

DEED REQUIREMENTS AND TYPES

FORMS FOR CONVEYANCE OF REAL PROPERTY

AC/DC

REQUIREMENTS FOR A VALID TRANSFER VIA DEED

ROADMAP OF DEED REQUIREMENTS

- DESIGNATION OF PARTIES
- WRITING
- WORDS OF CONVEYANCE
- LEGAL DESCRIPTION
- CONSIDERATION
- EXECUTION AND ACKNOWLEDGEMENT
- DELIVERY AND ACCEPTANCE

REQUIREMENTS FOR A VALID DEED

- A. DESIGNATION OF PARTIES – INDIVIDUALS, MARRIED COUPLES, TRUSTEES OF TRUST, PERSONAL REPRESENTATIVES OR AFFIANTS OF ESTATES, CONSERVATOR FOR PROTECTED PERSON, OR BUSINESS ENTITY LIKE A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY.
 - 1. GRANTOR – MUST SIGN
 - 1. MAINTAINING A CLEAR OF CHAIN TITLE
 - 1. PRESENT DEED GRANTOR = FORMER DEED GRANTEE OR SHORT EXPLANATION OF NAME CHANGE
 - 2. EG. JANE DOE WHO ACQUIRED TITLE AS JANE BROWN
 - 2. GRANTEE
 - 3. VARIOUS WAYS TO HOLD TITLE
 - 1. TENANTS IN COMMON. ORS 93.180(1)(A).
 - 1. DEED TO 2 OR MORE PERSONS W/O FURTHER DESIGNATION
 - 2. TENANTS BY THE ENTIRETY. ORS 93.180(1)(B).
 - 1. DEED TO MARRIED PERSONS, UNLESS CLEAR INDICATION OTHERWISE
 - 3. RIGHTS OF SURVIVORSHIP. ORS 93.180(2).
 - 1. MAGIC WORDS – NOT AS TENANTS IN COMMON BUT WITH RIGHTS OF SURVIVORSHIP
 - 2. JOINT TENANCY ABOLISHED IN OREGON; INSTEAD LIFE ESTATE WITH CROSS CONTINGENT REMAINDERS. *ERICKSEN V. ERICKSEN*, 167 OR 1 (1941) LATER CODIFIED UNDER ORS 93.180(2).
 - 4. SINGLE ENTITY (EG. ONE INDIVIDUAL OR CORPORATION)
 - 1. TITLE IS HELD BY THE ENTITY, NOT THE SHAREHOLDERS, MEMBERS, PARTNERS
 - 2. TRUST IS NOT AN ENTITY, UNLESS A BUSINESS TRUST REGISTERED WITH A SECRETARY OF STATE

WRITING — REQUIRED BY THE STATUTE OF FRAUDS. ORS 41.580.

WORDS OF CONVEYANCE —

CLEAR AND UNEQUIVOCAL MANIFESTATION OF A PRESENT INTENT TO CONVEY.

THE BUZZ WORDS : "GRANT," "BARGAIN AND SELL," "ASSIGN," "SET OVER," "CONVEY," AND "TRANSFER."



ACRE

DESCRIPTION OF PROPERTY -



DESCRIPTION OF PROPERTY -

SUFFICIENT TO PERMIT ITS LOCATION ON THE GROUND WITH A LEGALLY SUFFICIENT DEGREE OF CERTAINTY. CANNOT USE TAX LOT NUMBERS, ADDRESSES, ETC.

TYPES OF DESCRIPTIONS – METES & BOUNDS, LOT & BLOCK, SECTIONIZED LAND (ALIQOT PARTS), DEED REFERENCE

LIMIT ON PREMISES CONVEYED – $\frac{1}{2}$ INTEREST, SEVERED IMPROVEMENTS



CONSIDERATION

DEEDS MUST HAVE "A STATEMENT FOR THE ACTUAL CONSIDERATION PAID." ORS 93.030(2).

EITHER CASH, ANY OUTSTANDING BALANCE ON A MORTGAGE BEING ASSUMED, OR OTHER PROPERTY. ORS 93.030(1)(2).

IF OTHER PROPERTY OR VALUE, NO NEED TO DESCRIBE ACTUAL CONSIDERATION. ORS 93.030(2).

TYPICALLY USED – OTHER GOOD AND VALUABLE CONSIDERATION.

