

# An Overview of Title Insurance and Underwriting:

## Preparing a Title Report, Commitment, and Policy

**Ashley M. Jones**

Assistant Vice President, Old Republic National Title Insurance Company

Associate Title Counsel



# Underwriting

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## *General Considerations*

- Title insurance is a contract of indemnity whereby the insurer, for a valuable consideration, indemnifies the insured against loss or damage resulting from the status of the title to a parcel of real property being other than as represented.
- According to the American Land Title Association, 25% of all residential real estate transactions have issues with the title that require resolution before closing.
- Underwriting emphasis is on loss prevention and risk elimination rather than risk assumption.
- You are obligated to deal with any post-closing issues from the lender or parties, even if they occur years later.
- Our underwriting manual discusses many procedural and underwriting issues in great detail. See [www.mvt.com](http://www.mvt.com) for our recently revised and updated underwriting manual.



# Getting Started

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## *How to get title work: (a/k/a abstract or search)*

Who can you use?

- Old Republic Title
- Independent Abstractors
- Do it yourself
- Another Old Republic Title agent or approved attorney

## **Requesting Residential/Commercial Searches from Old Republic Title:**

Website: [www.mvt.com](http://www.mvt.com)

Phone: 901-761-2030

Fax: 901-683-8646

Email: [dbennett@oldrepublictitle.com](mailto:dbennett@oldrepublictitle.com)



# Getting Started

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## *Title Search*

The Title Search/Abstract should contain the following:

- All documents in chain of title
- Tax card and tax map
- Judgment/lien and name search
- Covenants/conditions/restrictions
- Court documents if applicable
- PACER documents if applicable
- When your property includes an easement for access:
  - The property through which your owner has an easement should be searched.

**Tennessee Code Annotated § 56-35-129** provides in part that “No policy or contract of title insurance shall be issued until and unless the title insurance company has caused to be conducted a reasonable search and examination of the title”



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# **The Title Report: Analysis of Information Provided**

# The Title Report

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## *Review and Analysis*

- Ownership interests/Title to the estate or interest that is being insured
  - Who are the owners and how is title being held?
- Unreleased deeds of trust and liens
- Property type
  - Improved/unimproved
  - Residential/commercial
  - Condominium
  - Mobile home
- Leases
- Restrictive covenants/restrictions
  - Easements, options to purchase, right of first refusal, right of forfeiture, possibility of reverter, or encroachments
- Water rights/mineral rights
- Access to the insured property
- Environmental/zoning violations/illegal lot
- Notice and Order of Quarantine
  - Certificate of Fitness/Release from Order of Quarantine



# The Title Report

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## *Review and Analysis*

- The Legal Description
  - What does it look like?
  - Does it close?
  - Are there errors?
  - Does the legal description overlap with neighboring property?
  - Does the property have access to a public road?
    - Watch out for limited or controlled access when property abuts interstate, highway or other major road
- “A picture is worth a thousand words”
- You need to plat the description or obtain platting from your abstractor
- Buy and use Net Deed Plotter or some other platting software
- Subdivision plat, tax map, Google Earth, and Earthpoint for Google
- If description relies on a deed reference, make sure the referenced deed is valid and accurate. (Start at Smith property corner; see property in Bk/Pg)

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Very Helpful

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http://www.deedplotter.com/

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**Our genuine, original Deed Plotter is the one you heard about and are looking for. Over a period of 27 years its quality and popularity have caused it to become the industry standard.** That is what we hear from title companies, attorneys, paralegals, landmen, and other real estate professionals. Our software (Deed Plotter) is demonstrated in accredited colleges, community schools, and landman training schools all over the country. Our Deed Plotter is often the leading topic at seminars and bar association meetings. Deed Plotter is recommended in at least one college text book and has been the subject of many articles. It is used in court to settle land disputes, and has proven the location of oil wells. *If your deed plotting software never came from Greenbrier Graphics, it is not a genuine Deed Plotter® (see caution below).*





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# The Commitment

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## ***How to request a commitment***

Email: [ajones2@oldrepublictitle.com](mailto:ajones2@oldrepublictitle.com)  
[kboyd@oldrepublictitle.com](mailto:kboyd@oldrepublictitle.com)

Fax: 901-683-8646

When requesting a title commitment, please provide your completed Attorney's Opinion Sheet / Certificate of Title and commitment request form.



