

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0418.01 Richard Sweetman x4333

HOUSE BILL 19-1098

HOUSE SPONSORSHIP

Gray,

SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING DEEDS FOR THE CONVEYANCE OF REAL PROPERTY, AND,**
102 **IN CONNECTION THEREWITH, ESTABLISHING REQUIREMENTS**
103 **FOR TITLE INSURANCE ENTITIES THAT PREPARE DEEDS AND**
104 **ESTABLISHING FORMS FOR THE PREPARATION OF DEEDS IN**
105 **CERTAIN CIRCUMSTANCES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Section 2 of the bill states that a licensed title insurance entity may prepare deeds for the conveyance of real property in accordance with

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

statutory forms. Any deed prepared by a title insurance entity containing a covenant of warranty must:

- ! Include a limitation on the warranty of title; and
- ! Use the phrase "subject to statutory exceptions" and no other terms or descriptions, unless the preparing title insurance entity is otherwise instructed in writing by both the grantor and the grantee.

Section 1 provides new forms of deeds for the conveyance of real property under certain circumstances.

Sections 3, 4, and 5 make conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 38-30-113 as
3 follows:

4 **38-30-113. Deeds - short form - acknowledgment - effect.**

5 (1) (a) A deed for the conveyance of real property ~~may be~~ IN substantially
6 ~~in~~ the following form AND THAT INCLUDES THE WORDS "AND WARRANT(S)
7 THE TITLE TO THE SAME", OR SUBSTANTIALLY SIMILAR LANGUAGE, IS A
8 WARRANTY DEED WITH COVENANTS OF WARRANTY:

9 , whose street address is , City
10 or Town of , County of and
11 State of , for the consideration of
12 dollars, in hand paid, hereby sell(s) and convey(s) to
13 whose street address is , City or
14 Town of , County of and State of
15 , the following real property in the County of
16 and State of Colorado, to wit:
17 with all its appurtenances and warrant(s)
18 the title to the same, subject to [STATUTORY EXCEPTIONS
19 AND]

20 Signed this day of , 20.....

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(b) ~~Such deed may be acknowledged in accordance with section 38-35-101. Failure to state the address or the county or state of residence of the grantor or grantee shall not affect the validity of such deed.~~ A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN SUBSTANTIALLY THE FOLLOWING FORM AND THAT INCLUDES THE WORDS "AND WARRANT(S) THE TITLE TO THE SAME AGAINST ALL PERSONS CLAIMING UNDER ME", OR SUBSTANTIALLY SIMILAR LANGUAGE, IS A SPECIAL WARRANTY DEED WITH COVENANTS OF WARRANTY DURING THE GRANTOR'S PERIOD OF OWNERSHIP OF THE PROPERTY:

....., WHOSE STREET ADDRESS IS,
CITY OR TOWN OF, COUNTY OF,
..... AND STATE OF, FOR THE
CONSIDERATION OF DOLLARS, IN HAND PAID,
HEREBY SELL(S) AND CONVEY(S) TO WHOSE
STREET ADDRESS IS, CITY OR TOWN OF,
....., COUNTY OF AND STATE OF,
....., THE FOLLOWING REAL PROPERTY IN THE
COUNTY OF AND STATE OF COLORADO, TO
WIT: WITH ALL ITS APPURTENANCES AND
WARRANT(S) THE TITLE TO THE SAME AGAINST ALL PERSONS
CLAIMING UNDER ME, SUBJECT TO [STATUTORY EXCEPTIONS
AND]

SIGNED THIS DAY OF, 20.....
.....

(c) ~~Every deed in substance in the above form, when properly executed, shall be a conveyance in fee simple to the grantee, with~~

1 ~~covenants on the part of the grantor as set forth in subsection (2) of this~~
2 ~~section.~~ A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN
3 SUBSTANTIALLY THE FOLLOWING FORM THAT DOES NOT INCLUDE WORDS
4 OF WARRANTY HAS THE SAME FORCE AND EFFECT AS A BARGAIN AND SALE
5 DEED AT COMMON LAW, BUT WITHOUT COVENANTS OF WARRANTY, AND
6 PASSES THE AFTER-ACQUIRED TITLE OF THE GRANTOR:

