

REVISION 1
DATE 1/18/2011
NR 46

Montana Code Annotated 2009

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15-7-305. Realty transfer certificate required. (1) The county clerk and recorder shall require the parties to the transaction or their agents or representatives to complete a certificate declaring the consideration paid or to be paid for the real estate transferred.

(2) An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate has been received by the county clerk and recorder. The validity or effectiveness of an instrument or deed between the parties to it is not affected by failure to comply with the provisions in this part.

(3) (a) Except as provided in 85-2-423, the form of certificate must be prescribed by the department of revenue, and the department shall provide an adequate supply of forms to each county clerk and recorder in the state.

(b) The department shall coordinate with the department of natural resources and conservation and the water court to develop water right ownership update forms. The water right ownership update form must be part of or attached to the realty transfer certificate.

(4) The clerk and recorder shall prepare a certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department.

History: En. 84-7305 by Sec. 5, Ch. 528, L. 1975; R.C.M. 1947, 84-7305; amd. Sec. 1, Ch. 167, L. 1997; amd. Sec. 1, Ch. 70, L. 2005.

Provided by Montana Legislative Services



Rule: 42.20.205

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Rule Title: ACCURACY OF REALTY TRANSFER CERTIFICATE

Department: [REVENUE, DEPARTMENT OF](#)
Chapter: [REAL PROPERTY](#)
Subchapter: [Realty Transfers](#)



Latest version of the adopted rule presented in Administrative Rules of Montana (ARM):

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42.20.205 ACCURACY OF REALTY TRANSFER CERTIFICATE

(1) The name of the grantor (seller) reflected on the RTC must be identical to the name of grantor (seller) reflected on the accompanying deed.

(2) The name of the grantee (buyer) reflected on the RTC must be identical to the name of the grantee (buyer) reflected on the deed.

(3) Breaks in the chain of title must be corrected. Until the break in the chain of title is corrected through the filing of reliable information, the property will be carried on the property tax record in the name of the previous owner, in care of the new owner (grantee) . RTCs that bridge the break in the chain of title must be filed. After the RTC(s) is filed, which bridges the break in title, the new owner's name (grantee) will be placed on the property tax roll in place of the previous owner's name. Name identification and name abbreviation inaccuracies in (1) and (2) may be corrected through the submission of an affidavit available at the department. If, in the judgment of the local department office, there is sufficient evidence to suggest the RTC is inaccurately completed or that a transaction is not exempt from reporting sales information, the department will return the RTC to the filer. The inaccurate information will be identified and the filer will be required to correct the inaccuracy and to resubmit the RTC.

History: 15-1-201, MCA; IMP, 15-7-304, 15-7-306, MCA; NEW, 1985 MAR p. 2019, Eff. 12/27/85; AMD, 1996 MAR p. 1172, Eff. 4/26/96; AMD, 2002 MAR p. 3723, Eff. 12/27/02.

Effective rule versions existed in ARM on or after March 31, 2007

MAR Notices	Effective From	Effective To	History Notes
	12/27/2002	Current	History: <u>15-1-201</u> , MCA; <u>IMP, 15-7-304, 15-7-306</u> , MCA; <u>NEW</u> , 1985 MAR p. 2019, Eff. 12/27/85; <u>AMD</u> , 1996 MAR p. 1172, Eff. 4/26/96; <u>AMD</u> , 2002 MAR p. 3723, Eff. 12/27/02.

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For questions regarding the content, interpretation, or application of a specific rule, please contact the agency that issued the rule. A directory of state agencies is available online at <http://www.mt.gov/govt/agencylisting.asp>.

For questions about the organization of the ARM or this web site, contact sosarm@mt.gov.

REALTY TRANSFER CERTIFICATE
CONFIDENTIAL TAX DOCUMENT

Form 488 (RT-C) Revised 02/09

WHO MUST FILE: Any party transferring real property, regardless of whether the transfer is or is not evidenced by deed or instrument or any party presenting an instrument or deed evidencing a transfer of real estate for recordation. Real estate includes land, growing timber, buildings, structures, fixtures, fences, and improvements affixed to land.

