMBRANCES UPON DOMINANT INTERESTS:** In cases of a sale or mortgage of an interest subject to another interest, as, for example, a fee simple title subject to an easement, encumbrances upon and problems connected with the dominant or superior interest are immaterial to the interest being transferred and to its title. Abstract entries, and references in title opinions or certificates, pertinent to such encumbrances and problems are unnecessary and immaterial.

**Similar Standard:** Model 16.9.

**CHAPTER XVII**  
**MECHANICS' LIENS**  
**STANDARD 17.1**

**NO RELEASE OF LIEN NECESSARY:** A materialmen's, mechanics' miners' or oilwell drillers' lien may be disregarded after lapse of the time within which suit for foreclosure may be filed, unless proceedings for its foreclosure have previously been commenced; and no release shall be required by the title examiner.

**Similar Standard:** Model 17.1.



**STANDARD 17.2**

**RECITALS OF OWNERSHIP:** The statement of ownership in a mechanics' lien statement shall be disregarded by a title examiner.

**Similar Standard:** Model 17.2.



**CHAPTER XVIII**  
**TAX TITLES**  
**(Reserved)**

**CHAPTER XIX**  
**BANKRUPTCY**  
**(Reserved)**



**CHAPTER XX**  
**FEDERAL TAX LIENS**  
**STANDARD 20.1**

**FEDERAL TAX LIENS:** It is not necessary to maintain in the opinion the possibility of claims under federal laws which do not show upon local records.

**CHAPTER XXI**  
**SOLDIERS' AND SAILORS' CIVIL RELIEF ACT**  
**STANDARD 21.1**

**JUDICIAL PROCEEDING PRESUMED TO COMPLY WITH ACT:** The Soldiers' and Sailors' Civil Relief Act of 1940 and amendments thereto, are solely for the benefit of those in military service, and, if the court has presumed to take jurisdiction and there is nothing in the record that would affirmatively indicate that any party affected by the court proceedings was in military service, the form of the affidavit as to military service or its entire absence from the record does not justify the rejection of the title.

**Similar Standard:** Model 21.1.

**CHAPTER XXII  
MISCELLANEOUS  
STANDARD 22.1**

**NON-JURISDICTIONAL DEFECTS IN COURT PROCEEDINGS:**  
Defects or irregularities in court proceedings not involving jurisdiction should be disregarded. Among such matters may be mentioned misjoinder or parties or actions and existence of other than jurisdictional grounds.

**Similar Standard:** Model 22.1, Wyo., 5.

**STANDARD 22.2**

**FAILURE TO RELEASE NOTICE OF LIS PENDENS:** An unreleased notice of the pendency of proceedings does not impair marketability after the noticed proceedings have terminated.

**Similar Standard:** Model 22.2.

**STANDARD 22.3**

**QUITCLAIM DEEDS:** The fact that a conveyance necessary to the chain of title, including the conveyance to the proposed grantor, is a quitclaim deed does not impair marketability or necessitate inquiry or corrective action.

**Similar Standard:** Model 22.3.