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INTRODUCED BY SHUMAKER, SCANLON, SALVATORE AND LYNCH,
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AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, adding provisions
3 relating to transactions and other matters affecting land;
4 and making repeals.

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17 § 5618. General lien and other indexes.
18 § 5619. Fees of recording officer.
19 § 5620. Action to compel recording and indexing.
20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:
22 Section 1. Part II of Title 68 of the Pennsylvania
23 Consolidated Statutes is amended by adding a subpart to read:
24 TITLE 68
25 REAL AND PERSONAL PROPERTY
26 PART II
27 REAL PROPERTY
28 * * *
29 SUBPART D
30 LAND TRANSFERS

1 Chapter

2 51. General Provisions

3 52. Conveyancing and Recording

4 53. Priorities, Marketable Record Title and Extinguishment
5 of Claims

6 54. Liens and Encumbrances

7 55. Construction Liens (Reserved)

8 56. Land Records

9 CHAPTER 51

10 GENERAL PROVISIONS

11 Subchapter

12 A. Short Title, Construction, Application and Subject Matter
13 of Subpart

14 B. General Definitions

15 C. General Provisions

16 SUBCHAPTER A

17 SHORT TITLE, CONSTRUCTION, APPLICATION AND

18 SUBJECT MATTER OF SUBPART

19 Sec.

20 5101. Short title of subpart.

21 5102. Purposes and rules of construction.

22 5103. Supplementary general principles of law applicable.

23 5104. Construction against implied repeal.

24 5105. Purposes of definitions.

25 § 5101. Short title of subpart.

26 This subpart shall be known and may be cited as the Uniform
27 Simplification of Land Transfers Act.

28 § 5102. Purposes and rules of construction.

29 This subpart shall be liberally construed and applied to
30 promote its underlying purposes and policies, which are to:

1 (1) Simplify, clarify and modernize the law governing
2 land transfers.

3 (2) Further the security and certainty of land titles.

4 (3) Promote the interstate flow of funds for real estate
5 transactions.

6 (4) Protect consumer buyers and borrowers against
7 practices that may cause unreasonable risk and loss to them.

8 (5) Make uniform the law with respect to the subject of
9 this subpart among states enacting it.

10 § 5103. Supplementary general principles of law applicable.

11 The principles of law and equity, including the law relative
12 to capacity to contract, principal and agent, laches, marshaling
13 of assets, subrogation, estoppel, fraud, misrepresentation,
14 duress, coercion, mistake, bankruptcy or other validating or
15 invalidating cause supplement this subpart unless displaced by
16 particular provisions of it.

17 § 5104. Construction against implied repeal.

18 This subpart is intended as a unified coverage of its subject
19 matter. No part may be construed to be impliedly repealed by
20 subsequent legislation if that construction reasonably can be
21 avoided.

22 § 5105. Purposes of definitions.

23 All definitions in this subpart are solely for the purposes
24 of giving effect to this subpart.

25 SUBCHAPTER B

26 GENERAL DEFINITIONS

27 Sec.

28 5111. General definitions.

29 5112. Notice; knowledge; giving notice; receipt of notice.

30 § 5111. General definitions.

1 Subject to additional definitions contained in subsequent
2 provisions of this subpart which are applicable to specific
3 provisions of this subpart, the following words and phrases when
4 used in this subpart shall have the meanings given to them in
5 this section unless the context clearly indicates otherwise:

6 "Construction security interest." A security interest
7 created by a security agreement that contains a legend on the
8 first page clearly stating that it is a "Construction Security
9 Agreement" and secures an obligation which the debtor incurred
10 for the purpose of making an improvement of the real estate in
11 which the security interest is given.

12 "Conveyance." A transfer of real estate other than by will
13 or operation of law. A financing statement under Title 13
14 (relating to commercial code) is not a conveyance.

15 "Delivery." In relation to a conveyance, an act manifesting
16 an intent to make a present transfer of real estate.

17 "Document." A writing, plat or map. The term includes
18 information in a form (such as electronic, mechanical or
19 magnetic storage; microfilm; or electronic data transmission
20 signals) which can be converted into legible writing, plat or
21 map form by a machine or device.

22 "General lien." A lien that attaches to all of the lien
23 debtor's real estate in the recording district at any time
24 during the period of its effectiveness, including a lien that
25 attaches to all of a taxpayer's real estate in the recording
26 district as provided by law for unpaid taxes, fees, assessments
27 or other charges, regardless of the relationship of any
28 particular real estate to the tax.

29 "Good faith." Honesty in fact and the observance of
30 reasonable standards of fair dealing in the conduct or

1 transaction involved.

2 "Judicial proceeding." An action at law or suit in equity
3 and any other proceeding in which rights are judicially
4 determined.

5 "Law." Includes statute law, case law, administrative
6 actions and legislative acts of local governments.

7 "Lien." Does not include a security interest.

8 "Organization." A corporation, government, governmental
9 subdivision or agency, business trust, estate, trust,
10 partnership, association, joint venture or any other legal or
11 commercial entity.

12 "Party." As distinguished from "third party," a party means
13 a person who engages in a transaction or makes an agreement
14 under this subpart.

15 "Person." Includes an individual or an organization.

16 "Presumption" or "presumed." That the party against whom the
17 presumption is directed has the burden of going forward with
18 evidence to rebut or meet the presumption, but the burden of
19 proof, in the sense of the risk of nonpersuasion, does not shift
20 to that party.

21 "Pursuant to commitment." An advance is made "pursuant to
22 commitment" if the obligor has bound obligor to make it, whether
23 or not a default or other event not within obligor's control has
24 relieved or may relieve obligor from obligor's obligation.

25 "Real estate." Any estate or interest in, over or under
26 land, including minerals, structures, fixtures and other things
27 which by custom, usage or law pass with a conveyance of land
28 though not described or mentioned in the contract of sale or
29 instrument of conveyance; and, if appropriate to the context,
30 the land in which the interest is claimed. "Real estate"

1 includes rents, the interest of a landlord or tenant and
2 interests in a condominium unit.

3 "Real estate tax lien." A lien created by law on particular
4 real estate of the taxpayer for the amount of unpaid taxes,
5 fees, assessments or other charges.

6 "To record." To present to the recording officer for the
7 place in which the land is situated a document which is not
8 patently deficient with respect to the requirements for
9 recording and which the officer accepts and enters in a daily
10 log and notes thereon an identifying number, regardless of
11 whether under applicable law the recording officer is directed
12 to file the document or otherwise to maintain a record of it.
13 However, a document is not recorded for purposes of imparting
14 constructive notice until properly indexed. "Recorded" and
15 "recording" have corresponding meanings.

16 "Record chain of title." The series of recorded documents
17 creating or evidencing rights of the successive holders of title
18 to real estate.

19 "Record location." The location (book and page, document
20 number, electronic retrieval code or other specific place) of a
21 document in the public records accessible in the same recording
22 office where the document containing the reference to the
23 location is found.

24 "Recording office." The office of the recorder of deeds or
25 office of the commissioner of records.

26 "Recording officer." The recorder of deeds or commissioner
27 of records.

28 "Representative." A person empowered to act for another. The
29 term includes an agent, a government official, an officer of a
30 corporation or association, a trustee and a personal

1 representative of a decedent.

2 "Restriction." A covenant, condition, easement or other
3 limitation or affirmative obligation created by agreement, grant
4 or implication affecting the use or enjoyment of, and intended
5 to run with, the real estate. The term does not include a
6 security interest or lien.

7 "Security interest." A consensual interest in real estate
8 which secures payment or performance of an obligation. If a
9 lease is intended as security to the lessor, the lessor's
10 interest is a security interest. If a seller's retention of
11 legal title to real estate after the buyer enters into
12 possession is intended as security, the seller's interest is a
13 security interest. Whether a transaction is intended as security
14 is to be determined by the facts of each case; however:

15 (1) The inclusion in a lease of an option to purchase at
16 a price not unreasonable in the circumstances at the time of
17 contracting does not of itself indicate the lease is intended
18 for security.

19 (2) Retention of the title to real estate by a seller
20 under a contract right to retain title for not more than one
21 year after the buyer enters into possession of the real
22 estate is not a retention for security.

23 "Signed." Includes any symbol executed or adopted by a party
24 with present intention to authenticate a writing.

25 "Specific lien." A lien that has attached to real estate
26 specifically described in a recorded document evidencing the
27 lien.

28 "Title." The right to an interest in real estate, including
29 the interest of an owner, a lessee, a possessor, a lienor, a
30 holder of a security interest and a beneficiary of a restriction

1 including an owner of an easement.

2 "Utility easement." A right-of-way easement, other than over
3 the streets, highways, waters and other public ways and public
4 places, for a railroad, subway, street railway or trolley bus or
5 for the transmission of electricity, electronic communications
6 such as telecommunications by telephone or telegraph for the
7 public, or goods (including water, oil and gas) or for the
8 provision of sewer or drainage service or similar utility-type
9 uses.

10 "Value." A person gives "value" for rights if that person
11 acquires the rights:

12 (1) pursuant to a commitment to extend credit or for the
13 extension of credit;

14 (2) as security for, or in total or partial satisfaction
15 of, a preexisting claim;

16 (3) under a preexisting contract; or

17 (4) generally, in return for any consideration
18 sufficient to support a simple contract.

19 "Written" or "writing." Includes printing, typewriting or
20 any other intentional reduction of language to tangible form or
21 to a form (such as electronic, mechanical or magnetic storage;
22 microfilm; or electronic data transmission signals) which can be
23 converted into legible form by a machine or device.

24 § 5112. Notice; knowledge; giving notice; receipt of notice.

25 (a) Notice.--A person has "notice" of a fact if that person:

26 (1) has actual knowledge of it;

27 (2) has received a notice of it; or

28 (3) from all the facts and circumstances known to that
29 person at the time in question, has reason to know it exists.

30 (b) Knowledge.--Except as provided in subsection (e), a

1 person has "knowledge" or "learns" of a fact or "knows" or
2 "discovers" a fact only when that person has actual knowledge of
3 it.

4 (c) Giving notice.--A person "notifies" or "gives" or
5 "sends" notice to another, whether or not the other person
6 actually comes to know of it, by taking steps reasonably
7 required to inform the other in ordinary course, but, where this
8 act specifies particular steps to be taken to notify, or give or
9 send notice, those steps must be taken.

10 (d) Receipt of notice.--A person "receives" a notice, if
11 otherwise valid, at the time it:

12 (1) comes to that person's attention; or

13 (2) is delivered at the place of business through which
14 the person conducted the transaction with respect to which
15 the notice is given or at any other place held out by that
16 person as the place for receipt of the communication.