YOU MAY OWE INCOME TAXES: Any gain on this transfer is Montana source income and should be reported to the Department of Revenue on the appropriate income tax return.

WHEN AND WHERE TO FILE:

The completed Realty Transfer Certificate must be filed with the County Clerk & Recorder when the instrument or deed evidencing a transfer of real estate is presented for recording.

If the transfer is by operation of law, then a Realty Transfer Certificate with the required supporting documentation should be filed with the local Department of Revenue Office where the property is located. Please see Part 4 for further detailed information.

The Department of Revenue will change the ownership record when this form is fully and accurately completed and signed.

PART 1 - DATE OF TRANSFER (SALE)

This should be the date on which the instrument or deed was executed (the date the instrument or deed was signed by the Seller (Grantor) and Buyer (Grantee) unless otherwise specified in the deed or date of decedent's death). Contracts for Deed and Notices of Purchaser's Interest should use the date the contract or notice was initially signed, not the date the contract was finalized.

PART 2 - PARTIES

Seller (Grantor)/Buyer (Grantee): Enter the names of the seller (grantor) and buyer (grantee) exactly as they appear on the transferring document. Business organizations, corporations, trusts, etc. should enter their name(s) exactly as it appears on the transferring document. **Addresses:** For the seller (grantor) enter the current mailing address. The seller (grantor) and the buyer (grantee) are requested to mark Yes or No to indicate if the property subject to this transfer has been or will be occupied, in the case of the seller (grantor), or will be occupied, in the case of the buyer (grantee), by the owner for at least 7 months (198 days) of the calendar year. For the buyer (grantee) enter the permanent mailing address. If the tax notice is to be sent to a different mailing address, please complete the additional mailing information.

SSN or FEIN: For individuals, list the last 4 digits of the social security number of all legal owners named in the transferring document. Business organizations, corporations, trusts, etc. list the last 4 digits of the federal ID number(s) of the legal entity(ies) named in the transferring document. § 15-1-201, MCA and 42 USC § 4405(a)(2)(C)(K)(v). The Department of Revenue utilizes personal identification numbers to cross match Realty Transfer Certificates with income tax returns to ascertain taxpayer compliance on gains from real estate sales or transfers and to identify delinquent taxpayers. Additional SSN or FEIN numbers (last 4 digits) may be provided on an attachment. **Daytime Phone:** Enter phone numbers for both the seller (grantor) and buyer (grantee).

PART 3 - PROPERTY DESCRIPTION

This section identifies the parcel that is being transferred by location and is the legal description found on the instrument or deed conveying the real estate or the abstract to the real estate.

The property description may be provided on an attachment, and be identified by checking the applicable box.

PART 4 - TYPE OF TRANSFER (Please refer to "When and Where to File" above.)

Transfer by Recorded Instrument: Check the box(es) that apply to the type of transfer for which an instrument has been recorded with the County Clerk and Recorder.

Transfer by Operation of Law: Check the box(es) that apply to the type of transfer. A copy of the following applicable documentation must be attached to the Realty Transfer Certificate.

- Termination of Joint Tenancy by Death - death certificate and deed that created the joint tenancy with right of survivorship.
- Court Decree.
- Personal Representative, Special Administrator or Public Administrator - death certificate, order of appointment and letters of administration and an affidavit that their appointment has not been terminated.
- Conservator - Order of Appointment and Letter of Conservatorship or copy of the order terminating the conservatorship.
- Merger, consolidation or other business reorganization - Plan of Reorganization.
- Name change only - documents filed with the Secretary of State to accomplish the name change.

PART 5 - EXCEPTION FROM PROVIDING SALES PRICE INFORMATION

If any of the exceptions listed apply to this transfer, please check the appropriate line and do not complete Section 6. If you are unsure whether this transaction should be defined as an exception, or if you have any other questions concerning exception status, please request a determination from your local Department of Revenue Office.

PART 6 - SALE INFORMATION (If there is no exception checked in Part 5, you must complete this section.)

CONFIDENTIALITY: Sale information is confidential and only for official use by the Department of Revenue.