7 , WHOSE STREET ADDRESS IS ,
8 CITY OR TOWN OF , COUNTY OF
9 AND STATE OF , FOR THE
10 CONSIDERATION OF DOLLARS, IN HAND PAID,
11 HEREBY SELL(S) AND CONVEY(S) TO WHOSE
12 STREET ADDRESS IS , CITY OR TOWN OF
13 , COUNTY OF AND STATE OF
14 , THE FOLLOWING REAL PROPERTY IN THE
15 COUNTY OF AND STATE OF COLORADO, TO
16 WIT: WITH ALL ITS APPURTENANCES
17

18 SIGNED THIS DAY OF , 20..... .
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20 ~~(d) Repealed.~~

21 (d) A DEED FOR THE CONVEYANCE OF REAL PROPERTY IN
22 SUBSTANTIALLY THE FOLLOWING FORM THAT DOES NOT INCLUDE WORDS
23 OF WARRANTY AND WITH THE WORD "QUITCLAIM(S)" SUBSTITUTED FOR
24 "CONVEY(S)" IS A QUITCLAIM DEED WITHOUT COVENANTS OF WARRANTY
25 THAT PASSES NO AFTER-ACQUIRED TITLE OF THE GRANTOR:

26 , WHOSE STREET ADDRESS IS ,
27 CITY OR TOWN OF , COUNTY OF

1 AND STATE OF, FOR THE
2 CONSIDERATION OF DOLLARS, IN HAND PAID,
3 HEREBY SELL(S) AND QUITCLAIM(S) TO WHOSE
4 STREET ADDRESS IS, CITY OR TOWN OF
5, COUNTY OF AND STATE OF
6, THE FOLLOWING REAL PROPERTY IN THE
7 COUNTY OF AND STATE OF COLORADO, TO
8 WIT: WITH ALL ITS APPURTENANCES
9

10 SIGNED THIS DAY OF, 20.....
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12 ~~(2) The words "warrant(s) the title" in a warranty deed as~~
13 ~~described in subsection (1)(a) of this section or in a mortgage as described~~
14 ~~in section 38-30-117 mean that the grantor covenants: ANY DEED~~
15 ~~DESCRIBED IN SUBSECTION (1) OF THIS SECTION MAY BE ACKNOWLEDGED~~
16 ~~IN ACCORDANCE WITH SECTION 38-35-101. FAILURE TO STATE THE~~
17 ~~ADDRESS OR THE COUNTY OR STATE OF RESIDENCE OF THE GRANTOR OR~~
18 ~~GRANTEE DOES NOT AFFECT THE VALIDITY OF THE DEED.~~

19 ~~(a) That at the time of the making of such instrument he was~~
20 ~~lawfully seized of an indefeasible estate in fee simple in and to the~~
21 ~~property therein described and has good right and full power to convey~~
22 ~~the same;~~

23 ~~(b) That the same was free and clear from all encumbrances,~~
24 ~~except as stated in the instrument; and~~

25 ~~(c) That he warrants to the grantee and his heirs and assigns the~~
26 ~~quiet and peaceable possession of such property and will defend the title~~
27 ~~thereto against all persons who may lawfully claim the same.~~

1 (3) ~~Such covenants shall be binding upon any grantor and his heirs~~
2 ~~and personal representatives as fully as if written at length in said~~
3 ~~instrument~~ EVERY DEED IN SUBSTANCE, IN A FORM DESCRIBED IN
4 SUBSECTION (1) OF THIS SECTION OR IN ANY OTHER FORM PERMITTED BY
5 COLORADO LAW, REGARDLESS OF WHETHER THE DEED RECITES VALUABLE
6 CONSIDERATION OR WHETHER VALUABLE CONSIDERATION HAS BEEN GIVEN
7 FOR THE DEED, WHEN PROPERLY EXECUTED, IS A CONVEYANCE TO THE
8 GRANTEE, WITH COVENANTS ON THE PART OF THE GRANTOR, IF ANY, AS
9 SET FORTH IN SUBSECTION (4) OF THIS SECTION. SUBJECT TO ANY
10 RESERVATIONS SPECIFICALLY SET FORTH IN A DEED, THE FORM OF DEED
11 USED BY THE GRANTOR DOES NOT AFFECT THE ABSOLUTE NATURE OF THE
12 FEE SIMPLE CONVEYANCE OF THE PROPERTY BEING CONVEYED AND IS NOT
13 DEEMED TO CONVEY ANY LESSER ESTATE OR INTEREST SIMPLY BY VIRTUE
14 OF THE FORM OF DEED USED OR WHETHER THE GRANTOR PROVIDED ANY
15 WARRANTIES OF TITLE IN THE DEED.