17 (e) Time notice or knowledge effective.--Notice or knowledge
18 of a notice received by a person is effective for a particular
19 transaction at the earlier of the time it comes to the attention
20 of the individual conducting the transaction or the time it
21 would have come to the individual's attention had the person
22 maintained reasonable routines for communicating significant
23 information to the individual conducting the transaction and
24 there had been reasonable compliance with the routines.
25 Reasonable compliance does not require an individual acting for
26 the person to communicate information unless the communication
27 is part of the individual's regular duties or the individual has
28 reason to know of the transaction and that the transaction would
29 be materially affected by the information.

30

SUBCHAPTER C

1 GENERAL PROVISIONS

2 Sec.

3 5121. Obligation of good faith.

4 § 5121. Obligation of good faith.

5 Every contract or duty governed by this subpart imposes an
6 obligation of good faith in its performance or enforcement.

7 CHAPTER 52

8 CONVEYANCING AND RECORDING

9 Subchapter

10 A. Scope and Definitions

11 B. Conveyancing

12 C. Recording

13 SUBCHAPTER A

14 SCOPE AND DEFINITIONS

15 Sec.

16 5201. Scope of chapter.

17 5202. Definitions.

18 § 5201. Scope of chapter.

19 This chapter applies to title transactions concerning and
20 possessory rights in real estate located in this Commonwealth.

21 § 5202. Definitions.

22 Chapter 51 (relating to general provisions) contains general
23 definitions and principles of construction and interpretation
24 applicable throughout this chapter.

25 SUBCHAPTER B

26 CONVEYANCING

27 Sec.

28 5211. Formal requisites of conveyance.

29 5212. Delivery.

30 5213. Transfer to organization or officer.

1 5214. Conveyance in which grantor is also grantee; reservation
2 or exception.

3 5215. Sale of real estate affected with future interest.

4 § 5211. Formal requisites of conveyance.

5 (a) General rule.--Except for a lease for one year or less,
6 a conveyance must:

7 (1) Reasonably identify the grantor, the grantee and the
8 real estate.

9 (2) Manifest an intent to make a present transfer of an
10 interest in the real estate.

11 (3) Be in writing and signed by the grantor or the
12 grantor's representative.

13 (b) Lease not exceeding one year.--A lease for one year or
14 less must satisfy the requirements of subsection (a)(1) and (2).

15 (c) Acknowledgment, seal or witness not required.--A
16 conveyance does not require an acknowledgment, seal or witness.
17 For the form of an acknowledgment, see section 7 of the act of
18 July 24, 1941 (P.L.490, No.188), known as the Uniform
19 Acknowledgment Act.

20 § 5212. Delivery.

21 As between the parties, a conveyance takes effect upon
22 delivery. A claim based upon nondelivery or conditional,
23 revocable or wrongful delivery is valid against a third party
24 only as provided in the provisions on priority of claims
25 (Subchapter B of Chapter 53).

26 § 5213. Transfer to organization or officer.

27 A transfer may be made to, and title taken in, the name of an
28 organization or of an office, in which case the title vests in
29 the organization or the person from time to time holding the
30 office. Unless otherwise provided by statute, a defunct or

1 dissolved organization continues in existence for the purpose of
2 transferring real estate.

3 § 5214. Conveyance in which grantor is also grantee;
4 reservation or exception.

5 (a) Conveyance in which grantor is also grantee.--A
6 conveyance in which a grantor is also a grantee is as effective
7 as one executed by a grantor not a grantee.

8 (b) Exception or reservation in favor of third party.--An
9 exception or reservation of an interest in real estate may be
10 made in favor of a person not a party to the conveyance or who
11 has no other interest in the real estate.

12 § 5215. Sale of real estate affected with future interest.

13 (a) Appointment of trustee.--If real estate not held in
14 trust is subject to a future interest or power of appointment
15 outstanding or vested in a person who is not sui juris, who is
16 not in being or whose identity is not ascertainable, a court of
17 competent jurisdiction, upon the petition of a person having an
18 interest therein, either present or future, vested or
19 contingent, and after notice as required in subsection (b), may
20 appoint a trustee and authorize the trustee to sell, grant a
21 security interest in or lease the real estate, or a part of it,
22 if the sale, grant of a security interest or lease appears to
23 the court to be in the interest of the parties; and the sale,
24 grant of a security interest or lease is effective against all
25 the parties who are or may become interested in the real estate,
26 whether living or unborn or whether their identities are
27 ascertained or unascertained.

28 (b) Notice of petition and appointment of guardian.--Notice
29 of the petition under subsection (a) must be given in a manner
30 the court directs to all persons interested in the real estate,

1 and to all persons whose issue, not in being, may become
2 interested in it. The court of its own motion shall appoint a
3 guardian for the proceeding to represent all minors not
4 otherwise represented, all persons whose identities are not
5 ascertained and all persons not in being, who are or may become
6 interested in the real estate.

7 (c) Powers of trustee and court.--A trustee appointed under
8 subsection (a) must receive and hold, invest, distribute or
9 apply the proceeds of a sale, grant of a security interest or
10 lease to or for the benefit, and according to the respective
11 rights and interests, of the persons who would have been
12 entitled to the land if the sale, grant of a security interest
13 or lease had not been made. Upon request of an interested party,
14 the court may require the trustee to provide a bond. The court
15 in which the petition is filed in accordance with this section
16 has jurisdiction of all matters thereafter arising relative to
17 the trust unless the administration of the trust is transferred
18 to the jurisdiction of another court.

19 SUBCHAPTER C

20 RECORDING

21 Sec.

22 5231. Formal requisites for recording.

23 5232. Indexing information and consequences of information.

24 5233. Separate indexing instructions.

25 5234. Effect of indexing information.

26 5235. Evidentiary effect of recorded signed document.

27 5236. Certified copy of record.

28 5237. Affidavits.

29 5238. Notice of intent to preserve interest.

30 5239. Incorporation of master form.

1 5240. Memorandum of lease.

2 5241. Reference by record location.

3 5242. Reference to legal description.

4 § 5231. Formal requisites for recording.

5 (a) Eligibility.--To be eligible for recording a document
6 must:

7 (1) Be legible or capable of being converted into
8 legible form by a machine or device used in the recording
9 office.

10 (2) Be capable of being copied or filed by the method
11 used in the recording office.

12 (3) Be accompanied by the proper fee for recording
13 (section 5619) and include or be accompanied by information,
14 a notation, a stamp, a certificate or a fee that under other
15 law is necessary to qualify the document for recording.

16 (4) Include information necessary to enable the document
17 to be indexed as provided in section 5232 (relating to
18 indexing information and consequences of information) or have
19 appended separate indexing instructions (section 5233) also
20 presented for recording containing this information.

21 (5) If a conveyance:

22 (i) Be signed and acknowledged by the party making
23 the conveyance. In lieu of an acknowledgment, proof of
24 execution and delivery may be supplied by the affidavit
25 of a subscribing witness.

26 (ii) Contain substantially the following notice: "By
27 law title may be lost unless a notice of intent to
28 preserve as provided in the Uniform Simplification of
29 Land Transfers Act (68 Pa.C.S. § 5101 et seq.) is
30 recorded within 40 years."

1 (b) Signature, acknowledgment, seal or witness.--No
2 signature, acknowledgment, seal or witness is required for a
3 document other than a conveyance to be eligible for recording.
4 However, a document must be acknowledged to raise the
5 presumption of section 5235(a) (relating to evidentiary effect
6 of recorded signed document).

7 § 5232. Indexing information and consequences of information.

8 (a) Form and content.--Indexing information must be printed,
9 typed or capable of being converted into legible form by a
10 machine or device used in the recording office. The indexing
11 information must include:

12 (1) The name of each grantor and each person against
13 whom a lien or claim is asserted, including the name of the
14 record owner of title to the interest affected thereby if
15 other than the foregoing and if reasonably ascertainable.

16 (2) In the case of a conveyance executed by one person
17 on behalf of another with or without consent of the other
18 person, the name of the other person or, if that name is
19 unknown or unascertained, the name of the person from whom
20 the interest arises.

21 (3) The name of each person named in the document as
22 grantee or of each person by whom a claim or lien is
23 asserted.

24 (4) If the recording officer maintains a geographic
25 index and the document affects specific real estate,
26 information fixing the location sufficiently to enable the
27 recording officer to determine where in the geographic index
28 the document is to be indexed.

29 (b) Notice of intent to preserve interest.--For a notice of
30 an intent to preserve an interest (section 5238), the indexing

1 information also must include the name of the record owner of
2 the real estate.

3 (c) Utility easements recorded on maps.--Notwithstanding the
4 provisions of subsections (a) and (b), the indexing information
5 for a notice of intent to preserve an interest (section 5238)
6 recorded to preserve utility easements, the general location of
7 which is shown on a previously recorded map or a map included in
8 the notice, need include only:

9 (1) The name of the person claimed to be the owner of
10 the utility easement.

11 (2) The record location of the previously recorded map.

12 (d) Restrictions recorded on maps or plans.--Notwithstanding
13 the provisions of subsections (a) and (b), the indexing
14 information for a notice of intent to preserve an interest
15 (section 5238) recorded to preserve rights to enforce
16 restrictions established pursuant to a common scheme of
17 development of land, including condominiums, if the entire
18 development, whether existing, proposed or mixed at the time,
19 has been the subject of a recorded map or plan or a recorded
20 coordinated set of maps or plans, or a copy of which maps or
21 plans have been included in the notice, need include only:

22 (1) The name of the person claimed to be the owner of
23 the interest to be preserved.

24 (2) The record location of the previously recorded maps
25 or plans.

26 (e) Master forms.--Indexing information for a master form
27 may include the name of a person and a designation for the form.

28 (f) Indicating placement of indexing information.--Indexing
29 information for a document to be entered in the general lien,
30 utility easement notice, recorded maps or plans or master form

1 index (section 5618) must include an indication to that effect.

2 § 5233. Separate indexing instructions.

3 Separate indexing instructions for the making of index
4 entries in accordance with the provisions on duty to index
5 (section 5615) must meet all the requirements of eligibility for
6 recording (section 5231) and in addition must:

7 (1) Be printed, typed or capable of being converted into
8 legible form by a machine or a device used in the recording
9 office.

10 (2) Be signed by the person taking responsibility for
11 the indexing information with that person's name printed or
12 typed below the signature.

13 (3) Unless appended to the document to which they
14 relate, state either of the following:

15 (i) The record location of that document.

16 (ii) The location of the document in the daily log
17 if it has not yet been copied into the record.

18 § 5234. Effect of indexing information.

