

Understanding The Quitclaim Deed



A quitclaim deed (sometimes erroneously referred to as a "quick-claim" deed) is a legal instrument by which the owner of a piece of real property, called the grantor, transfers his interest to a recipient, called the grantee. The owner/grantor terminates ("quits") his right and claim to the property, thereby allowing claim to transfer to the recipient/grantee.

Unlike most other property deeds, a quitclaim deed contains no title covenant and thus, offers the grantee no warranty as to the status of the property title; the grantee is only entitled to whatever interest the grantor actually possesses at the time the transfer occurs. This means that the grantor does not guarantee that he actually owns the property at the time of the transfer, or if he does own it, that the title is free and clear. It is therefore possible for a grantee to receive no actual interest, and since a quitclaim deed offers no warranty, there may be no legal recourse to recover any losses. Further, if the grantor should acquire the property at a later date, the grantee is not entitled to take possession, because the grantee can only receive the interest the grantor held at the time the transfer occurred. In contrast, other deeds often used for real estate sales (called grant deeds or warranty deeds, depending on the jurisdiction) contain implied warranties and guaranties from the grantor to the grantee regarding title to the property.

Because of this lack of warranty, quitclaim deeds are most often used to transfer property between family members, as gifts, placing personal property into a business entity (and vice-versa) or in other special or unique circumstances. Quitclaim deeds are rarely used to transfer property from seller to buyer in a traditional property sales. In most cases, the grantor and grantee have an existing relationship or is the same person, when a quitclaim deed is utilized.

Another common use for a quitclaim deed is in divorce, whereby one spouse terminates any interest in the jointly owned marital home, thereby granting the receiving spouse full rights to the property. For example, when a wife acquires the marital home in a divorce settlement, the husband could execute a quitclaim deed eliminating his interest in the property and transferring full claim to the wife quickly and inexpensively.

In some jurisdictions, quitclaim deeds may also be used in tax deed sales, where a property is sold in a public auction to recover the original homeowner's outstanding tax debt. The auctioning body is usually the local government, which claims no interest to the property whatsoever, but is selling only to recover the unpaid taxes without extending any warranty for the property title.