1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?

Yes, fee simple absolute property ownership is permitted in Arkansas.

2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?

A deed is used to convey ownership of real estate. Ark. Code Ann. § 18-12-102. All deeds are construed to convey a complete estate of inheritance in fee simple unless expressly limited by appropriate words in the deed. Ark. Code Ann. § 18-12-105.

3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?

Ownership of real property is recorded by filing the deed with the circuit clerk of the county in which the property is located. The circuit clerk maintains a grantor/grantee deed index, which is the most common method of searching title. While a title search may be conducted by an attorney, a title search generally is conducted by a title examiner working for a title company.
Act 648 of the 2007 Arkansas General Assembly, which is effective January 1, 2008, transferred regulation of title insurance to the State Insurance Department. This Act established the Arkansas Title Insurance Act (codified at Ark. Code Ann. § 23-103-401), which among other things, requires a title search to review all matters affecting title to the property to be insured for a continuous period of not less than thirty years.

4. **What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

Title insurance is available in Arkansas. Title insurance rates are not regulated in Arkansas, and the premiums for purchasing title insurance vary.

5. **What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

An Arkansas limited liability company, an Arkansas limited partnership, an Arkansas limited liability partnership, and Arkansas limited liability limited partnership are the most common forms of entities used to own real property.

6. **Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

There is no Arkansas statute relating to real estate investment trusts or similar entities.

7. **What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

There is an Arkansas real property transfer tax on each deed, instrument, or writing by which any lands, tenements, or other realty sold are granted, assigned, transferred, or otherwise conveyed to, or vested in, a purchaser, or any other person by the purchaser’s direction, when the consideration for the interest or property conveyed exceeds one hundred dollars ($100). The tax is three dollars and thirty cents ($3.30) for each one thousand dollars ($1,000) or fractional part thereof, of value of the real estate. The statute contains a number of exemptions to transfer tax liability. The payment of the transfer tax is evidenced by affixing documentary stamps to the face of the instrument. In addition, the instrument must contain a notation on its face that the Real Property Transfer Tax Affidavit of Compliance Form was completed, or in the alternative, the instrument must have stamped thereon the following statement: “I certify under penalty of false swearing that the legally correct amount of documentary stamps have been placed on this instrument.” Ark. Code Ann. § 26-60-101 et seq.
8. **What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

The Arkansas real property transfer tax statute does not expressly apply to sellers and buyers upon the transfer of interests in entities which own real estate. See prior answer for additional information.

9. **How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

As set forth above, the Arkansas real property transfer tax statute levies a tax of $3.30 per $1,000 of the value of the property. This amount is split between the buyer and seller of real estate, unless the parties agree otherwise. There is no separate real estate transfer tax at the county or city level, but there are nominal recording fees (as of 2007, $15 for the first page and $5 for succeeding pages). Another county issue of which to be aware is that some Arkansas counties have two courthouses, so care must be exercised to both check for that issue and file the instrument in the proper place.

10. **Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

No.