19 (a) Priorities.--With respect to priorities, the indexing
20 information has the effect given in the provisions on the effect
21 of indexing information on priorities (section 5312).

22 (b) Boundaries.--Even though the indexing information
23 supplied contains precise details such as dimensions, courses
24 and distances, the indexing information does not by itself
25 establish the boundaries or create a presumption that the
26 boundaries are as described in the indexing information. The
27 indexing information shall be regarded only as a representation
28 as to the general location of the real estate for purposes of
29 proper indexing.

30 § 5235. Evidentiary effect of recorded signed document.

1 (a) General rule.--A recorded signed and acknowledged
2 document relating to title to real estate creates a presumption
3 with respect to the title that:

4 (1) The document is genuine and was executed as the
5 voluntary act of the person purporting to execute it.

6 (2) The person executing the document and the person on
7 whose behalf it is executed are the persons they are
8 purported to be and the person executing it was neither
9 incompetent nor a minor at any relevant time.

10 (3) Delivery occurred notwithstanding a lapse of time
11 between dates on the document and the date of recording.

12 (4) Any necessary consideration was given.

13 (5) The grantee, transferee or beneficiary of an
14 interest created or claimed by the document acted in good
15 faith at all relevant times up to and including the time of
16 the recording.

17 (6) A person purporting to act as an agent, attorney-in-
18 fact pursuant to a recorded power of attorney or authority,
19 officer of an organization, or in a fiduciary or official
20 capacity, held the position purported to be held, acted
21 within the scope of authority, and in the case of an
22 organization, the authorization satisfied all requirements of
23 law; in the case of an agent, the principal was neither
24 incompetent nor a minor at any relevant time and the agency
25 was not revoked.

26 (7) If the document purports to be executed pursuant to
27 or to be a final determination in a judicial or
28 administrative proceeding, or to be executed pursuant to a
29 power of eminent domain, the court, official body or
30 condemnor was acting within its jurisdiction and all steps

1 required for the execution of the title document were taken.

2 (8) Persons named in, signing or acknowledging the
3 document and persons named in, signing or acknowledging
4 another related document in a chain of title are identical,
5 if the persons appear in those conveyances under identical
6 names or under variants thereof, including inclusion,
7 exclusion or use of:

8 (i) commonly recognized abbreviations, contractions,
9 initials or colloquial or other equivalents;

10 (ii) first or middle names or initials;

11 (iii) simple transpositions that produce
12 substantially similar pronunciations;

13 (iv) articles or prepositions in names or titles;

14 (v) descriptions of entities as corporations,
15 companies or abbreviations or contractions of either; or

16 (vi) name suffixes, such as Senior or Junior;
17 unless other information appears of record indicating that
18 they are different persons.

19 (9) All other requirements for its execution, delivery
20 and validity have been satisfied.

21 (10) Any other presumption existing under law.

22 (b) Presumption unaffected by certain matters.--The
23 presumptions stated in subsection (a) arise even if the document
24 purports only to release a claim or convey any right, title or
25 interest of the person executing it or the person on whose
26 behalf it is executed.

27 (c) Effect of inconsistent presumptions.--If presumptions
28 created by subsection (a) are inconsistent, the presumption
29 applies that is founded upon weightier considerations of policy.
30 If considerations of policy are of equal weight, neither

1 presumption applies.

2 (d) Unacknowledged documents.--Unacknowledged documents
3 shall not be deprived of any presumptions in their favor
4 presently existing in the law.

5 § 5236. Certified copy of record.

6 A copy of a recorded document certified by the recording
7 officer is presumed to be a correct copy of the recorded
8 document and of the original document. The certified copy may
9 not be excluded from evidence under the best evidence rule, even
10 if the recorded document is not signed, witnessed or
11 acknowledged and the recorded or the original document is
12 available.

13 § 5237. Affidavits.

14 (a) Evidentiary effect.--An affidavit, stating facts
15 relating to the matters named in subsection (b), which may
16 affect the title to real estate in this Commonwealth, made by
17 any person having personal knowledge of the facts and competent
18 to testify concerning them in open court, may be recorded (even
19 though not acknowledged) in the recording office in the county
20 in which the real estate is situated. When so recorded, the
21 affidavit, or a certified copy thereof, shall be admissible
22 evidence of the facts therein stated, insofar as those facts
23 affect title to real estate, if a member of the Bar of the
24 Supreme Court of Pennsylvania signs a certification, appended
25 thereto, that the member relied upon the affidavit in passing on
26 the title to the real estate.

27 (b) Matters covered by affidavit.--The affidavit may relate
28 to the following matters: age, sex, birth, death, capacity,
29 relationship, family history, heirship, names, identity of
30 parties, marital status, possession or adverse possession,

1 residence, service in the armed forces, conflicts or ambiguities
2 in descriptions of land in recorded instruments and the
3 happening of any condition or event which may terminate an
4 estate or interest.

5 (c) Requirements of affidavit and recording.--Every
6 affidavit shall include the name, age and residence of the
7 affiant, a description of the real estate title to which may be
8 affected by facts stated in the affidavit, facts showing that
9 the affiant has personal knowledge of the facts stated and the
10 name of the person appearing by the record to be the owner of
11 the real estate at the time the affidavit is recorded. The
12 official taking the affidavit shall certify that the affiant is
13 personally known to the official or satisfactorily proven to be
14 the person named as affiant. The recording officer shall index
15 the affidavit in the name of the record owner in both grantor
16 and grantee indexes and, if possible, shall note the recording
17 thereof in the margin of the record of any instrument referred
18 to in the affidavit.

19 § 5238. Notice of intent to preserve interest.

20 (a) Effect of recording.--A recorded notice of intent to
21 preserve an interest, in the form provided in subsection (b),
22 tolls the passage of time on a recorded interest as provided in
23 the provisions on effect upon marketable record title of
24 recording notice of intent to preserve an interest (section
25 5335) and in the provisions for preserving possibilities of
26 reverter, rights of entry and resulting trusts (section 5358).

27 (b) Form and content.--The notice must:

28 (1) State the name and address, if known, of the person
29 claimed to be the owner of the interest to be preserved or a
30 definition of the class when filing is made pursuant to

1 section 5335(3) (relating to effect upon marketable record
2 title of recording notice of intent to preserve an interest).

3 (2) Contain a reference by record location to a recorded
4 document creating, reserving or evidencing the interest to be
5 preserved or a judgment confirming the interest.

6 (3) Be signed by or on behalf of the person claimed to
7 be the owner of the interest.

8 (4) State whether the person signing claims to be the
9 owner or to be acting on behalf of the owner.

10 (c) Inclusion of map.--A notice recorded to preserve rights
11 established pursuant to a common scheme of development, a
12 utility easement or other restrictions claimed in the real
13 estate of another may include a map incorporating the claim.

14 (d) Reference to recorded map.--A notice recorded to
15 preserve rights established pursuant to a common scheme of
16 development, a utility easement or other restrictions which
17 refers to a previously recorded map that identifies the
18 properties claimed to be affected is sufficient to show the area
19 to be affected.

20 (e) New interest not created.--The recording of a notice of
21 intent to preserve an interest does not create a new interest.

22 § 5239. Incorporation of master form.

23 A recorded master form, or a numbered paragraph thereof, may
24 be incorporated by reference in a recorded document by referring
25 to the form by its record location or to the form and the
26 paragraph by the record location of the form and the number of
27 the paragraph to be incorporated. The reference has the same
28 effect as if the master form or the numbered paragraph were
29 reproduced in full in the record at the place where the
30 reference to the form or paragraph is made. This section does

1 not affect contractual relations of parties to a title
2 transaction.

3 § 5240. Memorandum of lease.

4 (a) Effect of recording.--The recording of a memorandum of
5 lease substantially complying with subsection (b) has the same
6 effect as if the lease were reproduced in full in the record.

7 (b) Form and content.--A memorandum of lease is a document
8 signed by the lessor and lessee and containing a reference to an
9 unrecorded lease, sublease or agreement to lease or sublease and
10 supplying at least the following information:

11 (1) The name of the lessor.

12 (2) The name of the lessee.

13 (3) Any addresses set forth therein as those of the
14 parties.

15 (4) A reference to the date thereof.

16 (5) A description of the real estate.

17 (6) The commencement and termination dates of the term
18 of the lease if fixed, and if not fixed, the method by which
19 the dates are to be fixed.

20 (7) A statement of the conditions upon which any right
21 of the lessee to extension or renewal of the lease or to the
22 purchase or refusal of the real estate or a part of it may be
23 exercised.

24 § 5241. Reference by record location.

25 (a) General rule.--Except as provided in subsection (b), a
26 reference in a recorded document to another recorded document by
27 its record location has the same effect as if the document were
28 reproduced in full in the record where reference to it is made.

29 (b) Limitation.--Except as provided in the provisions on
30 incorporation of master form (section 5239), the reference does

1 not have the effect provided in subsection (a) unless it is in
2 language manifesting an intent that the real estate is to be
3 subject to, controlled by or otherwise affected by one or more
4 terms of the reference document. A reference to one term
5 incorporates only that term.

6 § 5242. Reference to legal description.

7 After a description made by means of a plat, metes and bounds
8 or otherwise sufficient to determine the physical location of
9 the real estate has been recorded, a reference by record
10 location to it is a sufficient description of the real estate.

11 CHAPTER 53

12 PRIORITIES, MARKETABLE RECORD TITLE AND

13 EXTINGUISHMENT OF CLAIMS

14 Subchapter

15 A. Scope and Definitions

16 B. Priority of Claims

17 C. Marketable Record Title

18 D. Curative Provisions and Limitations

19 SUBCHAPTER A

20 SCOPE AND DEFINITIONS

21 Sec.

22 5301. Scope of chapter.

23 5302. Definitions.

24 § 5301. Scope of chapter.

25 This chapter applies to title transactions concerning, and
26 possessory rights in, real estate located in this Commonwealth.

27 § 5302. Definitions.

28 (a) Applicability.--Chapter 51 (relating to general
29 provisions) contains general definitions and principles of
30 construction and interpretation applicable throughout this

1 chapter. Section 5315 (relating to effect of knowledge) contains
2 a definition of "knowledge" applicable to Subchapter B (relating
3 to priority of claims). Section 5331 (relating to definitions)
4 contains definitions applicable to Subchapter C (relating to
5 marketable record title).

6 (b) Meaning of "related to".--For purposes of giving meaning
7 to the expressions "individual related to" and "person related
8 to," a person is related to:

9 (1) An individual if that person is any of the
10 following:

11 (i) An organization directly or indirectly
12 controlled by the individual, spouse of the individual or
13 a relative by blood or marriage who shares the same
14 residence with the individual.

