

KEY POINT REVIEW

Land includes the earth's **surface**, its **subsurface** extending downward to the center of the earth, and the **air space** above the surface.

Physical characteristics of land include immobility, indestructibility, and nonhomogeneity (uniqueness).

Subsurface rights include mineral rights and other natural resources that can be leased or sold separately from surface rights. **Air rights** can be sold separately from surface rights and have limitations to enable air travel. **Water rights** can be held by owners of land adjacent to rivers, lakes, or oceans.

Land includes things naturally attached to it, such as trees and crops that do not need cultivation (*fructus naturales*), and perennial crops, orchards, and vineyards (*fructus industriales*).

Real estate includes the land as well as all things permanently attached or annexed to the land, both by nature and by humans.

Real property includes the interests, benefits, and rights that are automatically included in the ownership of unimproved land and real estate.

The **bundle of legal rights** includes the rights of possession, control, enjoyment, exclusion, and disposition.

Title is the right to ownership of real property and the evidence of ownership provided by a written document, called a deed, by which title is transferred.

An **appurtenance** is a right or privilege associated with real property in some way, such as a parking space in a multiunit building, an easement, or water rights, and is normally conveyed to the new owner when the property is sold.

Water rights are determined by common law and statute and include **riparian rights**, which belong to owners of land along a flowing body of water, and **littoral rights**, which belong to owners of land that borders a commercially navigable lake, sea, or ocean. The doctrine of **prior appropriation** is followed in some states and provides that water use, aside from limited domestic use, is controlled by the state rather than the landowner adjacent to the water; to use water, the landowner must demonstrate a beneficial use of the water, such as for irrigation of crops.

Economic characteristics of land include scarcity, improvements, permanence of the investment, and area preference (*situs*).

Personal property (chattel) includes

- movable items, such as a chair or a sofa;
- **emblems** (*fructus industriales*), annual plantings or crops of grains, vegetables, and fruit;
- items of real property that can become personal property by **severance**;
- items of personal property that can become real property by **annexation** (such as construction materials); and
- factory-built homes, including **manufactured homes**, that can be personal property unless **permanently affixed** to land.

A **fixture** is personal property that has been affixed to the land or to a building so that by law it becomes part of the real property. The legal tests for a fixture include **MARIA**: the **method of annexation**, **adaptability** of the thing for the land's ordinary use, **relationship** of the parties, **intent** in placing the item on the land, and **agreement** of the parties.

Trade fixtures include property attached to the structure but used in the course of business, and can be **personal property**, if removed by the tenant and the premises are returned to original condition before the lease expires; or real property, if left behind by the tenant. The landlord can acquire this type of property by **accession**.

State laws that affect real estate include those on contracts, property, agency, and real estate licensing. There are state and local land-use and zoning laws, as well as federal and state laws concerning consumer protection, the environment, and taxation.