

Land Registration and Land Fraud in the United States

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Land Registration and Land Fraud in the United States

1. Land Registration in the United States: Recording of Real Property Related Documents

In the United States there are 3,141 counties or county-equivalent administrative units contained in the 50 states, governed by publicly elected officials and career civil servants. The responsibilities of county governments vary widely from state to state, as does the relationship between counties and incorporated municipal governments.

One responsibility of most counties and some of the larger municipal governments is the operation of a Register of Deeds. Although the title of the head official varies, this local government office in essence operates a constantly updated archive of documents which describe rights to real property, indexed by names of the participants in these transactions, the geographical locations of the properties affected and other characteristics of transactions. The intake of these documents is called “recording”, and not “registration”, although the official in charge of the office is often called a Registrar and the office itself may be called a Register. See Annex 1 for the complete text of Chapter 59.43 of the Wisconsin Statutes pertaining to obligations and procedures of a Register of Deeds in that state.

A deed is defined as a written instrument that, when executed and delivered, conveys title or an interest in real property from a seller or “grantor” to a buyer or “grantee”. It is a written record of a single transaction between two parties and provides evidence that the transaction has taken place. However, a deed is not in itself proof of the legality of the transfer of title or interest in the real estate. Before any sale transaction is completed, the person intending to acquire an interest in land is responsible to trace the seller’s legal right to sell back in time through preceding transactions documented by archived deeds to a ‘good root of title’ as evidenced by properly documented transactions. The search must also identify any other transaction recorded in the Register of Deeds, such as mortgages, liens, powers of attorney, and other documented potential interests in a property, which affect the conveyance of clear title or interest in the property. This search must be repeated each time that a transaction occurs which affects rights to a particular property, to assure the person who wishes to acquire a right to a property that the seller of that right can effect the transaction and that there is no “cloud” on the title being conveyed. In particular, this search should help identify any fraud contained in previous transactions, although as we shall see this fraud detection function of searches needs strengthening.

In the US system the chain of title review is usually performed by a professional title abstractor or attorney, and the clear title is guaranteed either by a title insurance company or by an attorney, subject to some exclusions which may be quite significant.

2. Land Fraud: Recent US Experience

Transactions involving rights in land can be twisted in various ways to violate the legal and legitimate rights of land owners, buyers, sellers, lenders, renters, heirs, and governmental agencies. We define land fraud as a material misstatement, misrepresentation or omission which people rely upon to effect illegally a transaction involving real estate to their benefit or to the detriment of others. Perpetrators of land fraud:

- accomplish illegal sales through counterfeit ownership documents;
- acquire under-secured loans through falsified value assessments;
- perform outright theft perpetuated on legal owners and lending institutions through counterfeit mortgage satisfactions, and many other schemes.

We present this discussion paper in order to help develop plans of action to reduce the incidents of land fraud where they have become a problem, in counties, in states and in countries around the world.

Key elements of a typical land fraud scheme are **conspiracy**, **overvaluation** of property and **naïve (straw) buyers**¹.

The steps in an example of an “equity skimming” land fraud crime in the U.S. are:

1. Leader (typically a mortgage broker, who is also a speculator) buys property in a business name for \$425,000.
2. Co-conspirator finds out-of-town, naïve “straw buyer”.
3. Straw buyer contracts to buy property for \$741,000, less than one month after it was purchased.
4. Co-conspirators (the “professionals”) facilitate financing: mortgage broker generates fraudulent mortgage application; appraiser overstates property value; title/closing agent conceals prior related transaction(s), falsifies housing loan forms, and disburses borrowed funds to mortgage broker; notary public, who is also closing agent, takes acknowledgements of loan documents from straw buyer.
5. Co-conspirators make \$266,000 profit.
6. Repeat: scheme executed on more than 20 properties before law enforcement caught up with the perpetrators.

Victims of this scheme include lenders, straw buyers (destroyed credit and subject to legal prosecution), neighboring home owners (reduced property values), title insurance companies (possibly), city and county (reduced property tax collections) and the reputation of the land ownership system.

Step 4 in this scheme is called “mortgage fraud,” which is defined by the FBI as “A material misstatement, misrepresentation or omission relied upon by an underwriter or lender to fund, purchase, or insure a loan.” Note however that the mortgage fraud is not the crime, but only a step in the overall scheme that monetizes the crime. It is the gun used in the robbery.

With the self-destruction of housing markets, this particular scheme which depends to some extent on rising housing prices is no longer popular, but the basic methodology is used in other mortgage rescue fraud schemes. A version of the scheme, involving a “short sale” of a foreclosed property, is popular in a down market, like the present conditions in the US.

Four common schemes in the US include:

- **Appraisal Fraud:** A property is over- or undervalued, often due to pressure from loan originators and real estate agents to alter appraisal reports. This pressure can be

¹ A person who purchases property for another to conceal the identity of the real purchaser.

negative (yelling or threatening) or seemingly positive (gifts and other illegal kickbacks).

- **Flipping:** A home is purchased and "flipped" or sold immediately for a severely inflated price, often upwards of 30 to 50 percent of the original selling price. That initial transaction is often concealed from the lender. The loan is never repaid and the lender is left high and dry.
- **Identity Theft:** This type of fraud can range from stealing a customer's identity, to using false names to take out loans, to an appraiser's using another's name to make false valuations. Identity theft happens swiftly, and finding someone whose real identity is not stated in the transaction documents after the loan is completed can be nearly impossible. US financial institutions' reports of identity theft in conjunction with mortgage fraud have increased in 2007 approximately 96 percent since a previous 2006 study.
- **Straw Buyers:** One person (or company) pays someone else to pose as the home buyer, using their own information and credit score (real or false) to purchase a property. The straw buyer thinks she will not have to make any mortgage payments. The scammers then take over the title and mortgage. Essentially, the lenders think they're loaning money to one person, when in actuality, the home will be owned by someone else, and eventually will be foreclosed.

Mortgage fraud is a large and growing blight on the mortgage industry in the US. The Federal Bureau of Investigation (FBI) has reported that mortgage fraud cost the mortgage lending industry between \$946 million and \$4.2 billion in 2006 alone. Additionally, the federal Financial Crimes Enforcement Network (FinCEN) has reported that more than 37,000 mortgage-related Suspicious Activity Reports (SARs) were filed in of 2006, an increase of 44 percent over the same period in 2005. The number of SARs increased to nearly 53,000 in 2007, an increase of over 100% in the two years since 2005.