BETTER – THE ACTUAL CONSIDERATION CONSISTS OF OR INCLUDES PROPERTY OR VALUE GIVEN OR PROMISED OTHER THAN CASH PAID OR REMAINING DEBT AS DESCRIBED IN ORS 93.030, WHICH OTHER PROPERTY OR VALUE IE EITHER PART OR WHOLE CONSIDERATION

REQUIRED FOR RECORDING. ORS 93.030(5)

"FAILURE TO MAKE SUCH STATEMENT [OF CONSIDERATION] DOES NOT INVALIDATE THE CONVEYANCE." ORS 93.030(3).

SIGNATURE ON DEED CERTIFICATION OF CONSIDERATION GIVEN. ORS 93.030(4).

"THE GIVING OF A FALSE STATEMENT OF THE TRUE AND ACTUAL CONSIDERATION AS REQUIRED BY ORS 93.030 IS A CLASS A VIOLATION." ORS 93.990(1).

THE WARNING

PURSUANT TO ORS 93.040(1), THE FOLLOWING STATEMENT MUST BE “INCLUDED IN THE BODY OF AN INSTRUMENT TRANSFERRING OR CONTRACTING TO TRANSFER FEE TITLE TO REAL PROPERTY EXCEPT FOR OWNER’S SALE AGREEMENTS OR EARNEST MONEY RECEIPTS”:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON’S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

LAND USE AND ZONING MATTERS ARE GENERALLY EXCLUDED FROM COVERAGE UNLESS A VIOLATION IS SET OUT IN THE PUBLIC RECORD. OWNER’S AND LOAN POLICY COVERED RISK 5 AND EXCLUSION FROM COVERAGE 3. ALSO, SEE DEFINITION OF ENFORCEMENT NOTICE, CONDITIONS 1 (E) UNDER THE OP AND 1 (F) IN THE LP.

LIMITS COVERAGE OF LAND USE AND ZONING MATTERS THROUGH THE 203 SERIES OF ENDORSEMENTS.

EXECUTION AND ACKNOWLEDGMENT

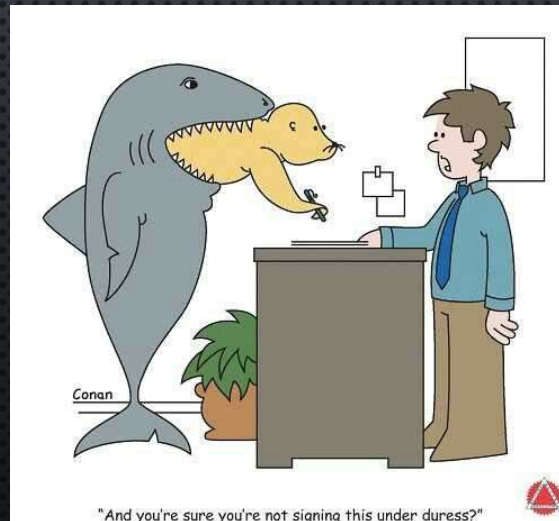
EXECUTION – MUST BE SIGNED BY GRANTOR. ORS 93.410.

SIGNER MUST HAVE CAPACITY, AND SIGNATURE NOT GAINED THROUGH FRAUD, DURESS, OR UNDUE INFLUENCE.

IF ENTITY, MUST HAVE AUTHORITY TO ACT

ACKNOWLEDGEMENT (NOTARIZED) – NOT REQUIRED TO MAKE THE DEED VALID, BUT IF THE DEED IS TO BE RECORDED IN THE PUBLIC RECORD, IT MUST BE ACKNOWLEDGED BY A NOTARY. ORS 93.480.

“AN ACKNOWLEDGMENT IS NOT ESSENTIAL TO THE VALIDITY OF A DEED AS BETWEEN THE PARTIES.” *HOUCK V. DARLING*, 238 OR 484, (1964).



DELIVERY AND ACCEPTANCE

DELIVERY – GIVING DOMINION AND CONTROL, SOME ACT OF GRANTOR SIGNALING THAT DEED IS OPERATIVE AND OUT OF HER CONTROL.

KEY IS INTENT.

1. PHYSICAL DELIVERY AND INTENT
2. RECORDING
3. ESCROW – PLACING DEED INTO HANDS OF 3RD PARTY WITH NON-REVOCABLE INSTRUCTIONS





ACCEPTANCE

GRANTEE MUST ACCEPT.