# Request for Title Insurance Commitment

**Request for Title Insurance Commitment  
Tennessee**

**Purchaser(s):** \_\_\_\_\_

**Sales price:** \$ \_\_\_\_\_

**Lender:** \_\_\_\_\_

**Amount of Loan:** \$ \_\_\_\_\_

**Type of Loan:** \_\_\_ Conventional \_\_\_ FHA \_\_\_ VA \_\_\_ Rural Housing \_\_\_ SBA

**Is the loan for construction?** Yes / No

**Is there a second mortgage:** Yes / No

**Lender:**

**Amount of Loan:** \$ \_\_\_\_\_

**Is a Closing Protection Letter requested?** Yes / No

If yes, Lender address for CPL: Street Address \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Loan Number (if necessary): \_\_\_\_\_

**Current use of the Subject Property:** Residential Commercial Vacant

**Is/Are Current Owner(s) in full possession of entire subject property?**  
Yes / No (*explain*)

**Survey and Inspection Report:** Yes (*attach*) / No

If Yes, is Survey Coverage requested? Yes / No

**Is a chain of title requested on the Commitment?** Yes (*provide chain info*) / No

If Yes, length of chain: 12 months 24 months Other ( \_\_\_\_\_ months)

**Endorsements requested to be Issued with Policy:** \_\_\_\_\_

**Additional information:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



# Certificate of Title

**CERTIFICATE OF TITLE**  
(Tennessee)

MORTGAGEE: Standard (LX) (  ) Short Form (MXSF) (  ) Amount: \$ \_\_\_\_\_  
 OWNER: Standard (OX) (  ) Extended (EHP) (  ) Amount: \$ \_\_\_\_\_

T.G.# \_\_\_\_\_ Continuation of: \_\_\_\_\_  
 TITLE IS IN: \_\_\_\_\_  
 TITLE SOURCE: \_\_\_\_\_  
 For description to use in deeds see \_\_\_\_\_  
 Is Plat reference sufficient? Yes [  ] No [  ]  
 Encorsements requested: \_\_\_\_\_

<u>REQUIREMENTS</u>	<u>DISPOSITION</u>
( <input type="checkbox"/> ) FILE WARRANTY DEED TO PURCHASER _____	Reg.# _____
( <input type="checkbox"/> ) FILE TRUST DEED SECURING LOAN _____ CITY _____ COUNTY _____	Reg.# _____
( <input type="checkbox"/> ) PAY TAXES: _____	_____
( <input type="checkbox"/> ) INQUIRE AS TO MECHANICS LIENS & U.C.C. FILINGS _____	_____
( <input type="checkbox"/> ) COMPLY WITH REGULATION #30 AS AMENDED _____	_____
( <input type="checkbox"/> ) DISCHARGE TRUST DEED: _____	_____
( <input type="checkbox"/> ) PAY HOMEOWNER'S ASSOC DUE: _____	_____
( <input type="checkbox"/> ) OTHER: _____	_____
_____	_____
_____	_____
_____	_____

**EXCEPTIONS TO APPEAR IN POLICY**

(  ) TAXES: City \_\_\_\_\_ County \_\_\_\_\_ Ward \_\_\_\_\_ District \_\_\_\_\_  
 (  ) SUBJECT TO SURVEY: \_\_\_\_\_  
 (  ) DEED RESTRICTIONS: \_\_\_\_\_  
 (  ) SUB-DIVISION RESTRICTIONS, Building Lines and Easements of record in Plat Book \_\_\_\_\_ Page \_\_\_\_\_  
 (  ) Amendment to Subdivision Restrictions: Book \_\_\_\_\_ Page \_\_\_\_\_  
 (  ) TRUST DEED (Purchase money or other): \_\_\_\_\_  
 (  ) EASEMENTS: \_\_\_\_\_  
 (  ) OTHER: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

I CERTIFY to OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY that when the above requirements are satisfied:

1. The title under examination will be marketable;
2. The restrictive covenants and building lines, if any, have not been violated and contain no reversionary clause except as noted above;
3. There is a right of access to and from the land.

