

**TITLE 47  
PROPERTY**

**CHAPTER 47-01  
GENERAL PROVISIONS**

**47-01-01. Ownership defined.**

The ownership of a thing shall mean the right of one or more persons to possess and use it to the exclusion of others. In this code the thing of which there may be ownership is called property.

**47-01-02. Property - Classification.**

Property is:

1. Real or immovable; or
2. Personal or movable.

**47-01-03. Real property defined.**

Real or immovable property consists of:

1. Land;
2. That which is affixed to land, including manufactured homes as defined in section 41-09-02 with respect to which the requirements of subsection 6 of section 47-10-27 have been satisfied;
3. That which is incidental or appurtenant to land; and
4. That which is immovable by law.

**47-01-04. Land defined.**

Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

**47-01-05. Fixtures defined.**

A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs, or imbedded in it, as in the case of walls, or permanently resting upon it, as in the case of buildings, or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws.

**47-01-06. Appurtenances defined.**

A thing is deemed to be incidental or appurtenant to land when it by right is used with the land for its benefit, as in the case of a way or watercourse, or of a passage for light, air, or heat from or across the land of another. Sluice boxes, flumes, hose, pipes, railway tracks, cars, blacksmith shops, mills, and all other machinery or tools used in working or developing a mine are deemed affixed to the mine.

**47-01-07. Personal property defined.**

Personal property shall mean and include every kind of property that is not real.

**47-01-08. What may be subject to ownership.**

There may be ownership of the following:

1. All inanimate things which are capable of appropriation or of manual delivery.
2. All domestic animals.
3. All obligations.
4. Such products of labor or skill as the composition of an author, the good will of a business, trademarks, signs, and of rights created or granted by statute.
5. Animals, wild by nature, only when on the land of the person claiming them, or when tamed, taken and held in possession, or disabled and immediately pursued.

**47-01-09. Public or private ownership - All property subject to - Foreign ownership prohibited. (Effective through July 31, 2025)**

1. All property in this state has an owner, whether that owner is the United States or the state, and the property public, or the owner an individual, and the property private. The state also may hold property as a private proprietor.
2. Notwithstanding any other provision of law, the following governments or entities may not purchase or otherwise acquire title to real property in this state after July 31, 2023:
  - a. A foreign adversary.
  - b. A foreign business entity with a principal executive office located in a country that is identified as a foreign adversary.
  - c. A foreign business entity in which a foreign adversary owns:
    - (1) More than fifty percent of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, unless the foreign business entity was operating lawfully in the United States on August 1, 2023; or
    - (2) Fifty percent or less of the total controlling interests or total ownership interests, as defined under section 10-19.1-01, in the foreign business entity, if the foreign adversary directs the business operations and affairs of the foreign business entity without the requirement of consent of any nonforeign adversary, unless the foreign business entity was operating lawfully in the United States on August 1, 2023.
3. When requested by a city council or commission, county commission, or title agent or company, the attorney general shall complete a civil review, to the extent allowable by law, relating to the qualifications of any foreign adversary business entity acquiring real property under subdivision c of subsection 2.
4. This section does not apply to an entity possessing an interest in real property under subsection 2 if the entity:
  - a. Is a duly registered business and has maintained a status of good standing with the secretary of state for seven years or longer before August 1, 2023;
  - b. Has been approved by the committee on foreign investment in the United States; and
  - c. Maintains an active national security agreement with the federal government.
5. A foreign government or foreign business entity subject to and in violation of this section shall divest itself of all real property in this state within thirty-six months after August 1, 2023.
6. If a foreign government or foreign business entity subject to this section fails to divest itself of all real property in this state within the period specified under subsection 4, the state's attorney of the county in which the majority of the real property is situated may issue subpoenas to compel witnesses to appear to provide testimony or produce records.
7. Upon receiving testimony and records, if the state's attorney concludes a foreign government or foreign business entity, in violation of this section, has failed to divest ownership of real property as required under this section, the state's attorney shall commence an action in the district court of the county in which the majority of the real property is situated. Once the action is commenced, the state's attorney shall file a notice pursuant to section 28-05-07 with the recorder of each county where the real property subject to the action is situated. If the court finds divestment of real property under this section is proper, the district court shall enter an order consistent with its findings. As part of the order, the court shall cancel the notice pursuant to section 28-05-08.
8. Pursuant to an order for divestment, a foreign government or foreign business entity subject to an order shall divest all real property within six months from the date of the final entry of judgment. A foreign government or foreign business entity that fails to comply with the court's order is subject to a civil penalty not to exceed twenty-five thousand dollars.