15 (ii) The spouse of the individual.

16 (iii) A sibling or the spouse of a sibling of the
17 individual.

18 (iv) An ancestor or descendant of the individual or
19 of spouse of the individual.

20 (v) Any other relative by blood or by marriage of
21 the individual or spouse of the individual if the
22 relative shares the same residence with the individual.

23 (2) An organization if that person is any of the
24 following:

25 (i) Any other organization controlling, controlled
26 by or under common control with the organization.

27 (ii) A person related to the person controlling the
28 organization.

29 SUBCHAPTER B

30 PRIORITY OF CLAIMS

1 Sec.

2 5311. Effect of conveyance.

3 5312. Title acquired by purchaser for value who has recorded.

4 5313. Additional rules concerning priorities.

5 5314. Claims relating back to time before recording.

6 5315. Effect of knowledge.

7 5316. Lapse of effect of recording option or contract for
8 conveyance.

9 5317. Effect of indefinite reference in recorded instrument.

10 5318. Effect of restrictions on power of disposition.

11 5319. Priority of advances under a recorded security interest.

12 5320. General liens.

13 5321. Priority of specific liens.

14 5322. Real estate tax and other liens.

15 5323. Priority of judgment liens.

16 § 5311. Effect of conveyance.

17 A conveyance is effective to transfer all interests in the
18 described land and interests appurtenant thereto which the
19 grantor had or had actual authority to convey, but:

20 (1) A transferee of a limited interest acquires rights
21 only to the extent of the interest conveyed.

22 (2) Except as against a subsequent purchaser for value
23 who has recorded (section 5312), a conveyance and its
24 recording is subject in an appropriate case to being set
25 aside, canceled, rescinded, reformed or subjected to a
26 constructive or resulting trust or to any other remedy
27 provided by law.

28 § 5312. Title acquired by purchaser for value who has recorded.

29 (a) General rule.--Except as provided by this chapter, in
30 addition to the interests a purchaser acquires under section

1 5311 (relating to effect of conveyance), a purchaser for value
2 who has recorded a conveyance also acquires the real estate free
3 of any subsisting adverse claim, whether or not the transferor
4 had actual authority to convey, unless the adverse claim is any
5 of the following:

6 (1) Created or evidenced by a document recorded before
7 the conveyance to the purchaser is recorded.

8 (2) A use or occupancy inconsistent with the record
9 title to the extent the use or occupancy would be revealed by
10 reasonable inspection or inquiry.

11 (3) One of which the purchaser had knowledge at the time
12 purchaser's interest was created as provided in section 5315
13 (relating to effect of knowledge).

14 (4) Created by law in favor of one spouse, as spouse, in
15 real estate in the name of the other spouse.

16 (5) Based on a transfer that is ineffective because of
17 any of the following:

18 (i) Forgery, alteration, unauthorized signature or
19 lack of signature of a document.

20 (ii) Infancy, duress or illegality in a transaction
21 if, under other law, the transaction is regarded as void
22 or voidable.

23 (iii) Fraud in the execution of a document.

24 (6) Of the United States unless by Federal law the claim
25 of the United States has been made subject to the recording
26 or priority laws of this Commonwealth.

27 (7) Created by a transaction occurring before recording
28 of the purchaser's interest but recorded thereafter and
29 relating back as provided in section 5314 (relating to claims
30 relating back to time before recording) for certain claims

1 effective despite later recording.

2 (8) Based on an advance made under a recorded security
3 interest securing future advances as provided in section 5319
4 (relating to priority of advances under a recorded security
5 interest).

6 (9) Based on a general lien as provided in section 5320
7 (relating to general liens).

8 (10) Based on real estate or other tax lien as provided
9 in section 5322 (relating to real estate tax and other
10 liens).

11 (b) Time recording effective.--The recording of a document
12 imparts constructive notice only from the time indexing
13 information is accepted by the recording officer sufficient to
14 permit indexing and is properly indexed:

15 (1) in the record chain of title;

16 (2) in the correct geographical index unless the
17 document evidences a general lien or the document is recorded
18 in compliance with section 5232(c) (relating to indexing
19 information and consequences of information) to preserve
20 utility easements;

21 (3) in the general lien index if the document evidences
22 a general lien;

23 (4) in the utility easement notice index if the document
24 is recorded in compliance with section 5232(c) to preserve
25 utility easements; and

26 (5) in a manner which would allow a later searcher to
27 find the document without consulting a document relating to
28 an interest not yet transferred of record to the person
29 indicated in the document or which has already been
30 transferred of record to another, unless the document was

1 recorded after the creation of a system of geographic
2 indexing by parcels (section 5602 "geographic index system"
3 (1))

4 § 5313. Additional rules concerning priorities.

5 (a) Marketable title and time limitations.--Notwithstanding
6 sections 5311 (relating to effect of conveyance) and 5312
7 (relating to title acquired by purchaser for value who has
8 recorded), the priority of a claim under this chapter is subject
9 to:

10 (1) The provisions on marketable record title
11 (Subchapter C) or of any marketable record title statute it
12 replaces.

13 (2) Extinguishment or unenforceability of the claim
14 because of passage of time under Subchapter D (relating to
15 curative provisions and limitations) or any other applicable
16 provision of this or other law providing time limitations.

17 (b) Adverse claims.--Each of the provisions of this chapter
18 prescribing when a purchaser is subject to an adverse claim
19 states an independent reason for the survival of the adverse
20 claim so that, even if an adverse claimant is precluded by one
21 provision from asserting the claimant's claim, another provision
22 may entitle claimant to assert claimant's claim but only to the
23 extent provided in this chapter.

24 (c) Form of conveyance.--The provisions of this chapter
25 stating priorities for "conveyances," "purchaser for value" and
26 like terms apply even if the conveyance to the claimant or any
27 earlier conveyance of the real estate is in the form of a
28 quitclaim deed or other deed purporting to convey only the
29 right, title and interest of the transferor.

30 (d) Power to transfer free of interest.--Any interest that

1 has been recorded may nevertheless be cut off by exercise of a
2 power to transfer free of the interest which is contained in a
3 document to which the interest is subject or is contained in
4 other sections of this subpart or in any other applicable law.

5 (e) Determination of priority.--If other priority rules
6 stated in this chapter do not determine the priority of two or
7 more claims among themselves, priority is determined in the
8 order of recording.

9 § 5314. Claims relating back to time before recording.

10 Under the following provisions the priority of a claim
11 relates back to a time specified that is in fact before the time
12 it was recorded or filed, as appropriate:

13 (1) Provisions giving a specific lien priority as of the
14 time of recording a general lien (section 5321).

15 (2) Provisions giving a judgment lien priority as of the
16 time of recording a security agreement or perfecting an
17 attachment securing the same debt (section 5323).

18 (3) Provisions giving a priority from the time a notice
19 of pending action is filed (section 5431).

20 (4) Provisions of law giving a construction lien
21 priority as of the date of visible commencement of
22 construction or the recording of a notice of commencement of
23 construction.

24 § 5315. Effect of knowledge.

25 (a) General rule.--Subject to the provisions on lapse of
26 effect of recording of an option or a contract for conveyance
27 (section 5316), a purchaser takes subject to an adverse claim of
28 which purchaser has knowledge or concerning which purchaser is
29 charged with knowledge under subsection (b).

30 (b) Knowledge of agent.--For the purposes of this

1 subchapter, a purchaser is charged with knowledge of a matter or
2 a document from the time the matter or document comes to the
3 attention of purchaser's counsel or agent, whether or not an
4 employee, while acting in the scope of employment for the
5 purchaser in the transaction with respect to which a question of
6 purchaser's knowledge arises. A real estate broker who also acts
7 on behalf of a seller or who receives a commission from a seller
8 or a seller's agent is not an agent of the purchaser for the
9 purposes of this subsection.

10 § 5316. Lapse of effect of recording option or contract for
11 conveyance.

12 If six months have elapsed after the recorded expiration date
13 (or, if there is no recorded expiration date, the date of
14 recording) of a recorded option or right of refusal or after the
15 date for performance of a recorded contract to convey (or, if
16 there is no recorded date for performance, the date of
17 recording), or of any recorded agreement extending the
18 expiration or performance date, a purchaser for value who has
19 recorded purchaser's conveyance takes free of any claim based
20 upon the recorded option or right of refusal or contract, except
21 as preserved by the recording of a notice of pending proceedings
22 (section 5431).

23 § 5317. Effect of indefinite reference in recorded instrument.

24 (a) General rule.--Unless a reference in a document is a
25 reference to another document by its record location, a person
26 is not charged by reason of the reference with knowledge of the
27 document or an adverse claim founded thereon, and the document
28 is not in the record chain of title solely by reason of the
29 reference to it.

30 (b) Examples of indefinite references.--Examples of

1 references that are not to a record location and are too
2 indefinite to charge a person with knowledge of an interest or
3 to bring the document within the record chain of title are:

4 (1) "Subject to the terms of a deed dated July 4, 1976,
5 from A to B."

6 (2) "Subject to a mortgage from A to B."

7 (3) "Subject to existing encumbrances."

8 (4) "Subject to easements of record."

9 (5) "Subject to mortgages of record."

10 (6) "Excepting so much of the described premises as I
11 have heretofore conveyed."

12 (c) Effect of indefinite references.--This section does not
13 prevent an indefinite reference from constituting a waiver or
14 exception or from being taken into account in determining the
15 existence of:

16 (1) A contractual obligation or condition between the
17 immediate parties to the document in which the reference
18 occurs.

19 (2) Any negation of a warranty of title.

20 (d) Recording memorandum of document.--This section does not
21 limit the effect of recording a memorandum of lease (section
22 5239) or memorandum of any other document, the recording of
23 which is permitted by law.

24 § 5318. Effect of restrictions on power of disposition.

25 (a) General rule.--Except as provided in subsection (b), if
26 a person who has a power of disposition conferred upon that
27 person by an instrument, this subpart or other law makes a
28 conveyance purporting to exercise the power, the title of the
29 purchaser is not subject to attack because of any of the
30 following infirmities which are not disclosed by a recorded

1 document:

2 (1) The state of facts necessary to authorize the
3 exercise does not exist.

4 (2) Notices required for exercise of the power were not
5 sent or received.

6 (3) The power otherwise was exercised improperly or
7 irregularly.

8 (b) Limitation on rights of purchaser.--A purchaser may not
9 claim any of the benefits of subsection (a) if:

10 (1) the purchaser is the person exercising the power of
11 disposition or is related to that person (section 5302(b));
12 or

13 (2) at the time of the transfer to the purchaser, the
14 purchaser had knowledge of any infirmity stated in subsection
15 (a).