(Attorney is to delete any of the above certifications which are inapplicable)

ABSTRACT CERTIFICATION DATE: \_\_\_\_\_ RECERTIFICATION DATE: \_\_\_\_\_  
 (  ) See reverse side for additional requirements or exceptions.

\_\_\_\_\_  
(Approved Attorney's Signature)



# Completing the Certificate of Title

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## *Requirements*

Title is in:

Title source:

Endorsements requested:

File Warranty Deed to Purchaser:

File Trust Deed securing loan:

City/County real property taxes:

Discharge Trust Deed:

Pay Homeowner's Association Dues:



# Completing the Certificate of Title, cont.

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Other, (for example):

Liens

Judgment lien

United States judgment lien

Federal and/or State tax lien

UCC Financing Statement

Mechanics/Materialman's lien

Owner's Association lien

Foreclosure

City-specific concerns

Bankruptcy

LLC/Corporation/Partnership

Trust

Divorce

Deceased Seller(s)



# Completing the Certificate of Title, cont.

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## *Exceptions*

City/County taxes:

Deed restrictions:

Sub-division restrictions:

Trust Deed:

Easements:

Other, (for example):

- Master Deed

- By-laws

- Restrictive Covenants

- Charter

- Encroachments

- Liens

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# Pre-closing Considerations



# Pre-closing Considerations

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## *Some things to double check before closing*

- Read lender's closing instructions!
- ISAOA language after lender's insured name; special wording for some
- Million dollar approval form required on large transactions
- Do not rely on a bank payoff, release, subordination, etc. unless you get the information directly from the lender!
- Pre-closing update if title search is old (safest procedure-always update)
- Are you prepared to meet all requirements on or before closing?
- If endorsements are required, have underwriting guidelines been met for issuance?



# Pre-closing Considerations

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## *Some things to double check before closing*

### **Recordation requirements:**

- Grantor and Grantee
- Affidavit of value/oath of consideration
- Derivation clause
- Property address
- Name and address of property owner
- Name and address of the person or entity responsible for real property taxes
- Ward, block and parcel number of property
- Name and address of the preparer
- Proper notary acknowledgments
- Legal description of property
- Original documents (Unless E-filed)



# Pre-closing Considerations

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## *Some things to double check before closing*

- Conduct a Patriot Act search for the names of buyer and seller
  - Transaction will be VOID if parties are on sanctions list
  - See “Suspected Terrorist List” link on MVT website
- Foreign Investment in Real Property Tax Act (“FIRPTA”)
  - See 26 U.S.C. §1445 and Treasury Regulation 26 C.F.R. §1.1445-1
  - Does not apply to residential transactions less than \$300,000
  - Generally you will comply if you obtain Non-Foreign Affidavit
  - There are other exceptions and requirements to this act

# Common Endorsements

# Common Endorsements

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## *Underwriting Guidelines*

- The Underwriting Manual contains underwriting guidelines for issuing endorsements, please see [www.mvt.com](http://www.mvt.com).
- **ZONING ENDORSEMENT (ALTA 3-06, 3.1-06, and 3.2-06)**
  - **ALTA 3-06**
    - Owner's or Lender's policy, improved or unimproved property.
      - Review applicable zoning ordinances.
      - Review written certification from zoning department or agency; certification should state zoning classification and authorized use of the property.
  - **ALTA 3.1-06**
    - Owner's or Lender's policy, improved property.
      - Review applicable zoning ordinances.
      - Review written certification from zoning department or agency; certification should state zoning classification and authorized use of the property.
      - Review survey of the property to determine that the existing improvements comply with (a) area, width, or depth of the land as a building site, (b) floor area space of the structure, (c) setback of the structure, (d) height of the structure, and (e) number of parking spaces.



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- **ALTA 3.2-06**

- Owner's or Lender's policy, land under development.
  - Review applicable zoning ordinances.
  - Review written certification from zoning department or agency; certification should state zoning classification and authorized use of the property.
  - Review the Plans and confirm that the planned future improvements comply with (a) area, width, or depth of the land as a building site, (b) floor area space of the structure, (c) setback of the structure, (d) height of the structure, and (e) number of parking spaces.
  - Contact Underwriting Counsel if you receive a request to issue this endorsement.

