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QUIETING TITLE AND EJECTMENT

1-A QUIETING TITLE [§§1.1–1.35]

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1-A

QUIETING TITLE

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I. [§1.1] INTRODUCTION AND SCOPE

Attorneys often become involved with serious title problems before they discover that a quiet title action is necessary. This is sometimes considered an unwelcome by-product of the attorney's real property practice. Regardless of whether attorneys drift into the litigation in this manner or know at the time of first contact with a client that a quiet title action is needed, it is extremely important for attorneys to advise their clients as early as possible regarding the extent and cost of title litigation. Toward this end, this portion of the chapter addresses procedural and time considerations involved in statutory quiet title actions brought under *F.S.* Chapter 65.

Nonstatutory jurisdiction and alternative actions to settle title questions such as ejectment and partition are addressed briefly in §§1.6–1.10. These latter actions are also covered in Chapters 1-B and 4, respectively, of this manual.

II. NATURE OF QUIET TITLE ACTIONS

A. [§1.2] In General

An action to quiet title or remove a cloud on the title serves to cure and perfect legal title to real property. The action is statutorily based in *F.S.* Chapter 65. It is an equitable remedy and thus falls within the jurisdiction of the circuit courts in accordance with *F.S.* 26.012. The two major classifications of quiet title actions are (1) quasi in rem actions, and (2) actions to quiet tax titles.

F.S. 65.011, originally adopted in 1889, gives statutory recognition to the power of a court of equity to entertain actions to determine title, quiet it in the rightful owner, and grant incidental relief. *F.S.* 65.021–65.051 provide for removing clouds from titles in proceedings that may be brought by any person or corporation, whether or not in actual possession, that claims legal or equitable title to real estate against any person or corporation that, although not in actual possession, either has or appears to have or claim an adverse legal or equitable estate, interest, or claim in the real estate.

Relief may be granted even though the title has not been litigated at law and despite the existence of only one litigant to each side of the controversy. Relief is also provided even though the adverse claim, estate, or interest is void on its face or requires evidence extrinsic to the claim itself to establish its validity. *F.S.* 65.021. Actions may be brought in the name of the current owner or prior owners who may have warranted the title involved. *F.S.* 65.031.