

Life estate

From Wikipedia, the free encyclopedia

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".

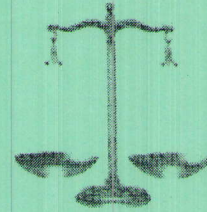
Although the ownership of a life estate is technically temporary because it ends at a person's death (a tenancy), it is treated as complete ownership (fee simple) for the duration of the person's life, subject to limitations. Because a life estate ceases to exist upon death, the owner of the life estate 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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Part of the common law series

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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.)

Criminal Law · Evidence

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.

Retrieved from "http://en.wikipedia.org/wiki/Life_estate"

Categories: Real property law

Hidden category: Articles to be merged since August 2007

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Manitoba
Consumer and
Corporate
Land Titles

CAVEAT Form 18.1

District of Portage la Prairie

1. CAVEATOR(S) include address and postal code

~~I (We)~~, Lionel Andre Bouchard
c/o 12345 - 234th Street, Maple Ridge, British Columbia V2X 0N7

claim an interest in the following land or mortgage, and I forbid the registration of any instrument affecting the interest unless such instrument be expressed to be subject to my claim.

2. PARTICULARS OF ESTATE OR INTEREST CLAIMED

A life estate as evidenced by a written agreement between the owner and the Caveator dated February 11, 2006.

see schedule

3. LAND DESCRIPTION

SE 1/4 14-11-3 WPM, EXC
FIRSTLY: THE WLY 990 FEET PERP
SECONDLY: PLANS 2215 PLTO AND 28648 PLTO
THIRDLY: ROAD PLAN 1205 PLTO

MORTGAGE NUMBER

see schedule

TITLE NUMBER(S) 1901751

4. NAME AND ADDRESS OF REGISTERED OWNER(S) FOR SERVICE include postal code

Andre Lionel Bouchard, Box 746, Portage la Prairie, Manitoba R1N 3C2

see schedule

5. ADDRESS OF CAVEATOR(S) FOR SERVICE include postal code

c/o 12345 - 234th Street, Maple Ridge, B.C. V2X 0N7

6. SIGNATURE OF CAVEATOR(S)

- That I (we) am (are) the within (Agent of or Caveators) and the statements herein are true in substance and in fact.
- The within Caveator(s) has (have) a good and valid claim upon the within land and this caveat is not filed for the purpose of delaying or embarrassing any person.

Dennis Alfred Smith - Agent
Name

Signature

DATE
Y M D
2008 02 28

Name

Signature

7. FARM LANDS OWNERSHIP DECLARATION
BY VIRTUE OF Agreement to Purchase Lease Loan Option to Purchase

The registration of this instrument does not contravene the provisions of The Farm Lands Ownership Act because:

Strike out inappropriate statement(s) and initial

- ~~The within land is not farm land as defined in The Farm Lands Ownership Act.~~
- ~~The within farm land is exempt by Regulation 325/87R of The Real Property Act, i.e. it is 5 acres or less.~~
- ~~The aggregate holdings of farm land by the Caveator is less than 40 acres (including the land in this instrument).~~
- ~~The Caveator is a Canadian citizen, permanent resident of Canada, agency of the government, municipality, local government district, Qualified Canadian Organization, Family Farm Corporation or a Qualified Immigrant as defined in The Farm Lands Ownership Act.~~
- ~~The interest in farm land is being claimed pursuant to a bona fide debt obligation.~~
- ~~The Caveator is exempt by the Farm Lands Ownership Board (Order enclosed).~~
- Other (specify section of The Farm Lands Ownership Act)

Dennis Alfred Smith - Agent
Name

Signature

DATE
Y M D
2008 02 28

Name

Signature

Caveator or Agent

8. INSTRUMENT PRESENTED FOR REGISTRATION BY include address, postal code, contact person

and phone number HOOK & SMITH, Barristers & Solicitors
201 - 3111 Portage Avenue, Winnipeg, Manitoba, R3K 0W4
Dennis A. Smith 885-4520

NOTE: SPECIAL APPLICANTS MUST BE READ AS INCLUDING ALL CAVEATORS (whether individual or corporate)

DATE: 2008/04/21

MANITOBA

TITLE NO: 1901751

TIME: 13:34

STATUS OF TITLE

PAGE: 2

STATUS OF TITLE..... ACCEPTED PRODUCED FOR... LIONEL BOUCHARD
 ORIGINATING OFFICE..... PORTAGE LA PRAIRIE ADDRESS.....
 REGISTERING OFFICE..... PORTAGE LA PRAIRIE
 REGISTRATION DATE..... 2002/09/23
 COMPLETION DATE..... 2002/09/24 PRODUCED BY... PORTAGE LA PRAIRIE

ACTIVE TITLE CHARGES:

1112240 PLP ACCEPTED CAVEAT REG'D: 2008/02/29
 DESCRIPTION: LIFE ESTATE
 FROM/BY: LIONEL ANDRE BOUCHARD
 TO: BY DENNIS ALFRED SMITH, AS AGENT
 CONSIDERATION: NOTES:

1112241 PLP ACCEPTED CAVEAT REG'D: 2008/02/29
 DESCRIPTION: UNPAID VENDOR UNDER AN AGREEMENT FOR PURCHASE & SALE
 FROM/BY: LIONEL ANDRE BOUCHARD
 TO: BY DENNIS ALFRED SMITH, AS AGENT
 CONSIDERATION: NOTES:

CHARGES AFFECTING THIS INSTRUMENT:
 1113053 PLP **VERIFIED** REQUEST TO ISSUE NOTICE

1113053 PLP **VERIFIED** REQUEST TO ISSUE NOTICE REG'D: 2008/04/07
 FROM/BY: ANDRE LIONEL BOUCHARD
 TO: LIONEL ANDRE BOUCHARD
 CONSIDERATION: NOTES:

ACCEPTED THIS 23RD DAY OF SEPTEMBER, 2002
 BY C.TROST FOR THE DISTRICT REGISTRAR OF
 THE LAND TITLES DISTRICT OF PORTAGE.

UNCERTIFIED EXTRACT PRODUCED FROM THE LAND TITLES DATA
 STORAGE SYSTEM ON 2008/04/21 OF TITLE NUMBER 1901751.

***** END OF STATUS OF TITLE FOR TITLE 1901751 PLP *****