16 (c) Right to recover damages unaffected.--This section does
17 not affect any right of a person injured by any unauthorized,
18 improper or irregular exercise of the power of disposition to
19 recover damages from the person exercising the power.

20 § 5319. Priority of advances under a recorded security
21 interest.

22 Notwithstanding sections 5311 (relating to effect of
23 conveyance) and 5312 (relating to title acquired by purchaser
24 for value who has recorded), but subject to the law on priority
25 of construction liens, a recorded security interest takes
26 priority as of the date of its recording as to advances or
27 obligations thereafter made or incurred under the security
28 agreement:

29 (1) If made pursuant to a commitment entered into before
30 the secured party had knowledge of an intervening interest,

1 to the extent of the outstanding advances or obligations that
2 do not exceed the maximum amount stated in the record.

3 (2) If not made pursuant to a commitment made before the
4 secured party had knowledge of an intervening interest, to
5 the extent of advances or obligations outstanding when the
6 secured party obtained knowledge of the intervening interest
7 and that do not exceed the maximum amount stated in the
8 record.

9 (3) If made or incurred for the reasonable protection of
10 the security interest in the real estate, such as payment for
11 real property taxes, hazard insurance premiums or maintenance
12 charges imposed under a condominium declaration or a
13 restrictive covenant, whether or not the advances or
14 obligations exceed the maximum amount stated in the
15 instrument and although the secured creditor had knowledge of
16 the intervening interest.

17 (4) If made under a construction security interest to
18 enable completion of the agreed improvement of the real
19 estate, whether or not the advances or obligations exceed the
20 secured maximum amount stated in the instrument or the
21 secured creditor had knowledge of the intervening interest.

22 § 5320. General liens.

23 A purchaser for value who has recorded takes free of a
24 general lien unless either of the following circumstances
25 exists:

26 (1) Before the recording of the purchaser's interest the
27 lien has been recorded as a specific lien.

28 (2) The purchaser's interest was created five years or
29 less after the general lien was most recently recorded or, if
30 the United States is the claimant, the minimum time permitted

under Federal law if five years is shorter than that minimum.
The period may be extended one or more times by rerecording
the general lien before the expiration of the period,
referring to the record location of its last prior recording.
Recording or rerecording does not extend a general lien
beyond the time it expires under other law.

§ 5321. Priority of specific liens.

If a notice of a specific lien is recorded to convert a
general lien to a specific lien (section 5412) during the time a
purchaser who has recorded is subject to the general lien under
section 5320 (relating to general liens), the priority of the
specific lien dates from the time of recording the information
required to make the general lien attach. The priority of other
specific liens dates from recording. Recording or rerecording an
instrument does not extend a specific lien beyond the time it
expires under other law. By virtue of this subpart, no new rule
of divestiture is created for specific liens.

§ 5322. Real estate tax and other liens.

Nothing in this subpart is intended to affect the priority of
real estate tax liens or municipal liens or of liens to secure
the payment of obligations imposed pursuant to a statute
relating to a common scheme of development of land, including
condominiums.

§ 5323. Priority of judgment liens.

(a) General rule.--If a secured creditor reduces a claim to
judgment before foreclosing, the judgment lien takes priority as
a general or specific lien on the real estate, unless the
judgment specifies that the obligation was secured by real
estate under a recorded security agreement identified in the
judgment by reference to the record location and an appropriate

1 notation to that effect is made on each docket entry of the
2 judgment in which case the lien of the judgment relates back to
3 and takes the priority of the security interest.

4 (b) Prior attachment of real estate.--If a judgment was
5 preceded by an attachment of real estate, it relates back to and
6 takes the priority of the attachment, if the judgment so
7 provides.

8 SUBCHAPTER C

9 MARKETABLE RECORD TITLE

10 Sec.

11 5331. Definitions.

12 5332. Marketable record title.

13 5333. Matters to which marketable record title is subject.

14 5334. Interests extinguished by marketable record title.

15 5335. Effect upon marketable record title of recording notice
16 of intent to preserve an interest.

17 5336. Interests not barred by subchapter.

18 5337. Effect of contractual liability as to interests
19 antedating root of title.

20 5338. Limitations of actions.

21 5339. Abandonment in fact.

22 § 5331. Definitions.

23 The following words and phrases when used in this subchapter
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Marketable record title." A title of record, as indicated
27 in section 5332 (relating to marketable record title), which
28 operates to extinguish interests and claims existing before the
29 effective date of the root of title, as stated in section 5334
30 (relating to interests extinguished by marketable record title).

1 "Person dealing with real estate." Includes a purchaser of
2 real estate, the taker of a security interest, a levying or
3 attaching creditor, a real estate contract vendee or another
4 person seeking to acquire an estate or interest therein or
5 impose a lien thereon.

6 "Records." Includes probate and other official records
7 available in the recording office, offices of the register of
8 wills and prothonotary and any other place or places where
9 records affecting title may be found.

10 "Root of title." A conveyance or other title transaction,
11 whether or not it is a nullity, in the record chain of title of
12 a person purporting to create or containing language sufficient
13 to transfer the interest claimed by that person upon which that
14 person relied as a basis for the marketability of the title and
15 which was the most recent to be recorded as of a date 40 years
16 before the time marketability is being determined. The effective
17 date of the "root of title" is the date on which it is recorded.

18 "Title transaction." Any transaction purporting to affect
19 title to real estate, including, but not limited to, title by
20 will or descent, title by tax deed or by trustee's, referee's,
21 guardian's, executor's, administrator's, master's or sheriff's
22 deed or decree of a court as well as warranty deed, quitclaim
23 deed or security interest.

24 § 5332. Marketable record title.

25 A person who has an unbroken chain of title of record to real
26 estate for 40 years or more has a marketable record title to the
27 real estate subject only to the matters stated in section 5333
28 (relating to matters to which marketable record title is
29 subject). A person has an unbroken chain of title when the
30 official public records disclose a conveyance or other title

1 transaction of record not less than 40 years at the time the
2 marketability is to be determined and the conveyance or other
3 title transaction, whether or not it was void or voidable,
4 purports to create the interest in or contains language
5 sufficient to transfer the interest to either:

- 6 (1) the person claiming the interest; or
- 7 (2) some other person from whom, by one or more
8 conveyances or other title transactions of record, the
9 purported interest has become vested in the person claiming
10 the interest with nothing appearing of record, in either
11 case, purporting to divest the claimant of the purported
12 interest.

13 § 5333. Matters to which marketable record title is subject.

14 The marketable record title is subject to:

- 15 (1) All interests and defects which are apparent in the
16 root of title or inherent in the other muniments of which the
17 chain of record title subsequent to the root of title is
18 formed. However, general reference in a muniment to
19 easements, use restrictions, encumbrances or other interests
20 created prior to the root of title is not sufficient to
21 preserve them (section 5317) unless a reference by record
22 location is made therein to a recorded title transaction
23 which creates the easement, use, restriction, encumbrance or
24 other interests.

- 25 (2) All interests preserved by the recording of proper
26 notice of intent to preserve an interest (section 5335).

- 27 (3) An interest arising out of a title transaction
28 recorded after the root of title, but recording does not
29 revive an interest previously extinguished (section 5334).

- 30 (4) The exceptions stated in section 5336 (relating to

1 interests not barred by subchapter).

2 § 5334. Interests extinguished by marketable record title.

3 Subject to the matters stated in section 5333 (relating to
4 matters to which marketable record title is subject), the
5 marketable record title is held by its owner and is taken by a
6 person dealing with the real estate free and clear of all
7 interests, claims or charges whatsoever, the existence of which
8 depends upon an act, transaction, event or omission that
9 occurred before the effective date of the root of title. All
10 interests, claims or charges, however denominated, whether legal
11 or equitable, present or future, whether the interests, claims
12 or charges are asserted by a person who is or is not under a
13 disability, whether the person is within or without this
14 Commonwealth or whether the person is an individual or an
15 organization or is private or governmental, are void.

16 § 5335. Effect upon marketable record title of recording notice
17 of intent to preserve an interest.

18 A person claiming an interest in real estate may preserve and
19 keep the interest, if any, effective as to any and all rights
20 accruing as a result of the recordation of the interest by
21 recording, during the 40-year period immediately following the
22 effective date of the root of title of the person who would
23 otherwise obtain marketable record title, a notice of intent to
24 preserve the interest (section 5238). No disability or lack of
25 knowledge of any kind on the part of anyone suspends the running
26 of the 40-year period. The notice may be recorded by the
27 claimant or by another person acting on behalf of a claimant who
28 is:

29 (1) under a disability;

30 (2) unable to assert a claim on claimant's own behalf;

1 or

2 (3) one of a class, but whose identity cannot be
3 established or is uncertain at the time of recording the
4 notice of intent to preserve the interest.

5 § 5336. Interests not barred by subchapter.

6 This subchapter does not bar:

7 (1) A restriction, the existence of which is clearly
8 observable by physical evidence of its use.

9 (2) Interest of a person using or occupying the real
10 estate whose use or occupancy is inconsistent with the
11 marketable record title to the extent that the use or
12 occupancy would have been revealed by reasonable inspection
13 or inquiry.

14 (3) Rights of a person in whose name the real estate or
15 an interest therein was carried on the real property tax
16 rolls within three years of the time when marketability is to
17 be determined if the relevant tax rolls are accessible to the
18 public at the time marketability is to be determined.

19 (4) A claim of the United States not subjected by
20 Federal law to the recording requirements of this
21 Commonwealth and which has not terminated under Federal law.

22 (5) Mineral interests, including oil, gas, sulphur, coal
23 and all other mineral interests of any kind, whether similar
24 or dissimilar to those minerals specifically named.

25 § 5337. Effect of contractual liability as to interests
26 antedating root of title.

27 This subchapter does not free a person from contractual
28 liability with respect to an interest antedating that person's
29 root of title to which the person has agreed to be subject by
30 reason of the provision of a deed or contract to which the

1 person is a party, but a person under contractual liability has
2 power to create a marketable record title in a transferee not
3 otherwise subjected to the interest antedating root of title by
4 the provisions of this subchapter.

5 § 5338. Limitations of actions.

6 This subchapter shall not be construed to extend the period
7 for the bringing of an action or for the doing of any other
8 required act under a statute of limitations.

9 § 5339. Abandonment in fact.

10 This subchapter does not preclude a court from determining
11 that a restriction has been abandoned in fact, whether before or
12 after a notice of intent to preserve the restriction has been
13 recorded.

14 SUBCHAPTER D

15 CURATIVE PROVISIONS AND LIMITATIONS

16 Sec.

17 5351. Minor defects cured by two-year lapse.