Enter the total purchase price paid for the sale parcel. This should include cash, mortgages, property traded, liabilities assumed, leases, easements and personal property.

Financing: If you paid cash for the entire sale parcel, check the box in front of Cash. If you financed the property by receiving a loan indicate the type by checking the appropriate box: Federal Housing Administration (FHA) Loan, Veterans Administration (VA) Loan or Conventional. If this was a direct for deed or trust indenture, indicate by checking the box in front of Contract. If there was some other type of financing used such as a Montana Board of Housing Loan, trade of property, etc. please indicate by checking the box in front of Other. Also, indicate whether this was a new loan or an assumption of an existing loan.

Personal Property: Enter the dollar amount of any personal property included with the sale of this parcel. Personal property includes furniture and fixtures, business and farm equipment, livestock, recreational vehicles, leases and easements, and mobile homes. Anything that is permanently attached to the real estate should not be included. Negligible personal property included in a residential sale need not be reported.

SID (Special Improvement District) - liens levied against the property for amenities like street paving, sewers, water systems, etc.: Please answer the questions by checking the appropriate boxes, also include the amount of the SID paid or assumed.

Value of Inventory: Please provide the value of any business inventory that was included in the sales price.

Value of Licenses: Please provide the value of any licenses included in the sales price i.e., liquor licenses, gambling licenses, etc.

Value of Good Will: Please provide the value of Good Will included in the sale price. (Good Will is defined as "the economic advantage over competitors that a business has acquired by virtue of habitual patronage of customers.")

PART 7 - WATER RIGHTS DISCLOSURE - This disclosure must be completed and signed by the seller or the seller's legally appointed agent. Refer to page 2 for further information about the disclosure. If Box D has been checked, the Certification of Water Right Ownership Update (page 5) must also be signed by the seller (grantor), the buyer (grantee), and the escrow agent (if applicable) to enable recordation of the deed or instrument by the County Clerk and Recorder.

PART 8 - PREPARER INFORMATION - All Realty Transfer Certificates must be signed and dated by the preparer. By his/her signature the preparer indicates the information provided is true and correct to the best of his/her knowledge, that the seller (grantor) and the buyer (grantee) have examined the completed Realty Transfer Certificate and agree the information contained within is correct and accurate.

WATER RIGHT DISCLOSURE INFORMATION

The Water Right Disclosure is required by Montana Law. Legislators decided it is important for both the buyer and seller of property to know what the water right situation is — whether any water rights exist, and whether they are being transferred with or withheld from the property.

A water right is a legally protected right to beneficially use water in priority that was obtained in accordance with Montana law. Buyers should be careful to investigate whether water being used on a piece of property amounts to a valid water right, or is merely an unauthorized and unprotectable use of water. In Montana all irrigation water rights must have a valid DNRRC water right number to be of record. However, existing rights for livestock and individual domestic, as opposed to municipal uses, based on an instream flow or groundwater source before July 1, 1973, do not need a DNRRC water right number. If a water right does not have a DNRRC number, and does not fall within the above narrow exception, then there is no water right.

Once the water rights appurtenant to a piece of property have been identified, the investigation of water right should not stop there. Although a water right may have a valid DNRRC water right number, it may still be subject to final adjudication in Montana's general stream adjudication. The Montana Water Court is currently adjudicating all Statements of Claim for pre-July 1, 1973, water rights. How good a water right is depends on how it comes out of the adjudication, and how its priority compares to other water rights on a source of supply. You may need to consult an attorney or water rights consultant for an opinion as to the status of that water right. The Montana Water Court can answer questions about the current status of Statements of Claim being adjudicated by calling 1-800-624-3270 (in state) or 406-586-4364.

If there are water rights which have been historically used on the property being transferred, but are not going to be transferred in the sale of land, the deed must specifically exempt (reserve) those water rights from the land sale. Otherwise, if the deed is silent, the water rights automatically pass with the land by operation of law.

The following descriptions may be of some help in determining which box to mark in Part 7, Water Rights Disclosure. If further assistance is needed, you may want to seek legal advice.

