

All in the Planning

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ESTATE & ELDER LAW

Lady Bird Deed Has Soared into Vermont Statutes

An Enhanced Life Estate Deed (ELED), sometimes referred to as a "Life Estate Deed with Reserved Powers," "Lady Bird Deed," "Medicaid Deed," or "Italian Deed," graduated from Vermont's common law into Title 27 of the Vermont Statutes when Governor Phil Scott signed the Vermont Enhanced Life Estate Deed Act into law on July 13, 2020. Although there are variations of life estate deeds in other states, Vermont has been just one of six states that recognize an ELED. (The 5 other states include Texas, Florida, Michigan, North Carolina, and West Virginia.)

With the common law life estate remaining intact, the main purpose of the ELED Act was to clarify some of the rights and reservations of the property owner (Grantor), settling title questions raised by Courts, lenders, and title insurance companies.



The following outline recaps the highlights of previously-existing ELED:

- ♦ Grantor conveys a property interest to a Grantee that takes effect upon the death of the Grantor
- ♦ Grantee acquires immediate title to property upon death of Grantor, without probate
- ♦ There is no Gift Tax return requirement, as there is no present gift

- ♦ The property receives a step-up in tax basis (for capital gains) upon the death of the Grantor
- ♦ If used as a primary residence, the property is an exempt asset for Medicaid purposes (with an equity limit of \$595,000 if no spouse resides there) AND there is no transfer penalty

As an improvement upon existing common law, the ELED Act adds the following clarifications:

- ♦ Grantor may revoke or revise the deed without consent of Grantee
- ♦ Granting of mortgage does not revoke the ELED
- ♦ If a sole Grantee, or a "tenant-in-common" Grantee predeceases the Grantor, that interest will pass to that Grantee's heirs or beneficiaries in Probate

Lawyer Joke

A man walked into a lawyer's office and asked about the fee.

The lawyer responded, "It's \$100 for 3 questions."

"Isn't that a lot?" asked the man.

"Yes," responded the lawyer....and what's your third question?"

Office Operations

Although our physical office has re-opened, we are meeting clients by appointment only. In order to address the needs of our clients and the community while promoting safety for all, limited members of our professional team work in the office on a daily basis. When possible, our attorneys continue to work remotely, meeting with existing and prospective clients via video or telephone conferencing. For clients visiting our office for a scheduled appointment, we have implemented office safety measures that include physical distancing, facial coverings, sneeze guards, hand sanitizer, and routine surface cleaning. Remote (virtual) witnessing and notarization of documents is also available when appropriate.

This newsletter is published to provide you with general legal information only, and is not intended to provide specific or comprehensive legal advice. Jarrett & Luitjens encourages individuals to seek advice from a competent professional when appropriate.

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