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As your local estate planning and business attorneys, we strive to ensure our clients' best legal interests are being served.

-Brian Boppre, Founding Partner

**Boppre Law Firm, PLLC**  
2151 36th Ave. SW, Suite B  
Minot, ND 58701

**RESERVING A  
LIFE ESTATE**

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## What does it mean to reserve a life estate?

Simply put, reserving a life estate allows you to deed real property to someone else while retaining control of the property during your lifetime. This is often used as a method of estate planning in order to avoid the probate process.

## So who really owns the property?

During your lifetime (as the Grantor), you are the **life tenant** and you are the owner. You retain all rights to the property except the right to determine who acquires it at your death. That has already been determined by the deed reserving the life estate. The person to whom you deeded the property is the **remainderperson** and they have a **remainder interest** or **future interest**, meaning that they become the owners upon your passing.

## Who is responsible for the property?

As the life tenant, you retain all rights and responsibilities to the property (with the exception of changing who gets the property after your death). During your lifetime, you may live on or otherwise use the property or rent it to a third party with no input from the remainderperson.

You also have the responsibility to ensure the property is cared for and all expenses are paid. You must keep the property and its structures (including fences) in good repair and ensure all taxes and other expenses are paid, just as you did prior to conveying the property to the remainderperson.

If you do not reasonably care for the property which results in damages (also known as “committing waste” against the property), the remainderperson *could* bring action against you.

## What if I change my mind later?

A deed reserving a life estate supersedes wills and intestate succession. Even if you leave a will, devising the property to another person, the property will still go to the remainderperson upon your death.

Both the lifetime and the future interest can be transferred to third parties but the timeframes of interest remain intact. For example, you convey property to Person A reserving a life estate. You later sell your life estate to Person B. Person B owns the property as a life tenant *for your lifetime, not theirs*. When you pass away, the property still transfers to the remainderperson (Person A).

If you change your mind, it is possible for the remainderperson to transfer their future interest back to you. If this occurs, the interests merge and you own the property in fee simple absolute once again.

## Why would I want to reserve a life estate?

A life estate is a very useful, relatively inexpensive tool of estate planning. It allows you to transfer your real property to heirs immediately upon your death, saving them the time and expense of opening probate in order to transfer the property themselves. Probate often takes at least six months and typically costs several thousand dollars. A deed reserving a life estate is an inexpensive way to avoid this, while preserving your rights and interests in the property during your lifetime. As with any type of estate planning, careful discussion with your attorney and accountant will help you make the next choice for you and your family.

Wondering if a life estate is right for you?  
Let us help!

Boppre Law Firm, PLLC  
701-852-5224  
or schedule a consultation at  
[bopprelawfirm.com](http://bopprelawfirm.com)

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