The extent of land fraud in general that is surfacing in the US alone is, frankly, overwhelming. There is not enough time to read all the articles that are being written these days. An estimate is that the population of land fraud criminals in the U.S. tops 50,000 nationwide, many of whom started their education in land fraud in the 1990's or early 2000's, and their careers in the early 2000's, but many of them are not being detected and prosecuted because of:

1. Lack of adequate fraud detection processes.
2. Lack of industry/government cooperation at local and state levels.
3. Lack of local law enforcement interest due to lack of education and funding.
4. The supposed complexity of land fraud cases.
5. Lack of federal law enforcement resources. Only 1,000 cases or so are prosecuted by national law enforcement (i.e., the FBI). This number is just the tip of the iceberg.
6. Lack of consumer education.
7. Failure to utilize available technology.
8. Inadequacies in existing legislation.

Mortgage fraud has also become easier under the new financial regime whereby the initial lenders use mortgages to provide security for the monies they lend, but then turn around and sell those mortgage agreements to "investors". The initial lenders thereby pass on to the "investors" the risks of the mortgages going bad, and are insulated from loses when

borrowers do not repay. In essence many of the initial lenders who have the local contacts and information to do careful mortgage lending have not investigated their clients as they once did, in the interest of selling mortgages and earning big bonuses as quickly as possible. Buyers of those mortgages package them into “securities” involving many, perhaps thousands, of mortgages of varying terms, quality and care of preparation and sell them to yet other “investors”. Such behavior itself has at least the appearance of fraud, that is, misrepresenting a package of mortgages as all equal and of known risk, when in fact they are a mish-mash of mortgage agreements. But what appears to be fraud is not considered as such, at least not yet, by the US public prosecutors, perhaps due to practice being so prevalent in recent years, that should it be prosecuted as fraud, most mortgage based investment financiers would be in jail and their ill gotten assets confiscated for repayment of losses suffered by the borrowers and naïve investors, which seems to be exceeding several trillion US dollars.

But even with a more restricted definition of land fraud, the costs for the victims are significant. They often lose most if not all of what they invested in transactions contaminated by fraud.

Moreover, as fraudulent transactions become more numerous and as fraudulent documents accumulate in registries of deeds, the costs of investigating each recorded document for its validity become exorbitant. The risks of engaging in land market transactions due to fraudulent documents in register archives constrain the operations of those markets. People and institutions which desire to engage in land transactions lose confidence in the deeds/title registries whose purpose is precisely to provide evidence of title to land. The past investments in these registries and regularization of title are threatened. People turn against the official registries and either refrain from transactions or conduct them informally, further undermining the capacities of the registries to support the security and dynamism of the market economy.

Government and private sector entities engaged in serving and guiding the operations of land markets agree that land fraud crime should be prosecuted. However, statistics indicate that the time between the initiation of a specific land fraud crime and the investigation, indictment and conviction of the criminals involved may be five years or more. Although tougher laws will ultimately take the criminals off the streets and will deter others from committing land fraud crime, the focus must be on deterrence rather than just prosecution of crimes. The participation of law enforcement and land related administrative officials from the local, state and federal level is vital because effective crime-fighting also requires cooperation between government and private sector entities and law enforcement at all levels.

The remainder of this paper has two objectives: 1) present the purposes and operational features of a typical Register of Deeds—that of Dane County, Wisconsin; and 2) describe how registrars and related professionals are reacting to reduce the risks of land fraud.

3. Features of the Register of Deeds, Dane County, Wisconsin²

The office of the Register of Deeds files, records and issues instruments and documents of significance to both the community as a whole and to its individual citizens. Several types of

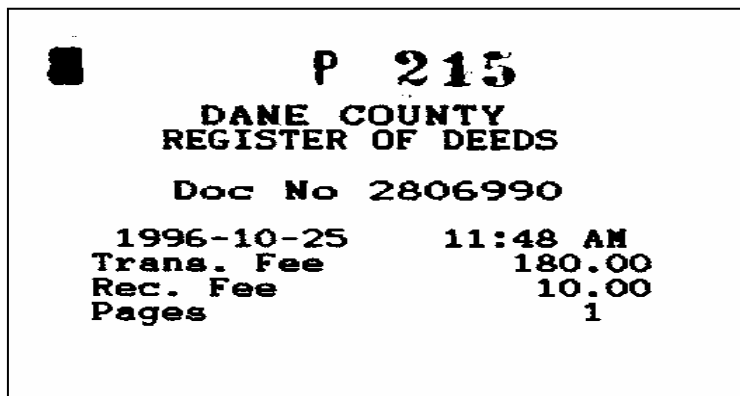
² See Jane Licht and J. David Stanfield (2005), “Modernizing the Register of Deeds in Dane County, Wisconsin”, Terra Institute Research Paper, Mt. Horeb, Wisconsin for more information on the operations of the RoD in Dane County.

documents are recorded at Dane County's Register of Deeds: 1) vital records which document the span of Dane County people's lives--birth, marriage, and death; 2) real estate related records documenting title and other interests in Dane County's real property, worth over \$3.6 billion in 2004; 3) subdivision plats and certified survey plans; 4) organizational documents of corporations, fraternal societies, religious organizations, associations; 5) military discharges.

The recording of various legal documents concerning real estate with the Register of Deeds is a way of putting the world on notice that something important has happened or will happen concerning a parcel of land or a building. The most important element in this recording process is the official notation on the recorded document of the time of the acceptance of the document for recording. (see Fig. 1)

In fact, the public record is established at the exact time when the Register of Deeds places its stamp on the document presented to it. In legal terms, this important function provides constructive notice for the entire world to see the rights and interests that people have in real property, as well as notice regarding births, deaths, and marriages which have occurred within the county.

Figure 1 **Time and date stamp**



Providing constructive notice regarding real estate, allows the act of searching the records and the determination of clear title. This is necessary for the issuance of most home mortgages, business loans, and the sale of real estate. The entire massive database of recorded documents and other documents such as plat maps (see Fig. 2) and certified survey maps

(see Fig. 3) are stored and made available for public view. These documents provide accurate descriptions of property and helps individuals avoid wasteful court battles over boundaries and rights. Local government property tax rolls are derived from the documents recorded in the office of the Register of Deeds.

