

SLIDE 8 – Freehold estates

In this section we'll look at the full scope of the degree and quality of ownership one holds in property. We'll look at the different types of estates and the legal rights associated with estates.

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An **estate** refers to the degree, quantity, nature and extent of interest (ownership rights) a person can have in real property.

The word "estate" is colloquially used to refer to the land and improvements on a piece of property, often some sort of farm or homestead, or the historic home of a prominent family.

In the financial and legal sense, estate refers to everything of value that an individual owns – real estate, art collections, antique items, investments, insurance and any other assets and entitlements.

Sometimes estate may refer to a person's net worth, but in full legal terms, "estate" refers to an individual's total assets minus any liabilities.

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Estates are divided into two groups:

1. Freehold estates – indefinite length
2. Leasehold estates – fixed term

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Freehold estates

Freehold estates can be either fee simple estates or life estates.

A **fee simple estate** means the title holder has absolute ownership with full rights of ownership for at least his or her lifetime.

Fee simple gives the widest bundle of rights to the property owner. You may hear the terms, fee, fee simple and fee simple absolute. They all mean the same thing.

Most titles are held in fee.

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Freehold estates

A **life estate** means the ownership title is only for his or her lifetime and cannot be transferred to heirs.

Life estates are created by action of the grantor. (the owner of the estate) Often used by husband for wife with children as *remaindermen*. the person (or persons) designated to receive an estate after a life estate ends. Although life estates are considered freehold estates, they are time dependent – the lifetime of the estate holder.

Let's expand on the types of life estates.

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Life estate - remainder

When a grantor creates a life estate for another it is a tenancy possession only for the lifetime of the tenant.

The grantor would name a third party, the remaindermen, at the time the life estate is created.

Upon the death of the life tenant the title would then transfer to the remaindermen rather than the grantor.

At this point the ownership is fee simple with all rights including right of will to heirs.

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Life estate - reversion

In this case the grantor does not name a third party.

Upon the death of the life tenant the title would revert back to the grantor or if deceased, to the legal heirs.

Upon reversion title reverts to fee simple.

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Legal Life Estates

A legal life estate is created automatically by an action of law.

The Constitution of the State of Florida has given specific **Homestead rights** to protect families from eviction by creditors and to protect marital spouse rights of joint ownership.

Florida Constitution: Article X – Sec 4.

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Legal Life Estates

Florida homestead law provides that certain creditors holding a judgement against a homeowner cannot force the sale of the homestead to pay off the judgement debt. F.A.C. 12D-7

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Legal Life Estates

There are four exceptions to homestead creditor protection:

1. Government entities collecting property taxes
2. Mortgage lienholders
3. Mechanics owed money for work performed on the property
4. A creditor with a lien pre-dating the homestead establishment