

RECORDING STATUTES

Jurax Bar, Inc.
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Bona Fide Purchaser for Value (“BFP”).

On who purchases for value and **without** notice of any other interests.

Key Concepts.

(1) Race.

The winner of the race wins.

(2) Pure Notice.

The **last** BFP wins. Having no notice will save the day. Having notice will be detrimental.

(3) Race-Notice.

First BFP *to record* wins.

Identifying the **Key Language** will save you time and lead to the correct answer.

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Recording Statutes.

The three recording statutes are (1) Race; (2) Pure Notice; and (3) Race-Notice. These are explained below.

(1) Race.

Will protect the first person to record their deed of interest regardless of any BFP status.

Note that *notice* is irrelevant here (i.e., the winner of the race wins).

(2) Pure Notice.

Will protect any bona fide purchaser who records against any subsequent purchaser who is also not a bona fide purchaser.

The focus here is on **Notice**. There are 3 types of notice: (1) Actual Notice; (2) Constructive Notice; and (3) Inquiry Notice. Moreover, by definition, this has to be against a non-BFP.

Example of Language.

"Every conveyance of real property **shall be invalid** as against any person, except the grantor, his heirs, and assigns, having actual **notice** thereof, unless it is recorded as provided by statute.

Translation.

Every conveyance of real property shall be invalid if he has notice **because having notice prevents him from being a bona fide purchaser** for value. Remember the full definition of BFP: Bona fide purchaser for value *without notice* (i.e., **the last BFP wins**).

EXAM TIP EMPHASIZED: Pure Notice will *not* contain this language: "...whose conveyance is **first duly recorded**." *Nor* shall it contain this language: **"And who is first to record"** or words to that effect. The focus is on **notice**. If it contains the *first to record* language, it may be Race-Notice IF there is also BFP language.

(3) Race-Notice.

Will protect a bona fide purchaser, but only if he is the first to record.

Example Language.

"Every conveyance of real estate which is not recorded is void against a subsequent purchaser in **good faith for valuable** consideration, whose conveyance *shall be first duly recorded*"

OR

"Every conveyance of real estate which is not recorded is void against a subsequent purchaser in **good faith for valuable consideration** whose conveyance shall *be first duly recorded*."

OR

"An unrecorded conveyance or other instrument is invalid as against a **subsequent bona fide purchaser** for value without notice *who records first*."

Review of Race-Notice.

In order for a subsequent party to prevail in a race-notice jurisdiction, he must be **both a bona fide purchaser** for value **without notice** of the prior interest and record first (i.e., **First BFP to record wins**).

Key Concepts.

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The winner of the race wins.

(2) Pure Notice.

The **last** BFP wins. Having no notice will save the day. Having notice will be detrimental.

(3) Race-Notice.

First BFP *to record* wins.

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