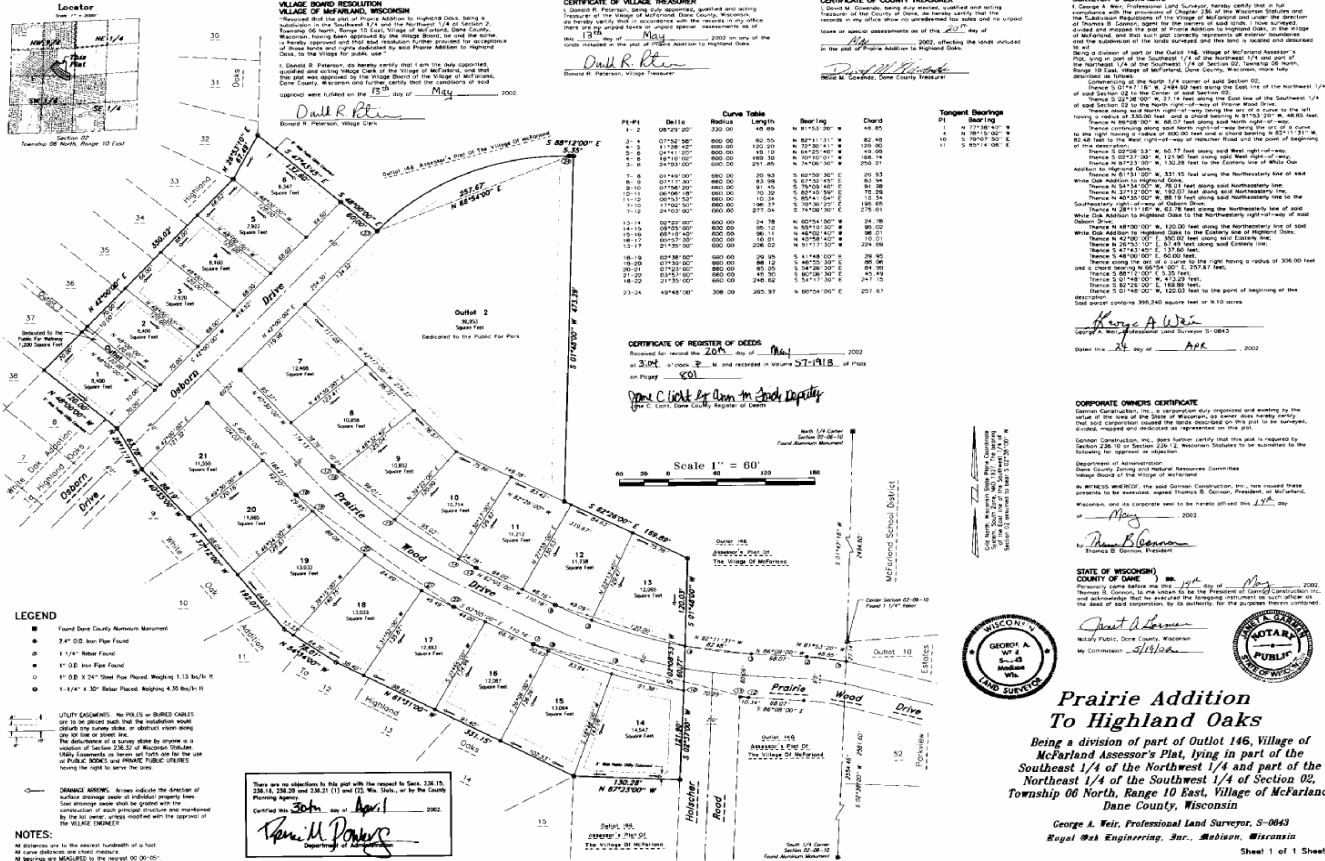


Figure 2 Plat map

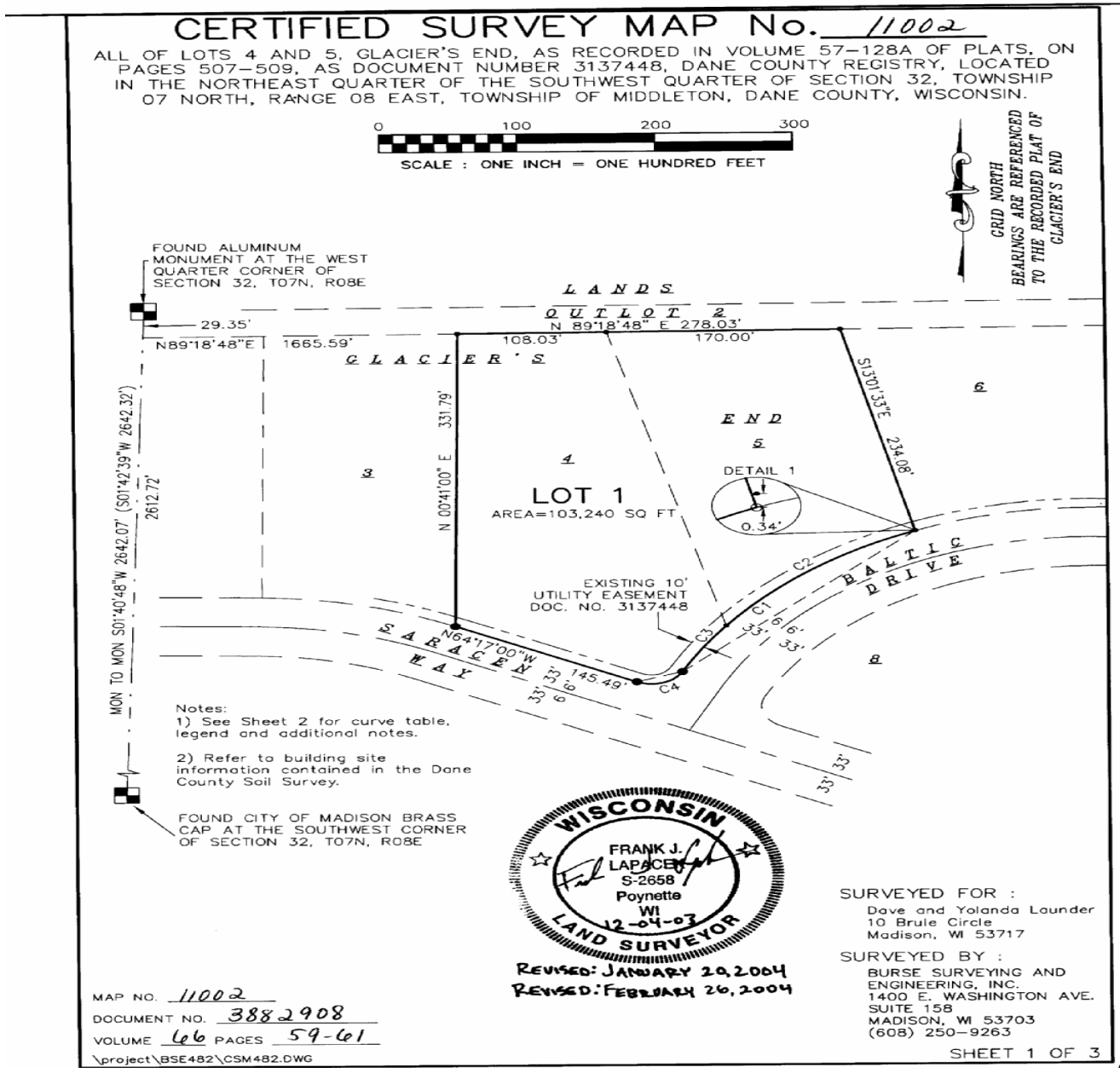


Figure 3 Certified survey map (CSM).

