

Selected Anti-Discrimination Laws and Enforcement

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The Fair Housing Act (FHA): Promoting Equal Opportunity in Housing.

- **Title:** Title VIII of the Civil Rights Act of 1968 - 42 USC Section 3601
- **Primary Goal:** To prohibit discrimination in the sale, rental, and financing of housing and to reverse housing segregation.
- **Administered by:** The [U.S. Department of Housing and Urban Development
- **Enforcement:** By the
 - US Department of Housing and Urban Development (HUD); or
 - Privately through civil action filed in court; or
 - By the Attorney General filing a civil action if there is a pattern or practice

The Fair Housing Act

The Seven Protected Classes

- 1) Race,
- 2) Color,
- 3) Religion
- 4) National origin,
- 5) Sex includes sexual orientation and gender identity
- 6) Familial status (having children under the age of 18 living with parents or legal custodians, pregnant women,
- 7) Disability.

Gender: added in 1974

Familial Status and Disability: added in 1988

These categories of people are considered to be part of a “Protected Class”.

The Fair Housing Act

Some definitions - Section 802. [42 U.S.C. 3602])

"**Dwelling**" means any building, structure, or portion thereof which is occupied as, **or designed or intended for occupancy as**, a residence by one or more families, **and any vacant land** which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Dwelling - extensive definition as to what is owner occupied

There are exemptions here for rental units in building with 4 or fewer unit if one of the units is owner occupied

"**Family**" includes a single individual.

"Handicap" means, with respect to a person--

- (1) a physical or mental impairment which substantially limits one or more of such person's **major life activities**,
- (2) **a record of having such an impairment**, or
- (3) **being regarded as having such an impairment**

Handicap - Does not include use of, or addiction to, controlled substances.

The Fair Housing Act

Special Protections for Disability

It shall be unlawful “To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or

(C) any person associated with that person.” [§ 3604]

Landlords have additional legal requirements for tenants with disabilities:

- **Reasonable Accommodations:** Changes to rules or policies (e.g., allowing a service animal despite a "no pets" policy).
- **Reasonable Modifications:** Allowing physical changes to the unit at the tenant's expense (e.g., installing grab bars).

The Fair Housing Act

Real Estate Related Transactions

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following:

- (1) The making or purchasing of loans or providing other financial assistance--
 - (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - (B) secured by residential real estate.

- (2) The selling, brokering, or appraising of residential real property.

(c) Appraisal Exemption.--Nothing in this title prohibits a[n appraiser] ... to take into consideration factors **other than** race, color, religion, national origin, sex, handicap, or familial status.

The Fair Housing Act

Prohibited Activities

Refusing to sell or rent: Denying housing to someone in a protected class

Setting different terms: Charging higher rent, higher deposits, or offering fewer services to someone in a protected class.

Steering: Persuading buyers or renters toward or away from specific neighborhoods.

Different Terms: Set different terms or conditions for a sale or rental

Discriminatory Publishing: Stating a preference or limitation, publishing a preference

Lending Discrimination: Denying mortgages or offering unfavorable interest rates

Availability: To represent to a person in a protected class that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

Disabilities: To refuse reasonable accommodations or modifications for individuals with disabilities

SUBJECT TO the following conditions and restrictions, to-wit:

That said premises shall not be subdivided into parcels or tracts of less than Six Thousand (6000) square feet and no structure other than one dwelling house costing not less than the amount specified and one, one or two car garage shall be erected upon any subdivision of said premises nor shall any building be erected, maintained, or used for flats, apartments, church, school house, hospital, fraternity house, boarding or rooming houses, store or business house, or any public or manufacturing purpose, nor shall any old building be placed on said premises above described.

Any dwelling house erected upon the above described premises or any subdivision thereof shall cost not less than Four thousand Five Hundred Dollars.

No person or persons of African or Asiatic descent shall be permitted to own or purchase the above described premises.

In the event the grantees, or their successors in interest in the above described premises, or any part thereof, shall fail to keep and perform and maintain any of the within and above restrictions or conditions, then any injured property owner or owners are given the right to bring suit against any violator thereof for damages, and besides rendering judgment for damages, costs, and attorney's fees, the Court shall order the discontinuance of the said breach of the said condition.