16 (4) (a) THE WORDS "WARRANT(S) THE TITLE" IN A WARRANTY
17 DEED AS DESCRIBED IN SUBSECTION (1)(a) OR (1)(b) OF THIS SECTION OR
18 IN A MORTGAGE AS DESCRIBED IN SECTION 38-30-117 MEAN THAT THE
19 GRANTOR COVENANTS:

20 (I) THAT, AT THE TIME OF THE MAKING OF THE WARRANTY DEED,
21 THE GRANTOR WAS LAWFULLY SEIZED OF AN INDEFEASIBLE ESTATE IN FEE
22 SIMPLE IN AND TO THE PROPERTY DESCRIBED IN THE DEED AND HAS GOOD
23 RIGHT AND FULL POWER TO CONVEY THE PROPERTY;

24 (II) THAT THE PROPERTY DESCRIBED IN THE DEED WAS FREE AND
25 CLEAR FROM ALL ENCUMBRANCES, EXCEPT AS STATED IN THE WARRANTY
26 DEED; AND

27 (III) THAT THE GRANTOR WARRANTS TO THE GRANTEE AND THE

1 GRANTEE'S HEIRS AND ASSIGNS THE QUIET AND PEACEABLE POSSESSION OF
2 THE PROPERTY AND THAT:

3 (A) WITH RESPECT TO A WARRANTY DEED OR MORTGAGE, THE
4 GRANTOR WILL DEFEND THE TITLE TO THE PROPERTY AGAINST ALL
5 PERSONS WHO MAY CLAIM THE TITLE; AND

6 (B) WITH RESPECT TO A SPECIAL WARRANTY DEED, THE GRANTOR
7 WILL DEFEND THE TITLE TO THE PROPERTY AGAINST ALL PERSONS WHO
8 MAY CLAIM THE TITLE BUT ONLY AS AGAINST ANY PERSONS CLAIMING TO
9 HOLD TITLE BY, OR THROUGH, THE GRANTOR.

10 (b) A COVENANT DESCRIBED IN SUBSECTION (4)(a) OF THIS
11 SECTION IS BINDING UPON THE GRANTOR AND THE GRANTOR'S HEIRS AND
12 PERSONAL REPRESENTATIVES AS FULLY AS IF IT WERE WRITTEN AT LENGTH
13 IN THE WARRANTY DEED.

14 (5) (a) UNLESS OTHERWISE AGREED BY THE GRANTOR AND
15 GRANTEE, A WARRANTY DEED OR SPECIAL WARRANTY DEED INTENDED TO
16 INCLUDE A LIMITATION ON THE WARRANTY OF TITLE PURSUANT TO
17 SUBSECTION (4)(a) OF THIS SECTION MUST USE THE WORDS "SUBJECT TO
18 STATUTORY EXCEPTIONS" AND NO OTHER TERMS OR DESCRIPTIONS. THE
19 WORDS "STATUTORY EXCEPTIONS", WHEN USED IN ANY DEED, MEAN THAT
20 THE GRANTEE ACCEPTS TITLE TO THE CONVEYED PROPERTY SUBJECT TO:

21 (I) REAL ESTATE TAXES FOR THE CALENDAR YEAR IN WHICH THE
22 CONVEYANCE OCCURRED AND SUBSEQUENT YEARS THAT ARE NOT YET DUE
23 AND PAYABLE;

24 (II) ALL MATTERS THAT ARE NOT RECORDED IN THE REAL ESTATE
25 RECORDS OF THE COUNTY CLERK AND RECORDER FOR THE COUNTY IN
26 WHICH THE CONVEYED PROPERTY IS LOCATED BUT THAT WOULD HAVE
27 BEEN DISCLOSED BY A SURVEY OF THE CONVEYED PROPERTY OR COULD

1 HAVE BEEN ASCERTAINED BY AN INSPECTION OF THE CONVEYED
2 PROPERTY; AND

3 (III) ALL MATTERS RECORDED IN THE REAL ESTATE RECORDS OF
4 THE COUNTY CLERK AND RECORDER FOR THE COUNTY IN WHICH THE
5 CONVEYED PROPERTY IS LOCATED.