3.1 Registrar Duties

The purpose of the Register of Deeds Office in Dane County is to provide official record keeping for all real estate, personal property and vital statistics for the County and to provide a convenient and public place where documents can be filed and examined per Wisconsin Statutes.

The Registrar is responsible for reading the law and judging whether the law requires the recording of documents presented.

Cooperation with various professional groups and individuals is viewed as an important aspect of this mission as is the continuation of automation, statutory changes and performance evaluations.

The Register of Deeds Office receives, records and archives real estate documents (see Figure 4) using a variety of paper and electronic documentation. Vital Records (see Figure 5) are received through various sources, indexed, duplicated and filed in the office. For example, marriage certificates are sent to the Register of Deeds by the persons empowered by the state to conduct marriage ceremonies.



Figure 4 Real estate recording section



Figure 5 Vital records area of Dane County Register of Deeds

3.2 Transparency and Accessibility

The Register of Deeds office aims to satisfy the public's need for transparency in the transaction process so as to assure reliability and efficiency of document recording and archiving, and the need for accessibility in order to facilitate searching through the history of transactions which define rights to particular properties. Easy and rapid access to the recorded deeds and other property related documents is vital, since the Register of Deeds responds to numerous requests for various documents and maintains open records for the public, meaning that anyone can come to the Register of Deeds and examine the documents stored there.

There is a concerted effort to provide areas where individuals can conduct their own research on line with access to scanned documents. Staff members are made available to assist individuals seeking information.



Figure 6: Public access areas for computer search of records.

In the foreground of Figure 6 are also microfiche readers used for viewing documents that had previously been recorded on microfilm.

3.3 Accepting and Rejecting Documents for Recording

The most important decision of the Register of Deeds is whether to accept or reject a document for recording in the archives. The Register of Deeds acts under statutory authority and guidance in determining whether a document will be accepted or rejected. By acting as the gatekeeper, the Register of Deeds controls the integrity and public trust of their office. This process must be very transparent to the public. The acceptance of documents for recording is governed by a number of statutes, outlined below.

3.4.1 Statutory Requirements Governing Acceptance of Documents

Wisconsin State law provides requirements for the Registrars to accept documents into their archives:

1. Identity of individuals is confirmed through original signatures which must be authenticated or notarized §716.05 (2) (b) Wis. Stats. (see Fig 7). There are some exceptions made for the Department of Natural Resources, and the Department of Transportation of the State of Wisconsin.

AUTHENTICATION	ACKNOWLEDGMENT
Signature(s)	STATE OF WISCONSIN
Joan F. UnderwoodCounty. } ss.
authenticated this 27 th day of July, 1996	Personally came before me thisday of
<i>Peter J. Waltz</i>, 19..... the above named
Peter J. Waltz
TITLE: MEMBER STATE BAR OF WISCONSIN
(If not, State Bar No. 1008249
authorized by § 706.06, Wis. Stats.)	to me known to be the person who executed the
	foregoing instrument and acknowledge the same.
THIS INSTRUMENT WAS DRAFTED BY
Attorney Peter J. Waltz	Notary PublicCounty, Wis.
205 E. Main St., Box 294	My Commission is permanent. (If not, state expiration
Mt. Horeb, Wisconsin 53572	date:, 19.....)
(Signatures may be authenticated or acknowledged. Both	
are not necessary.)	
*Names of persons signing in any capacity should be typed or printed below their signatures.	
WARRANTY DEED	STATE BAR OF WISCONSIN
	Furnished by Dane County Title Company

Figure 7 Authentication or acknowledgement area of a typical deed.

Authentication pertains to an attorney’s statement that the signor is indeed the person who they claim they are. Acknowledgement is a Notary Public’s representation that they have been provided adequate documentation showing that the individual is the signer.

2. A legal description (see Fig. 8) is required if the document refers to a specific parcel of land except for utility easements which are exempt from this requirement. Where a parcel

identification number is needed, an exemption is made for new land divisions and land for which the property lister (property tax official) does not assign numbers.

Lot One (1), Certified Survey Map No. 1825, recorded at the Dane County Registry on October 8, 1975, in Volume 7, Certified Survey Maps, Pages 246 and 247 as Document No. 1445857.

This deed is given in fulfillment of a certain Land Contract between the parties hereto. Said Land Contract is dated January 19, 1982 and was recorded at the Dane County Registry on October 1, 1982 in Volume 3889 of Records, Page 44 as Document No. 1753687.

Figure 8 **One form of a legal description on a typical deed**

3. Only one mortgage may be referenced on each document in the case of an assignment or partial release of a mortgage. §59.43 (2) (ar)
4. If the document relates to a real estate interest, the name of the person who drafted the document must be given. Government agencies may list the agency as the drafter. Judgments and other court documents are exempt from this requirement. §59.43 (5)
5. For conveyances, a Wisconsin real estate transfer return must be completed and accompany the document to ensure the collection of property taxes.
6. Proper fees must accompany the document. §59.43 (2) (j)

There are a number of standard format and other requirements as stipulated in Chapter 59.43 of the Wisconsin Statutes (see Annex 1).

3.4.2 Rejecting Documents for Recording

There are a number of reasons why the Registrar might refuse a document for recording. The document may not meet statutory requirements. The document may be illegible. The document might be suspect in its origin. The document may contain mistakes making the document unsuitable for recording with the Register of Deeds. Occasionally documents are submitted to the wrong county for recording.

In the case of documents that are submitted and found to be unsuitable for recording, the Register of Deeds will return the document to the submitter. For documents that are returned unrecorded, a form sheet or notice is included indicating the type of error and correction needed. This notice is then returned with the corrected document and alerts the staff that the document is being resubmitted. A log is also kept of all documents returned unrecorded.

Occasionally faulty documents will be submitted and recorded. After recording, mistakes are sometimes found. If the document is already stamped, a notice stating that "we have recorded your document but..." along with the document and a brief explanation as to what the error might be is sent out to the returnee's address.

The rule of thumb is that it is better to accept a wrong document than it is to reject a correct one.

3.5 Workloads in the Dane County Register of Deeds

For the Register of Deeds in Dane County, over the six year period 1999-2004, there have been an average of 17,087 deeds recorded yearly (See Table 1), including sales (which represented about 98% of all deeds recorded), intra family transfers, and other types of transfers. Most of these deed transactions reflect sales of urban properties.

