

Rules of examination
for
Abstracts Of Title
and
Tax Proration Guidelines
Adopted by
Rock Island County Bar Association
effective _____, 2025

The Rock Island County Bar Association has adopted the following rules with respect to the acceptability and sufficiency of abstracts or title examinations pertaining to property in Rock Island County, Illinois and other standards for real estate transactions in Rock Island County, Illinois,

Effective : _____ 2025

Real Estate Committee:

Maureen E. Riggs and Shannon Ziegenhorn, Churchill & Churchill, P.C.

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Monica Kruse, Meridian Title Company

Preamble:

The Bar acknowledges that most transaction contemplate the use of title insurance, and the underwriting guidelines of specific title insurance companies will dictate certain title objections and resolutions for said objections. In the event an abstract is used in lieu of title insurance, these rules for abstract examination and updating shall apply.

Rule 1 - What Objectionable; Merchantable Title

An attorney making an examination of title should raise objections only to such matters that are a material or substantial defect, and should be prepared to show by legal authority that the matter complained of is of such a character that it renders the title unmerchantable.

Rule 2 - Statutes of Limitation; Curative Acts

Full weight and effect shall, to the extent justifiable under case law relating thereto, be given to all statutes of limitation and curative statutes, both state and federal.

Rule 3 - Affidavits; Sufficiency of Recitations

Affidavits shall show the affiant's means of knowledge. Affidavits in support of claims of adverse possession shall state evidentiary facts from which the legal conclusion may be drawn at the claimant, and his grantors, if necessary, were in open, notorious, actual, visible, hostile, adverse, exclusive and uninterrupted possession of the real estate for the requisite period of time. An affidavit shall not be deemed sufficient if it merely recites the legal conclusion without stating evidentiary facts. An affiant may be deemed credible though interested.

Rule 4 - Ancient Documents

Rule 4-1 - Ancient Documents; No Objection for Defective Acknowledgment

Instruments which have been recorded twenty years shall be deemed ancient documents and should not be objected to because of defects in acknowledgements.

Rule 4-2 - Ancient Court Proceedings; Presumptions

Where a decree or judgment affecting the title to premises has been entered twenty or more years ago, the proceedings shall be deemed to be valid and binding, and it shall be presumed that all parties concerned had due notice although the record does not affirmatively show that fact, unless it affirmatively appears from the record that the court lacked jurisdiction of the subject matter or of the person of any necessary party.

Rule 4-3 - Ancient Documents; Recitals In

After a lapse of twenty years, recitals in deeds, court proceedings or affidavits as to identity, heirship, marital status, or intestacy shall be taken as conclusive as to matters they report to establish even though defective inform or stating conclusions, unless there is affirmative evidence in the abstract or records of title recorded with the County to the contrary.

Rule 5 - Names

Rule 5-1 - Names; Idem Sonans (Misspelling of a name)

Names which are idem sonans shall be presumed identical in the absence of evidence to the contrary.

Rule 5-2 - First Full Name and First Initial; Presumption

The first full name and an and any common and contraction thereof and the first initials should be accepted as referring to the same individuals if the surnames are identical, unless there is other evidence indicating different persons are referred to, and twenty years have elapsed since the date of the instrument.

Rule 5-3 - Middle Initials and Middle Names

Discrepancies or variances in middle names and middle initials or the entire absence therefore should be disregarded, unless there is other evidence indicating different persons are referred to, if twenty years have expired since the date of the instrument.

Rule 6 - Marital Status; Dower and Homestead

Rule 6-1 - Statute Abolishing Dower

Full force and effect shall be given to the statute abolishing dower.

Rule 6-2 - Homestead; Failure to Convey

Failure to properly convey homestead shall be disregarded after twenty years from the date of conveyance in the absence of evidence that homestead is being claimed by virtue of such failure to convey.

Rule 6-3 - Description of Marital Status in Conveyance

The description of a grantor in a conveyance as a widower or widow shall, in the absence of any evidence to the contrary, be sufficient to show that such grantor had no living spouse from whom such grantor had been divorced at the time of the execution of the conveyance. The description of the grantor in a conveyance as unmarried or single person, in the absence of notice after a lapse of twenty years, shall be considered as meaning a person with no spouse who has never been divorced.

Rule 6-4 - Description of Grantor as Being Divorced

Where the grantor in a conveyance is described as a divorced person and it appears that the property which is the subject of the conveyance was owned by the grantor, solely or with the former spouse, during the period of such marriage, the simple fact of divorce shall not be considered as barring the rights of the former spouse but the examiner shall call for the divorce decree to be shown. If such divorce decree does not effectively dispose of or bar the rights of the former spouse, the examiner is justified in requiring a further showing as to the rights of such former spouse.

Rule 7 - Decedent's Estates

Rule 7-1 - Recitation of Heirship; Presumption of Intestacy

Where there is a recital in a deed, court proceeding or affidavit as to a person's heirship, it shall be presumed, in the absence of evidence to the contrary, that the person died intestate.

