

Life estate

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A **life estate**, is a term used in common law to describe the ownership of land for the duration of a person's life. In legal terms it is an estate in real property that ends at death. The owner of a life estate is called a "life tenant".

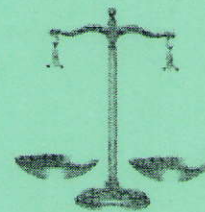
Although the ownership of a life estate is technically temporary because it ends at a person's death (a tenancy), it is treated as complete ownership (fee simple) for the duration of the person's life, subject to limitations. Because a life estate ceases to exist upon death, the owner of the life estate cannot leave it to heirs, and the life estate cannot be inherited.

An owner of a life estate cannot also give a greater interest than is owned. That is, a life estate owner cannot give complete and indefinite ownership (fee simple) to another person because ownership in the property ends when the life tenant dies. If, however, the original grantee has sold his life estate [ex. from A to B], B's interest lasts until A dies, allowing B to bequest his interest, sell the land, etc. until that point. Once A dies, however, whoever possesses the land loses it (with the land likely reverting to its original grantor). This is a life estate "pur autre vie," or the life of another. Such a life estate can also be conveyed originally, such as "to A until B dies."

Another limitation on a life estate is the doctrine of waste, which prohibits life tenants from damaging or devaluing the land, as their ownership is technically only temporary.

Uses of a life estate

In the United States, a life estate is typically used as an estate planning tool. The use of a life estate can avoid probate and ensure an intended heir will receive title to real property. For example, A may own a home and desire that B inherit the home after A's death. A can effectuate that desire by transferring title to the home to B and retaining a life estate in the home. A keeps a life estate interest and B receives a vested fee simple remainder interest. As soon as A dies, the life estate interest merges with B's remainder interest and B has a fee simple title. This avoids the use of a will and the probate process. The danger to A though, is that the grant to B is irrevocable. "Beneficiary deeds" have been statutorily created in some states to address this issue.



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It is less well known that the intestacy laws of certain American states, such as Arkansas, Delaware, and Rhode Island, still limit the surviving spouse's rights to the deceased spouse's real estate to a life estate. (As shown by the programs linked to the state names.)

Duration of a life estate

Life estates are measured either by the life of the property recipient, or by the life of some other person; these latter are called life estates *pur autre vie*, (French for "for the life of another"). A life estate *pur autre vie* is most commonly created in one of two circumstances.

- First, when the owner of property conveys his interest in that property to another person, for the life of a third person. For example if A conveys land to B during the life of C, then B owns the land for as long as C lives; if B dies before C, B's heirs will inherit the land, and will continue to own it for as long as C lives.
- Second, if A conveys land to C for life, C can then sell the life estate to B. Again, B and B's heirs will own the land for as long as C lives.
- In either scenario, once C dies, the ownership of the land will revert to A. If A has died, ownership will revert to A's heirs. The right to succeed to ownership of the property upon the expiration of the life estate is called a *remainder*.

Validity of a life estate

The early common law did not recognize a life estate in personal property, but such interests were cognizable in equity. Thus, although life estates in real estate are still created today, the life estate is more commonly used in trust instruments, typically in an attempt to minimize the effect of the inheritance tax or other taxes on transfers of wealth.

The law of England and Wales no longer recognises the life estate at law in relation to land, instead the holder of legal title to the land (whether the freehold fee simple or a lease) will hold that land on trust first for the life tenant and then for the remainderman.

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Categories: Real property law

Hidden category: Articles to be merged since August 2007

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