



## Property Law

### Educational Objectives

After learning the content of this assignment, you should be able to:

1. Explain how a person can acquire ownership of personal property in each of these ways:
  - Creation
  - Accession
  - Confusion
  - Gifts
  - Bailments
2. Describe the respective rights and duties of a bailee and a bailor.
3. Describe these types of real property ownership:
  - Fee simple estate
  - Life estate
  - Joint tenancy
  - Tenancy by the entirety
  - Tenancy in common
  - Community property
  - Cooperative ownership
  - Condominium ownership
4. Describe real property sales in terms of the following:
  - The required elements of a contract of sale
  - The types of deeds and the characteristics of each
  - The requirements that deeds must meet



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## Educational Objectives, continued

- How and why deeds are recorded
5. Describe the purpose and operation of each of the following:
    - Mortgages
    - Trust deeds
    - Land contracts
    - Mechanic's liens
  6. Describe each of the following incidental real property rights:
    - Adverse possession
    - Rights to whatever is under, above, or on the land's surface
    - Rights to lateral and subjacent support
    - Water rights
    - Ownership of fixtures
  7. Describe the following types of land use restrictions:
    - Incorporeal interests
    - Licenses
    - Government controls
  8. Describe the landlord-tenant relationship in terms of the following:
    - The three types of landlord-tenant estates
    - Landlord's rights and duties
    - Landlord's remedies
    - Tenant's rights and duties

## Outline

- ▶ **Ownership and Possession of Personal Property**
  - A. Basic Concepts of Property Law
  - B. Creation of Intellectual Property
    - 1. Copyrights
    - 2. Patents
  - C. Accession
  - D. Confusion
  - E. Gifts
  - F. Bailments
- ▶ **Bailee's and Bailor's Rights and Duties**
  - A. Bailee's Rights
  - B. Bailee's Duties
  - C. Bailor's Rights and Duties
- ▶ **Real Property Ownership**
  - A. Estate in Fee Simple
  - B. Life Estate
  - C. Concurrent Estates
    - 1. Joint Tenancy
    - 2. Tenancy by the Entirety
    - 3. Tenancy in Common
    - 4. Community Property
  - D. Cooperative Ownership
  - E. Condominium Ownership
- ▶ **Real Property Sales**
  - A. Elements of a Contract of Sale
  - B. Types of Deeds
  - C. Requirements That Deeds Must Meet
  - D. Recording Deeds
- ▶ **Real Property Security Interests and Liens**
  - A. Mortgages
  - B. Trust Deeds
  - C. Land Contracts
  - D. Mechanics' Liens on Real Property
    - 1. Priorities for Mechanics' Liens
    - 2. Waiver of Lien
- ▶ **Incidental Real Property Rights**
  - A. Adverse Possession
  - B. Rights Under, Above, and on the Land's Surface
  - C. Rights to Lateral and Subjacent Support
  - D. Water Rights
  - E. Ownership of Fixtures
- ▶ **Land Use Restrictions**
  - A. Incorporeal Interests
    - 1. Easements
    - 2. Profits à Prendre
    - 3. Seller's Restrictions on Land Use
  - B. Licenses
  - C. Government Controls
    - 1. Zoning
    - 2. Building Codes
    - 3. Eminent Domain
- ▶ **The Landlord and Tenant Relationship**
  - A. Types of Landlord-Tenant Estates
  - B. Landlord's Rights and Duties
  - C. Landlord's Remedies
  - D. Tenant's Rights and Duties

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**tips**

When you take the randomized full practice exams in the SMART Online Practice Exams product, you are seeing the same kinds of questions you will see when you take the actual exam.



For each assignment, you should define or describe each of the Key Words and Phrases and answer each of the Review and Application Questions.

## Educational Objective 1

Explain how a person can acquire ownership of personal property in each of these ways:

- **Creation**
- **Accession**
- **Confusion**
- **Gifts**
- **Bailments**

## Key Words and Phrases

Intellectual property rights

Copyright

Patent

Accession

Confusion

Gift

Donee



Bailment

## Review Questions

- 1-1. Distinguish between the rights of ownership and possession.
  
  
  
  
  
  
  
  
  
  
- 1-2. Describe the two categories of property.
  
  
  
  
  
  
  
  
  
  
- 1-3. Describe the factors courts consider when determining fair use of copyrighted material.
  
  
  
  
  
  
  
  
  
  
- 1-4. Describe the donative intent element of a gift.



## **Educational Objective 2**

**Describe the respective rights and duties of a bailee and a bailor.**

### **Key Word or Phrase**

Possessory lien

### **Review Questions**

- 2-1. Describe the bailee's rights in a bailment for the bailor's sole benefit.
  