Rule 7-2 - Petition for Letters of Administration; Presumption

In estates where the decedent died more than twenty years ago and the names of the purported heirs are set forth in the petition for letters of administration, it shall be presumed, in the absence of evidence to the contrary, that all of the heirs of the decedent are named in the petition.

Rule 7-3 - No or Defective Administration; Limitation on Claims

Where there has been no administration or defective administration of the estate of a deceased owner, or where the owner died testate and his will, showing testate distribution identical to intestate distribution, has been lodged, affidavits in proper form showing heirship, payment of debts, intestacy or testate with copy of will attached, and that there was no Illinois inheritance or estate tax or federal estate tax or that the same had been paid, shall be accepted in lieu of proper administration after seven years in the case of decedents, dying before October 1, 1972 and after 3 years in the case of decedents dying on or after October 1, 1972.

Rule 8 - Trust Deeds (Mortgages); Prepayment and Release

Rule 8-1 - Prepayment Options; Release Before Maturity

Whenever a trust deed (mortgage) contains a prepayment option and appears released on a date on or after which said option to prepay might have been exercised, such release shall, if otherwise sufficient, be accepted and no new release shall be required because the release in question was executed and given before final maturity of the note or notes secured by such trust deed.

Rule 8-2 Trust Deeds; Release Before Maturity

Releases of trust deeds by trustees before maturity or prepayment date, where more than ten years have expired since the final due date of the application secured, shall be regarded as having been duly executed and a new release shall not be required by the examiner.

Rule 9 - Wild Deeds; Not Notice to Subsequent Purchasers

After ten years a conveyance from a stranger to the record title is not considered notice to a subsequent purchaser and is not a cloud on title unless it appears from the abstract that such grantor may have had an interest in the premises.

Rule 10 - Corporations and Associations; Conveyances

Rule 10-1 Religious or Charitable Groups; Authority to Convey

Where a conveyance has been made by a religious or charitable corporation or association, either in its corporate capacity or by the officers thereof and such conveyance is more than ten years old, it shall, in the absence of evidence to the contrary, be presumed that the conveyance was regularly executed on behalf of such corporation or association by the proper officers thereof, and that they were properly authorized to execute the same.

Rule 10-2 Corporate Conveyance; Lack of Record Authorization No Defect

On examination for a subsequent purchaser, no objection shall be made because of their not being of record specific authorization to convey when the corporate instrument is under seal and signed by the officers thereof.

Rule 11 - Trustees; Conveyances By

Where title to real estate has been taken by a person, either natural or corporate, as trustee, who subsequently conveys either as an individual or as a trustee, with no further showing of trust powers; and such latter conveyance has been of record twenty or more years, it shall, in the absence of evidence to the contrary, be presumed that such conveyance was regularly executed and vested fee simple title in the named grantee or grantees.

Rule 12 - Commencement of Abstract

An abstract of title, if otherwise sufficient under these rules, covering property that has not been platted or which has been platted within thirty years, which commences with a deed or decree determining title recorded or entered forty years or more prior to an examination should be sufficient abstract to evidence merchantable title, except where a right-of-way or easement is reserved and is incorporated by reference to book and page only without actual description, then said right-of-way or easement must be shown by direction. Where the Plat of a Subdivision or Addition has been of record for more than thirty years from the time of examination, and lots of been sold and conveyed with reference to said Plat, an abstract commencing on the later of the following dates shall be sufficient abstract to evidence merchantable title:

1. The time of platting.
2. A deed or decree determining title recorded or entered forty years or more prior to examination, except that in such case the Plat of the Subdivision or Addition and the certificate thereto shall be shown in the abstract by direction and where a right-of-way or easement is reserved and is incorporated by reference to book and page only without actual description, then said right-of-way or easement must be shown by direction.

Rule 13 - Tax Deeds

Outstanding interests arising through tax deeds issued pursuant to sales held prior to September 1, 1951, shall be ignored where there are no subsequent transfers of such interests.

Rule 14 - Railroad Rights-of-Way

Reservation of rights of way more than forty years old by any railroad company shall be disregarded in the absence of notice that a railroad has in fact been built upon said lands.

Rule 15 - Preparation of Abstracts and Copies

Rule 15-1 - Who May Prepare

Abstracts made by abstract companies, by any attorney at law having an office in the Fourteenth Judicial Circuit of Illinois, and deceased attorneys living at the time of certification, are acceptable.

Rule 15-2 - Certification to Copies of Abstracts

Any abstract company having an office in Rock Island County, Illinois, and any attorney having an office in the Fourteenth Judicial Circuit of Illinois, who is a practicing attorney at the time of making the certification, may prepare and certify a copy of an acceptable original abstract, or any original continuation thereto, which abstract should be accepted as sufficient.

Rule 15-3 - Copies of Copies

The only copies of copies that are acceptable are those described as follows:

1. Copies made by xeroxing or other permanent copy process of original abstracts or original continuations thereto.
2. A xerox or other permanent process copy of a copy which has been certified as a true copy by the maker of the original abstract or continuation.