Fair Housing Act – ALTA 2021

SCHEDULE B, PART II – EXCEPTIONS

Some historical land records contain Discriminatory Covenants that are illegal and unenforceable by law. This Commitment and the Policy treat any Discriminatory Covenant in a document referenced in Schedule B as if each Discriminatory Covenant is redacted, repudiated, removed, and not republished or recirculated. Only the remaining provisions of the document will be excepted from coverage.

The Policy will not insure against loss or damage resulting from the terms and provisions of any lease or easement identified in Schedule A, and will include the following Exceptions unless cleared to the satisfaction of the Company:

1. Notwithstanding any provision of the policy to the contrary, the following matters are expressly excepted from the coverage of the policy, and the Company will not pay loss or damage, costs, attorney's fees or expenses that arise by reason of any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the land.
2. Rights or claims of parties in possession of the land not shown by the public record.
3. Easements, or claims of easements, not shown by the public record.
4. Any liens or interests arising between the date of this Commitment and the date on which the documents creating the interest to be insured are recorded and indexed in the public records.
5. Subsurface conditions and/or encroachments not disclosed by an instrument of record. (Fee Policy only).
6. Rights, public and private, in and to all roads, street, and avenues crossings, bounding or affecting the premises.

Americans with Disabilities Act – ADA



Americans with Disabilities Act - ADA

A landmark federal civil rights law signed on July 26, 1990 by President George H. W. Bush, prohibiting discrimination against individuals with disabilities. Signed into law in 1990.

What is a disability:

* Three-Pronged Definition:

1. A physical or mental impairment that substantially limits one or more major life activities.
2. A record of such an impairment (e.g., a person in remission from cancer).
3. Being regarded as having such an impairment (even if no disability exists).

Major life activities.

For purposes of paragraph (1), major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

Major bodily functions.

Americans with Disabilities Act Impairment

(3) Regarded as having such an impairment. For purposes of paragraph (1)(C):

(A) An individual meets the requirement of “being regarded as having such an impairment” if the individual establishes that he or she has been subjected to an action prohibited under this Act because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

Americans with Disabilities – Titles

Title I - Employment

Title II - State/Local Government: Programs, services and activities provided by municipal, county or state.

Title III - Public Accommodations: Private entities, services that are provided by private persons or entities to the general public

Title IV - Telecommunications: Requires, for example, telephone and television access for people with hearing and speech impairments.

Title V - Miscellaneous: includes provisions like technical assistance and attorneys fees.

Exemptions: Private clubs and religious organizations are generally exempt from Title III, but they may be covered by other laws.

Enforcement: Usually enforced by agencies like Equal Employment Opportunity Commission (EEOC) and the Department of Justice.

Americans with Disabilities Act

Title I - Employment

(a) General Rule.

No covered entity shall discriminate against a **qualified individual** on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

- **Scope:** Applies to private employers with 15 or more employees, as well as state and local government employers. But not to the federal government or a private club.
- **Reasonable Accommodations:** Employers must provide changes to the job or workplace (e.g., specialized equipment or flexible schedules) unless it causes "undue hardship".

Americans with Disabilities Act

Title I - Employment

Reasonable accommodations Making the job accessible to individuals with disabilities – means different things for different scenarios.

Undue hardship. What constitutes an undue hardship?

An undue hardship means an action requiring significant difficulty or expense, when considered in light of the several factors.

Essentially, how expensive is the “reasonable accommodation?” How big is the company? Can the company afford to make this accommodation? The ADA requires “reasonable” accommodations, and what is “reasonable” is something that the Court will determine under the totality of the circumstances.

Americans with Disabilities Act

Title II – State and Local Government

- **Requirement:** All programs, services, and activities of state and local governments must be accessible to and usable by people with disabilities.
- **Examples:** Includes public schools, community centers, courts, and public transportation.

ADA Title III – Public Accommodations

General rule: No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation.

Discrimination also includes failure to remove architectural barriers in existing facilities ... where such removal is readily achievable.

Scope: Covers private businesses that are open to the public, such as restaurants, hotels, retail stores, and doctors' offices.

Effective Communication: Must provide auxiliary aids, such as sign language interpreters or Braille materials, when necessary for effective communication.

Title III - What is a public accommodation?

12181 (7) Public Accommodations. The following private entities are considered public accommodations for purposes of this title..., if the operations of such entities affect commerce –

An inn, hotel, motel or other place of lodging.

A restaurant, bar or other establishment serving food and drink;

A motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

An auditorium, convention center, lecture hall or other place of public gathering;

A bakery, grocery store, clothing store, hardware store, shopping center;

A laundromat, dry-cleaner, bank, barber shop, beauty shop, funeral parlor, bus station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;...

