

## BASICS OF TITLE INSURANCE/TITLE OPINIONS AS THEY RELATE TO REAL ESTATE TRANSACTIONS HERE IN KENTUCKY

\*\* Title Insurance Policy – Contract of indemnity between the title insurance company (the underwriter) and the insured owner of real estate or the mortgage lender, wherein the company insures the good and marketable title to the property.

\*\* Title Opinion – legal opinion issued by an attorney wherein the attorney sets out the current status of title to real estate and confirms that the owner has good title to the property, subject to certain exceptions.

\*\* In order to facilitate real estate closings here in Kentucky, title insurance policies and title opinions are required by mortgage lenders as well as the buyers of real estate. Most lenders will not enter into a mortgage loan agreement without assurances that their mortgage interest is in “first and best” position in the event of a default by the borrower.

\*\* The issuance of a title insurance policy and title opinions is based upon the ability to effectively search the land records in the County Clerk’s office in the county where the property lies.

\*\* Search Standards for the period of time that the records must be searched and examined.

- Residential property – 30 years
- Commercial property – 60 years
- Mineral Rights Search- back to patent

In order to effectively search the title to real estate, the online records should include copies of the following documents:

1. Deeds
2. Mortgages
3. UCC/Fixture Filings
4. Plats of subdivided property.
5. All covenants, conditions, and restrictions that relate to real property
6. Easements
7. Leases/Memorandum of leases
8. Recorded powers of attorney
9. Land contracts.
10. Wills
11. Affidavits that affect/clarify the title to property.
12. All recorded liens/encumbrances, including:
  - a. Judgment liens
  - b. State tax liens
  - c. Federal tax liens
  - d. Homeowner's Association and Condominium liens
  - e. Recoupment and unemployment liens
  - f. Lis Pendens Notices
  - g. Child Support liens
  - h. Bail bonds
  - i. Civil penalty liens

\*\* City and County tax records, including records of delinquent taxes, are usually monitored and maintained by the County Sherriff's office or the specific municipality, as opposed to the Clerk's office.