Table 1: NUMBER OF DOCUMENTS BY TYPE RECORDED AT DANE COUNTY RoD (1999-2004)

	1999	2000	2001	2002	2003	2004	TOTAL 1999- 2004	Average Yearly Number- 1999- 2004	PERCENT 99-04
DEEDS	16,263	14,941	16,071	17,274	18,856	19,117	102,522	17,087	10.8%
MORTGAGES	40,985	32,035	53,529	72,442	85,441	54,136	338,568	56,428	35.6%
LAND CONTRACTS	325	238	204	239	195	193	1,394	232	0.1%
SATISFACTIONS	41,235	25,945	44,969	71,290	87,002	46,708	317,149	52,858	33.3%
PLATS	62	48	41	42	60	45	298	50	0.0%
CONDO PLATS	68	83	97	91	130	137	606	101	0.1%
CONDO DEC	95	102	124	117	153	164	755	126	0.1%
CERTIFIED SURVEY	383	352	369	353	323	330	2,110	352	0.2%
MISC DOCS	21,889	21,919	30,367	39,131	43,699	27,702	184,707	30,785	19.4%
HT 110	622	547	638	664	664	609	3,744	624	0.4%
REAL ESTATE TOTAL	121,927	96,210	146,409	201,643	236,523	149,141	951,853	158,642	100.0%

Source: Dane County Register of Deeds, 2005

Sales deeds, however, are just one type of transaction. Mortgage related transactions are quite numerous. An average of almost 70% of all documents recorded over the past 6 years have been mortgages or satisfactions of mortgages, with the year 2003 experiencing a very high number of such documents recorded.

There were nearly 150,000 real estate related documents recorded in the ROD in 2004, but over 236,000 documents recorded in 2003—showing that there are large variations year to year.

Using the estimate of 180,000 real estate units in the County, the “turnover” rate is close to 75%-80% of the total number of properties each year on the average, and in some years the rate is over 100%, depending on the rate of mortgage interest, and the desire of property owners to re-finance when interest rates drop as they did in 2002-2003.

How many of these documents contain elements of fraud? The goal of the Registrar and of those who depend on the archived transaction documents and their indices is certainly zero.

4. The Register of Deeds and Land Fraud

The above description of a typical Register of Deeds makes it clear that while that office has a key role in combating land fraud by archiving documents which title researchers can

examine for validity, the Register is almost entirely dependent on other actors for the preparation of transaction documents which would be free of fraud. Moreover, the detection of fraud requires the involvement of the general public as well as the professionals engaged in document preparation. Legal innovations may also be needed, as will the engagement of law enforcement at critical moments to apprehend land fraudsters.

One particular aspect of conveyancing practice has been important in Wisconsin for keeping fraudulent sales and associated fraudulent mortgaged lending low, the “closing”. It is the custom in Wisconsin for the parties to a property sale and financing of that sale, to physically meet face to face once the sale contract has been drawn up, the lending arrangements agreed to, and a title search completed (now usually done by a title insurance company, but previously done by the attorney hired by the potential buyer). All these documents are reviewed together, and the money actually changes hand at the closing. The deed and mortgage agreements (including the satisfaction of any mortgage affecting the seller) are that day taken to the RoD for recording. The “closing” makes fraud involving sales of properties quite difficult.

However, mortgage financing which does not accompany sales, and the growing trend to carry out sales transactions electronically, may be undermining the use of the face-to-face closing.

For detecting the frauds which slip through the cracks, a multi-pronged approach is needed. During the past couple of years, the Property Records Industry Association of the USA has concluded that a comprehensive assault on land fraud should include the following elements:

1. Detection/Prevention: Develop and fund a system for the Registers of Deeds offices to notify landowners of specific types of recording transactions that are typically used in fraud schemes, such as quit claim deeds, mortgage releases, involuntary lien notices (*lis pendens* notices, judgment notices, statutory lien notices), powers of attorney and financing statements. Create a central telephone/email location perhaps administered by the Register of Deeds for landowners to report suspicious transactions.

2. Local Cooperation: Since the Registers of Deeds is the repository of legal documents, that office has clear interest in barricading their archives against the absorption of fraudulent documents. With such interest, the Registers can take the initiative to form and support Property Records Education Partners (PREP) Chapters. A PREP Chapter is a volunteer association composed of lenders, planners, closing agents, notaries, title conveyancers, developers, and other stakeholders in reducing the risks of land fraud. These PREP Chapters develop procedures to alert each other when signs of impending fraud are detected by any one of the members of the PREPs, and to take other actions which the PREP Chapter may devise.

3. Education: Train local and state law enforcement to understand the nature of land fraud schemes, and how to investigate and prosecute. Develop a system to notify landowners when a lenders issue notices of default or foreclosure-related actions. Develop brochures to be included in the notification that explains options to the landowner, including government and industry programs. Develop and launch training programs which explain the types of fraudulent schemes that lenders and landowner will be subjected to.

4. Correction: If necessary, develop a statute that allows the courts to expedite the return of ownership status to a land owner whose land has been “stolen.”

5. Deterrence: If necessary, develop a statute to criminalize all forms of land fraud.

Finally, the results each initiative to attack land fraud need to be measured to determine how effective each is.

The role of title insurance in compensating those who suffer losses due to land fraud in the U.S. has been limited, although title insurance companies are often quite supportive of measures to reduce the risks of fraud. How title insurance can be helpful for dealing with land fraud should be the subject of another paper.

ANNEX 1:

Wisconsin Statutes, Chapter 59.43: Register of deeds; duties, fees, deputies.

