

**RULES RELATING TO  
STANDARDS FOR  
TITLE EXAMINATION  
CATTARAUGUS COUNTY BAR ASSOCIATION**

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**RULES RELATING TO  
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**October 18, 2012**

**1. ABSTRACT OF TITLE**

**(a)** Only abstracts of title, made with a proper certificate by an incorporated abstract company, recognized by Section 4523 of the CPLR, are deemed acceptable and sufficient evidence of title.

**(b)** To be acceptable, a search shall show a chain of title (1) beginning with a warranty deed, recorded at least fifty years prior to the date of the last certificate; or (2) beginning with a deed recorded at least eighty years prior to the date of the last certificate from any of the following having the power to convey: Executor, Administrator, Trustee, Guardian, Referee, Sheriff; or, all of the distributees of a decedent, as grantors or grantees, by one or more deeds.

**(c)** In all searches the last certificate of the abstract company must certify title at least for the period covered in Subsection (b) above.

**(d) Bankruptcy Searches:** The party required to furnish a title search in a real estate transaction shall not be required to furnish a bankruptcy search of records outside of Cattaraugus County provided the title search of records in Cattaraugus County does not disclose anything indicating a bankruptcy. (See Rule 25, Bankruptcies)

**2. ABSTRACT CHARGES**

Search continuation charges to the time of closing to show the recording of the Deed, Mortgage, etc. given at closing shall be the expense of the Seller.

**3. TAX SEARCHES**

**(a)** Searches for tax deeds as shown by County records, made by an incorporated abstract company, covering a period of ten years, and receipts for current taxes or statements of the amounts thereof, shall be furnished by the Seller.

**(b)** The seller shall provide and pay for local tax searches from proper local officials showing the status of payment of taxes, and water, sewer, paving and other assessments for a period of ten (10) years as to those taxes and other items not returned to the County Treasurer. It is the seller's obligation with respect to all unpaid items in the report to pay the same or make adequate provisions with the purchaser for the payment of same, at or prior to closing.

#### **4. PROOF OF HEIRSHIP**

In the absence of recitals in conveyances described in Section 341 of the RPA&P Law, the following will be accepted as proof of devolution of title by descent:

(a) When a deed from the supposed heirs of a former owner who died intestate has been recorded for more than ten years and the only proof that such grantors are the only heirs contained in a statement in the transfer or estate tax petition by a person who under ordinary circumstances would be presumed to know the heirs of the decedent to the effect that they are the only persons interested in the estate of the decedent, further proof will not be required.

(b) Proof of heirship may also be furnished by administration or other judicial proceedings showing the heirs, appearing on the search, or by recitals in deeds, or in the affidavit of a person having knowledge of the persons involved.

#### **5. SURVIVORSHIP**

The following will be accepted as proof of death and of the survivorship of a joint tenant or a tenant by the entirety:

(a) A transfer tax return made by a relative of the blood or by affinity or by the surviving joint tenant or tenant by the entirety.

(b) The recording or filing in the appropriate County office of a Death Certificate which is properly certified, together with an Affidavit made by someone having knowledge of the facts, connecting the decedent for whom the Death Certificate was obtained and the person concerned in the chain of title. The Affidavit should reference a Liber and page and/or Surrogate ● s file number, thereby connecting the decedent for whom the Death Certificate was obtained and the person concerned in the chain of title.

#### **6. INHERITANCE BY SURVIVING SPOUSE**

If there is an intestacy where the surviving spouse would receive the whole estate only if it was less than a stated statutory amount, title from such surviving spouse individually should not be accepted based on affidavit showing assets to be under such figure because of the possibility of undisclosed or undiscovered assets, but a proceeding for leave to sell, or an accounting proceeding, or deeds or releases from all possible distributees should be required.

A deed from a surviving spouse which contains recitals or is accompanied by an Affidavit containing recitals as to the value of the estate will be acceptable evidence of the value of the estate where the deed has been on record for at least twenty-five years.

## **7. POSTHUMOUS - AFTER BORN CHILDREN**

When the record fails to show whether or not any child of a decedent was born after the death of the decedent or after the date of the decedent's Will and reasonable effort is made to determine the above, the question may be disregarded if thirty years have elapsed since the date of the death of the decedent and the estate is out of title.