18 5352. Six-year period of limitation on certain proceedings.

19 5353. Accrual of claim.

20 5354. Periods of limitation on proceedings to recover or obtain
21 possession.

22 5355. Extent of adverse possession.

23 5356. Evidence of adverse possession.

24 5357. Expiration of recorded security interests; ten years
25 after maturity; extension.

26 5358. Extinguishing possibility of reverter and right of entry
27 for condition broken.

28 5359. Extinguishment of claims by limitations.

29 5360. Effect upon statute of limitations.

30 § 5351. Minor defects cured by two-year lapse.

1 (a) Effect of recording.--If a document purporting to
2 transfer or affect, or to authorize action affecting, title to
3 real estate has been signed by the owner of the real estate, or
4 by a person acting in a representative, fiduciary or official
5 capacity, and has been accepted for record, rightfully or
6 wrongfully, and properly indexed, after the lapse of two years
7 after the acceptance, the document and the record thereof are
8 effective, notwithstanding any one or more of the defects or
9 omissions described in subsection (b), for all purposes as
10 though the document or the record thereof had not been subject
11 to the defects or omissions, unless a proceeding is commenced on
12 account of the defects or omissions and a notice of the pending
13 proceeding is recorded within the two-year period.

14 (b) Defects and omissions.--This section applies to the
15 following defects and omissions under prior law or this subpart:

16 (1) A failure or omission of a document to comply with a
17 requirement of law relating to execution, acknowledgment or
18 recording, including a requirement relating to a corporate or
19 individual seal or to witnesses, attestation, proof of
20 execution, certificate, or recording of acknowledgment, proof
21 of notarial authority, time and dates of execution or
22 acknowledgment, certificate of recording, recitals of
23 consideration, indications of residence or addresses, or
24 statements of payment of tax or documentary stamps.

25 (2) A failure or omission of an instrument signed by an
26 attorney-in-fact, trustee, personal representative, executor,
27 administrator, guardian, corporate officer, sheriff, official
28 of any governmental unit or public agency, authority or
29 corporation, or another person acting in a representative,
30 fiduciary or official capacity, to state or indicate that the

1 signature, acknowledgment or another act is on behalf of the
2 owner or is in the signer's representative, fiduciary or
3 official capacity.

4 (3) In the case of a transfer by an executor, personal
5 representative or administrator of the real estate of a
6 decedent, by a trustee of the real estate held in a
7 testamentary trust or by a guardian of a ward's real estate,
8 a defect, irregularity or omission in the probate or other
9 judicial proceedings if the conveyance has been confirmed by
10 order of the court or administrative body having jurisdiction
11 over the estate.

12 (4) In the case of a sale of real estate on execution or
13 pursuant to the terms of an order or decree of a court or on
14 foreclosure of a tax lien or after a forfeiture, a defect,
15 irregularity or omission in the proceedings pertaining
16 thereto if the sale or forfeiture has been confirmed by the
17 court or administrative body having jurisdiction.

18 § 5352. Six-year period of limitation on certain proceedings.

19 (a) General rule.--If a document purports to affect title to
20 real estate and has been of record for six years and the
21 document purports to be executed by a personal representative,
22 executor, administrator, guardian, testamentary trustee,
23 sheriff, master, commissioner, referee, receiver, liquidator,
24 trustee in bankruptcy or other representative, no action or
25 proceeding may be commenced to invalidate or strike from the
26 record the document based upon a claim of lack of jurisdiction,
27 lack of appointment, defect in the appointment or qualification
28 of the signer or lack of approval of the transfer,
29 notwithstanding a defect in or absence of record of steps in the
30 probate, judicial or administrative proceeding for the approval

1 and the confirmation of the action evidenced by the document.

2 (b) Breach of restrictive covenant.--An action or proceeding
3 for breach of a covenant restricting the use of land, including
4 a proceeding to compel the removal, change or relocation of
5 structures by reason of a violation of the covenant, must be
6 commenced within six years after either:

7 (1) the date of the first violation; or

8 (2) the date of the commencement of construction of the
9 violating structure;

10 whichever is earlier, if the violation is apparent from the
11 location, size or advertised purpose of the structure.

12 § 5353. Accrual of claim.

13 (a) Wrongful dispossession.--If a cause of action is for
14 wrongful dispossession, it accrues on the date of dispossession
15 except as provided in this section.

16 (b) Failure to surrender possession.--If the cause of action
17 is against a tenant for failure to surrender possession upon the
18 termination of a lease, it accrues at the latest of the
19 following:

20 (1) The termination of the tenancy.

21 (2) The end of the last period for which rent was paid
22 and accepted.

23 (3) The expiration of a period of occupancy to which the
24 tenant is entitled by law.

25 (c) Future rights.--Except as provided by subsection (b), if
26 the interest claimed is a right of entry, remainder, executory
27 interest or possibility of reverter based upon a document
28 affecting title, the cause of action accrues on the date the
29 right of enforcement first arose.

30 (d) Breach of condition or covenant.--If the interest

1 claimed arises by reason of breach of a condition subsequent or
2 a covenant restricting the use of real estate, the cause of
3 action accrues on the date the condition or covenant is first
4 broken. No new cause of action arises by reason of continuing or
5 subsequent breaches, unless prior breaches have been cured.

6 § 5354. Periods of limitation on proceedings to recover or
7 obtain possession.

8 (a) General rule.--A proceeding to obtain or recover
9 possession of real estate or to establish title thereto must be
10 commenced within the following periods after the cause of action
11 accrues:

12 (1) Six years (subject to the provisions on tolling
13 (section 5357)) if the proceeding is brought by a person
14 other than the Commonwealth or the United States and is
15 against a person in adverse possession and that person or one
16 through whom that person claims:

17 (i) has been and is in possession under a recorded
18 conveyance (including a quitclaim deed or other deed
19 which purports to convey only the right, title and
20 interest, if any, of the grantor) or under a probated
21 will; and

22 (ii) has paid taxes before delinquency in four of
23 the six years preceding the commencement of the
24 proceeding.

25 (2) Twenty years if the proceeding is brought to obtain
26 or recover possession of real estate or establish title
27 thereto for the Commonwealth or the United States except as
28 provided by law.

29 (3) Ten years in all other cases.

30 (b) Adverse possession against government unit.--This

1 subpart shall not be construed to change the law of adverse
2 possession relating to the lands of the United States, the
3 Commonwealth and its political subdivisions and their agencies
4 and instrumentalities.

5 § 5355. Extent of adverse possession.

6 Adverse possession extends to the area actually possessed. In
7 addition, adverse possession of a significant portion of a
8 parcel of real estate extends to the whole parcel if the
9 following criteria are met:

10 (1) The whole parcel is recognized in the community as a
11 defined parcel under single ownership.

12 (2) Possession is under a recorded conveyance (including
13 a quitclaim deed or other deed which purports to convey only
14 any right, title and interest of the grantor) or under a
15 probated will.

16 (3) The conveyance or will purports to give title to the
17 whole parcel.

18 (4) The possessor or those through whom the possessor
19 claims have paid taxes on the whole parcel before delinquency
20 in four of the six preceding years.

21 (5) No other person is in possession adverse to the
22 claimant of any other portion of the whole parcel.

23 § 5356. Evidence of adverse possession.

24 (a) Recorded document.--If a person is in possession of real
25 estate under a recorded document, the record of the document and
26 the fact of present possession creates a presumption of adverse
27 possession from the time of recording of the document.

28 (b) Payment of taxes.--If the real estate is not in the
29 adverse possession of another, payment before delinquency by a
30 person or one through whom that person claims of all taxes

1 assessed against the property for a period of time creates a
2 presumption of adverse possession for that period of time.

3 (c) Cotenants.--Possession of real estate by a cotenant for
4 a period of 20 years during which another cotenant was not in
5 possession and did not share in the rents or profits of the real
6 estate creates a presumption of possession adverse to the claim
7 of the other cotenant.

8 (d) Exceptions.--The presumptions in this section do not
9 apply in the case of one tenant by the entirety against the
10 other or in the case of other persons with a right of possession
11 under a written agreement.

12 § 5357. Expiration of recorded security interests; ten years
13 after maturity; extension.

14 (a) General rule.--If the final maturity date of a secured
15 indebtedness or the last date fixed for the performance of a
16 secured obligation is ascertainable from the record of the
17 security interest, the security interest expires ten years after
18 that date. If it appears from the record of the security
19 interest that the final maturity date or last date fixed for
20 performance is variable, depending upon facts not in that
21 record, the security interest expires 40 years from the date it
22 was most recently recorded. In all other cases the security
23 interest expires ten years from the date of recording. Unless a
24 will specifies some other date or time, a security interest
25 created or imposed by will is considered due, for the purpose of
26 this section, on the date the will is admitted to probate. A
27 secured obligation or performance which is stated in a security
28 interest to continue throughout the lives of any persons is
29 considered to mature, for the purpose of this section, on the
30 death of the last survivor of the persons. Expiration as

1 provided in this subsection does not occur if an instrument
2 which expressly extends the final maturity or time for
3 performance is recorded before the expiration of the security
4 interest; if the final maturity date or last date fixed for
5 performance is ascertainable from the record of the supplemental
6 instrument, the security interest expires ten years from that
7 date; if that date is not so ascertainable, the security
8 interest expires ten years after the date the agreement or
9 instrument is recorded.

10 (b) Effect of expiration.--Expiration of a security interest
11 under this section is equivalent for all purposes to a proper
12 discharge of record, and execution or recording of a release or
13 discharge is not necessary to terminate or evidence the
14 termination of an interest which has so expired. However, a
15 release or discharge may be recorded at any time.

16 (c) Inapplicability to prior interests.--This section does
17 not apply to any security interest created prior to the
18 effective date of this subpart.

19 § 5358. Extinguishing possibility of reverter and right of
20 entry for condition broken.

21 A possibility of reverter, a right of entry for condition
22 broken (power of termination) or a resulting trust that
23 restricts a fee simple estate in land is extinguished by the
24 passage of 40 years after it or a notice of intent to preserve
25 the interest was most recently recorded.

26 § 5359. Extinguishment of claims by limitations.

27 Limitations prescribed by this subpart may be asserted by way
28 of defense or affirmatively and may be used in an action or
29 proceeding as a source of or as a means to establish title or a
30 right of possession or as an aid or explanation of title in an

1 appropriate proceeding.

2 § 5360. Effect upon statute of limitations.

3 This subchapter shall not be construed to extend the period
4 for the bringing of an action or for the doing of any other
5 required act under a statute of limitations except as stated in
6 section 5353 (relating to accrual of claim).

