

## Chapter 18 Answer Key

1. b Texas courts charge a prospective buyer or mortgagee with the responsibility of inspecting the property to ascertain the interests of other parties, such as whether it is occupied by someone other than the supposed owner/grantor. The rights of parties in possession is an exception to standard title insurance policy coverage.
2. c The entity receiving the pledge of the property as security (i.e., the mortgage) is the lender. The mortgagee's title insurance thus protects the lender up to the outstanding loan balance.
3. a By taking possession of the property, Phil gave constructive notice that he had an interest in the land. Therefore, his rights are superior to the rights of Melvin who failed to inspect the property to determine who was in possession.
4. d *Marketable title* is free from any claim. *Good and indefeasible title* insures that, if there is a claim, the claim can be defeated.
5. b According to the provisions of the promulgated Texas sales contracts, the title company begins the title search and issues a "**commitment for title insurance**" within 20 days after receiving the sales contract. The title commitment is a statement of the terms and conditions on which the title insurance underwriter is willing to issue the title policy.
6. b Title insurance in Texas insures good and indefeasible title which, among other protections, guarantees against incompetent grantors. Upon sale of the property, the owner's policy is automatically converted to a warrantor's policy which continues *in perpetuity* at no cost.
7. c A deed contains no proof of the kind and condition of title at the time of conveyance. Such proof comes in the form of title insurance or an attorney's opinion of title. Certain types of liens (for example, taxes and special assessments) are not recorded in the public record. Since Texas law provides that unrecorded mortgages are not effective as far as later purchasers are concerned, a purchaser should be able to rely on a search of the public records to reveal mortgages.
8. d The **abstract of title** is examined by the buyer's attorney who subsequently prepares a written report called the **attorney's opinion of title**.
9. a A condensed history (called an **abstract of title**) is prepared by an **abstracter** who searches all the public records and summarizes the various events and proceedings that affected the title throughout its history. An opinion of title is rendered by an attorney who examines the abstract.
10. b The physical **possession** of a property gives **constructive notice** of an individual's rights or interest in real property. This would apply even if the occupant failed to record his or her deed in the public record. Since the evidence of occupancy is readily available upon inspection, the buyer is burdened with discovering the interest of the current occupant.
11. a The statute of frauds does not address the requirement for recording documents affecting title, only the necessity for written instruments. Texas law, however, does require owners or parties interested in real estate to record all documents

# Modern Real Estate Practice In Texas 15th

**William H. Pivar**



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