## **8. DOWER AND CURTESY**

Release of dower or curtesy shall not be required where a period of fifty years or more has elapsed since the conveyance, descent or other disposition of the property, wherein the possibility of an outstanding dower or curtesy interest became apparent. (Dower and Curtesy were abolished by statute effective September 1, 1930. Real Property Law, Article 6, particularly sections 189 and 190.)

## **9. LIFE ESTATES**

Where a deed or other instrument in which a life tenancy is reserved or created has been on record for at least seventy-five years, it may be presumed that the life tenant is deceased and title may be passed. However, the Purchaser's attorney may require an affidavit that neither the life tenant nor anyone claiming under the life tenant is in possession of the premises, has made any claim against the premises within the past ten years and is not known to be alive.

## **10. TRUST DEEDS**

**(a) Prior Conveyances:** Objection shall not be made on the sole basis of a deed made by a party in a chain of title who was identified as a trustee provided such deed by the trustee or as grantor has been of record more than ten years.

**(b)** Where the deed has not been of record more than ten years:

**(1)** The trust instrument or a memorandum of relevant portions thereof must be recorded in the County Clerk's office together with an Affidavit that the trust was in full force and effect at the time of the conveyance.

**(2)** The documents as recorded must show that the Trustee had the power to acquire and hold real estate and the power to sell, mortgage or lease the same as the case may be.

**(b) Conveyances by a Trustee:**

**(1)** Where it is proposed that a grantee accept a trustee's deed, the trust instrument or a memorandum of relevant portions thereof must be recorded in the County Clerk's office together with an Affidavit that the trust is still in full force and effect.

**(2)** The documents as recorded must show that the Trustee had the power to acquire and hold real estate and has the power to sell, mortgage or lease the same as the case may be.

## 11. UNDISCHARGED MORTGAGES OF RECORD:

(a) **Merger with Fee:** Objection shall not be made on the sole basis of an undischarged mortgage which has apparently merged with the fee if followed by a deed executed by the owner in whom the title interest merged, or the owner's representatives, successors or assigns.

(b) **Ancient Mortgages:** All mortgages appearing of record for more than 50 years need not be discharged by appropriate proceedings provided proof of nonpayment of principal or interest for at least six years last past is obtained.

(c) **12 Years of Nonpayment After Maturity:** Objection shall not be made on the sole basis that a mortgage having a maturity date more than 12 years prior to the date of examination remains undischarged or the premises unreleased of record provided an Affidavit is provided, in recordable form, containing a statement that no payment of any sums has been made pursuant to the terms of said mortgage, nor has any demand for such payment been made, for 12 years prior to the date of examination.

(d) **Maturity Unknown, 40 Years after Recording, 12 Years Nonpayment:** Objection shall not be made on the sole basis that a mortgage which does not contain a maturity date and which is recorded more than 40 years prior to the date of examination remains undischarged or the premises unreleased, of record, provided an Affidavit is provided, in recordable form containing a statement that no payment of any sums has been made pursuant to the terms of said mortgage, nor has any demand for such payment been made, for 12 years prior to the date of examination.

(e) **Institutional Mortgages Paid in Full:** Objection shall not be made on the sole basis that a mortgage, which appears from the record to be held by a banking institution, remains undischarged or the premises unreleased of record provided an Affidavit is provided, in recordable form, containing a statement that no payment of any sums has been made pursuant to the terms of said mortgage, nor has any demand for such payment been made, for eight years prior to the date of examination.

This standard shall not apply to mortgages without fixed amortization; that is "credit line mortgages" and "reverse mortgages" granted pursuant to real Property Law Section 281, Section 280 and Section 208-a.

The Affidavit shall also establish with documentary evidence that payment in full was transmitted to the lender eight years prior to the date of examination. The documentary evidence shall take the form of a copy of a statement from the lender establishing a final balance and a copy of the letter transmitting that balance to the lender.