  
  
  
  
  
  
  
  
  
- 2-2. Describe the degree of care required in a bailment for the bailor's and bailee's mutual benefit.
  
  
  
  
  
  
  
  
  
  
- 2-3. Explain the extent of a bailee's insurable interest.



2-4. Define what is meant by negligent entrustment.

### **Educational Objective 3**

**Describe these types of real property ownership:**

- **Fee simple estate**
- **Life estate**
- **Joint tenancy**
- **Tenancy by the entirety**
- **Tenancy in common**
- **Community property**
- **Cooperative ownership**
- **Condominium ownership**

### **Key Words and Phrases**

Fee simple estate

Life estate

Tenancy

Joint tenancy

Tenancy by the entirety



Tenancy in common

Community property

Cooperative ownership

Condominium

## Review Questions

3-1. Distinguish between joint tenancies and tenancies in common.

3-2. Explain how a tenancy by the entirety differs from a joint tenancy.





3-3. Describe the disadvantages of cooperative ownership.

3-4. Describe the two legal elements of condominium ownership.

## Educational Objective 4

Describe real property sales in terms of the following:

- The required elements of a contract of sale
- The types of deeds and the characteristics of each
- The requirements that deeds must meet
- How and why deeds are recorded

## Key Words and Phrases

Deed

Vendor

Vendee

Grantor



Grantee

## Review Questions

- 4-1. Describe the two essential terms contained in a contract for the sale of real estate.
- 4-2. Contrast a general warranty deed with a special warranty deed.
- 4-3. Explain why it is important that a deed be absolutely accurate.
- 4-4. Describe the purpose of recording a deed.



## Educational Objective 5

Describe the purpose and operation of each of the following:

- Mortgages
- Trust deeds
- Land contracts
- Mechanic's liens

## Key Words and Phrases

Mortgagor

Mortgagee

Foreclosure

Trust deed (deed of trust or trust indenture)

Mechanic's lien





b. The seller

5-5. List the facts that a general contractor must show when asserting a mechanic's lien against a customer's property.

## Educational Objective 6

Describe each of the following incidental real property rights:

- Adverse possession
- Rights to whatever is under, above, or on the land's surface
- Rights to lateral and subjacent support
- Water rights
- Ownership of fixtures

## Key Words and Phrases

Adverse possession

Lateral support

Subjacent support



Trade fixtures

Improvements and betterments

## Review Questions

- 6-1. List the four elements required for one to obtain title by adverse possession of the lands of another.
  
  
  
  
  
  
  
  
  
  
- 6-2. Describe the limited rights a landowner has over the air space above the land.
  
  
  
  
  
  
  
  
  
  
- 6-3. Describe the water rights of landowners with surface streams passing through the property.



6-4. Identify the tests for whether a particular property is a fixture.

## Educational Objective 7

**Describe the following types of land use restrictions:**

- Incorporeal interests
- Licenses
- Government controls

## Key Words and Phrases

Incorporeal interest

Easement

Profits à prendre

License

Zoning

Exclusionary zoning



## 5.16 Business Law for Insurance Professionals—CPCU 530

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Spot zoning

Special exception

Variance

Hardship variance

Use variance

Nonconforming use

Building codes

Eminent domain

Condemnation proceeding





## Review Questions

- 7-1. Explain how easements are created?
- 7-2. Give examples of profits *à prendre*.
- 7-3. Contrast zoning laws and building codes with respect to the matters they typically control.
- 7-4. List the two conditions for granting a petition to seize property through eminent domain.



## Application Question

- 7-5. In 2005, Bryan sold some land to Oliver. The deed provided that there could be no automobile garage on the premises and no building used for the manufacture of glue, gun power, or fertilizers on the premises. Are the restrictions binding on Oliver? Explain.

### Educational Objective 8

**Describe the landlord-tenant relationship in terms of the following:**

- The three types of landlord-tenant estates
- Landlord's rights and duties
- Landlord's remedies
- Tenant's rights and duties

## Key Words and Phrases

Tenancy at will

Estate for years

Periodic tenancy

Holdover tenant



## Review Questions

- 8-1. Describe the landlord's primary duty.
  
  
  
  
  
  
  
  
  
  
- 8-2. Summarize a landlord's remedies against a tenant when the tenant remains in possession at lease termination.
  
  
  
  
  
  
  
  
  
  
- 8-3. Describe a tenant's primary rights and duties.
  
  
  
  
  
  
  
  
  
  
- 8-4. Explain who is liable for injuries to third parties on rented or leased property.