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- **PLANNED UNIT DEVELOPMENT ENDORSEMENT (ALTA 5.1-06)**

- **ALTA 5.1-06**

- Owner's or Lender's policy.
  - Review the restrictive covenants to confirm no existing violations.
  - Confirm that the restrictive covenants contain no forfeiture or reversion of title.
  - Confirm that no covenant or other instrument of record contains any right of first refusal.
  - Confirm that all homeowner's association dues have been paid.
  - Confirm that no existing structure, other than a boundary wall or fence, encroaches onto a neighbor's property or onto an easement running across the property.

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- **ENVIRONMENTAL PROTECTION LIEN ENDORSEMENT (ALTA 8.1-06 and 8.2-06)**
    - **ALTA 8.1-06**
      - Lender's policy insuring Deed of Trust secured by residential property.
        - Review title search to determine if there is a recorded environmental protection lien or notice of a violation of any environmental protection laws.
    - **ALTA 8.2-06**
      - Owner's or Lender's policy and is not limited to residential property.
        - Review title search to determine if there is a recorded environmental protection lien or notice of a violation of any environmental protection laws.



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- **RESTRICTIONS, ENCROACHMENTS, MINERALS/COVENANTS, CONDITIONS AND RESTRICTIONS ENDORSEMENT (ALTA 9-06, 9.1-06, 9.2-06, and 9.3-06)**
    - **ALTA 9-06**
      - Lender's policy, basic endorsement requested by lenders, provides most coverage.
      - **Covenants, Conditions, and Restrictions**
        - Confirm that the Covenants do not contain any provisions that would extinguish or subordinate the insured Deed of Trust upon a violation of the covenants.
        - Confirm that there are no violations of the Covenants.
        - Confirm that no improvements violate building set back lines.
        - Confirm that there are no recorded notices of any violation of Covenants relating to environmental protection.
      - **Encroachments**
        - Confirm that no building on the subject property encroaches onto a neighbor's property or onto an easement that crosses the subject property.
        - Confirm that no building on a neighboring property encroaches onto the subject property.
      - **Minerals**
        - Confirm that there are governmental restrictions that would limit or prevent mineral or other subsurface development.
        - Confirm that there is no ongoing or anticipated mineral or other subsurface development in the area.

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- **ALTA 9.1-06**

- Owner's policy, unimproved land.
  - Confirm that there are no violations of the Covenants.
  - Confirm that there are no recorded notices of any violation of a Covenant relating to environmental protection.

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- **ALTA 9.2-06**

- Owner's policy, improved land.
  - Confirm that there are no violations of the Covenants.
  - Confirm that there are no recorded notices of any violation of a Covenant relating to environmental protection.
  - Confirm that no improvements violate building set back lines.

- **ALTA 9.3-06**

- Lender's policy, provides same coverage as 9-06 regarding Covenants, Conditions, and Restrictions BUT does not include the coverage for Encroachments and Minerals.
  - Confirm that the Covenants do not contain any provisions that would extinguish or subordinate the insured Deed of Trust upon a violation of the covenants.
  - Confirm that there are no violations of the Covenants.
  - Confirm that no improvements violate building set back lines.
  - Confirm that there are no recorded notices of any violation of Covenants relating to environmental protection.

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# LEGISLATIVE UPDATES

# LEGISLATIVE UPDATES-LEGISLATION ENACTED IN 2016

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## *Public Chapter Number 414*

**Amends TCA Title 35, Chapter 5; Title 66 and Title 67, Chapter 5.**

**Tennessee Code Annotated, Section 67-5-2003(g)(4)**, is amended by deleting the subdivision and substituting instead the following:

(4) A judgment of personal liability for unpaid personal property taxes may be enforced as any other judgment, through garnishment, execution, or otherwise, and may also be recorded as a lien in one (1) or more offices of registers of deeds. Any judgment recorded pursuant to this subdivision (g)(4) shall be subject to the same requirements and attributes of judgment liens, including durability, priority, and renewal, and shall thereafter no longer be subject to the statute of limitation established by this chapter for unpaid property taxes. However, the rates of penalty and interest shall continue as established by this chapter, and upon recording of such judgment, the tax entity shall retain the alternative of enforcing its tax lien against the assessed personal property according to the priority and procedures set forth in this chapter.

