

KEY POINT REVIEW

A **freehold estate** lasts for an indeterminable length of time. **Fee simple** is the highest estate recognized by law. **Fee simple defeasible** is an estate that is qualified because it is subject to the occurrence or nonoccurrence of a specified event. A **life estate** is based on the lifetime of the life tenant or someone else (**pur autre vie**).

An **encumbrance** is a claim, charge, or liability that attaches to real estate. A **lien** is a charge against property that provides security for a debt or obligation of the property owner. **Covenants, conditions, and restrictions (CC&Rs)** are private limitations on the use of land.

An **easement** is a right to use the land of another. An easement is usually created by written agreement between the parties. An **easement appurtenant** is said to run with the land when title is transferred. The **dominant tenement** benefits from the easement, which runs over the **servient tenement**.

An **easement in gross** is an individual or company interest in or right to use another's land. An **easement by necessity** arises when land has no access to a street or public way. An **easement by prescription** is acquired when a claimant has used another's land for the period required by law. The use must be continuous, nonexclusive, visible, open, and notorious.

An easement is **terminated** when the need for it no longer exists, when the owner of either the dominant or servient tenement becomes the owner of both, when the owner of a dominant tenement **releases** the right of easement to the owner of the servient tenement, if the easement is **abandoned**, or by the **nonuse** of a prescriptive easement.

A **license** is a personal privilege to enter the land of another for a specific purpose.

An **encroachment** occurs when all or part of a structure illegally intrudes on the land of another or beyond legal building lines.

A **lis pendens** gives notice of litigation in progress that may affect title to property.

Government powers can be recalled by using the acronym PETE. **Police power** is the state's authority, passed down to counties and municipalities through enabling acts, to legislate to preserve order, protect the public health and safety, and promote the general welfare of citizens. **Eminent domain** is the government's right to acquire privately owned real estate for a public or economically beneficial use through condemnation. **Taxation** can include a charge on real estate to raise funds to meet public needs. **Escheat** occurs when the state takes control of property after the owner dies leaving no will or lawful heirs.

When a **taking** of property occurs, the Fifth Amendment to the U.S. Constitution requires that the owner be given just compensation. A property owner may claim compensation under **inverse condemnation** if an adjacent public land use diminishes the value of the owner's property but the property has not been condemned for public use.