CHECK ONLY ONE BOX (on Part 7, Water Rights Disclosure on page 3)

To correctly complete this water right disclosure the seller needs to know if there are water rights in the seller's or previous land owner's name that are on record with the Department of Natural Resources & Conservation (DNRRC).

A. Property is served by a public water supply, i.e., city or water district provides water.

Check this box if the water you use on the land described in this document is provided by a city, town, water users association, or other entity. The seller does not need to file a Water Right Ownership Update form.

B. Seller has no water rights on record with DNRRC to transfer. Check this box if you do not have any water rights on record with the Department of Natural Resources & Conservation. The seller does not need to file a Water Right Ownership Update form.

C. Seller is transferring ALL water rights on record with DNRRC to the Buyer. If all of the water rights you (seller) have on record with the DNRRC will be transferring to the buyer, check this box. The seller does not need to file a Water Right Ownership Update form. All of the water rights associated with the land described in part 3 will have the owner name automatically updated. The fee for the ownership update must be submitted to the DNRRC with the following information: the buyer's name and address, the seller's name and address, the geocode, the water right numbers being transferred, and the amount of the fee. The fee and the filing fee log sheet can be found at the following website, www.dnrcc.mt.gov/wrd/water_rts/HB399. Submit the fee and filing fee log sheet to **OWNERSHIP UPDATE, DNRCC, PO BOX 201601, HELENA MT 59620-1601**. DNRCC will send an acknowledgement of the ownership update to the new owner.

D. Seller is dividing or exempting (reserving) water rights. Seller must file Water Right Update form. If you (seller) have divided the property and water rights or have exempted (reserved) the water rights (not transferred with the land sale), check this box and complete the Certification on page 5. The seller must submit an Ownership Update-Exempt (Reserved) Water Right Form No. 642 and filing fee identifying which water right has been kept by the seller. If a water right has been divided, the seller must file an Ownership Update-Divided Interest Form No. 641 and filing fee explaining how and with whom the water right was divided.

Contact the DNRRC for information if water is used on the property other than described above.

REALTY TRANSFER CERTIFICATE

CONFIDENTIAL TAX DOCUMENT

The information contained in this certificate is confidential by Montana law. Unauthorized disclosure of this information is a criminal offense.

ASSESSMENT CODE:
The Department of Revenue will charge the name on ownership records used for the assessment of the property. If the name is not correctly completed and signed, please read the attached instructions on page 1 for assistance in completing and filing this form. Montana law requires this form be completed and may impose up to a \$500 penalty for failure to file a Realty Transfer Certificate (15-7-304, 305 and 310, MCA)

PART 1 - DATE OF TRANSFER (SALE)

(MM/DD/YYYY)

PART 2 - PARTIES

Please complete this section in full. If additional space is required, please attach a separate page

SELLER (Grantor)

Name
Mailing Address
(Permanent)
City
State
Zip
Seller Principal Residence Yes No

List the last 4 digits of the SSN or FEIN
SSN 000 - 00
SSN 000 - 00
FEIN 00 - 000
Daytime Phone

BUYER (Grantee)

Name
Mailing Address
(Permanent)
City
State
Zip
Buyer Principal Residence Yes No
Mailing Address For Tax Notice
City
State
Zip

SSN 000 - 00
SSN 000 - 00
FEIN 00 - 000
Daytime Phone
Transfer to Trustee, Custodian, or other Representative:
Trust FEIN 00 - 000
Minor SSN 000 - 00

PART 3 - PROPERTY DESCRIPTION

Please complete fully. If additional space is required, please attach a separate page

Legal Description:

Attachment

Add/Sub County City/Town Block Section Township Range

PART 4 - TYPE OF TRANSFER

Please complete fully, more than one may apply.
Transfer by Recorded Instrument
Part of 1031 or 1033 exchange
Transfer is subject to a reserved life estate

Sale Gift Barter Nominal or No Consideration
Termination of joint tenancy by death
Termination of life estate by death
Transfer by Operation of Law
Merger, consolidation, or other business entity reorganization