9. Any real property not divested within the period prescribed by law may be sold at a public sale in the manner provided under chapter 32-19 through an action brought by the state's attorney. A title to real property or encumbrance on the real property may not be deemed invalid by an order of divestiture under this section.
10. A person that is not subject to this section may not be required to:
  - a. Determine whether another person is subject to this section; or
  - b. Inquire if another person is subject to this section.
11. For purposes of this section, "foreign adversary" means an individual or a government identified as a foreign adversary in 15 CFR 7.4(a) or a person identified on the office of foreign assets control sanctions list.

**Public or private ownership - All property subject to. (Effective after July 31, 2025)**

All property in this state has an owner, whether that owner is the United States or the state, and the property public, or the owner an individual, and the property private. The state also may hold property as a private proprietor.

**47-01-10. State ownership - Property appropriated or dedicated - Property having no owner.**

The state is the owner of all property lawfully appropriated or dedicated to its own use and of all property of which there is no other owner.

**47-01-11. Private ownership - Persons qualified - Citizen - Alien.**

Except as provided in chapter 47-10.1, any person, whether citizen or alien, may take, hold, and dispose of property, real or personal, within this state.

**47-01-12. Scope of ownership - Above and below surface.**

The owner of land in fee has the right to the surface and to everything permanently situated beneath or above it.

**47-01-13. Ownership of land includes water.**

Repealed by S.L. 1963, ch. 419, § 7.

**47-01-14. Land below high water mark - Regulated by federal or state law.**

Repealed by S.L. 1995, ch. 435, § 2.

**47-01-15. Banks and beds of streams - Boundary of ownership.**

Except when the grant under which the land is held indicates a different intent, the owner of the upland, when it borders on a navigable lake or stream, takes to the edge of the lake or stream at low water mark. All navigable rivers shall remain and be deemed public highways. In all cases when the opposite banks of any stream not navigable belong to different persons, the stream and the bed thereof shall become common to both.

**47-01-16. Road or street - Boundary of ownership.**

An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown.

**47-01-17. Tree occupying lands of adjacent owner - Ownership determined from trunk.**

Trees whose trunks stand wholly upon the land of one owner belong exclusively to that owner although their roots grow into the land of another. Trees whose trunks stand partly on the land of two or more coterminous owners belong to them in common.

**47-01-18. Lateral and adjacent support.**

Each coterminous owner is entitled to the lateral and adjacent support which that owner's land receives from the adjoining land, subject to the right of the owner of the adjoining land to

make proper and usual excavations on the same for purposes of construction on using ordinary care and skill, taking precautions to sustain the land of the other, and giving previous reasonable notice to the other of the intention to make such excavations.

**47-01-19. Boundaries - Obligation of coterminous owners.**

Coterminous owners are mutually bound to maintain equally the boundaries and monuments between them.

**47-01-20. Extent of ownership - Products and accessions.**

The owner of a thing also owns all its products and accessions.

**47-01-21. Methods by which property may be acquired.**

Property may be acquired by:

1. Occupancy;
2. Accession;
3. Transfer;
4. Will; or
5. Succession.

**47-01-22. Temporary easements to contain fixed termination date.**

Whenever a temporary easement is acquired by the state or any of its agencies, departments, or institutions, or any political subdivision of the state in connection with highway or road construction or for any other purpose, a fixed date of termination shall be stated in such temporary easement, which date shall not be more than five years from the date of the easement.

**47-01-23. Landowner immunity - Use and condition of roads.**

A landowner may not be held liable for a claim resulting from the use or condition of a road across the landowner's property unless the landowner is primarily and directly responsible for the construction and maintenance of the road or an affirmative act of the landowner causes or contributes to the claim.