## 12. DISCHARGE OF ENCUMBRANCES

In the event that an encumbrance is recorded the purpose of which is to correct a prior encumbrance and a subsequent release or satisfaction is recorded releasing or satisfying one encumbrance but not specifically releasing or satisfying the other, such a release or satisfaction is sufficient to release or satisfy both.

**13. DISCHARGE OF MORTGAGE - CLERICAL ERROR**

Objection should not be made in respect to a Discharge of Mortgage recorded more than fifteen years prior to the examination date because of clerical errors or omissions in the instrument of discharge, providing the mortgage is reasonably identified.

**14. UNRECORDED MORTGAGE**

Recital of an unrecorded mortgage in a deed of record for twenty years or more may be passed on proof that for six years or more last past no principal or interest has been paid or demanded and no knowledge was had by the owner during that period of said unrecorded mortgage.

**15. OPEN LIS PENDENS**

If no Judgment has been entered, a Lis Pendens will be disregarded if the mortgage has been satisfied, unless the question of an attorney's lien is present.

**16. UNITED STATES AND NEW YORK STATE ESTATE TAX, DISPOSITION BY AFFIDAVIT:**

Objection shall not be made on the sole basis of the actual or potential existence of a lien arising out of the nonpayment of any United States Estate Tax or New York Estate Tax on property forming a part of a decedent's gross estate, if an Affidavit is recorded, made on actual knowledge, stating:

- A. The identity of the party making the Affidavit and the relationship of the party to the estate;
- B. The decedent's name, date of death and ownership interest in property;
- C. No Federal Estate Tax Return was filed or is expected to be filed. Decedent's estate (as defined by the Internal Revenue Code, including those provisions of the Code which require a lowering of the threshold for filing an estate return because of pre-death gifts) was not large enough to require that a Federal Estate Tax Return be filed; and
- D. No New York Estate Tax Return was filed or is expected to be filed. Decedent's estate as defined by the New York Tax Law, including those provisions which require a lowering of the threshold for filing an estate return because of pre-death gifts did not exceed \$\_\_\_\_\_.
- E. A diligent search has been made for all estate assets.
- F. The appropriate threshold for Federal or New York State Estate taxes may be found on the Internet.

## **16 A. UNITED STATES AND NEW YORK ESTATE TAX ALTERNATE DISPOSITION:**

(The Federal Estate Tax ceases to a lien 10 years after the date of death. The New York State Estate Tax ceases to be a lien 15 years after the date of death.)

Objection shall not be made on the sole basis of the actual or possible existence of a lien arising out of the non-payment of any New York or United States Estate Tax on real property forming a part of a decedent's gross estate where the decedent's interest in the real property during his or her lifetime was that of a joint tenant, life tenant or tenant by the entirety and the transfer in question is one being made by the surviving joint tenant, remainderman or tenant by the entirety (or their successors) provided the instrument of conveyance contains a recital that the conveyance is made for a full and adequate consideration, or other satisfactory proof is available to show that the transfer is to a bona fide purchaser for value and for fair consideration as set forth in Section 6324 of the Internal Revenue Code and Section 975(e) of the New York Tax Law.

[The provisions above would usually be satisfied by the appearance of a purchase money third party mortgage in the chain of title or by adding the following recitation to the deed.

“This conveyance is made for a full and adequate consideration to a bona fide purchaser for value and for fair consideration as set forth in Section 6324 of the Internal Revenue Code and Section 975(e) of the New York Tax Law.”]

## **16 B. TENANCIES BY THE ENTIRETY – NEW YORK ESTATE TAX ONLY**

For Decedents dying on or after May 26, 1990; objection shall not be made on the sole basis of the potential existence of a lien arising out of the non-payment of any New York Estate Tax on real property forming a part of a decedent's gross estate where the decedent's interest in the real property during his or her lifetime was that of a tenant by the entirety as set forth in Section 975(e) of the New York Tax Law.

## **17. VARIATION OF NAMES**

The identification of persons with variation of name or initial, or the impossibility of dower or curtesy in the chain of title, shall be acceptable if established by affidavit.

## **18. DEED TRANSFER TAXES AND MORTGAGE TAXES**

**(a)** The omission of a receipt for or proof of payment of deed taxes on the deed does not affect marketability of title of the premises therein described.