**Tennessee Code Annotated, Section 67-5-2101(b)**, is amended by deleting the subsection and substituting instead the following:

(b) In addition to the lien on property, property taxes shall become and remain a personal debt of the property owner or property owners as of January 1 of the tax year, and, when delinquent, may be collected by suit as any other personal debt. In any lawsuit for collection of property taxes, the same penalties and attorney fees shall apply as set forth in § 67-5-2410 for suits to enforce liens for property taxes. The claim for the debt and the claim for enforcement of the lien may be joined in the same complaint.

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## ***Public Chapter Number 414, cont.***

**Tennessee Code Annotated, Section 67-5-2103(b)**, is amended by deleting the subsection and substituting instead the following:

(b) All interested persons shall be deemed to have constructive notice of the proceedings by virtue of the seizure of the parcel occurring upon the filing of a complaint for the purpose of enforcement of the first lien. However, interested persons who do not have an obligation to pay the taxes on the parcel, such as lienholders, need not be joined as parties nor served with process so long as a diligent effort to give actual notice of the proceedings, as defined in § 67-5-2502(c)(1), is made to such persons.

**Tennessee Code Annotated, Section 67-5-2103**, is further amended by adding the following, among others, as a new subsection:

(j) All interested persons, as defined in this chapter, are charged with the knowledge that the parcel is subject to property taxes, which are required to be paid to the trustee or collector on an annual basis, and which taxes become a first lien on the parcel from January 1 of each year. All interested persons have an affirmative duty to inquire as to the amounts of such taxes and their payment status. Under no circumstances shall a claim that the interested party did not receive a tax bill or any pre-lawsuit notice constitute a valid defense to the enforcement of the lien, the personal debt for the taxes, or the amount of taxes owed, including penalty, interest, cost, and fees.

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## ***Public Chapter Number 414, cont.***

**Tennessee Code Annotated, Section 67-5-2415(g)**, is amended by adding the following language to the end of the subsection:

Process and notices delivered by registered or certified mail or by an alternative delivery service, with a return receipt, to an interested party's registered agent at the agent's address or to the address of the interested party, each as shown on the corporate records of a state secretary of state or other officer responsible for maintaining such records, shall be sufficient to bind the interested party as to notices and service of process.

**Tennessee Code Annotated, Section 67-5-2502(a)**, is further amended by adding the following new subdivision:

(4) A person, who is either expressly or impliedly authorized by another person to receive mail on behalf of the other person, is authorized to sign a receipt on behalf of the other person accepting registered or certified mail or correspondence delivered by an alternative delivery service, containing either a summons, complaint, or summary of the proceeding or a notice that has been or is to be filed in a tax proceeding. In every tax proceeding, the burden of proving by clear and convincing evidence that a person who signed such a receipt for a different person and was, in fact, at that time expressly prohibited in writing from accepting mail for the second person, shall be upon the person challenging the sufficiency of the service or notice.

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***Public Chapter Number 414, cont.***

**Tennessee Code Annotated, Section 67-5-2503**, is amended by designating the existing language as subsection (b) and by inserting the following language as a new subsection (a):

(a) An order confirming the sale of a parcel shall confer the right to possession of the parcel to the purchaser effective upon entry of the order. On such date, the risk of loss shall transfer from the original owner to the purchaser. In the event of a loss occurring after the sale and before the order confirming the sale is entered, the court shall, on motion of the purchaser filed before the order confirming the sale becomes final, determine whether any portion of the purchaser's bid should be refunded to the purchaser.



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## ***Public Chapter Number 524***

**Amends TCA Title 8; Title 66 and Title 67.**

**Tennessee Code Annotated, Section 67-5-2501**, is amended by adding the following as a new subsection (c):

Within five (5) business days after the conclusion of the sale, and prior to confirmation of the sale by the court, the clerk of the court shall immediately file in the case a report of sale or other notice reflecting the results of the tax sale.

