

REBA Title Standard 1

Period of a Title Examination

1. It is sufficient if the title examination for land in the unregistered land system covers a period of fifty years and the starting point is a warranty, quitclaim, or duly authorized or empowered fiduciary deed which on its face does not suggest any defects.

2. In the case of registered land, it is sufficient to:

(a) start the examination on the date of the most recently issued certificate of title signed by the Land Court District's Assistant Recorder, including review of the memorandum of encumbrances appended thereto; and

(b) run the current owners, and the former owners if applicable, in the recorded land indices for Federal and Massachusetts tax liens and other liens that are not included in the registered land system by virtue of Chapter 185 for a period of twenty years and sixty days.

Notes and Comments

1. If there is a reference in the starting deed to a mortgage, an easement, an agreement, a restriction or another encumbrance which might still be in existence and applicable, a further examination should be made to ascertain the extent and the applicability of such burden and, in the case of a mortgage, whether or not such mortgage has been foreclosed.

2. A starting deed from a fiduciary under a recited power of sale, license, decree or other authority or from the heirs or devisees should not be considered defective on the ground that the title conveyed derives from the estate of a decedent. Authority of the fiduciary in such an instance may be presumed to have existed based upon the recital absent subsequently recorded information to the contrary.

3. See also M.G.L. c. 93, § 70 for certification of title to mortgaged premises with regard to certain residential property.

4. See Practice Standard No. 28 (Scope of a Title Examination).

Caveat

A registered title is subject to other Massachusetts liens and Federal matters, such as Federal land takings. See M.G.L. c. 185, § 46.

Adopted November 27, 1972

Amended May 22, 1980 (added "duly authorized or empowered fiduciary's deed")

Amended November 16, 1981 (second paragraph added)

Amended September 1, 1982 (added Caveat)

Amended May 4, 1994 (added Comment II)

Amended May 1, 2018 (revised name of Title Standard, revised second paragraph, revised second comment, and added cross reference to Practice Standard No. 28 in comment section)