

Real Property Test Specifications
Part A of the General Bar Examination
(Effective as of March 2020)

- I. Ownership of real property
 - A. Present estates
 - 1. Fee simple
 - 2. Defeasible fee
 - 3. Life estate
 - B. Future interests
 - 1. Reversions
 - 2. Remainders, vested and contingent
 - 3. Executory interests
 - 4. Possibilities of reverter, powers of termination
 - C. Cotenancy
 - 1. Types
 - a. Tenancy in common
 - b. Joint tenancy
 - c. Tenancy by the entirety
 - 2. Rights and obligations of cotenants
 - a. Partition
 - b. Severance

c. Relations among cotenants

D. Landlord-tenant law

1. Types of tenancies

a. Terms for years

b. Tenancies at will

c. Holdovers and other tenancies at sufferance

d. Periodic tenancies

2. Oral leases and the statute of frauds

3. Possession and rent

4. Habitability, repairs, and improvements

a. Constructive eviction

b. Warranty of habitability

c. Tenant's remedies

5. Assignments and sub-leasing

6. Termination and notice

7. Eviction and defenses to eviction action

a. Requirement to pay accrued rent to court registry

b. Landlord's remedies

II. Rights in real property

A. Homestead protection against forced sale

1. Property covered by homestead protection
 2. Requirements to qualify for homestead protection
 3. Liens excepted from homestead protection
- B. Restrictive covenants
1. Creation and scope
 2. Transfer and termination
- C. Easements, profits, and licenses
1. Differences among easements, profits, and licenses
 2. Affirmative and negative easements
 3. Appurtenant and in gross
 3. Creation
 - a. Express
 - b. Implied
 - c. Prescription
 4. Scope
 5. Transfer and termination
- D. Fixtures
- E. Landowner's rights in common resources, such as view and bodies of water
- F. Rights relating to nuisances
- III. Real estate contracts and conveyances

- A. Special issues for real estate contracts
 - 1. Statute of frauds
 - 2. Essential terms
 - 3. Time for performance
 - 4. Specific performance and other remedies for breach
 - 5. Legal title and equitable title
 - 6. Agreement for deed
- B. Deeds
 - 1. Requirements for enforceable deed
 - 2. Types of deeds
 - 3. Merger doctrine
- C. Marketable title and recording
 - 1. Florida as a “notice” jurisdiction
 - 2. Difference between actual, constructive, and inquiry notice
 - 3. Purpose of quiet title actions
- D. Seller’s duty to disclose
 - 1. Scope of duty to disclose
 - 2. Effect of “as is” clause
 - 3. Remedies for misrepresentation or nondisclosure
- E. Earnest money deposits

- F. Limitations on transfer of entireties property
- G. Limitations on transfer of homestead property
- H. Fraudulent conveyances

IV. Mortgages and foreclosure

- A. Florida as “lien theory” state with respect to mortgages
- B. Priority among multiple mortgages or other types of liens relating to same property
- C. Transfer of mortgages
 - 1. Assignments
 - 2. Due-on-sale clauses
- D. Foreclosure
 - 1. Florida as judicial foreclosure jurisdiction
 - 2. Parties and venue for foreclosure proceeding
 - 3. Rights of parties omitted from foreclosure proceeding
 - 4. Effect of lost note on ability to foreclose
 - 5. Lis pendens
 - 6. Deficiency, deficiency judgments, and surplus
 - 7. Redemption after foreclosure
 - 8. Foreclosure of property occupied by tenant

V. Adverse possession