**(b)** In the absence of special agreement, deed transfer taxes shall be paid for by the seller of the real property and the mortgage tax and recording fees for any mortgage shall be paid for by the mortgagor, except that the Special Additional Mortgage Tax shall be paid for by the mortgagee.



## **19. ACTION - LOST PAPERS**

Objection should not be made to title derived through an action or proceeding conducted more than thirty years prior to the examination date because of inability to find certain pleadings, orders, decrees, or judgments on file in the office of the clerk of the court in which the action or proceeding was conducted, provided:

(a) That the Clerk's register or other index shows that the missing pleading, order, decree or judgment was filed in said office; or

(b) That the conveyance given pursuant to the judgment or final decree in such action or proceeding recites the making or granting of the missing pleading, order, decree or judgment.

## **20. ACKNOWLEDGMENTS**

Objections shall not be made because of any defect or invalidity in acknowledgments after the acknowledged document has been recorded or filed for fifteen years.

## **21. AFFIDAVITS BY INTERESTED PARTIES**

Affidavits made by interested parties are acceptable provided the affidavit shows proper circumstances under which, and proper means through which, the affiant has knowledge of the facts included therein.

## **22. BREAKS IN CHAIN OF TITLE**

Title affecting improved or cultivated land as distinguished from wild land should not be rejected because of any break or hiatus in the chain of title which occurred over eighty years prior to the examination date.

## **23. CORPORATION DEED**

(a) If a deed is dated and recorded before the certificate of incorporation of the grantee is filed and a confirmatory deed is obtained from the grantor to the corporation after the filing of the certificate, the deed will be passed as such without any further requirement of consent from stockholders of the grantee.

(b) If a deed is dated before the certificate of incorporation of the grantee is filed and the deed is recorded on the same day as the certificate is filed or on a later day, the deed will be passed as such without further requirement.

(c) A deed from a corporation to a grantee who from the record appears to be an officer, director, or stockholder of the grantor corporation or a grantee obviously related to such a person may be passed without question where the title has reached a Purchaser for value. The same rule may be applied to a conveyance from a corporation to a corporate grantee having interlocking directors or stockholders.

**24. CORPORATION - FILING CERTIFICATE - PROOF OF EXISTENCE**

Where a corporation is out of title more than 15 years, no proof of its incorporation need be required.

Where a corporation has held title within the last 15 years, any one of the following will be accepted as proof of incorporation:

- (a) Proof of corporate existence, prior to the transaction in question, is filed and/or recorded in the County in which the corporation is located.
- (b) A certified copy of the Certificate of Incorporation together with  
A Certificate of good standing from the State of incorporation or
- (c) An Affidavit made on knowledge, by one of the attorneys for the parties to a transaction, that an examination of the “Corporation and Business Entity Database” of the New York State, Department of State reveals that (e.g. xxx, INC.) made an initial filing with the Department of State on mm/dd/yy as a (e.g. Domestic Business Corporation).

A copy of the Department of State search shall be annexed to and incorporated by reference in the Affidavit.

**25. LLC TAX STATUS AND PROOF OF ENTITY EXISTENCE - LIMITED LIABILITY COMPANY, NOT-FOR-PROFIT CORPORATION, AND LIMITED PARTNERSHIP**

(a) Objection shall not be made on the sole basis of Limited Liability Company, Not-For-Profit Corporation, Limited Partnership, and Limited Liability Partnership existence when its existence prior to the transaction in question is established by proof recorded in the county in which the property is located.

The following will be accepted as proof of a Limited Liability Company’s, Not-For-Profit Corporation’s, Limited Partnership’s, or Limited Liability Partnership’s existence:

- (1) A recorded certified copy of the entity’s initial filing receipt issued by the New York Department of State, or
- (2) An Affidavit made on knowledge, by one of the attorneys for the parties to a transaction and recorded in the County Clerk’s office, that an examination of the “Corporation and Business Entity Database” of the New York State Department of State reveals that (e.g., xxx LLC) made an initial filing with the Department of State on mm/dd/yyyy as a (e.g., Domestic Limited Liability Company).

