

# Understanding Property Deeds

By

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Property deeds are legal documents used in real estate that transfers ownership of [real property](#) from a grantor (seller) to a [grantee](#) (buyer). Real property is land or anything attached to the land, such as buildings or roads. For a deed to be legally operative, it must include the identification of the grantor and grantee and the adequate description of the property.

More specifically, deeds fall in a number of categories, including warranty, quitclaim, and special purpose. This article will define what deeds are, what needs to be included in a deed to make it legally operative, and the different types of deeds that are used in the transfer of real property.

## Key Takeaways

- A property deed is a legal document that transfers the ownership of real estate from a seller to a buyer.
- For a deed to be legal it must state the name of the buyer and the seller, describe the property that is being transferred, and include the signature of the party that is transferring the property.
- In addition to being deemed either official or private, deeds are also further classified as either general warranty, special warranty, or quitclaim.

- General warranty deeds give the grantee the most protection, special warranty deeds give the grantee more limited protection, and a quitclaim deed gives the grantee the least protection under the law.

## What Are Property Deeds?

A property deed is a written and signed legal instrument that is used to [transfer ownership of the real property](#) from the old owner (the grantor) to the new owner (the grantee). Historically, real property was transferred through a ceremonial act known as "livery of seisin." In this act, the person transferring the land handed a twig or clod of turf from the land to the person taking delivery of the land. A verbal or written statement often accompanied the gesture, though it was the livery of seisin that legally transferred the [title to the property](#). Today, the title to real property is conveyed by a paper deed.

Deeds are either *official*, meaning they are executed as a result of a court or legal ruling, or more commonly, *private*, meaning they are executed by a deal struck between individuals or businesses.

## Essential Deed Elements

While each state has its own requirements, most deeds must contain several essential elements to be legally valid:

They must be in writing. While most deeds are completed on printed forms, there is no legal requirement that any specific form is used as long as the essential elements are included.

- The grantor must have the legal capacity to transfer the property and the grantee must be capable of receiving the [grant](#) of the property. A person who is competent to make a valid contract is considered competent to be a grantor.
- The grantor and grantee must be identified in such a way as to be ascertainable.
- The property must be adequately described.
- Operative words of [conveyance](#) must be present. All standard form deeds include the necessary legal language that actually transfers the property.
- The deed must be signed by the grantor or grantors if the property is owned by more than one person.
- The deed must be legally delivered to the grantee or to someone acting on the grantee's behalf.
- The deed must be accepted by the grantee. Typically, deeds are accepted by the grantee but in certain circumstances, the grantee could reject delivery of the deed.

## Types of Deeds

Deeds can be classified in numerous ways. Broadly, deeds are classified as official or private. Official deeds are executed pursuant to a court or legal proceedings. Most property transactions, however, involve individuals and business entities using private deeds.

Deeds are also categorized based on the type of title warranties provided by the grantor. The different types of deeds include:

## General Warranty Deed

The general warranty deed offers the grantee the most protection. With this type of deed, the grantor makes a series of legally binding promises (called [covenants](#)) and warranties to the grantee (and their [heirs](#)) agreeing to protect the grantee against any prior claims and demands of all persons whomsoever in regards to the conveyed land. The usual covenants for title included in a general warranty deed are:

- the *covenant of seisin*, meaning that the grantor warrants they own the property and has the legal right to convey it
- the *covenant against encumbrances*, denoting that the grantor warrants that the property is free of [liens](#) or [encumbrances](#), except as specifically stated in the deed
- the *covenant of quiet enjoyment*, indicating that the grantee will have quiet possession of the property and will not be disturbed because the grantor had a [defective title](#)
- the *covenant of further assurance*, where the grantor promises to deliver any document necessary to make the title good

## Special Warranty Deed

Where in a general warranty deed the grantor promises to [warrant](#) and defend the title conveyed against the claims of all persons, the grantor of a [special warranty deed](#) warrants that they received the title to the property and that they have not done anything while holding the title to create a defect.

In other words, only defects that arose during the grantor's ownership of the property are warranted. Due to this limitation, the special warranty offers the grantee less protection than the general warranty deed. Many purchasers of [real estate](#) will insist on a general warranty deed to protect against problems that could arise as a result of a special warranty deed.

## Quitclaim Deed

The [quitclaim deed](#), also called a non-warranty deed, offers the grantee the least amount of protection. This type of deed conveys whatever interest the grantor currently has in the property—if any. No warranties or promises regarding the quality of the title are made. If the grantor has a good title, the quitclaim deed is essentially as effective as a general warranty deed. However, if the title contains a defect, the grantee has no legal [recourse](#) against the grantor under the deed. A quitclaim deed is often used if the grantor is not sure of the status of the title (if it contains any defects) or if the grantor wants no [liability](#) under the title covenants.

## Special Purpose Deeds

Special purpose deeds are frequently used in connection with court proceedings and instances where the deed is from a person acting in some type of official capacity. Most special purpose deeds offer little to no protection to the grantee and are essentially quitclaim deeds. Types of special purpose deeds include but are not limited to:

- **Administrator's Deed:** This may be used when a person dies [intestate](#) (without a [will](#)). A court-appointed administrator will dispose of the decedent's [assets](#) and an administrator's deed may be used to convey the title of real property to the grantee.

- **Executor's Deed:** This may be used when a person dies testate (with a will). The estate's executor will dispose of the decedent's assets and an executor's deed may be used to convey the title or real property to the grantee.
- **Sheriff's Deed:** This is given to the successful [bidder](#) at an execution sale held to satisfy a [judgment](#) that has been obtained against the owner of the property. The grantee receives whatever title the judgment [debtor](#) has.
- **Tax Deed:** This is issued when a property is sold for [delinquent](#) taxes.
- **Deed in Lieu of Foreclosure:** This is given by a borrower who is in [default](#) on a mortgage directly to the lender. This serves to prevent [foreclosure](#) proceedings, and if the lender accepts the [deed in lieu of foreclosure](#), the loan is terminated. Many lenders prefer to foreclose in order to clean up the title.
- **Deed of Gift (Gift Deed).** This is used to convey the title on real property that is given for no consideration or for only a token consideration. In some states, the gift deed must be recorded within two years or it becomes void.

Real property, meaning land or anything attached to the land that is immovable, such as a building, creek, or road, is essentially the same as real estate.

## The Bottom Line

The transfer of a property's title is made by a deed. Certain essential elements must be contained within the deed in order for it to be legally operative. Different deeds provide various levels of protection to the grantee and the obligations of a grantor are determined by the form of the deed. Since deeds are important legal documents that affect ownership interests and rights, a qualified [real estate attorney](#) should be consulted in any transaction involving them, such as the [closing](#) of a home purchase.