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Property
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CHAPTER 1: INTRODUCTION

I. SOURCES OF PROPERTY LAW

A. Cases:

The principal source of property law is *case law*, i.e., opinions by judges.

Property case law is largely the product of decisions by the appellate courts of the individual *states*.

In contrast to many other areas of the law (e.g., constitutional law), the state courts are more or less free to develop their own property case law without interference by the U.S. Supreme Court. (However, in a few situations, e.g., zoning, constitutional issues will arise, and as to these the U.S. Supreme Court has the final word.)

B. Statutes:

Another large body of law is *state statutes*.

The law of property has been heavily subjected to statutory modification of the old common law principles and there are few property questions that can be answered wholly without reference to any statute.

C. Restatements and model acts:

A third source of authority consists of secondary materials prepared by law professors and other experts.

Foremost among these are the various Restatements: (1) the *First Restatement of Property* (published beginning in 1936); (2) the *Second Restatement of Property* (published in 1976, and dealing only with landlord-tenant law and selected topics under the general title of “Donative Transfers”); and (3) the *Third Restatement of Property* (published in the late 1990s and early 2000s, and dealing only with “servitudes” and mortgages).

1. Model acts: Also, a number of *model statutes* have been drafted (e.g., the Uniform Residential Landlord-Tenant Act.) These have been enacted in some states, and are sometimes looked to (on a non-binding basis) by the courts of other states.