7 CHAPTER 54

8 LIENS AND ENCUMBRANCES

9 Subchapter

10 A. Scope and Definitions

11 B. Liens

12 C. Notice of Pending Proceedings

13 SUBCHAPTER A

14 SCOPE AND DEFINITIONS

15 Sec.

16 5401. Scope and applicability of subpart to liens and
17 encumbrances.

18 5402. Definitions.

19 § 5401. Scope and applicability of subpart to liens and
20 encumbrances.

21 (a) General rule.--A lien or encumbrance created or
22 recognized by this subpart or by any other law is subject to the
23 provisions on conveyancing and recording (Chapter 52) and the
24 provisions on priorities, marketable record title and
25 extinguishment of claims (Chapter 53). Except as provided by the
26 act of August 24, 1963 (P.L.1175, No.497), known as the
27 Mechanics' Lien Law of 1963, it is also subject to this chapter.

28 (b) Expiration.--A lien or encumbrance created or recognized
29 by this subpart or by any other law expires and becomes
30 unenforceable against the real estate at the times specified in

1 Chapter 53 (relating to priorities, marketable record title and
2 extinguishment of claims) on limitations and marketable record
3 title unless the law creating or recognizing the lien has
4 specified a shorter time.

5 (c) Foreclosure.--A lien created or recognized by law other
6 than this subpart may be foreclosed under the procedures for
7 foreclosure of a real estate security interest if the court so
8 orders unless other law provides an exclusive method of
9 foreclosure or collection of the obligation secured.

10 § 5402. Definitions.

11 Chapter 51 (relating to general provisions) contains general
12 definitions and principles of construction and interpretation
13 applicable to this chapter.

14 SUBCHAPTER B

15 LIENS

16 Sec.

17 5411. Proceedings in aid of establishing specific lien.

18 5412. Changing general lien into specific lien.

19 5413. Discharge of invalid lien.

20 5414. Federal tax and judgment liens.

21 § 5411. Proceedings in aid of establishing specific lien.

22 A lien creditor is entitled to aid from courts of appropriate
23 jurisdiction by discovery or by other appropriate proceedings to
24 discover and identify particular parcels of real estate against
25 which the lien may be asserted or to identify the judgment
26 debtor or person against whom the lien may be asserted.

27 § 5412. Changing general lien into specific lien.

28 A person having a general lien may make it also a specific
29 lien by recording a notice of specific lien identifying the date
30 of recording and record location of the general lien on which it

1 is based, the names and addresses of the lien claimant and the
2 debtor, the date of recording and record location of any notice
3 of pending proceeding to which the lien relates and a
4 description of the real estate on which the specific lien is
5 claimed.

6 § 5413. Discharge of invalid lien.

7 The owner of real estate against which a lien has been
8 recorded may give written notice to the lien claimant to
9 discharge the lien of record on the ground that the lien is
10 improperly recorded or that the obligation is satisfied but not
11 discharged of record. If the lien is a mortgage and is not
12 discharged of record within 45 days or if it is a judgment and
13 is not discharged of record within 30 days, the owner may
14 initiate a proceeding to discharge the lien. Upon proof that the
15 lien is invalid or that the lien has been discharged, an order
16 shall be issued canceling the notice of lien and, unless the
17 lien claimant justifies the failure to discharge the lien, also
18 awarding to the owner the damages suffered or \$250, whichever is
19 the greater, together with reasonable attorney fees incurred by
20 the owner.

21 § 5414. Federal tax and judgment liens.

22 (a) Tax liens.--Notices of liens upon real estate for taxes
23 payable to the United States and certificates and notices
24 affecting the liens shall be filed in the office of the
25 prothonotary of the county in which the real estate subject to a
26 Federal tax lien is situated and indexed against the name of
27 each tax debtor.

28 (b) Judgment liens.--A lien based upon a judgment of a court
29 of the United States shall be filed and indexed in conformity
30 with the rules and requirements of statutes relating to liens

1 based upon judgments of courts of this Commonwealth.

2 SUBCHAPTER C

3 NOTICE OF PENDING PROCEEDINGS

4 Sec.

5 5431. Rights of purchasers against pending proceedings.

6 5432. Recording of notice of pending proceedings.

7 5433. Effect of amendment of pleadings.

8 5434. Form and contents of notice.

9 5435. Voluntary and involuntary cancellation.

10 5436. Security for cancellation or noncancellation.

11 § 5431. Rights of purchasers against pending proceedings.

12 (a) Prior to notice.--A pending proceeding, including a
13 proceeding pending in a court of the United States, affecting
14 the use or enjoyment of or title to real estate does not affect
15 the title or rights acquired by a purchaser of record without
16 knowledge thereof before notice of the pendency of the
17 proceeding is filed in the office of the prothonotary of the
18 county in which the real estate is situated.

19 (b) Subsequent to notice.--If a notice of a pending
20 proceeding has been filed, a final determination in favor of the
21 party to an action is effective as of the date of filing the
22 notice if the final determination is rendered within five years
23 after the filing of the notice; otherwise, the effective date of
24 the final determination against purchasers is the date the
25 determination is filed. The period may be extended one or more
26 times by filing before its expiration a notice of pending
27 proceeding referring by docket location to the notice whose
28 effect is to be extended. In this case the period expires five
29 years after the filing of the new notice.

30 § 5432. Recording of notice of pending proceedings.

1 After filing the complaint or an agreement for an amicable
2 action in a proceeding in which the relief sought, if granted,
3 will affect the use or enjoyment of or title to particular real
4 estate, the person claiming relief may file a notice of pending
5 proceedings in the form and with the content provided in section
6 5434 (relating to form and contents of notice). A judgment for
7 money is not an interest in real estate within the meaning of
8 this section.

9 § 5433. Effect of amendment of pleadings.

10 If the pleadings in a proceeding as to which a notice of
11 pending proceeding has been filed are amended to affect
12 additional or different real estate, modify the claim asserted
13 or change the parties whose interest in real estate will be
14 affected, an amended notice of pending proceeding may be filed
15 to affect the different real estate and interests in the amended
16 pleadings under section 5431 (relating to rights of purchasers
17 against pending proceedings). The amended notice as to added
18 real estate or modified claim is effective only from the date of
19 its filing. As to a reduction in the real estate affected,
20 diminution of claim or parties dropped from the proceeding, the
21 amended notice is effective from the date of the original
22 filing.

23 § 5434. Form and contents of notice.

24 A notice of pending proceeding must be signed by the party or
25 the party's attorney and state the names of all parties, a
26 description of the real estate to be affected, an identification
27 of the interest claimed, the court before which the proceedings
28 are pending and the file or docket number, if available, or, if
29 not available, the date the proceeding was filed.

30 § 5435. Voluntary and involuntary cancellation.

1 (a) General rule.--A notice of pending proceeding may be
2 canceled by filing a written cancellation signed by or on behalf
3 of the party in whose name the notice was filed or the party's
4 successor in interest and containing a reference by docket
5 location to the notice being canceled.

6 (b) Order of court.--The court, upon any notice it directs,
7 shall enter an order canceling the notice of pending proceeding
8 if it finds any of the following:

9 (1) The proceeding will not affect the use or enjoyment
10 of or title to real estate.

11 (2) Service of process in the proceeding has not been
12 made timely as to a necessary party.

13 (3) The proceeding is not being prosecuted both in good
14 faith and with due diligence.

15 (4) The plaintiff's claim is barred under the provisions
16 on marketable record title (Subchapter C of Chapter 53) or by
17 limitations or laches.

18 (5) The proceeding has been finally determined adversely
19 to the party filing the notice of pending proceeding.

20 (6) Other good cause has been shown.

21 § 5436. Security for cancellation or noncancellation.

22 (a) Cancellation.--If the court determines that adequate
23 relief can be afforded to the party filing the notice of pending
24 proceeding by a deposit of money or the giving of a bond or
25 other undertaking in a sum deemed adequate by the court, the
26 court may condition its order of cancellation upon the giving of
27 security or the giving of a bond or other undertaking.

28 (b) Noncancellation.--If the court finds that cancellation
29 may not be granted due to disputed issues of fact or law or that
30 noncancellation will cause substantial damage if the act is not

1 ultimately successful, the court may require a deposit of money
2 or the giving of a bond or other undertaking to indemnify
3 against the damage in a sum found adequate by the court.

4 CHAPTER 55
5 CONSTRUCTION LIENS
6 (Reserved)

7 CHAPTER 56
8 LAND RECORDS

9 Subchapter

10 A. Scope and Definitions

11 B. Recording Officer

12 SUBCHAPTER A
13 SCOPE AND DEFINITIONS

14 Sec.

15 5601. Scope of chapter.

16 5602. Definitions.

17 5603. Other definitions.

18 § 5601. Scope of chapter.

19 This chapter applies to land records and the duties of
20 recording officers.

21 § 5602. Definitions.

22 The following words and phrases when used in this subchapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Geographic index system." An index system in which the
26 recording district is divided into appropriate geographic index
27 areas. An index system is a geographic index system if it has:

28 (1) a separate index for each parcel in the recording
29 district;

30 (2) a separate index for each block and entries for each

1 parcel in the block are arranged under the block
2 identification; or

3 (3) any other geographic or survey system that
4 reasonably separates the documents entered from time to time
5 concerning parcels in the recording district into manageable
6 geographic portions of the recording district.

7 "Index." A system that enables a person to find documents
8 using appropriate entry information.

9 "Land records." Documents and indexes maintained by the
10 recording officer as provided in this subchapter.

11 § 5603. Other definitions.

12 Chapter 51 (relating to general provisions) contains general
13 definitions and principles of construction applicable throughout
14 this chapter.

15 SUBCHAPTER B

16 RECORDING OFFICER

17 Sec.

18 5611. Duty to maintain public land records.

19 5612. Method of recording and indexing.

20 5613. Duty to record.

21 5614. Recording.

22 5615. Duty to index.

23 5616. Recording officer's maps.

24 5617. Geographic index.

25 5618. General lien and other indexes.

26 5619. Fees of recording officer.

27 5620. Action to compel recording and indexing.

28 § 5611. Duty to maintain public land records.

29 (a) General rule.--The recording officer shall maintain land
30 records and indexes as provided in this subchapter and allow

1 public access to the records and indexes during business hours.

2 (b) Certified copies.--The recording officer shall provide a
3 certified copy of a recorded document to any person who tenders
4 the proper fee.

5 § 5612. Method of recording and indexing.

6 The recording officer shall accept, record and index
7 documents in accordance with this subpart.

8 § 5613. Duty to record.

