

## Marketable Title

The Marketable Title Act: Under the marketable title act, defects in the title prior to the named period are extinguished by operation of the statute. If a person has a record chain of title for forty years and no one has filed a notice of claim to the property during that forty years, then all conflicting claims based upon any title transaction prior to the forty year period are extinguished. The marketable title act attempts to limit the period of search – 40 years.

The operation of the statute extinguishes all interests that arise from title transactions prior to the forty-year period, subject to exceptions (i.e. ancient mortgages, easements and title by adverse possession. An example of an exception is where a Seller conveyed to a Buyer, the conveyance contained a possibility that title to the property could revert back to the Seller, and there were no additional conveyances of the property. In such an instance, the possibility of the title reverting back to the Seller is not extinguished by the lapse of the forty years.

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The root of title is usually defined as a deed in the chain of title recorded forty years before the search being made.

The act provides that no interest created prior to the root of title will affect the title. Exceptions include if an old interest is referred to in a post-root document, if the document is re-recorded in the post-root period, or if the person claiming the interest is in possession for the full post-root period.