A copy of the Department of State search shall be annexed to and incorporated by reference in the Affidavit.

(b) Absent indication to the contrary, an Affidavit made on knowledge by the attorney for a Limited Liability Company that the Limited Liability Company has not elected to be taxed as a corporation may be accepted without further proof of the nonexistence of New York franchise tax liens.

## 26. TAX DEEDS

### (a) In Rem Foreclosure

(1) Title should not be considered unmarketable because of a deed given pursuant to an in rem foreclosure, provided that for at least a fifteen year period subsequent to the recording of the tax foreclosure deed, the property was improved by an occupied structure and proof is furnished that taxes were assessed to, and paid by, the occupant-owner under the tax title during these fifteen years and there is proof satisfactory to the Buyer's attorney that there were no persons under a disability who were owners at the time of the tax delinquency or foreclosure.

Ownership by more than one owner during this fifteen year period, or occupancy by a tenant of the owner, shall not be objectionable.

(2) Title derived through In Rem Foreclosures shall be considered as marketable, if the Deed was recorded at least twenty years prior, unless there is record evidence of a defect in title.

### (b) No Tax Foreclosure

(1) Title that is derived through a Tax Deed given pursuant to a Tax Sales Certificate (with no foreclosures) shall not be considered unmarketable, if the Tax Deed was recorded at least thirty years prior, provided there is no record evidence of a defect in title.

(c) Assessment in the following name or names shall not be considered record evidence of defect in title:

(1) The estate of a decedent who was the last prior owner of any interest in the premises.

(2) A decedent who was the last prior owner of any interest in the premises.

(3) At least one tenant in common, joint tenant or tenant by the entirety.

(4) At least one life tenant.

(5) At least one remainderman.

(6) An immediate prior owner or his immediate predecessor in title.

(7) A Purchaser under land contract giving the purchaser the right to possession (whether or not recorded).

(8) A mortgagee in possession (whether or not the mortgage is recorded).

**27. BANKRUPTCIES**

Objection should not be made to title because an examination of title discloses a bankruptcy proceeding against a person in chain of title if the Petition for Bankruptcy was filed thirty-five or more years before the date of examination. (See Rule 1, (d), Bankruptcy Searches)

**28. PREMISES FORMERLY OWNED BY SCHOOL DISTRICTS, MUNICIPALITIES, OR A COUNTY COMMISSIONER OF WELFARE**

Where the chain of title includes a deed from a common school district or central school district into which a common school district was merged, or a deed from a municipality or a County Commissioner of Welfare, which deed has been on record for more than twenty years, recitals contained in the deed as to actions taken in connection with the sale of the real property shall be presumed to be correct. Where the chain of title contains a deed from a common school district or a central school district into which such common school district was merged, or a deed from a municipality or a County Commissioner of Welfare, which deed has been on record for at least 40 years, it shall be presumed that the sale of the premises was conducted in accordance with the procedure required at the time, whether or not the deed contains any recitals as to the action taken.

**29. DELIVERY**

Where there is a time lapse between the date of a deed and the date of its recording, no objection will be raised where the deed has been on record for more than fifteen years. If the deed has been on record for fifteen years or less, the search in the Surrogate's office should be run against the grantor from the date of the instrument to the date of recording in the county where the grantor resides and in the county where the property is situated. If no death was found then the question would be passed unless the grantee, or someone connected with him, was still in title and more definite information could be therefore obtained, or unless knowledge of the death of the grantor is definitely known. The question of delivery should not be raised where the interval between the date of the deed and the recording date thereof was less than thirty days unless there was affirmative knowledge of the death of the grantor prior to recording. Under this thirty day period no Surrogate's search will be made.

**30. FIDUCIARIES NOMINAL CONSIDERATION AND AUTHORITY**

Objection shall not be made on the ground of the recital of a nominal consideration in a deed given by a County Welfare Commissioner, or by an Executor or other fiduciary after the expiration of twenty years from the recording of such deed. A recital in a deed that a party thereto is a non-testamentary trustee, shall be an acceptable statement of the authority of such party to act as such trustee without further proof if the deed has been on record forty years or more.