ADA – Readily Achievable

Readily Achievable...means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include –

the nature and cost of the action needed under this Act;

the overall financial resources of the facility or facilities involved in the action;

the number of persons employed at such facility;

the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

the overall financial resources of the covered entity;

New Jersey – Civil Rights Law

NJSA 10:1-1 et seq.

All persons within the jurisdiction of this state shall be entitled to the full and equal accommodations, advantages, facilities and privileges of any places of public accommodation, resort or amusement, subject only to the conditions and limitations established by law and applicable alike to all persons.

The Act prohibits owners or agents of public accommodations to publish display post or mail any printed communication to the effect that the accommodations or facilities shall be refused to any person of those specified protected classes. race, creed, color, national origin, ancestry, marital status or sex

New Jersey – Civil Rights Law

NJSA 10:1-1 et seq.

Jurors - cannot be discriminated against or disqualified based on race, color, creed, national origin, ancestry, marital status or sex.

Cemeteries shall not refuse to bury a person because of their color or sex. Section 10:1-9

Applies to defense industry employers and suppliers for the State or Federal government

It includes the Open public meetings act and requirements and prohibitions about discrimination related to public meetings.

New Jersey Protections: NJ Law Against Discrimination - LAD

All persons shall have the opportunity to obtain **employment**, and to obtain all the accommodations, advantages, facilities, and privileges of any place of **public accommodation**, **publicly assisted housing accommodation**, and **other real property** without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, liability for service in the Armed Forces of the United States, nationality, sex, gender identity or expression or source of lawful income used for rental or mortgage payments, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.

The NJ Division on Civil Rights (DCR) is the primary state agency responsible for enforcing the NJLAD.

LAD – Protected Classes

- Race or color;
 - Religion or creed;
 - National origin, nationality, or ancestry;
 - Sex, **pregnancy**, or **breastfeeding**;
 - Sexual orientation;
 - Gender identity or expression;
 - Disability;
 - Marital status or domestic partnership/civil union status;
 - **Liability for military service**;
-
- In housing: familial status and **source of lawful income** used for rental or mortgage payments;
 - In employment: age, atypical hereditary cellular or blood trait, genetic information, the refusal to submit to a genetic test or make available to an employer the results of a genetic test.

Pregnancy, breastfeeding

Disabilities

Mount Laurel Doctrine

What is the Mount Laurel Doctrine?

The Mount Laurel Doctrine is a series of landmark New Jersey Supreme Court decisions establishing that every municipality in the state has a constitutional obligation to provide its "fair share" of affordable housing.

Core Principle: Outlaws "exclusionary zoning" that prevents low- and moderate-income families from living in a community.

Constitutional Basis: Rooted in the New Jersey State Constitution's "general welfare" clause.

The Mandate: Every municipality must take affirmative steps to provide a "realistic opportunity" for its fair share of the regional housing need.

Exclusionary zoning > Discrimination based on income

Remedy was needed > Affirmative municipal obligation



Mount Laurel Doctrine – Mt. Laurel – lower court

HOLDING:

The patterns and practice clearly indicate that defendant municipality through its zoning ordinances has exhibited **economic discrimination** in that the poor have been deprived of adequate housing and the opportunity to secure the construction of subsidized housing, and has used federal, state, county and local finances and resources solely for the betterment of middle and upper-income persons. The zoning ordinance is, therefore, declared invalid.

The court ordered the township undertake a study to identify:

The existing sub-standard dwelling units in the township and the number of individuals and families who would be displaced by an effective code-enforcement program; and
The housing needs for persons of low and moderate income, residing in or presently employed within the township.

Mount Laurel Doctrine – Mt. Laurel I

“whether a **developing** municipality like Mount Laurel may validly, by a system of land use regulation, make it physically and economically impossible to provide low and moderate income housing in the municipality for the various categories of persons who need and want it and thereby ... exclude such people from living within its confines because of the limited extent of their income and resources. Necessarily implicated are the broader questions of the right of such municipalities to limit the kinds of available housing and of any obligation to make possible a variety and choice of types of living accommodations.”

And it held:

“every [developing] municipality must, by its land use regulations, ... make realistically possible an appropriate variety and choice of housing. More specifically, ... it cannot foreclose the opportunity of the classes of people mentioned for low and moderate income housing and ... must affirmatively afford that opportunity, at least to the extent of the municipality's fair share of the present and prospective regional need therefor.

