

Types of Deeds

General Warranty Deed:

Most common form of deed in Ohio. The seller warrants the title to be free and clear except as stated in the deed. The seller warrants entire chain of title. If there is just one buyer, title will upon death pass to such owner's heirs unless otherwise provided for by the owner's will. If there is more than one buyer then a tenancy-in-common among owners is created, which means that each buyer owns an 'undivided' interest in the property. Upon the death of one of the owners, title to their 'undivided' part interest will pass to that owner's heirs unless otherwise provided for by the owners will.

* Although seller's warranties are desirable, Title Insurance has reduced their importance. Buyers and lenders generally rely on title Insurance to protect their investment. Therefore, Title Insurance is also a benefit to the seller as it may reduce actual exposure if old title defects arise.*

Joint & Survivorship Deed:

Warranty Deed where Joint Tenancy is created with the Right of Survivorship. Used when two or more persons are buyers. Upon the death of one of the owners, interest is not considered an asset of the estate and title to the interest transfers by contract to the survivor(s). Such interest, however, must be considered in the decedents estate for Ohio Estate Tax purposes (and for federal tax purposes) as if it was an asset of the estate. The seller also warrants title to be free and clear except as otherwise stated in the deed.

Limited Warranty Deed:

The seller only warrants title as to the period that he/she held the title. This is most often used on commercial transactions where the seller and buyer agree to rely on the Title Insurance for protection. Also used where seller is not in a position to make warranties as to entire history of title. Perhaps title taken by foreclosure, in settlement of a debt, etc.

Quit Claim Deed:

Simplest form of deed as it only conveys whatever interest the seller owns or may own; no warranties are expressed or implied. It creates tenancy-in-common if more than one buyer is involved. The buyer has no recourse against the seller for defects in the title. Title insurance is advisable wherever the buyer accepts title by Quit Claim Deed.

Transfer on Death (Affidavit):

The Transfer on Death Affidavit is a blended concept of the Payable-on-Death ownership of bank accounts and Survivorship Ownership of Real Estate. Upon an Owner's death, Real Property is normally considered to be an asset of the Estate and therefore the property must go through Probate Court proceedings before it can be transferred. The Transfer on Death Affidavit names a designated Beneficiary or Beneficiaries to receive Title upon the death of an Owner. The interest of the grantor is not a Probate asset, but is included in the Estate for purposes of determining any Ohio Estate Tax that may be due. The Beneficiary does not have any vested interest in the Real Estate until the death of the record Owner. Title transfers to the Beneficiaries upon the filing of an Affidavit and a copy of the Grantors death certificate.

Special Purpose:

Other types of deeds are necessary under particular situations, but since their applications are limited no description need be given here. Such special purpose deeds include Sheriffs Deed (foreclosure), Executor and Administrators Deed and Guardians Deed (Probate Court), Trustees Deed (Bankruptcy) and Auditors Deed (tax sales).

*For further explanation or advice as to the use or preparation of any deed. It is suggested that you consult an Attorney.

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