**31. STATE SALES FOR TAXES**

State sales for taxes, conducted prior to 1900 may be disregarded.

## **32. OCCUPANTS**

The examiner should state in his report whether or not he has examined as to the right of occupants of the premises, the title to which is the subject of examination.

## **33. SURVEYS**

**(a)** It is the sense of the Association that members of the Bar call attention to clients that it is desirable that surveys be made, grantor and grantee to share the expense equally, particularly in incorporated villages or cities or when the description is obviously inadequate.

**(b)** Surveys to be acceptable must conform to the Rules of the Cattaraugus County Bar Association for land surveys.

## **34. CLOSING**

### **(a) Escrow at Closing**

At the time of closing the Attorney for the Seller shall deliver the deed and all other papers forming part of the transaction to the Attorney for the Purchaser and the Purchaser's Attorney shall deliver the balance of the purchase price to the Attorney for the Seller, to be held in escrow until he has been notified by the Abstract Company or the Attorney for the Purchaser, that there are no intervening liens or encumbrances and that the instruments have been recorded.

It shall be the duty of the Attorney for the Purchaser to mail, or deliver, all instruments to the Clerk's office immediately upon closing.

If the parties are unable to agree as to the Escrow Deposit, the transaction shall be closed at the County Clerk's office.

### **(b) Closing Adjustments**

**(1)** In the absence of special agreement, rents, insurance premiums and interest on any existing mortgage should be adjusted as of the date of delivery of possession of real estate.

**(2)** We approve in principal the pro-rating of taxes between the Seller and Purchaser of real estate, computed on the basis of the tax years as set forth in Rule 35. We recommend that provisions for pro-rating taxes be inserted in all contracts for the sale of real estate.

**(c) Closing Costs; Amortization Schedules:** The borrower (mortgagor) in a private mortgage transaction not involving a lending institution shall, at the borrower's expense, obtain and deliver to the lender (mortgagee) an amortization schedule.

### 35. REAL PROPERTY CLOSING UNDER INDIAN LEASEHOLDS

(a) The Seller shall file with the lessee a Notice of the proposed subletting or assignment at least 30 days prior to the effective date of the subletting or assignment and provide a copy of the Notice and the date of delivery or date of filing to the Buyer.

(b) Searches shall show a chain of title (1) beginning with a deed recorded at least 50 years prior to the date of the last certificate; or (2) beginning with the original 99 year lease of February 19, 1892, granted pursuant to the Act of Congress of 1875, as amended, whichever is the later. In all other respects, the abstract of title shall conform with these rules.

(c) In the event that the property is covered by a new Indian lease, the Seller shall furnish a complete copy of the lease in recordable form to the Buyer, unless it has been recorded in the Cattaraugus County Clerk's office.

(d) Indian rent receipts shall be furnished by the Seller showing an Indian lease in good standing, with rent paid to February 19 following the date of transfer. The certificate of the Treasurer of the Seneca Nation or, if the City of Salamanca collects rentals, of the property City official, showing payment of the rent, shall be accepted in lieu of such receipt.

(e) All searches shall show the number of the Indian lease.

(f) The Seller, at the Seller's expense, shall obtain and deliver to the Buyer an Estoppel Certificate from the Seneca Nation of Indians showing that the lease between the Seller and the Seneca Nation is in good standing.

(g) Indian lease rentals shall be prorated as of February 19th.

(h) Section 19 of the Seneca Nation Lease of February 19, 1991 requires that the subletting or assignment of the lease shall be by an instrument in writing bearing the endorsement of the sub-lessee or assignee expressly assuming all the obligations of the lessee. It further requires that copies of the instrument shall be filed by the lessee with the lessor, the City of Salamanca, the Seneca Nation - City of Salamanca Joint Leasing Commission, and the Cattaraugus County Clerk except where the subletting is for a term of three years or less in which such provision shall not apply. It shall be the obligation of the Buyer to file the copies and the Buyer shall give notice to the Seller of the date of filing with, or date of delivery of such documents to the City, the Commission and County Clerk.

