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2013: INTRODUCTION TO CONVEYANCING

1. INTRODUCTION

Overview

The purpose of this final-year LLB elective is to introduce students to the basic concepts and procedures of conveyancing with an emphasis on the Deeds Registries Act 47 of 1937 and the regulations relating thereto. This is a vast course and only the barest outlines are covered. It is a stand-alone semester course that counts as a credit only in the Faculty of Law.

Credit Value

Based on the Rhodes University Credit weighting of a total of 140 for final year, this course is weighted at **10** credits. The module is thus designed on the following minimum assumptions regarding 100 notional hours:

| | |
|----------|---|
| 26 hours | Contact teaching time (double lecture period per week) |
| 2 hours | Assessment (two tests) |
| 32 hours | Individual learning of five and a half hours per week (pre-lecture reading and post lecture follow up practising examples, precedents and consolidating). |
| Total: | 100 hours |

Assumptions of Prior Learning

This module has been designed on the assumption that students entering the module can:

- Read, analyse and extract principles from law reports, statutes and other sources.
- Communicate in written and spoken English
- Work/study independently and be capable of working in groups.
- Access resources (including electronic) such as textbooks, law reports, statutes and regulations in the Law Library.
- Identify and apply legal principles to a set of facts of precedents.
- Calculate percentages and have basic numeracy skills

2. OUTCOMES

Critical Outcomes.

Students will be able to:

- Identify and solve problems
- Collect, analyse and evaluate information from the various sources of law, as well as information conveyed in the lecture room
- Use technology in legal research
- Calculate transfer duty/VAT payable on transfers as well as shares owned by parties
- Describe the various parties in a power of attorney, deed of transfer and mortgage bond
- Draft supporting documents/affidavits to be lodged with the Registrar of Deeds and/or filed in the Conveyancer's file

Specific Intended Outcomes

- Distinguish between those documents that have to be lodged and those that have to be kept in the conveyancer's file.
- Describe the transferor/ee in a power of attorney/deed/mortgage bond.
- Draft the Recital clause in a power of attorney/deed/mortgage bond.
- Draft the supporting documents/affidavits that are either lodged with the Registrar of Deeds or filed in the conveyancer's file.
- Understand the significance and responsibilities of the Preparation Clause.
- Draft a power of attorney to pass transfer.

3. TEACHING METHODS

There is no comprehensive handout for the course but the students are provided with a course outline as well conveyancing precedents. Students are expected to take their own notes during class. Overhead transparencies and supplementary material will also sometimes be supplied.

- Students are expected to assume responsibility for their learning by reading ahead where possible before each lecture, consolidating afterwards and practising conveyancing precedents. Your DP certificate will be at risk if you miss more than **SIX lectures regardless of whether you have L.O.A.s or not**, unless there are exceptional circumstances. You still need to apply for L.O.A.s at the Administrative office at the Law Faculty in the usual manner because this may assist you in establishing that exceptional circumstances exist.

The teaching method will include a discussion of the applicable law as contained in the main sources, namely textbooks, cases and legislation and in particular the Deeds Registries Act 47 of 1937 and the Regulations relating thereto.

4. COURSE CONTENT (See course outline for further details)

- Deed of Sale
- Responsibility of the Conveyancer
- Power of Attorney
- Deed of Transfer
- Identification of Parties in deeds/documents for registration
- Section 21 of the DRA 47 of 1937
- Supporting Documents for registration
- Lost Title Deeds
- Amendment to Deeds
- Certificate of Consolidated Title
- Sectional Title Transfers
- Mortgage Bonds

5. RESOURCES

The prescribed textbooks are J O Christie *Conveyancing Practice Guide*, 3rd edition (2008), Lexis Nexis, Durban. AS West *The Practitioners' Guide to Conveyancing and Notarial Practice*; Konrad Kritzing *Principles of Commercial Law: The Law of Mortgage, Pledge and Lien*, Juta (1999); *Butterworths Forms and Precedents (Property 2, Conveyancing)*; L. Kilbourn *The ABC of Conveyancing* (2008) Juta, Cape Town.

The core material will be the Deeds Registries Act 47 of 1937 and the Regulations relating thereto and the Conveyancing precedents compiled by the Lecturer.

6. STUDENT ASSESSMENT

The final mark for the course is comprised of the following components:

Examination: 70%

Class Mark: 30%

Tests

There will be two tests that the students write either in the class lecture period or at a time outside of the designated lecture class. The tests will contain questions equivalent to those found in the examination. The tests are **COMPULSORY**.

Examination

At the end of the semester there will be a two-hour paper that will be out of 70 marks. This is then converted to a percentage of 100 together with the incorporated class mark. There is **NO CHOICE** on the paper and the students are required to answer all the questions which vary in mark allocation from 1 to 20 marks. This is in line with the professional conveyancing examination written during articles of clerkship.

The examination is compulsory and an external examiner who is a qualified practising conveyancing assesses the quality of both the examination paper and students' answers.

7. EVALUATION

The course is evaluated every year together with all final year LLB subjects. The responses are processed by the Centre for Higher Education Research, Teaching and Learning (CHERTL) which compiles a report highlighting weaknesses and strengths of all the courses offered which is then sent to the Dean of law and thereafter circulated to all members of teaching staff. The feedback and issues arising from the evaluation as well as any action to be taken will be given to the students by the Dean of the Faculty of Law.

In addition, the lecturer may conduct her own evaluation of the course for professional development.