Mount Laurel Doctrine – Mt. Laurel II

SOUTHERN BURLINGTON COUNTY N.A.A.C.P., CAMDEN COUNTY C.O.R.E., CAMDEN COUNTY N.A.A.C.P., ETHEL LAWRENCE, THOMASINE LAWRENCE, CATHERINE STILL, MARY E. SMITH, SHIRLEY MORRIS, JACQUELINE CURTIS, GLADYS CLARK, BETTY WEAL AND ANGEL PEREZ, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS-APPELLANTS AND CROSS-RESPONDENTS, AND DAVIS ENTERPRISES, PLAINTIFF-INTERVENOR AND CROSS-RESPONDENT, v. TOWNSHIP OF MOUNT LAUREL, DEFENDANT-RESPONDENT AND CROSS-APPELLANT (A-35/36). SOUTHERN BURLINGTON COUNTY N.A.A.C.P., CAMDEN COUNTY C.O.R.E., CAMDEN COUNTY N.A.A.C.P., ETHEL LAWRENCE, THOMASINE LAWRENCE, CATHERINE STILL, MARY E. SMITH, SHIRLEY MORRIS, JACQUELINE CURTIS, GLADYS CLARK, BETTY WEAL AND ANGEL PEREZ, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS-RESPONDENTS, AND DAVIS ENTERPRISES, PLAINTIFF-INTERVENOR-RESPONDENT, v. TOWNSHIP OF MOUNT LAUREL, DEFENDANT-APPELLANT (A-172). URBAN LEAGUE OF GREATER NEW BRUNSWICK, A NONPROFIT CORPORATION OF THE STATE OF NEW JERSEY, CLEVELAND BENSON, JUDITH CHAMPION, BARBARA TIPPETT AND KENNETH TUSKEY, ON THEIR OWN BEHALF AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS-APPELLANTS, AND FANNIE BOTTS, LYDIA CRUZ AND JEAN WHITE, PLAINTIFFS, v. THE MAYOR AND COUNCIL OF THE BOROUGH OF CARTERET, MAYOR AND COUNCIL OF THE BOROUGH OF DUNELLEN, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EDISON, MAYOR AND COUNCIL OF THE BOROUGH OF HELMETTA, MAYOR AND COUNCIL OF THE BOROUGH OF HIGHLAND PARK, MAYOR AND COUNCIL OF THE BOROUGH OF JAMESBURG, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MADISON, MAYOR AND COUNCIL OF THE BOROUGH OF METUCHEN, MAYOR AND COUNCIL OF THE BOROUGH OF MIDDLESEX, MAYOR AND COUNCIL OF THE BOROUGH OF MILLTOWN, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF NORTH BRUNSWICK, MAYOR AND COUNCIL OF THE BOROUGH OF SAYREVILLE, MAYOR AND COUNCIL OF THE CITY OF SOUTH AMBOY, MAYOR AND COUNCIL OF THE BOROUGH OF SOUTH RIVER, MAYOR AND COUNCIL OF THE BOROUGH OF SPOTS-WOOD AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WOODBRIDGE, DEFENDANTS, AND TOWNSHIP COMMITTEE OF THE TOWNSHIP OF CRANBURY, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF EAST BRUNSWICK, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF MONROE, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF PISCATAWAY, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF PLAINSBORO, TOWNSHIP COMMITTEE OF THE TOWNSHIP OF SOUTH BRUNSWICK AND MAYOR AND COUNCIL OF THE BOROUGH OF SOUTH PLAINFIELD, DEFENDANTS-RESPONDENTS (A-4). JOSEPH CAPUTO AND ALDO CAPUTO, PLAINTIFFS-APPELLANTS AND CROSS-RESPONDENTS, v. TOWNSHIP OF CHESTER AND PLANNING BOARD OF TOWNSHIP OF CHESTER, DEFENDANTS-RESPONDENTS AND CROSS-APPELLANTS (A-7/21). GLENVIEW DEVELOPMENT CO., A NEW JERSEY CORPORATION, PLAINTIFF-APPELLANT, v. FRANKLIN TOWNSHIP, PLANNING BOARD AND ENVIRONMENTAL COMMISSION OF FRANKLIN TOWNSHIP, DEFENDANTS-RESPONDENTS (A-8). URBAN LEAGUE OF ESSEX COUNTY, NORTH JERSEY COMMUNITY UNION, AMY INGRAM, JOHN LIGON AND JOSE MUNIZ, ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED, PLAINTIFFS-APPELLANTS, v. TOWNSHIP OF MAHWAH, DEFENDANT-RESPONDENT, AND BOROUGH OF RAMSEY, NEW JERSEY, BOROUGH OF SADDLE RIVER, NEW JERSEY AND BOROUGH OF UPPER SADDLE RIVER, NEW JERSEY, DEFENDANTS (A-18). ROUND VALLEY, INC., A CORPORATION OF THE STATE OF NEW JERSEY, PLAINTIFF-APPELLANT, v. TOWNSHIP OF CLINTON, A MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY, TOWNSHIP COUNCIL OF THE TOWNSHIP OF CLINTON AND PLANNING BOARD OF THE TOWNSHIP OF CLINTON, DEFENDANTS-RESPONDENTS (A-37).