9 The recording officer must accept without delay, record and
10 index promptly each document presented in compliance with
11 section 5231 (relating to formal requisites for recording).

12 § 5614. Recording.

13 (a) General rule.--The recording officer shall indicate upon
14 or append to each document accepted for recording the date, hour
15 and minute of acceptance, make an entry thereof in a daily log
16 and note an identifying number on the document. The time of
17 recording is the date and time of acceptance.

18 (b) Daily log.--The recording officer shall maintain a daily
19 log in which the date, hour and minute of acceptance and the
20 identifying number of each document accepted for recording shall
21 be entered immediately upon acceptance and in the order in which
22 they are received. The recording officer may note at each log
23 entry the indexing information supplied in the document or in
24 separate indexing instructions (section 5233) appended to the
25 document.

26 (c) Permanent records.--The recording officer promptly shall
27 copy or file accepted documents into permanent records by hand,
28 typewriting, photocopying, xerographic copying, microfilming or
29 microficheing or by placing the information in the documents in
30 an electronic, electromechanical or other storage system.

(d) Matter not recorded.--The recording officer shall not copy into the record any part of a document if the part is preceded by the words "From Previously Recorded Master Form - Do Not Record" if the part of the document preceding those words:

(1) is entitled to be recorded under section 5231 (relating to formal requisites for recording); and

(2) contains a reference by record location to a master form or to a numbered paragraph of a master form.

§ 5615. Duty to index.

(a) General rule.--Promptly after the acceptance of a document, the recording officer shall make the index entries provided in this chapter. Each entry shall contain:

(1) The record location of the document.

(2) The date, hour and minute of recording.

(3) The names and identifying information given in the indexing information of the document.

(b) Reliance on information supplied.--The recording officer may rely on the indexing information supplied.

(c) Additional index entries.--Upon recording separate indexing instructions (section 5233) not appended to the document to which they relate, the recording officer shall on request, or may on the recording officer's own initiative, make additional index entries for a document. Each additional entry in the index not made as a part of the initial indexing process shall indicate the date, hour and minute it was made and the reason it was made (initiative of the recording officer or receipt of indexing instructions not appended to the document to which they relate).

(d) Return of document recorded.--If a document is recorded by copying, upon completion of recording and indexing, the

1 document shall be returned to the person who presented it, or a
2 person designated by the presenter, with an indication that it
3 has been recorded and indexed and a statement of its record
4 location and the geographic location under which it has been
5 indexed.

6 § 5616. Recording officer's maps.

7 Each recording officer shall maintain a series of maps that
8 indicate location in a manner enabling public users to find the
9 proper location or locations in each geographic index, if any,
10 for every land parcel. If practicable, the recording officer
11 shall use duplicates of existing tax assessment maps of all or
12 part of the county.

13 § 5617. Geographic index.

14 (a) Duty to keep.--The recording officer shall keep a
15 geographic index if required by law. If practicable, the index
16 shall be based upon the system of parcels used for tax
17 assessment.

18 (b) Arrangement of index.--If more than one parcel is
19 included in a geographic index, the index shall be arranged to
20 permit convenient search by name.

21 (c) Entries.--The recording officer shall cause one or more
22 entries to be made in the geographic index in accordance with
23 the information given in the indexing information of each
24 document accepted for recording.

25 § 5618. General lien and other indexes.

26 (a) General lien index.--The prothonotary shall keep for the
27 county a general lien index which shall be arranged to permit
28 convenient search by name.

29 (b) Other indexes.--The recording officer shall keep for the
30 county a utility easement notice index, a master forms index and

1 an index of recorded maps and plans.

2 (c) Following indexing instructions.--The recording officer
3 shall cause an entry to be made in the index for each document
4 that has indexing instructions containing, or has appended
5 separate indexing instructions containing, an indication that it
6 should be indexed in one of these indexes.

7 § 5619. Fees of recording officer.

8 The recording officer shall charge fees as determined by law.

9 § 5620. Action to compel recording and indexing.

10 A recording officer who fails to record and index a document
11 properly or to comply with indexing instructions under section
12 5615 (relating to duty to index) is subject to a judicial
13 proceeding to compel recording and indexing. A notice of pending
14 proceeding may be filed in connection with the proceeding.

15 Section 2. Notice of intent to preserve interest.

16 (a) Preservation of claims.--A person who claims an interest
17 which would be extinguished by the provisions on priority of
18 claims (68 Pa.C.S. Ch. 53 Subch. B) may preserve the interest by
19 recording a notice of intent to preserve the interest within
20 three years after the effective date of this subpart.

21 (b) Marketable title and future interests.--A person who
22 claims an interest that would be extinguished under the
23 provisions on marketable record title (68 Pa.C.S. Ch. 53 Subch.
24 C) or the provisions on extinguishing possibilities of reverter,
25 right of entry and resulting trusts (68 Pa.C.S. § 5358) by the
26 coming into effect of this act may preserve the interest by
27 recording a notice of intent to preserve the interest no later
28 than 40 years after the effective date of this act but in all
29 events within three months after the recording of the first
30 conveyance, which occurs at least three years after the

1 effective date of this act. The notice has the effect provided
2 in 68 Pa.C.S. §§ 5335 (relating to effect upon marketable record
3 title of recording notice of intent to preserve an interest) and
4 5358 (relating to extinguishing possibility of reverter and
5 right of entry for condition broken).

6 Section 3. Limitation of actions.

7 If a period of limitation and time of accrual specified in
8 this act would result in prohibiting commencement of a judicial
9 proceeding before the effective date of this act or within three
10 years after its effective date, the period during which the
11 proceeding may be brought is extended until three years have
12 expired after the effective date, but only if the period would
13 not have run under the prior law until after the effective date.
14 In all other cases the time of accrual and the period of
15 limitation is that specified in this act.

16 Section 4. Delay in geographic indexing.

17 The provisions of 68 Pa.C.S. §§ 5312(b)(2) (relating to title
18 acquired by purchaser for value who has recorded), 5616
19 (relating to recording officer's maps) and 5617 (relating to
20 geographic index) shall take effect on the later of three years
21 after the effective date of this act or the date on which
22 geographic indexing is otherwise authorized or required by law.
23 Until those provisions take effect, the recording officer shall
24 maintain geographic indexes only to the extent otherwise
25 provided by law and index all documents as otherwise provided by
26 law, except as otherwise provided by 68 Pa.C.S. § 5618 (relating
27 to general lien and other indexes).

28 Section 5. Notice of enactment.

29 (a) General rule.--To accomplish the broadest and most
30 effective notice of the enactment of this act and any pertinent

1 comments constituting part of the legislative history of this
2 act:

3 (1) This act and the comments shall be published by the
4 Department of Community Affairs in the Pennsylvania Bulletin
5 immediately following the date of final enactment, and once
6 each year thereafter a summary notice thereof shall be
7 published therein for three years on or about the date of
8 final enactment.

9 (2) The recording officer in each county shall maintain
10 in the office, and make available to the public during
11 regular business hours, a copy of this act and all amendments
12 and comments thereto and shall post and maintain in a
13 conspicuous place in the office a notice of the availability
14 of this act and all amendments thereto for public
15 examination.

16 (3) The recording officer may adopt such other
17 reasonable measures and media of publicity to bring about
18 public awareness of this act.

19 (b) Effect of noncompliance.--The failure of the recording
20 officer to comply with the provisions of subsection (a) shall
21 not render this act ineffective.

22 Section 6. Severability.

23 (a) General rule.--The provisions of this act are severable.
24 If any provision of this act or its application to any person or
25 circumstance is held invalid, the invalidity shall not affect
26 other provisions or applications of this act which can be given
27 effect without the invalid provision or application.

28 (b) Effect of invalidity of prior interests.--Should any
29 provision of this act be declared invalid as to any interest
30 created prior to the effective date of this act, this act shall

1 nevertheless be applicable to interests created after the
2 effective date of this act.

3 Section 7. Repeals.

4 (a) Absolute repeals.--The following acts and parts of acts
5 are repealed:

6 Sections 2 and 8 of the act of May 28, 1715 (1 Sm.L.94, Ch.
7 208), entitled "An Act for acknowledging and recording of
8 deeds."

9 Section 1 of the act of March 21, 1772 (1 Sm.L. 389, Ch.
10 669), entitled "An Act for prevention of frauds and perjuries."

11 Section 2 of the act of March 18, 1775 (1 Sm.L. 422, Ch.
12 704), entitled "A Supplement to the act, entitled An Act for
13 acknowledging and recording of deeds."

14 Act of May 31, 1901 (P.L.352, No.217), entitled "An act to
15 provide for the recording, in certain instances, of titles to
16 real estate acquired by twenty-one years' adverse possession."

17 Act of May 12, 1925 (P.L.613, No.327), entitled "An act
18 regulating the recording of certain deeds, conveyances, and
19 other instruments of writing, and fixing the effect thereof as
20 to subsequent purchasers, mortgagees, and judgment creditors."

21 (b) Inconsistent repeals.--The following acts and parts of
22 acts are repealed insofar as they are inconsistent with this
23 act:

24 Section 3 of the act of May 28, 1715 (1 Sm.L. 94, Ch. 208),
25 entitled "An Act for acknowledging and recording of deeds."

26 Section 1 of the act of March 18, 1775 (1 Sm.L. 422, Ch.
27 704), entitled "A Supplement to the act, entitled An Act for
28 acknowledging and recording of deeds."

29 Act of April 15, 1828 (P.L.490, No.212), entitled "A further
30 Supplement to the act entitled 'An act for acknowledging and

1 recording of deeds.'" "

2 Section 3 of the act of May 22, 1895 (P.L.113, No.87),
3 entitled "An act to provide for the making, acknowledging and
4 recording of deeds, conveyances and contracts for the sale and
5 conveyance of standing or growing timber or bark thereon, and
6 defining the interest vested by such deeds, conveyances and
7 contracts, and making valid the record of deeds, conveyances and
8 contracts therefor."

9 Act of April 24, 1931 (P.L.48, No.40), entitled "An act
10 requiring the recording of certain written agreements pertaining
11 to real property, and prescribing the effect thereof as to
12 subsequent purchasers, mortgagees, and judgment creditors of the
13 parties thereto."

14 (c) Saved from repeal.--The following acts are preserved in
15 full even though they may be affected by this act:

16 Act of January 26, 1870 (P.L.13, No.2), entitled "An act to
17 aid in perfecting titles to lands."

18 Act of May 25, 1878 (P.L.155, No.201), entitled "An act to
19 authorize the probate and recording of deeds, conveyances and
20 other instruments of writing, where there are no subscribing
21 witnesses."

22 Section 8. Effective date.

23 This act shall take effect in 90 days.