- (1) REGISTER OF DEEDS; DUTIES.** Subject to sub. (1m), the register of deeds shall:
- (a) Record or cause to be recorded in suitable books to be kept in his or her office, correctly and legibly all deeds, mortgages, instruments and writings authorized by law to be recorded in his or her office and left with him or her for that purpose, provided such documents have plainly printed or typewritten thereon the names of the grantors, grantees, witnesses and notary. The register of deeds shall record and file or cause to be recorded and filed all plats and certified survey maps that are authorized to be accepted for recording and filing in his or her office. Any county, by a resolution duly adopted by the board, may combine the separate books or volumes for deeds, mortgages, miscellaneous instruments, attachments, lis pendens, sales and notices, certificates of organization of corporations, plats or other recorded or filed instruments or classes of documents as long as separate indexes may be produced. Notwithstanding any other provisions of the statutes, any county adopting a system of microfilming or like process or a system of recording documents by optical imaging or electronic formatting under ch. 228 may substitute the headings, reel, disk or electronic file name and microfilm image (frame) for volume and page where recorded and different classes of instruments may be recorded, reproduced or copied on or transferred to the same reel, disk or electronic file or part of a reel or disk. All recordings made prior to June 28, 1961, which would have been valid under this paragraph, had this paragraph then been in effect, are hereby validated. In this subsection, "book", if automated recording or indexing equipment is used, includes the meaning given under sub. (12) (d).
 - (b) Perform the duties that are related to vital statistics under ss. 69.05 and 69.07.
 - (c) State upon the record of any conveyance of real estate the real estate transfer fee paid or, if the conveyance is not subject to a fee, the reason for the exemption, citing the relevant subsection of s. 77.25.
 - (d) Keep safely and maintain the documents, images of recorded documents and indexes mentioned in this section and in s. 84.095 in the manner required.
 - (e) Endorse upon each instrument or writing received by the register for record a certificate of the date and time when it was received, specifying the day, hour and minute of reception, which shall be evidence of such facts. Instruments shall be recorded in the order in which they are received.
 - (f) Endorse plainly on each instrument a number consecutive to the number assigned to the immediately previously recorded or filed instrument, such that all numbers are unique for each instrument within a group of public records that are kept together as a unit and relate to a particular subject.
 - (g) Safely keep and return to the party entitled thereto, on demand within a reasonable time, every instrument that is left with the register for record not required by law to be kept in the register's office.
 - (h) Register, file and index all marriages contracted, deaths and births occurring in the county.
 - (i) Make and deliver to any person, on demand and upon payment of the required fees, a certified copy, with the register's official seal affixed, of any record, paper, file, map or plat in the register's office.
 - (j) File and safely keep in the register's office all of the records, documents and papers of any post of the Grand Army of the Republic and of any historical society in the register's county.
 - (k) Keep an index of all organizational documents of corporations,

fraternal societies, religious organizations, associations and other entities, and all amendments of such documents, that are allowed or required by law to be filed or recorded in the register's office. The index shall access the documents by the names of the corporations, fraternal societies, religious organizations, associations and other entities, and shall contain a reference to the document number or volume and page number where the documents are filed or recorded in the register's office.

(L) File all documents pertaining to security interests, as defined in s. 401.201 (37) (a), that are required or authorized by law to be filed with the register. Except as otherwise prescribed by the department of financial institutions under subch. V of ch. 409, these documents shall be executed in a manner that satisfies the requirements set forth in sub. (2m) (b) 1. to 5.

(m) Keep these chattel documents in consecutive numerical arrangement, for the inspection of all persons, endorsing on each document the document number and the date and time of reception.

(n) Upon the filing of a financing statement or other document evidencing the creation of a security interest, as defined in s. 401.201 (37) (a), required to be filed or recorded with the register under s. 409.501 (1) (a), index the statement or document in the real estate records index under sub. (9).

(o) Upon the filing of an assignment, continuation statement, termination statement, foreclosure affidavit, extension, or release pertaining to a filed financing statement or other chattel security document, index the document in the real estate records index under sub. (9).

(p) Perform all other duties that are required of the register of deeds by law.

(q) Record and index writings that are submitted according to s. 289.31 (3), evidencing that a solid or hazardous waste disposal facility will be established on the particular parcel described in the writings.

(r) Record and index marital property agreements under ch. 766 and statements and revocations under s. 766.59.

(s) Record and index statements of claim and perform the other duties specified under s. 706.057 (7).

(t) Upon commencement of each term, file his or her signature and the impression of his or her official seal or rubber stamp in the office of the secretary of state.

(u) Submit that portion of recording fees collected under sub.

(2) (ag) 1. and (e) and not retained by the county to the department of administration under s. 59.72 (5).

(v) Record and index statements of authority under s. 184.05.

(1m) RESTRICTIONS ON RECORDING INSTRUMENTS WITH SOCIAL SECURITY NUMBERS. (a) Except as otherwise provided in this subsection, a register of deeds may not record any instrument offered for recording if the instrument contains the social security number of an individual.

(b) If a register of deeds is presented with an instrument for recording that contains an individual's social security number, and if the register of deeds records the instrument but does not discover that the instrument contains an individual's social security number until after the instrument is recorded, the register of deeds may not be held liable for the instrument drafter's placement of an individual's social security number on the instrument and the register of deeds may remove or obscure characters from the social security number such that the social security number is not discernable on the instrument.

(c) If a register of deeds records an instrument that contains the complete social security number of an individual, the instrument drafter is liable to the individual whose social security number appears in the recorded public document for any actual damages resulting from the instrument being recorded.

(cm) If a register of deeds is presented with an instrument for recording that contains an individual's social security number the register of deeds may, prior to recording the instrument, remove

or obscure characters from the social security number such that the social security number is not discernable on the instrument.
(d) Paragraphs (a) to (c) do not apply to a federal income tax lien.

(e) Paragraphs (a) to (c) do not apply to vital records under subch. I of ch. 69.

(f) Paragraphs (a) to (c) do not apply to certificates of discharge or release recorded under s. 45.05.

(2) REGISTER OF DEEDS; FEES. Every register of deeds shall receive the following fees:

(a) 1. In this subsection, “page” means one side of a single sheet of paper.

2. Any instrument that is submitted for recording shall contain a blank space at least 2.5 inches by 2.5 inches in size for use by the register of deeds. If the space is not provided, the register of deeds may add a page for his or her use and charge for the page a fee that is established by the county board not to exceed an amount reasonably related to the actual and necessary cost of adding the page.

(ag) 1. Subject to s. 59.72 (5), for recording any instrument entitled to be recorded in the office of the register of deeds, \$11 for the first page and \$2 for each additional page, except that no fee may be collected for recording a change of address that is exempt from a filing fee under s. 185.83 (1) (b) or 193.111 (1) (b).

2. In the event of conflict in the statutes regarding recording fees, subd. 1. shall control, except that subch. V of ch. 409 and s. 409.710 shall control this section.

(ar) No person may record under this section a single instrument that contains more than one mortgage, or more than one mortgage, being assigned, partially released or satisfied.

(b) For copies of any records or papers, \$2 for the first page plus \$1 for each additional page, plus \$1 for the certificate of the register of deeds, except that the department of revenue is exempt from the fees under this paragraph.

(c) Notwithstanding any other provision of law the register of deeds with the approval and consent of the board may enter into contracts with municipalities, private corporations, associations, and other persons to provide noncertified copies of the complete daily recordings and filings of documents pertaining to real property for a consideration to be determined by the board which in no event shall be less than cost of labor and material plus a reasonable allowance for plant and depreciation of equipment used.

(d) For performing functions under s. 409.523, the register shall charge the fees provided in s. 409.525, retain the portion of the fees prescribed under s. 409.525, and submit the portion of the fees not retained to the state. A financing statement and an assignment or notice of assignment of the security interest, offered for filing at the same time, shall be considered as only one document for the purpose of this paragraph. Whenever there is offered for filing any document that is not on a standard form prescribed by ch. 409 or by the department of financial institutions or that varies more than 0.125 inch from the approved size as prescribed by sub. (1), the appropriate fee provided in s. 409.525 or an additional filing fee of one-half the regular fee, whichever is applicable, shall be charged by the register.

