



## Deed Forms in Colorado

August 2004

### Four main deed types

The state of Colorado recognizes four main types of deeds:

**General Warranty Deed.** According to statute, the general warranty deed “may be substantially in the following form”:

\_\_\_\_\_, whose street address is \_\_\_\_\_, City or Town of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_, for the consideration of \_\_\_\_\_ dollars, in hand paid, hereby sell(s) and convey(s) to \_\_\_\_\_, whose street address is \_\_\_\_\_, City or Town of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_, the following real property in the County of \_\_\_\_\_, State of Colorado, to wit: \_\_\_\_\_ with all its appurtenances and warrant(s) the title to same, subject to \_\_\_\_\_. Signed this \_\_ day of \_\_\_\_\_, 19\_\_.

A general warranty deed, “in substance in the above form,” is a conveyance in fee simple to the grantee with the following covenants: (a) that at the time of the making of such instrument the grantor was lawfully seized of an indefeasible estate in fee simple in the property and has good right and full power to convey the same; (b) that the property was free and clear from all encumbrances, except as stated in the instrument; and (c) that the grantor warrants to the grantee and his heirs and assigns the quiet and peaceable possession of such property and will defend the title thereto against all persons who may lawfully claim the same.

Failure to state the address or the county or state of residence of the grantor or grantee does not affect the validity of the deed.

Note that the most important words are “sell and convey” [CRS §38-30-113].

A general warranty deed will pass after-acquired title (title acquired by a grantor who conveyed land before he/she owned it) of the grantor to the grantee.

**Special Warranty Deed.** The only significant difference between the general warranty deed and the special warranty deed is in the warranty language, which is modified to read as follows: “and warrant(s) the title against all persons claiming under me.” This means that the grantor’s warranty to the grantee and his heirs and assigns is limited to “against all persons claiming to hold title by, through, or under the grantor.” The forms must still recite “sell and convey” [CRS §38-30-115]. It passes after-acquired title of the grantor to the grantee and his heirs and assigns.

**Bargain and Sale Deed.** This deed form contains no warranties at all but is in form substantially the same as the general warranty deed—in other words, it contains the phrase “sell and convey.” This deed also will pass after-acquired title of the grantor to the grantee and his heirs and assigns [CRS §38-30-115].

**Quit Claim Deed.** The quit claim deed contains the language “sell and quit claim” instead of “sell and convey,” and it omits all language of warranty, conveying only

Corporate Office  
3033 East First Avenue  
Suite 600  
Denver, CO 80206  
303-321-1880  
Fax 303-331-0272

Please visit our website  
for a complete list of  
office locations:  
[www.LTGC.com](http://www.LTGC.com)

whatever interest the grantor may have had in the property at the time of conveyance [CRS §38-30-116]. It will not pass after-acquired title.

### Other deeds

These are other types of deeds accepted in Colorado:

#### **Fiduciary and Official Deeds (Personal Representative, Conservator, Trustee, Sheriff, Public Trustee, Treasurer, etc.).**

Usually these amount to bargain and sale deeds and contain no warranties but do pass after-acquired title; however, they can be general or special warranty deeds. The key phrase that they must contain is “sell and convey.”

**Grant Deed.** This deed type and its variations (primarily from non-Colorado attorneys and Realtors) will be recognized in Colorado so long as they contain substantially the language of the statutes and the magic phrase “sell and convey” for general warranty, special warranty, and bargain and sale deeds, or “sell and quit claim” for quit claim deeds.

**Beneficiary Deed.** Beginning August 4, 2004, the beneficiary deed provides a mechanism for a non-probate transfer of real property, enabling an owner of real property to convey to a grantee an interest in real property by a deed that will become effective upon the death of the owner.

The new law, in part, reads as follows: “Vesting of ownership in Grantee-

Beneficiary: (1) Title to the interest in real property transferred by a beneficiary deed shall vest in the designated Grantee-Beneficiary only on the death of the owner. (2) A Grantee-Beneficiary of a beneficiary deed takes title to the owner’s interest in the real property conveyed by the beneficiary deed at the death of the owner, subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests affecting title to the property, whether created before or after the recording of the beneficiary deed...” [C.R.S. §15-15-407].

During the lifetime of the owner(s), the Grantee-Beneficiary has no right, title, or interest in or to the property, and the owner(s) retain the full power and authority with respect to the property without the joinder, signature, consent, or agreement of, or notice to the Grantee-Beneficiary for any purpose.

The new law provides that the form of the beneficiary deed should contain the words “conveys on death” or “transfers on death” or otherwise indicates the transfer is to be effective on the death of the owner(s).

For more information about beneficiary deeds, see Land Title’s July 2004 technical bulletin on our website at [www.LTGC.com](http://www.LTGC.com).

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Corporate Office  
3033 East First Avenue  
Suite 600  
Denver, CO 80206  
303-321-1880  
Fax 303-331-0272

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office locations:  
[www.LTGC.com](http://www.LTGC.com)