REBUTTABLE PRESUMPTION OF ACCEPTANCE IF TRANSFER BENEFICIAL TO GRANTEE.

BY STATUTE, PUBLIC ENTITIES IN OREGON MUST ACKNOWLEDGE DEEDS AS GRANTEE. ORS 93.808

TYPES OF DEEDS

STATUTORY DEEDS –

- SETS FORTH SPECIFIC FORM AND LANGUAGE

- STRICTLY CONSTRUED

QUITCLAIM DEED

BARGAIN AND SALE DEED

WARRANTY DEED

SPECIAL WARRANTY DEED

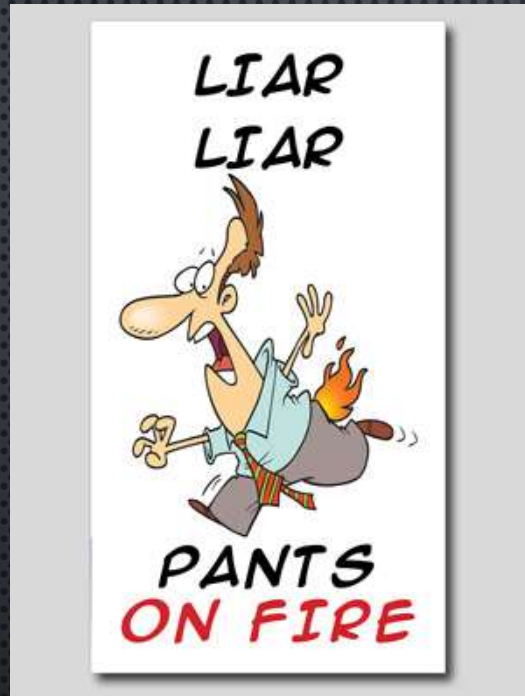
FIDUCIARY DEEDS

- TRUSTEE'S DEED

- PERSONAL REPRESENTATIVE'S OR AFFIANT'S DEED

- CONSERVATOR'S DEED

TRANSFER ON DEATH DEED



QUITCLAIM DEED

GENERALLY PASSES WHATEVER INTEREST THE GRANTER HAS ON THE DATE SIGNED, NOT THE DATE RECORDED.

DOES NOT PASS AFTER ACQUIRED TITLE THAT GRANTOR MAY GET IN THE PROPERTY AT A LATER DATE.

GENERALLY USED WHERE ONE IS TRYING TO CLEAR AN INTEREST FROM THE PROPERTY (E.G. INTEREST OF EX-SPOUSE)

DOES NOT DENY THE GRANTEE STATUS OF A GOOD FAITH PURCHASER

BARGAIN AND SALE DEED

PASSES ALL INTEREST THE GRANTOR HAS OR MAY ACQUIRE LATER IN PROPERTY,
BUT DOES NOT GIVE ANY WARRANTIES AS TO THE STATUS OF THE TITLE TO THE PROPERTY.

USED IN SITUATIONS WHERE GRANTER DOES NOT WANT TO EXPOSE HIMSELF TO
REPRESENTATIONS OF THE TITLE (E.G. CONVEYANCE FROM ONE FAMILY MEMBER TO ANOTHER).



WARRANTY DEED

PASSES ALL INTEREST THE GRANTOR HAS OR MAY ACQUIRE LATER IN THE PROPERTY,
PLUS MAKES SPECIFIC REPRESENTATIONS AS TO THE TITLE OF THE PROPERTY, CALLED
WARRANTIES.

TITLE COMPANIES PREFER WARRANTY DEEDS BECAUSE OF THE RIGHT OF
SUBROGATION

WARRANTY DEED – WARRANTIES VS. TITLE INSURANCE

WARRANTIES – ORS 93.850(2) AND (3)

COVENANT OF SEISIN: GRANTOR IS SEIZED (LEGAL POSSESSOR OF) THE ESTATE OR INTEREST CONVEYED AND HAS RIGHT TO CONVEY

COVENANT OF WARRANTY: GRANTOR WILL DEFEND TITLE AGAINST A THIRD PARTY

COVENANT OF ENCUMBRANCE: PROPERTY IS FREE FROM ENCUMBRANCES, EXCEPT THOSE SPECIFICALLY ENUMERATED.