### 36. PRORATION OF TAXES AND OTHER ITEMS

(a) **Proration of Taxes:** Unless otherwise agreed upon by the parties, all items to be adjusted (including rents, fuel oil, mortgage interest, non-delinquent taxes and assessments appearing on current tax bills, water and sewer charges, insurance and other items) shall be prorated and adjusted as of 12:00 midnight prior to the agreed upon proration date.

(1) **Items to be Prorated and Adjusted:** Items to be prorated and adjusted shall be adjusted with respect to the actual number of days between dates. (Shall not be computed by months and days of the month.)

(2) **Accuracy:** All adjustments shall be made and computed correct to four decimal places, with the final dollar amount being rounded up if one-half cent or over, and rounded down if less than one-half cent.

**37. DATES FOR PRO-RATING TAXES**

- (a) Town and County Tax  
Prorated January 1st of each year in all municipalities in Cattaraugus County.
  
- (b) Village Tax  
Prorated on June 1st in each year in the following municipalities:  
Allegany  
Cattaraugus  
Delevan  
Ellicottville  
Franklinville  
Gowanda  
Little Valley  
Portville  
South Dayton
  
- (c) School Tax  
Pro-rated on July 1st for all school districts.
  
- (d) City Tax:  
City of Salamanca - City tax pro-rated on April 1st  
City of Olean - City tax pro-rated on May 1st

**38. OIL AND GAS LEASE:**

An oil and gas lease showing on the title search can be disregarded if an affidavit is recorded executed by a person with knowledge of the facts indicating (1) that the lease has expired by its terms, (2) that no oil and gas wells have been drilled on the premises described in the lease, or on land unitized or pooled with the premises, (3) that the lease has not been renewed, (4) that no delay rentals or royalties are being paid and state the last date of payment, if known. If the affidavit is signed by someone other than the owner or prior owner of the premises, the affiant shall state the source of the affiant's knowledge or the basis for his knowledge that the lease is no longer effective.

CAUTION: If the description of the property in the oil and gas lease covers additional land not covered by the title search, the examiner should be sure that the delay rentals or royalties are not being paid to a prior owner. In that event, the affiant should state that he has knowledge that the above statements are true as to all of the premises covered by the lease.

**39. INCORPORATION OF STATE BAR STANDARDS**

Compliance with the Cattaraugus County Bar Standards is required but where a subject is not covered by County Bar Standards, the New York State Bar standards, if any, shall apply.

#### 40. MOBILE HOME OR MANUFACTURED HOME

(a) Upon request by a purchaser or a purchaser's attorney, the seller shall provide an Affidavit as to whether or not the real property is improved by manufactured housing as defined in the New York State Vehicle and Traffic Law.

(b) Where real property is improved by a mobile home or by a manufactured home, manufactured prior to July 1, 1994, the seller shall provide to the purchaser a Certificate of Origin or other proof satisfactory to the purchaser to show the date of manufacture, the make and model of the unit and the serial number thereof. The purchaser may require that the seller furnish a UCC search.

(c) Where real property is improved by a mobile home or by a manufactured home, manufactured after July 1, 1994, the seller shall provide to the purchaser a properly signed title for the mobile home or manufactured home issued by the New York State Motor Vehicle Department. The seller shall clear all liens and the purchaser shall pay for the cost of the issuance of a new title if desired.

(Reference: Vehicle & Traffic Law Article 46)

\* \* \*

January 1, 1975. The Bar Rules were amended and restated after approval by the Real Property Committee at a meeting of December 21, 1982, and approval by the Bar Association and were published effective January 1, 1975.

January 21, 1993. Bar approved deletion of \$10.00 search contribution by purchaser, Standard 2. Approved new standard 38 (now 36) relating to oil and gas leases.

June 29, 1995. Bar approved revisions to standard 34 (now 33) dealing with closings under Indian Leaseholds.

October 4, 1995, the Real Property Committee completed a general review of the Bar Standards for Title Examinations. Revised rules adopted by the Bar Association November 16, 1995.

October 18, 2012. Bar approves revision of Rule 37 effective Nov. 1, 2012 making school tax proration date July 1 in all districts.

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