

Types of Deeds

General Warranty Deed – no defects at all – normally implied
Special words:

“grants, conveys and warrants”

Special Warranty Deed – only warrants against defects caused by seller
Special words:

“bargains, sells and conveys”

Quit Claim Deed – no warranty at all
“whatever I’ve got, you’ve got”

Deeds of Trust

An instrument used to secure a real estate loan by granting the lender security in the real property and by adding a third-party trustee to the loan transaction

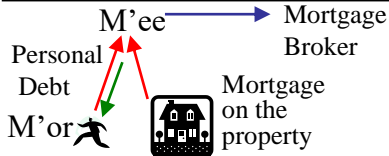
Colorado uses this alternative to the traditional mortgage – Deeds of Trust forego none of mortgage protections, and create substantive rights identical to mortgages – but they involve three parties instead of just two

Lis Pendens

Formal Record Notice to any potential buyers, which is filed in the land records of the pending legal claim against the land
- any later taker (*after lis pendens is filed*) takes the property subject to the outcome of that litigation

Mortgages

A mortgage must secure a debt, and once paid off, mortgages cease to exist by operation of law



Mortgages establish 2 M'ee rights
➢ against the personal obligations of the M'or **AND**
➢ against land offered by M'or as security

Taking subject to a mortgage – if debt is defaulted, land may be taken and sold at foreclosure

Assumption – buyer agrees to pay on pre-established mortgage, but the original owner's obligation is not removed (good deal for lender) unless explicitly released by lender. Under an assumption, the lender must first go against the land; second against the buyer; and only last against the original owner

Foreclosure Sale

Foreclosure is a legal proceeding that bars or extinguishes a Mortgagor's equity of redemption in mortgaged real property

"Deed of trust" means a security instrument containing a grant to a public trustee together with a power of sale

"Holder of evidence of debt" means the person in actual possession of or otherwise entitled to enforce an evidence of debt

"Notice of election and demand" means a notice of election and demand for sale related to a public trustee foreclosure under this article.

"Statement of redemption" means the signed and acknowledged statement of the holder of the evidence of debt or the signed statement of the attorney for the holder as required by section 38-38-302 (3) or the signed and acknowledged statement of the lienor or the signed statement of the attorney for the lienor as required by CRS 38-38-302 (1) (f).

FORECLOSURE STATUTES:

- 38-38-102** - Recording Notice of Election and Demand - No later than ten business days following the receipt of the notice of election and demand, the public trustee shall cause the notice to be recorded in the office of the county clerk & recorder of the county where the property described in the notice is located.
- 38-38-103** - Combined Notice - right to cure and right to redeem.
- 38-38-103.1** - Single Point of Contact for communications with borrower
- 38-38-104** - **Right to cure** - when default is nonpayment
- 38-38-108** - Date of Foreclosure Sale
- 38-38-109** - Continuance of Sale & Effect of Bankruptcy
- 38-38-113** - Rescission of public trustee sale
- 38-38-302** - Notice of Intent to Redeem
- 38-38-302** – Lienors Redemption
- 38-38-401** - Issuance of certificate of purchase
- 38-38-501** - Title vests upon expiration of redemption periods