TITLE INSURANCE – ORS 93.850(2) AND (3)

STANDARD COVERAGE:

INSURES TITLE VESTED IN INSURED (TYPICALLY) AND FREE OF RECORDED ENCUMBRANCES EXCEPT ENUMERATED EXCEPTIONS.

ALSO, INSURES MARKETABILITY AND ACCESS.

EXTENDED COVERAGE:

LIENS FROM PENDING ASSESSMENTS

PARTIES IN POSSESSION

OFF RECORD EASEMENTS, PATENT RESERVATIONS AND WATER RIGHTS

MATTERS DISCLOSED BY ALTA SURVEY

CONSTRUCTION LIENS



SPECIAL WARRANTY DEED

GRANTOR WARRANTS TITLE IS FREE OF ENCUMBRANCES CREATED OR SUFFERED BY THE GRANTOR EXCEPT AS SPECIFICALLY SET FORTH IN THE DEED. ORS 93.855

FIDUCIARY DEEDS

TRUSTEE'S DEED — DEED GIVEN BY TRUSTEE OF A TRUST

TYPICALLY, A TYPE BARGAIN & SALE DEED

BECAUSE A TRUSTEE LACKS THE REQUISITE KNOWLEDGE WARRANT TITLE



More Fiduciary Deeds

PERSONAL REPRESENTATIVES DEED, CONSERVATORS DEED

DEEDS USED IN CONJUNCTION WITH COURT PROCEEDINGS

BASICALLY, A FORM OF BARGAIN AND SALE DEED,

USED BY EITHER A PERSONAL REPRESENTATIVE OR AFFIANT IN A PROBATE OR SMALL ESTATE OR CONSERVATOR IN A CONSERVATORSHIP.

GRANTORS ARE NOT TITLE HOLDERS TO THE REAL PROPERTY.

ESTATE (OR TECHNICALLY HEIRS OR DEVISEES) OR THE PROTECTED PERSON HOLDS TITLE

MUST COMPLY WITH COURT PROCEDURES – EG. 4 MONTH CLAIM/CHALLENGE PERIOD IN SIMPLE ESTATE OR PROBATES, REQUIREMENT FOR COURT ORDER TO SELL PRINCIPAL RESIDENCE OF PROTECTED PERSON)

TRANSFER ON DEATH DEED



IN 2012, OREGON ADOPTED THE UNIFORM TRANSFER ON DEATH ACT
ALLOWS OF USE OF TOD DEED, WHICH IS A TYPE OF BARGAIN AND SALE DEED

NAMES BENEFICIARY(IES) WHO TAKE TITLE UPON DEATH OF GRANTOR

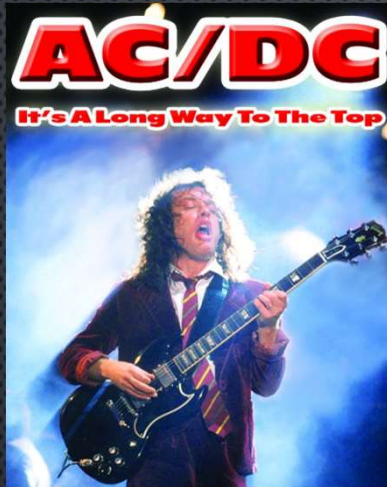
LEGISLATION AROUND DELIVERY ISSUE. SEE *MASQUART V. DICK*, 210 OR 459(1957)

MUST BE RECORDED BEFORE THE TRANSFEROR'S DEATH

MUST CONVEY TO SPECIFIC BENEFICIARY, CANNOT BE A CLASS GIFT

TOD DEED REVOKED BY SUBSEQUENT TRANSFER OR NEW TOD DEED

PROBLEM: 18 MONTH PERIOD FOR CHALLENGE OF CREDITORS AND HEIRS OR DEVISEES



CONCLUSION



- DEED ELEMENTS
 - PARTIES
 - LEGAL DESCRIPTION
 - WRITING / WORDS OF CONVEYANCE
 - CONSIDERATION
 - DELIVERY AND ACCEPTANCE
- DEED TYPES
 - WARRANTY AND SPECIAL WARRANTY
 - BARGAIN & SALE
 - QUITCLAIM
 - FIDUCIARY DEEDS
 - TRANSFER ON DEATH DEED

THE END

QUESTIONS