(e) Subject to s. 59.72 (5), for filing any instrument which is entitled to be filed in the office of register of deeds and for which no other specific fee is specified, \$11 for the first page and \$2 for each additional page.

(f) The fees for processing vital records or for issuing copies of vital records shall be as provided in s. 69.22.

(g) For making a new tract index upon the order of the board, the amount that is fixed by the board, to be paid from the county treasury.

(h) For recording and filing a cemetery plat under s. 157.07, a subdivision plat under s. 236.25 or a condominium plat under s. 703.07, \$50.

(i) For recording certificates and for preparing and mailing documents under s. 867.045 or 867.046, \$25.

(j) All fees under this subsection shall be payable in advance by the party procuring the services of the register of deeds, except that the fees for the services performed for a state department, board or commission shall be invoiced monthly to such department, board or commission.

(k) For recording a transportation project plat under s. 84.095, \$25.

(2m) STANDARD FORMAT REQUIREMENTS FOR RECORDED DOCUMENTS.

(a) Except as provided in pars. (d) and (e), no document may be recorded in the office of a register of deeds unless it substantially complies with all of the following on the first page of the instrument:

1. The name of the instrument is clear and is located not less than 0.5 inch nor more than 3 inches from the top of the document. If more than one instrument name is given, the first name given shall be used for indexing purposes.
2. A horizontal area within 3 inches of the top of the instrument in the upper left corner of the instrument, not less than 0.5 inch by 2 inches, is left blank for the unique document number.
3. An area in the upper right corner of the instrument, at least 3 inches by 3 inches, is left blank for recording information.
4. A horizontal area for the return address, at least one inch by 3 inches, is on the instrument in one of the following areas:
 - a. Directly below the recording information area described under subd. 3.
 - b. Directly below the document number area described under subd. 2.
 - c. Directly below the name of the instrument if the return address does not extend further than 3 inches from the top of the instrument.
5. a. Subject to subd. 5. b. and c., a space and a line are provided directly below the return address information and the line is labeled as “parcel identifier number”, “parcel identification number”, “parcel ID number”, “parcel number” or “PIN”.
 - b. If multiple parcels are affected by the instrument, the line described under subd. 5. a. may be used to refer the reader to another area of the instrument where the parcel identifier number is located.
 - c. Subdivision 5. a. applies only in a county whose board requires the use of a parcel identifier number.
6. The margins on the bottom and sides of the instrument are at least 0.25 inch.

(b) Except as provided in pars. (d) and (e), no document may be recorded in the office of a register of deeds unless it substantially complies with all of the following:

1. The paper is white and is at least 20 pound weight.
2. The page width is 8.5 inches and the page length is either 11 inches or 14 inches. The maximum deviation from any of these measurements may not exceed 0.25 inch.
3. A multipage instrument is not hinged or otherwise joined completely at the top or sides.
4. The entire document is clear and the letters, numbers, symbols, diagrams and other representations in the document are large enough and dense enough to be reproduced or read by a copy machine and a microfilm camera or optical scanner to the extent that the image captured is legible.
5. The ink is black or red, except that signatures and coded notations on maps may be other colors.
6. The top margin of each page is 0.5 inch, except that company logos may appear within this margin if they do not interfere with any of the other requirements of this subsection.

(c) The register of deeds shall provide, upon request, a blank form which a person may complete and use as the first page of an instrument that the person seeks to record. The blank form shall be provided without charge and shall conform to the provisions of

pars. (a) and (b).

(d) Paragraphs (a) and (b) do not apply to any of the following instruments:

1. Copies of documents that are certified by the state or by a city, village, town or county, or by a subunit or instrumentality of any of the foregoing.
2. Rerecorded documents.
3. Filed documents.
4. Federal income tax lien form 688 (Y) (c).

(e) Every instrument that the register of deeds accepts for recordation under this subsection shall be considered recorded despite its failure to conform to one or more of the requirements of this subsection, if the instrument is properly indexed in a public index maintained in the office of the register of deeds.

(3) REGISTER OF DEEDS; DEPUTIES. Every register of deeds shall appoint one or more deputies, who shall hold office at the register's pleasure. The appointment shall be in writing and shall be recorded in the register's office. The deputy or deputies shall aid the register in the performance of the register's duties under the register's direction, and in case of the register's vacancy or the register's absence or inability to perform the duties of the register's office the deputy or deputies shall perform the duties of register until the vacancy is filled or during the continuance of the absence or inability.

(4) REGISTER OF DEEDS; MICROFILMING AND OPTICAL DISK AND ELECTRONIC STORAGE. (a) Except as provided in par. (b), upon the request of the register of deeds, any county, by board resolution, may authorize the register of deeds to photograph, microfilm or record on optical disks or in electronic format records of deeds, mortgages or other instruments relating to real property or may authorize the register of deeds to record on optical disks or in electronic format instruments relating to security interests in accordance with the requirements of s. 16.61 (7) or 59.52 (14) and to store the original records within the county at a place designated by the board. The storage place for the original records shall be reasonably safe and shall provide for the preservation of the records authorized to be stored under this paragraph. The register of deeds shall keep a photograph, microfilm or optical disk or electronic copy of such records in conveniently accessible files in his or her office and shall provide for examination of such reproduction or examination of a copy generated from an optical disk or electronic file in enlarged, easily readable form upon request. Compliance with this paragraph satisfies the requirement of sub. (1) (a) that the register of deeds shall keep such records in his or her office. The register of deeds may make certified copies reproduced from an authorized photograph, from a copy generated from optical disk or electronic storage or from the original records.

(b) The register of deeds may microfilm or record on optical disks or in electronic format notices of lis pendens that are at least one year old, in accordance with the requirements of s. 16.61 (7) or 59.52 (14) (b) to (d). The register of deeds shall keep a microfilm or optical disk or electronic copy of notices of lis pendens in conveniently accessible files in his or her office and shall provide for examination of such reproduction or examination of a copy generated from optical disk or electronic storage in enlarged, easily readable form upon request. Compliance with this paragraph satisfies the requirement of sub. (1) (a) that the register of deeds shall keep such records in his or her office. The register of deeds may make certified copies reproduced from a copy generated from microfilm or from optical disk or electronic storage. The register of deeds may destroy or move to off-site storage any notice of lis pendens that has been microfilmed or recorded on optical disk or in electronic format under this paragraph.

