



Ohio Real Property

Methods of Holding and Transferring Title

Forms of Ownership

There are several forms of fee simple ownership:

Tenants in Common

A form for taking title when two or more people buy property and own it together with either equal or unequal shares. If any one of the tenants in common dies, the interest passes to the heirs, not to the remaining tenants.

Joint Tenants with the Right of Survivorship (Survivorship Tenancies)

Two or more persons may acquire title to real estate. Each has an undivided percentage of interest. Upon death of one of the joint tenants, that particular interest automatically passes to the surviving tenants.

Tenancy by the Entireties

A husband and wife could acquire title to real estate. Each has full ownership to the real estate. Their individual creditors cannot foreclose on their interest in the real estate. Upon death of one, the other is the owner of the entire fee.

Note: Tenancies by the Entireties were replaced by Survivorship Tenancies on April 4, 1985 and are no longer available in Ohio.

Transfer on Death

Effective in 2000, the property owner may now designate on the deed the party or parties to whom title transfers upon the current owner's death. This does not create a present interest in the real estate for the beneficiary, but immediately upon the death of the current property owner, the title transfers to said beneficiary, thus avoiding probate.

Types Of Deeds

General Warranty Deed

This is the most common form of deed in Ohio. The seller warrants title to be free and clear except as stated in the deed. The seller takes on responsibility for soundness of the entire chain of title. Although the seller's warranties are desirable, title insurance has reduced their importance. Buyers and lenders generally rely on title insurance to protect investments. Therefore, title insurance is also a benefit to the seller as it may reduce actual exposure if old title defects arise.

Limited Warranty Deed

In special circumstances, the seller only warrants title as to the period that he or she held title and is not responsible for matters previous to the seller's acquisition. A Limited Warranty Deed is often used on a commercial transaction where the seller and buyer agree to rely on title insurance for protection but require the seller to account, if necessary, for matters occurring during the seller's ownership. This form of deed may also be used when the seller is not in a position to make warranties as to the entire history of the title.

Quit Claim Deed

This is the simplest form of deed as it only conveys whatever interest the seller owns or may own. No warranties are expressed or implied. The buyer may not have recourse against the seller for defects in title, therefore title insurance is advisable whenever a buyer accepts a Quit Claim Deed.

Special Purpose Deeds

Other types of deeds are necessary under particular situations, but since their application is limited, no description needs to be given here. Such special purpose deeds include Sheriff's Deed (foreclosure), Executor's Deed, Administrator's Deed and Guardian's Deed (Probate Court), Trustee's Deed (Bankruptcy) and Auditor's Deed (tax sale).

For further explanation or advice as to the use or preparation of any of the above listed deeds, it is suggested that you consult an attorney.