PART 5 - EXCEPTIONS FROM PROVIDING SALES PRICE INFORMATION

Please complete fully, more than one may apply

- Gift
Transfer in contemplation of death without consideration
Transfer between husband/wife or parent/child for nominal consideration
Transfer of property of the estate of a decedent
Transfer by government agency
Correction, modification, or supplement of previously recorded instrument, no additional consideration
Termination of joint tenancy by death
Termination of life estate by death
Transfer pursuant to court decree
Tax deed or sheriff's deed
Foreclosure (include trustee transfer under trust indenture and deed in lieu of foreclosure)
Merger, consolidation or reorganization of business entity
Timberland/foremland exemption
Land eligible for Agricultural Classification (15-7-201, MCA)
Transfer to a revocable living trust
Other (Specify Type)

PART 6 - SALE PRICE INFORMATION

Please complete fully, more than one may apply

Actual Sale Price \$
Financing: Cash FHA VA Contd Other
Terms: New loan OR Assumption of existing loan
Value of personal property included in sale \$
Amount of SID paid or assumed \$
Value of inventory included in sale \$
Was a mobile home included in the sale? Yes No

PART 7 - WATER RIGHT DISCLOSURE

This Disclosure is only applicable to the property identified in Part 3 above

- A. Property is served by a public water supply, i.e., city, irrigation district, or water utility provides water.
B. Seller has no water rights on record with DNR/DNR to transfer.
C. Seller is transferring ALL (reserving) water rights. Seller must file the Water Right Update form.
D. Seller is dividing or exempting water rights on record with DNR/DNR to the Buyer.

PART 8 - PREPARER INFORMATION

Preparer's signature is required

Name/Title (Please print) Signature
Mailing Address Daytime Phone
City State Zip

Clerk and Recorder Use Only

Recording Information: Document # Book Page Date
Warranty Trust Deed Quit Claim Grant Contract for Deed Decree Interest
Buyer's & Seller's Deed Notice of Purchaser's Interest Statement of Acknowledgement Termination of Joint Tenancy
Tax Deed Beneficiary's Deed Other
Department of Revenue Copy

REALTY TRANSFER CERTIFICATE
CONFIDENTIAL TAX DOCUMENT

The information contained in this certificate is confidential by Montana law. Unauthorized disclosure of this information is a criminal offense.

ASSESSMENT CODE: _____
 The Department of Revenue will change the name on ownership records used for the assessment and taxation of real property when this form is fully and accurately completed and signed. (Please read the attached instructions on page 1 for assistance in completing and filing this form).
 Montana law requires this form be completed and filed with the Department of Revenue for a Realty Transfer Certificate (15-7-204, 305 and 310, MCA)

PART 1 - DATE OF TRANSFER (SALE)

(MM/DD/YYYY) _____

PART 2 - PARTIES

Please complete this section in full. If additional space is required, please attach a separate page.

SELLER (Grantor)
 Name _____
 Mailing Address _____
 (Permanent) _____
 City _____ ST _____ Zip _____
 Seller Principal Residence Yes ___ No ___
 City _____ ST _____ Zip _____

BUYER (Grantee)
 Name _____
 Mailing Address _____
 (Permanent) _____
 City _____ ST _____ Zip _____
 Buyer Principal Residence Yes ___ No ___
 For Tax Notice _____
 (if different) City _____ ST _____ Zip _____

PART 3 - PROPERTY DESCRIPTION Please complete fully. If additional space is required, please attach a separate page.
 Legal Description: _____ Attachment

County _____ City/Town _____ Block _____ Section _____ Township _____ Range _____
PART 4 - TYPE OF TRANSFER Please complete fully, more than one may apply.
 Transfer by Recorded Instrument
 Sale Gift Barter Nominal or No Consideration Part of 1031 or 1033 exchange Transfer is subject to a reserved life estate

PART 5 - EXCEPTIONS FROM PROVIDING SALES PRICE INFORMATION Please complete fully, more than one may apply.
 Termination of joint tenancy by death Transfer by Operation of Law Merger, consolidation, or other business entity reorganization
 Termination of life estate by death Court Decree