6 (b) IF A WARRANTY DEED OR SPECIAL WARRANTY DEED INCLUDES
7 A BLANK AFTER A REFERENCE TO "STATUTORY EXCEPTIONS" BUT NO
8 ADDITIONAL MATTERS ARE SPECIFICALLY LISTED IN THE BLANK, THE
9 BLANK IS DEEMED TO BE DELETED FROM THE WARRANTY DEED OR SPECIAL
10 WARRANTY DEED, AND THE TITLE CONVEYED IS SUBJECT ONLY TO THE
11 STATUTORY EXCEPTIONS.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 38-30-116.5 as
13 follows:

14 **38-30-116.5. Preparation of deeds - definition.** (1) A LICENSED
15 TITLE INSURANCE ENTITY MAY PREPARE DEEDS FOR THE CONVEYANCE OF
16 REAL PROPERTY IN ACCORDANCE WITH THE FORMS DESCRIBED IN SECTION
17 38-30-113 (1).

18 (2) A DEED PREPARED BY A LICENSED TITLE INSURANCE ENTITY
19 CONTAINING A COVENANT OF WARRANTY AS PROVIDED IN SECTION
20 38-30-113 (1)(a) OR (1)(b) MUST:

21 (a) INCLUDE A LIMITATION ON THE WARRANTY OF TITLE PURSUANT
22 TO SECTION 38-30-113 (4)(a); AND

23 (b) USE THE WORDS "SUBJECT TO STATUTORY EXCEPTIONS" AND
24 NO OTHER TERMS OR DESCRIPTIONS, UNLESS THE PREPARING LICENSED
25 TITLE INSURANCE ENTITY IS OTHERWISE INSTRUCTED IN WRITING BY BOTH:

26 (I) THE GRANTOR OR AN AUTHORIZED AGENT FOR THE GRANTOR;
27 AND

1 (II) THE GRANTEE OR AN AUTHORIZED AGENT FOR THE GRANTEE.

2 (3) AS USED IN THIS SECTION, "LICENSED TITLE INSURANCE
3 ENTITY" MEANS A TITLE INSURANCE ENTITY, AS DEFINED IN SECTION
4 10-11-102 (11).

5 **SECTION 3.** In Colorado Revised Statutes, 38-30-117, **amend**
6 (3) as follows:

7 **38-30-117. Mortgages - short form - acknowledgment - effect.**

8 (3) Every mortgage in substance in the above form, when properly
9 executed, ~~shall be~~ IS a mortgage to secure the payment of the money
10 ~~therein~~ specified IN THE MORTGAGE, with covenants as expressed in
11 ~~section 38-30-113 (2)~~ SECTION 38-30-113 (4)(a), but if the words "and
12 warrant(s) the title to the same" are omitted, no such covenants ~~shall be~~
13 ARE implied.

14 **SECTION 4.** In Colorado Revised Statutes, **repeal** 38-30-115 as
15 follows:

16 **38-30-115. Deeds - bargain and sale - special warranty.** ~~A deed~~
17 ~~executed according to the form in section 38-30-113 with the words "and~~
18 ~~warrant the title to the same" omitted therefrom shall have the same force~~
19 ~~and effect as a bargain and sale deed, without covenants of warranty, at~~
20 ~~common law and will pass the after-acquired title of the grantor; and the~~
21 ~~words "and warrant the title against all persons claiming under me" when~~
22 ~~included in such deed shall be a covenant that the grantor will warrant~~
23 ~~and defend the title to the grantee and his heirs and assigns against all~~
24 ~~persons claiming to hold title by, through, or under the grantor.~~

25 **SECTION 5.** In Colorado Revised Statutes, **repeal** 38-30-116 as
26 follows:

27 **38-30-116. Deeds - quitclaim.** ~~A deed executed according to the~~

1 ~~form in section 38-30-113 with the word "quitclaim" substituted for~~
2 ~~"convey" and the words "and warrant the title to the same" omitted~~
3 ~~therefrom shall be a deed of quitclaim and shall have the same effect as~~
4 ~~a conveyance as quitclaim deeds now in use.~~

5 **SECTION 6. Applicability.** This act applies to deeds for the
6 conveyance of real property that are executed on or after the effective
7 date of this act.

8 **SECTION 7. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.