ISSUES IN OWNERSHIP OF REAL ESTATE

U.S.A. – LOUISIANA
Lemle & Kelleher, L.L.P.

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1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?

Yes, perpetual fee simple ownership of immovable (real) property is permitted in Louisiana.

2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?

The typical instrument used to convey immovable property is an “Act of Cash Sale” executed in authentic form. The sale of immovable property must be made by authentic act or by an act under private signature, (La. Civil Code art. 2440). An authentic act is an instrument executed by the parties in the presence of two witnesses who sign the instrument and a notary public (not one of the witnesses) who signs the instrument.

3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?

Evidence of ownership of immovable property is recorded in the conveyance records of the respective parish Clerks of Court in Louisiana. Ownership is searched by examining the vendor/vendee indices of the Clerk of Court of the parish where the property is located.
These records are often searched by lawyers, but most typically searched by abstractors working for lawyers, abstract companies or title insurance companies. The typical search period for commercial property is 55 years. Many residential title searches are performed for only 10 years or back to the subdivider if the property is located in a platted subdivision.

4. **What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

Purchasers may obtain a title opinion from a lawyer; however, most purchasers opt to obtain title insurance from a title insurance company instead because it offers more protection for a longer period of time. Louisiana is a “filed-rate” state meaning the rates charged for title insurance are not negotiable. Rates are set by the Louisiana Commissioner of Insurance.

5. **What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

A Louisiana limited liability company, a Louisiana limited partnership, or a Louisiana corporation are the most common forms of entities used.

6. **Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

Louisiana does not have any statutory laws concerning the creation of real estate investment trusts or similar entities, nor are there any current plans to adopt such laws.

7. **What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

There are no state taxes imposed upon the transfer of immovable property in Louisiana. Generally, there are no local taxes, except for the City of New Orleans (Orleans Parish). In accordance with the Code of the City of New Orleans (Section 150-366 *et seq.*), a “documentary transaction tax” of Three Hundred Twenty-Five Dollars ($325.00) is assessed upon the transfer of immovable property once a document evidencing the transfer is recorded in the conveyance records or mortgage records of the City. The seller is charged with the payment of the tax, but the parties to the transaction may agree otherwise. If the document evidencing the transfer exceeds twenty-five pages then the tax is increased by One Hundred Dollars ($100.00) per page up to a maximum of Twenty-Five Hundred Dollars ($2,500.00).

8. **What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

There are no stamp or similar taxes levied upon the transfer of interests in entities which own immovable (real) property in Louisiana.
9. **How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

Real estate law does not differ significantly among political subdivisions in Louisiana. The only significant differences in local regulation and taxation of real estate is the difference in the way property assessments are handled and in the amount of property taxes assessed by different political subdivisions.

10. **Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

No.