Mount Laurel Doctrine – Mt. Laurel II

DECISION

The Mt. Laurel obligations for fair share housing apply to all municipalities, not only “developing” municipalities as was the case with Mt. Laurel Township; and to expedite the construction of low or middle income housing, the Court created an incentive called the “Builder’s remedy”. When a builder proposes a development that includes affordable housing and a municipality denies the proposal for violating local zoning codes, the developer may challenge the denial on the grounds that the municipality has not complied with the Mount Laurel doctrine.

Mount Laurel Doctrine – Historical Timeline

- * 1975 (Mount Laurel I): Landmark ruling in Southern Burlington County NAACP v. Township of Mount Laurel. Established the "fair share" requirement.
- * 1983 (Mount Laurel II): Strengthened enforcement by creating the "Builder's Remedy"—allowing developers to sue to build affordable housing if a town fails to comply.
- * 1985 (Fair Housing Act): Legislative response that created the Council on Affordable Housing (COAH) to manage municipal obligations administratively.
- * 1986 Constitutionality of the Fair Housing Act in Mt. Laurel III
- * 2024 Legislative overhaul of the Fair Housing Act,
 - Created new formula for Mt. Laurel obligations
 - Created new Affordable Housing Dispute Resolution program
 - Abolished COAH
 - Extended deed restrictions to 40 years for rental properties, 30 years for sale properties

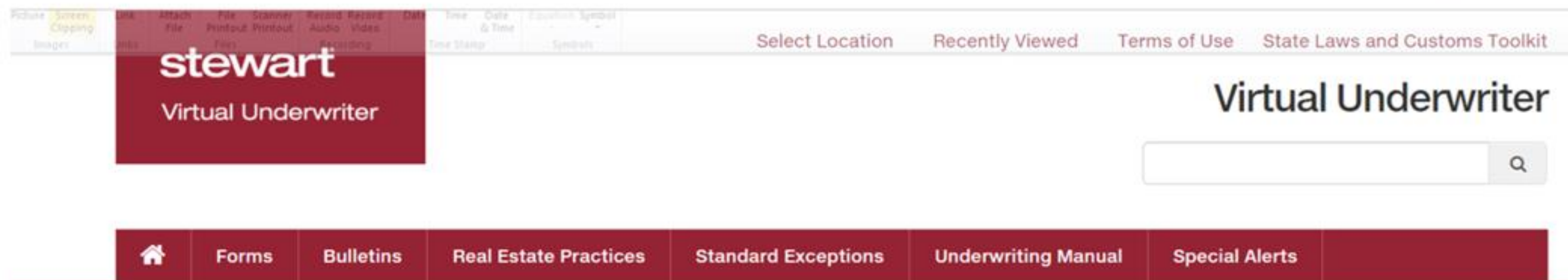
THANK YOU FOR JOINING US TODAY!

Please mark your calendars for our next N2K Hour:

May 12, 2026

1031 Exchanges

11:00 am



The screenshot shows the top portion of the Stewart Virtual Underwriter website. At the top right, there are navigation links: "Select Location", "Recently Viewed", "Terms of Use", and "State Laws and Customs Toolkit". Below these is a search bar with a magnifying glass icon. A dark red navigation bar contains several menu items: a home icon, "Forms", "Bulletins", "Real Estate Practices", "Standard Exceptions", "Underwriting Manual", and "Special Alerts". On the left side, there is a dark red box with the Stewart logo and the text "Virtual Underwriter".

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Keyword Search

Example : Absentee

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