Rule 15-4 - Printed Copies

Printed copies of abstracts heretofore made before 1923, whether certified by the printer or not, are acceptable.

Rule 16 - Form of Abstractors Certificates

Rule 16-1 Abstractors Certificates Prepared Forty or More Years Ago

No objection shall be raised regarding the form of Abstractor's Certificates to Abstracts or Continuations when said certificate is dated forty years or more prior to the date of examination.

Rule 16-2 Absence of Hour in Abstractor's Certificates Prepared Twenty or More Years Ago

In all abstract continuations covering a period prior to twenty years from the time of examination, it shall be presumed that when the Abstractor's Certificate in caption state that the period covered is "to" a certain date, but does not state the hour of that day, and the abstract caption or certificate to the next continuation states that it covers a period "from" the same date that the later continuation commences at the date and hour when the earlier continuation ends.

Rule 16-3 Merchantable Abstract Certificate Minimum Standards

At a minimum, an Abstract shall Certify that a Search was made of the Records of the appropriate Public Offices during a specified time period, and that the Abstract correctly reflects all of the following items as they may occur during the time period covered by the Abstract, to wit:

1. Instruments on Record with the Recorder of Deeds Office which may affect the Title to the captioned premises.
2. Estate and Guardianship proceedings in Rock Island County, which may affect title to the captioned premises.
3. Mechanic's Liens of Record, which affects the captioned premises.
4. Judgments and transcripts of Judgments of Record, which became a Lien against the captioned premises by virtue of being entered against specifically named parties during specified time periods as stated in the Abstract Certificate.
5. Notice of Revenue Liens which became a Lien against the captioned premises by virtue of being assessed against specifically named parties during specified time periods as stated in the Abstract Certificate.
6. Bankruptcy and other proceedings filed in the Rock Island Division of the Central District of Illinois of the United States District Court regarding the specifically named parties during the specified time period as stated in the Abstract Certificate which affect the captioned premises.
7. Pending Suits and Court Proceedings which affect the captioned premises.
8. Special Assessment Judgments confirmed by a Court of Record.
9. Tax Forfeitures and Tax Sales which affect the captioned premises.

Rule 17 - Disputes as to Title Objections or Sufficiency of an Abstract

In the event attorneys are unable to agree as to the validity of an objection to title, or the sufficiency of an abstract, they may submit their dispute to the Committee on Title Examination consisting of three (3) members of the Rock Island County Bar Association, appointed annually by the President of said Association, for decision; which decision shall be accepted by said attorneys as conclusive.

Rule 18 - Title Insurance Policies

Title insurance policies are acceptable to protect against defects in title.

Rule 19 - Real Estate Tax Proration Guidelines

Real Estate Taxes are paid a year in arrears. At the time of closing, unless otherwise agreed to in a Real Estate Purchase Agreement, a Buyer shall receive credit from a Seller for the unpaid real estate taxes and real estate taxes accrued and not yet due and owing. Tax prorations shall be prorated on the most recent available assessment (regardless of certification), taking exemptions into consideration, and using the most recent available tax rate. The tax estimate is divided by 365 (the number of days in a year - 366 in a leap year), and is multiplied by the number of days until closing from the beginning of the year with that amount being credited to Buyer at closing.

1. In the event a parcel is being split, taxes shall be prorated as follows at closing:

The parties shall execute a written tax estimate agreement based on the parties' respective splits. The agreement shall take into account where improvements are located on the parcels, if any. The agreement should include all of the tax responsibilities of each party. If funds are being escrowed, the agreement shall provide for escrow of 125% (or more if agreed to by the parties) of the tax estimate and shall take into consideration exemptions that may or may not be continued.

In Henry County, parcel splits recorded and all taxes paid by September 30 of the year in order for the split to go into effect the following year.

In Mercer County, for 2025 and on, the Assessor is going to enter these splits as they come in, but call to see if they will go through because it will depend on the time of year.

In Rock Island County, parcel splits recorded by December 31 will go into effect the following year.

2. In the event an appeal of taxes is approved, the new assessed value shall be used in calculating the tax prorates.

Rule 20 - Location of Closing

Unless otherwise agreed by the parties in a Real Estate Purchase Agreement, or by agreement prior to closing, cash closings on Illinois real estate shall close at the Buyer's attorney's office. Cash closings on Iowa real estate shall close at the Seller's attorney's office. Lender closings shall close at the Lender's office, the Lender's closing agent's office, or the Lender's attorney's office, as determined by the Lender. The closing office shall be responsible for all recordings, payments, and disbursements unless otherwise agreed to by the parties.

I, Mark D. Churchill, the duly elected Secretary of the Rock Island County Bar Association, do hereby certify that the rules contained herein are true and exact copy of the Rules of Examination for Abstract of Title and Tax Proration Guidelines, adopted by the Rock Island County Bar Association at a meeting held on _____ 2025.

Mark D. Churchill

Secretary

Rock Island County Bar Association