(5) INCLUDING NAME OF PERSON DRAFTING INSTRUMENT. (a) No instrument by which the title to real estate, or any interest therein or lien thereon, is conveyed, created, encumbered, assigned or

otherwise disposed of shall be recorded by the register of deeds unless the name of the person who, or governmental agency which, drafted such instrument is printed, typewritten, stamped or written thereon in a legible manner. An instrument complies with this subsection if it contains a statement in the following form: "This instrument was drafted by (name)".

(b) Paragraph (a) does not apply to an instrument executed before May 9, 1957, or to:

1. A decree, order, judgment or writ of a court.
3. An instrument that is executed or acknowledged outside of this state.
4. A transportation project plat that conforms to s. 84.095.

(6) EFFECT OF CERTAIN OMISSIONS IN REGISTERS' RECORDS. The validity and effect of the record of any instrument in the office of register of deeds shall not be lessened or impaired by the fact that the name of any grantor, grantee, witness or notary was not printed or typed on the instrument or by the fact that it does not comply with sub. (5).

(7) INCLUDING PARCEL IDENTIFICATION NUMBER. (a) In counties with a population of 500,000 or more where parcel identification numbers are used in the tax roll for taxes based on the value of property in municipalities, any conveyance, as defined in s. 706.01 (4), of any interest in real estate located in such a municipality shall contain reference to the parcel identification number affected. The parcel identification number shall be required for the recording of the conveyance.

(b) In counties with a population of less than 500,000 where parcel identification numbers are used in the tax roll for taxes based on the value of property in municipalities, any conveyance, as defined in s. 706.01 (4), of any interest in real estate located in such a municipality shall contain reference to the parcel identification number affected if the county in which the parcel is located enacts an ordinance that requires the use of such a number in a conveyance. The parcel identification number shall be required for the recording of the conveyance, for administrative purposes only, if the county enacts an ordinance under this paragraph.

(8) REQUIRED SIGNATURE AND SEAL ON SURVEY DOCUMENT FOR FILING OR RECORDING. It is unlawful for the register of deeds of any county or any proper public authority to file or record a map, plat, survey or other document within the definition of land surveying, which does not have impressed thereon, and affixed thereto, the personal signature and seal of a registered land surveyor under whose responsible charge the map, plat, survey or other document was prepared. This subsection does not apply to any deed, contract or other recordable document prepared by an attorney, or to a transportation project plat that conforms to s. 84.095 and that is prepared by a state agency.

(9) REAL ESTATE RECORDS INDEX. (a) 1. A register of deeds shall maintain an index for the real estate record series that contains at least all of the following:

- a. Number of the instrument that is consecutive and unique within the record series.
 - b. Time and date of the instrument's acceptance.
 - c. Name of the grantor.
 - d. Name of the grantee.
 - e. Description of the land.
 - f. Name of the instrument.
 - g. Volume and page where the instrument is recorded or filed.
 - h. To whom the instrument is delivered, unless the document is kept on file.
 - i. The amount of fees received.
2. The index shall be accessible and searchable by at least all of the following means:
- a. Name of the grantor.
 - b. Name of the grantee.
 - c. Document number, or volume and page where the instrument is recorded or filed.

d. By tract of land parcel if the county has a tract index.
(b) In the case of assignments, satisfactions and partial releases of mortgages, and subordination of mortgages, the index shall also contain the document number or volume and page of the original mortgage instrument whenever that original mortgage instrument is referenced on the document.

(c) With regard to affidavits of corrections of filed documents, the register shall include at least one of the following notations on the filed document:

1. The document number of the affidavit of correction.
2. The volume and page number where the affidavit of correction is filed, and the date when the affidavit is filed.

(11) RECORD OF ATTACHMENTS, LIS PENDENS, ETC. A register of deeds shall file or record, and index in the real estate records index, every writ of attachment or certified copy of such a writ and certificate of real estate attached, every certificate of sale of real estate, and every notice of the pendency of an action affecting real estate, which may be filed or recorded in the register's office.

(12) DESTRUCTION, TRANSFER OF DOCUMENTS; RECORDING, INDEXING DOCUMENTS. (a) The board of any county may, upon request of the register of deeds, authorize the destruction of all obsolete documents pertaining to chattels antedating by 6 years, including final books of entry.

(b) A board may, upon request of the register of deeds, authorize the destruction of all documents pertaining to town mutual insurance companies that were formerly required to be filed under ch. 202, 1971 stats., and that under s. 612.81 no longer have to be filed and all documents pertaining to stock corporations that were formerly required to be recorded under ch. 180, 1987 stats., and that under ch. 180 no longer have to be recorded. At least 60 days prior to the proposed destruction, the register of deeds shall notify in writing the state historical society which may order delivery to it of any records of historical interest. The state historical society may, upon application, waive the notice.

(c) Notwithstanding this subsection, sub. (1) and ss. 16.61 (3) (e), 19.21 (1) and (5) and 59.52 (4), the board may authorize the transfer of the custody of all records maintained by the register of deeds under s. 342.20 (4), 1979 stats., to the department of transportation.

(d) In a county where the board has established a system of recording and indexing by means of electronic data processing, machine printed forms or optical disk storage, the process of typing, keypunching, other automated machines or optical imaging may be used to replace any handwritten entry or endorsement as described in this subsection or in sub. (1). The various documents and indexes may also be combined into a general document file with one numbering sequence and one index at any time. In this subsection and in sub. (1), "book", if automated equipment is used, may include forms, tab or computer printed sheets as well as cards and other supply forms which although processed separately may be bound after preparation.

(12m) TRACT INDEX SYSTEM. (a) The board by ordinance may require the register of deeds to keep a tract index such that records containing valid descriptions of land may be searched by all of the following:

1. Quarter-sections of land or government lots within the county, the boundaries of which refer to the public land survey system or a recorded private claim, as defined in s. 236.02 (9m).
2. Recorded and filed certified survey map and lot or outlot number.
3. Recorded and filed plat, by name and lot, block, outlot or unit within the plat, according to the description of the land.

(b) No index established under par. (a) may be discontinued, unless the county establishing the index adopts, keeps and maintains a complete abstract of title to the real estate in the county as a part of the records of the office of the register of deeds of that county.

(c) If the board determines that a tract index system is unfit for

use, the board may, by resolution, establish a new and corrected tract index. Any person who is authorized by the board to compile the new tract index shall have access to the old tract index and any other county records that may assist the person in compiling the new tract index. Upon completion, and approval by the board, of the new tract index system, the old tract index system shall be preserved as provided in s. 59.52 (3) (b). The resolutions of the board ordering, approving and adopting the new tract index systems, certified by the clerk, shall be recorded in each volume of the new tract index system and upon the resolution of the board adopting the new system, such a system is the only lawful tract index system in the register of deeds' office.