PART 6 - SALE PRICE INFORMATION Please complete fully, more than one may apply.
 Actual Sale Price \$ _____ Value of good will included in sale \$ _____
 Financing: Cash ___ FHA ___ VA ___ Contract ___ Other _____
 Terms: ___ New loan ___ Assumption of existing loan
 Value of personal property included in sale \$ _____
 Value of inventory included in sale \$ _____
 Value of licenses included in sale \$ _____
 Was an S/D payoff included in the sale price? Yes ___ No ___
 Did the buyer assume an S/D? Yes ___ No ___
 Amount of S/D paid or assumed: \$ _____
 Was a mobile home included in the sale? Yes ___ No ___

PART 7 - WATER RIGHT DISCLOSURE -- This Disclosure is only applicable to the property identified in PART 3 above.
 A. Property is served by a public water supply; i.e., city, irrigation district, or water district provides water.
 B. Seller has no water rights on record with DWRPC to transfer.
 C. Seller is transferring ALL water rights on record with DWRPC to the Buyer.
 D. Seller is dividing or exempting (reserving) water rights. Seller must file the Water Right Update form.

PART 8 - PREPARER INFORMATION Preparer's signature is required.
 Seller (Grantor) Signature _____ Date _____
 Name/Title _____ (Please print) Signature _____
 Mailing Address _____ City _____ ST _____ Zip _____ Daytime Phone _____

Clerk and Recorder Use Only
 Recording Information: Document # _____ Book _____ Page _____ Date _____
 Warranty ___ Trust Deed ___ Quit Claim ___ Grant ___ Contract for Deed ___ Decree ___ Interest ___
 Bargain & Sale Deed ___ Notice of Purchaser's Interest ___ Statement of Acknowledgement ___ Termination of Joint Tenancy ___
 Tax Deed ___ Beneficiary Deed ___ Other _____
 Buyer/Seller Copy _____

Montana Department of Natural Resources and Conservation
1424 9th Avenue, PO Box 201601
Helena, MT 59620-1601
444-6601; 444-0533 (fax)



Certification of Water Right Ownership Update

The Realty Transfer Certificate submitted with the deed or other instrument indicates a water right is being divided or exempted (reserved) from the property. The Clerk and Recorder may not record the deed or instrument unless this certification is completed and signed by the buyer, seller, and escrow agent (if applicable). See MCA 85-2-224(6).

The required form (DNRC Ownership Update Divided Interest Form 641 or DNRC Ownership Update Exempt/Reserved Form 642) and the required fee are held in escrow.

I certify under penalty of false swearing that the statement appearing here is to the best of my knowledge true and correct.

Seller Signature: _____ Date: _____

Buyer Signature: _____ Date: _____

Escrow Agent Signature: _____ Date: _____

There is no escrow. The required form (DNRC Ownership Update Divided Interest Form 641 or DNRC Ownership Update Exempt/Reserved Form 642) has been prepared and will be sent with the required fee to the Department of Natural Resources and Conservation within five business days of recording.

I certify under penalty of false swearing that the statement appearing here is to the best of my knowledge true and correct.

Seller Signature: _____ Date: _____

Buyer Signature: _____ Date: _____

If you have questions contact your local water resources regional office.

- BILLINGS**
406-247-4415
Big Horn, Carbon, Carter, Custer, Fallon, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, and Yellowstone Counties
- BOZEMAN**
406-586-3136
Gallatin, Madison, and Park Counties
- GLASGOW**
406-228-2361
Daniels, Dawson, Garfield, McCone, Phillips, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties
- HAVRE**
406-265-5516
Blaine, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties
- HELENA**
406-444-6999
Beaverhead, Broadwater, Deer Lodge, Jefferson, Lewis and Clark, Powell, and Silver Bow Counties
- KALISPELL**
406-752-2288
Flathead, Lake, Lincoln, and Sanders Counties
- LEWISTOWN**
406-538-7459
Cascade, Fergus, Golden Valley, Judith Basin, Meagher, Musselshell, Petroleum, and Wheatland Counties
- MISSOULA**
406-721-4284
Granite, Mineral, Missoula, and Ravalli Counties