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CHAPTER 4

Transfer of Real Property

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Article 1

Mode of Transfer

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§4101. Requisites for certain estates. An estate in real property, other than an estate at will or for a term not exceeding one year, can be transferred only by operation of law, or by an instrument in writing, subscribed by the party disposing of the same, or by his agent thereunto authorized by writing.

SOURCE: CC §1091.

§4102. Form of Grant. A grant of an estate in real property may be made in substance as follows:

I, *A.B.*, grant to *C.D.*, all that real property situated in (insert location), bounded (or described) as follows:

(Here insert description, or if the land sought to be conveyed has a descriptive name, it may be described by the name, as for instance, *The Norris Ranch.*)

Witness my hand this (insert day) day of (insert month and year.)

A.B.

SOURCE: CC §1092.

§4103. Married woman's acknowledgment. A grant or conveyance of real property made by a married woman may be made, executed, and acknowledged in the same manner and has the same effect as if she were unmarried.

SOURCE: CC §1093.

§4104. Married woman's Power of Attorney; how acknowledged. A married woman may make, execute and revoke powers of attorney for the same, conveyance, or encumbrance of her

real or personal estate, which shall have the same effect as if she were unmarried, and may be acknowledged in the same manner as a grant of real property.

SOURCE: CC §1094.

CROSS-REFERENCES: See 21 GCA §33107 on similar subject, *Acknowledgments*. Also see 21 GCA §21106 relative to *Unlawful Detainer*; 18 GCA §3103 relative to *Stock Ownership*; 19 GCA §6105 regarding *Presumptions of Community Property*.

§4105. Attorney in Fact; acknowledgment. When an attorney in fact executes an instrument transferring an estate in real property, he must subscribe the name of his principal to it, and his own name as attorney in fact.

SOURCE: CC §1095.

CROSS-REFERENCES: See 21 GCA §29166 relative to an attorney-in-fact dealing with registered land; 21 GCA §31105 relative to recognition of certificates of acknowledgment; 21 GCA §33111 relative to acknowledgments by attorneys-in-fact.

§4106. Conveyance when name changed. Any person in whom the title of real estate is vested, who shall afterwards, from any cause, have his or her name changed, must, in any conveyance of said real estate so held, set forth the name in which he or she derived title to said real estate.

SOURCE: CC §1096.

CROSS-REFERENCES: See 21 GCA §25114 relative to *Receiving or Conveying Title to Real Property Under Different Names*; 21 GCA §60309, *Change of Name of Person in Whom Title Vested*.

NOTE: No CC §§1097 through 1103 existed.

Article 2

Effect of Transfer

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§4201. Easements, appurtenant. A transfer of real property transfers all easements attached thereto, and creates in favor thereof an easement to use other real property of the person whose

estate is transferred in the same manner and to the same extent as such property was obviously and permanently used by the person whose estate is transferred, for the benefit thereof, at the time when the transfer was agreed upon or completed.

SOURCE: CC §1104.

§4202. Fee simple, title presumed to pass. A fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended.

SOURCE: CC §1105.

§4203. Subsequently acquired title. Where a person purports by proper instrument to grant real property in fee simple, and subsequently acquires any title, or claim of title thereto, the same passes by operation of law to the grantee, or his successors.

SOURCE: CC §1106.

§4204. Grant, how far conclusive. Every grant of an estate in real property is conclusive against the grantor, also against every one subsequently claiming under him, except a purchaser or encumbrancer who in good faith and for a valuable consideration acquires a title or lien by an instrument that is first duly recorded.

SOURCE: CC §1107.

CROSS-REFERENCES: See 21 GCA §29146 and §29139 regarding the rights of parties in *registered* land.

§4205. Conveyance of limited estate. A grant made by the owner of an estate for life or for years, purporting to convey a greater estate than he could lawfully transfer, does not work a forfeiture of his estate, but passes to the grantee all the estate which the grantor could lawfully transfer.

SOURCE: CC §1108.

§4206. Grant, subsequent condition. Where a grant is made upon condition subsequent and is subsequently defeated by the nonperformance of the condition, the person otherwise entitled to hold under the grant must reconvey the property to the grantor or his successors, by grant, duly acknowledged for record.

SOURCE: CC §1109.

§4207. Conditional grants. An instrument purporting to be a grant of real property, to take effect upon condition precedent, passes the state upon the performance of the condition.

SOURCE: CC §1110.

§4208. Grant of rents, reversions, etc. Grants of rents or of reversions or of remainders are good and effectual without attornments of the tenants, but no tenant who, before notice of the grant, shall have paid rent to the grantor, must suffer any damage thereby.

SOURCE: CC §1111.

§4209. Boundaries by highways, generally. A transfer of land, bounded by a highway, passes the title of the person whose estate is transferred to the soil of the highway in front to the center thereof, unless a different intent appears from the grant.

SOURCE: CC §1112.

§4210. Implied Covenants. From the use of the word *grant* in any conveyance by which an estate of inheritance or fee simple is to be passed, the following covenants, and none other, on the part of the grantor for himself and his heir to the grantee, his heirs, and assigns, are implied, unless restrained by express terms contained in such conveyance:

1. That previous to the time of the execution of such conveyance, the grantor has not conveyed the same estate, or any right, title, or interest therein, to any person other than the grantee.
2. that such estate is at the time of the execution of conveyance free from encumbrance done, made, or suffered by the grantor, or any person claiming under him.

Such covenants may be sued upon in the same manner as if they had been expressly inserted in the conveyance.

SOURCE: CC §1113.

§4211. Encumbrances defined. The term *encumbrances* includes taxes, assessments, and all liens upon real property.

SOURCE: CC §1114.

§4212. Lineal and collateral warranties. Lineal and collateral warranties, with all their incidents, are abolished, but the heirs and devisees of every person who has made any covenant or agreement in reference to the title of, in, or to any real property, are answerable on such covenant or agreement to the extent of the land descended or devised to them, in the cases and in the manner prescribed by law.

SOURCE: CC §1115.

NOTE: No CC §§1116 through 1133 existed.

----- Article 3

Tax Exempt Property

§4301. Tax-exempt Property.

§4301. Tax-exempt Property. The following-named properties shall be exempt from taxation: all public property; all buildings, together with the land on which they stand, used exclusively for purposes of education, religion or officially approved charities; but this exemption shall not include residences or other property belonging to or occupied by persons thus engaged, except the buildings and grounds that are actually and exclusively used for the purposes aforementioned, and parsonages and convents, including the land on which they stand, which lie adjacent to missions used exclusively for religious purposes, and such missions and parsonages combined. A reasonable amount of all land set aside and exclusively used for cemetery purposes shall also be exempt from taxation: *Provided*, that such lands have been approved by the government and have been duly registered for such purpose.

SOURCE: CC §1134.

CROSS-REFERENCES: See 11 GCA §24401 for parallel and additional listings of real property tax exemptions. See Title 11, GCA, generally for exemptions from the Gross Receipts Tax.