The clerk of the court shall, concurrently with the filing, file the report or notice with the office of the register of deeds of the county in which the property is located. The report or notice shall set forth all results from the sale, or a separate report or notice may be created for each property sold.

The report or notice shall include, at a minimum, the identification of the property and defendants contained in the notice of sale as required by § 675-2502, the name of the successful bidder, and the total successful price bid for each parcel together with the instrument number of the last conveyance of record.

The report or notice shall be for notice purposes only and shall not be evidence of transfer of title.

Failure to timely record the report or notice shall not provide grounds to set the sale aside.

The document shall be exempt from recording fees pursuant to § 821-1001, and shall be indexed by the register under the name of the last owner of record.

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## ***Public Chapter Number 853***

**Amends TCA Title 13, Chapter 30 and Title 67, Chapter 5.**

**Tennessee Code Annotated, Section 67-5-2507(a)(2)**, is amended by deleting the subdivision in its entirety and substituting instead the following:

(2) During the period when redemption of any such tract of land can be made, the land shall be:  
Held and put only to a use that will not result in a waste of the land; or  
Sold to a third party, in accordance with subsection (b), subject to the right of redemption. If any parcel is sold subject to redemption, it may be redeemed in accordance with § 67-5-2701.

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## ***Public Chapter Number 866***

### **Amends TCA Title 66, Chapter 27.**

**Tennessee Code Annotated, Section 66-27-415**, is amended by deleting subsections (a) and (b) and substituting instead the following:

(a)

(1) The association has a lien on a unit for any assessment levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due, which lien may be foreclosed by judicial action.

(2) Notwithstanding subdivision (a)(1), the declaration may provide that the association's lien may be foreclosed in like manner as a deed of trust with power of sale under title 35, chapter 5; provided, that the association shall give notice of its action to the unit owner and to all lienholders of record prior to the first publication of notice as required under title 35, chapter 5.

(3) Notice shall be deemed sufficient if sent by United States mail, postage prepaid:

If to the unit owner, at the unit, or, if different, the last address for the unit owner on file with the association; or  
If to a lienholder, other interested party, or the nominee of record, at the address set forth in the instrument of record, or, if different, at such other address as the lienholder, the other interested party, or the nominee may have on file with the association.

(4) Notice shall be deemed received three (3) days after deposit in the United States mail, postage prepaid. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charged pursuant to § 66-27-402(a)(10), (11), and (12) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment of the assessment becomes due.



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## ***Public Chapter Number 866, cont.***

(b)

(1) A lien under this section is prior to all other liens and encumbrances on a unit, except:

Liens and encumbrances recorded before the recordation of the declaration;

A first or other contemporaneous mortgage or deed of trust on the unit recorded before the date on which the assessment sought to be enforced became delinquent; and

Liens for real estate taxes and other governmental assessments or charges against the unit.

(2) Upon a foreclosure action initiated by a lien holder or the association under title 35, chapter 5, the association shall be entitled to a priority in the proceeds from the foreclosure sale to satisfy the lien under subsection (a) up to the extent of the common expense assessments based on the periodic budget adopted by the association pursuant to § 66-27-414, which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien, but not exceeding one percent (1%) of the maximum principal indebtedness of a lien secured by the first mortgage or deed of trust; provided, that, notwithstanding this subsection (b) or any law to the contrary:

Any foreclosure by the association of its lien for assessments shall be subject to any prior mortgage or deed of trust encumbering the property and shall not extinguish the lien of such mortgage or deed of trust;

Upon any foreclosure by the holder of a mortgage or deed of trust, the sale and foreclosure will be subject to the association lien up to the payment priority amount set forth in this subdivision (b)(2); and

Any right of foreclosure or priority of the association shall not be transferable and shall be extinguished if assigned or transferred to a third party.

(3) This subsection (b) does not affect the priority of mechanics or materialmen's liens. The lien under this section is not subject to the statutory or other right of redemption, homestead, or any other exemption, unless specifically reserved in the declaration.

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## ***Public Chapter Number 866, cont.***

**Tennessee Code Annotated, Section 66-27-415**, is amended by deleting subsection (d) and substituting the following:

Recording of the declaration constitutes record notice of the lien. A lien for any delinquent assessment under this section up to the priority in payment provided in subdivision (b)(2) is perfected without recording. Any other delinquent amount above the priority of payment provided in subdivision (b)(2) is perfected by recording it in the lien book in the register of deeds office in the county where the real property is located, and shall have priority over any subsequently filed liens.

(2) The lien shall not have the priority provided for in subdivision (b)(2)(A) over the mortgages and deeds of trust described in subdivision (b)(1)(B) if the owner of the unit or the holder of any mortgage or deed of trust on the unit has notified the association in writing of the holder's name and address and the identity of the unit upon which it holds a first mortgage or deed of trust, and the association has failed, within thirty (30) days of the date that six (6) months of assessments for common expenses due from the unit became delinquent, to give written notice of the delinquency to the holder of the first mortgage or deed of trust at the address provided by the party.

# LEGISLATIVE UPDATE- LEGISLATION PROPOSED IN 2017

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## *House Bill 95 / Senate Bill 236*

**Amends TCA Title 26, Chapter 5 and Title 35, Chapter 5.**

As introduced, extends the time of sale of land to foreclose a deed of trust, mortgage or other lien securing the payment of money or other thing of value or under judicial orders or process from "10:00 am-4:00 pm" to "hours agreed upon by the seller and auctioneer."



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## ***House Bill 601 / Senate Bill 492***

**Amends TCA Title 7; Title 8; Title 21; Title 26; Title 35; Title 40; Title 66 and Title 67.**

This bill eliminates the right of redemption for real property sold in a tax sale.

Generally under present law, upon entry of an order confirming a sale of a parcel due to a tax delinquency, a right to redeem vests in all interested persons. The right to redeem must be exercised within the time period established by present law beginning on the date of the entry of the order confirming the sale, but in no event may the right to redeem be exercised more than one year from that date. Present law establishes criteria on which the redemption period must be based.

This bill removes the right to redemption and specifies that after the conclusion of a tax sale, any person claiming any right, title, or interest in, or lien upon, any parcel will be forever barred and foreclosed of any such right or interest.

Present property tax law defines "delinquent tax" as a tax that has been due and payable for at least two years or a tax that has been due and payable for at least one year on real property that is vacant and abandoned. This bill also defines the term "vacant and abandoned" for purposes of the definition of delinquent tax.

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## **House Bill 1044 / Senate Bill 843**

### **Amends TCA Title 62, Chapter 6 and Title 66, Chapter 11.**

As introduced, provides that a prime contractor's lien is forfeited if the final decision of a suit brought for its enforcement is not delivered within two years from the lienor bringing the suit to enforce the lien; authorizes the court to hold any party that unduly delays or extends the action to enforce such a lien liable for the injured party's expenses incurred as a result of the delay or extension.



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## ***House Bill 1230 / Senate Bill 1311***

**Amends TCA Title 8, Chapter 13; Title 23, Chapter 3; Title 66, Chapter 5, Part 1 and Title 66, Chapter 24.**

This bill requires that a deed of conveyance of real property be prepared by a licensed attorney or the owner of the real property. This bill further requires that the deed be filed by the attorney or owner with the county register of deeds in the county in which the real property is located.

This bill requires registers to verify that a deed of conveyance of real property was prepared by a licensed attorney or the owner of the real property and note the verification on the deed. This bill authorizes a county register to refuse to register any deed of conveyance of real property that is not prepared by a licensed attorney or by the owner of the real property.



# THANK YOU

**Ashley M. Jones**

Assistant Vice President | Old Republic National Title Insurance Company  
Associate Title Counsel

T: 901-461-2030 | F: 901-683-8646 |  
[ajones2@oldrepublictitle.com](mailto:ajones2@oldrepublictitle.com)

Old Republic National Title Insurance Company  
5865 Ridgeway Center Parkway, Suite 104  
Memphis, TN 38120



**OLD REPUBLIC INSURANCE GROUP**