

# LAWYERS LINK



## WHAT IS A QUITCLAIM DEED, AND HOW DO YOU USE IT?

Quitclaim deeds can be a straightforward way to transfer property, but they don't guarantee ownership.

### What is a quitclaim deed?

When transferring ownership of real estate, you need a deed to make the transaction official.

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A deed is a legal document that officially transfers the title of a property from one party to another. A quitclaim deed is a type of deed used to transfer the title of a property in a faster, yet higher risk manner. Since a quitclaim deed transfers the title without any additions or amendments, the grantee should know that legal protections are extremely limited. No title search is done to verify ownership, and no title insurance is issued. Unlike a warranty deed, a quitclaim deed offers the grantee no warranty as to the status of the property title. There is also no protection against debts and liens on the property.

### **When are quitclaim deeds used?**

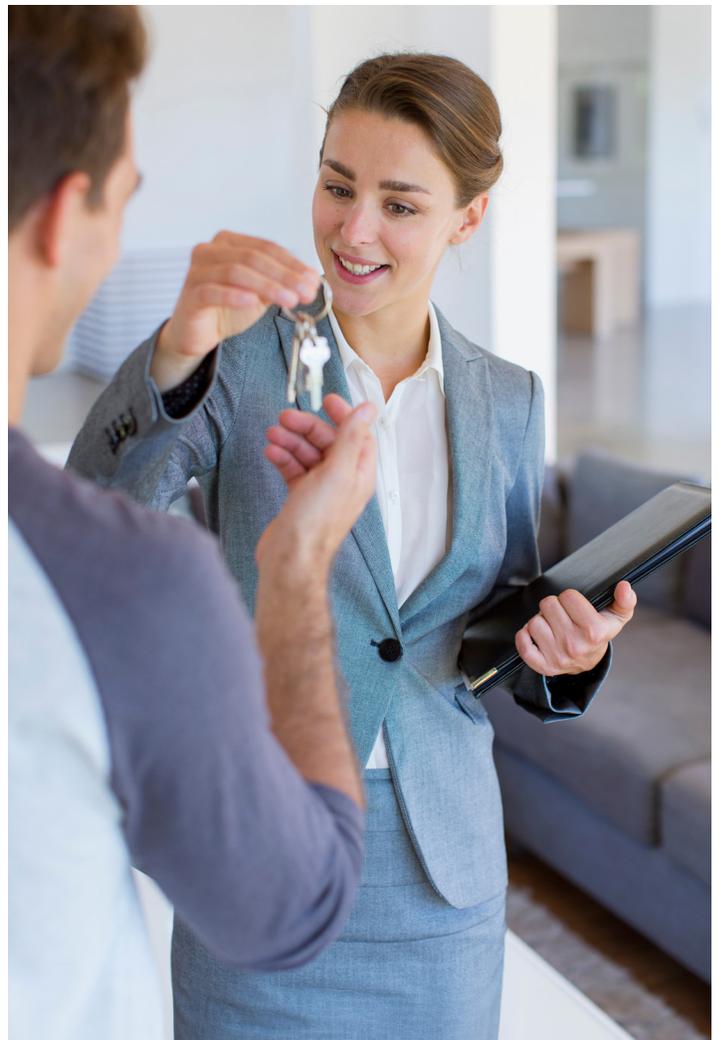
One of the main instances in which a quitclaim deed is used is to transfer ownership of a property among trusted family members, such as between parents and children or among siblings. It is also commonly used to add or remove a spouse from the property title, particularly as a result of marriage or divorce. For example, if a partner receives the family home in a divorce decree, the other partner would enact a quitclaim deed to remove their own interest in the property.

These deeds are also used by corporations when transferring property between closely related entities, and when a property is being transferred into a family trust. In addition, when an insurance company looking to ensure a property finds a “cloud” in the title, where it is uncertain whether someone has an ownership stake, the company can ask the person to quit their possible claims via a quitclaim deed.

### **How does a quitclaim deed affect a mortgage?**

A quitclaim deed has no effect on a mortgage. It transfers a property’s title but any mortgage the grantor has will not transfer. Consequently, a quitclaim deed isn’t usually practical when there’s an outstanding mortgage because the grantor will have to continue making payments after gifting the property.

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## Is a quitclaim deed considered an inheritance?

A quitclaim deed is not legally considered an inheritance. Instead, the property transfer is classified as a gift in terms of the law. This is because the property owner signs the deed while they are still alive, rather than transferring ownership through a Last Will and Testament.

## Elements of a quitclaim deed:

While the exact composition of quitclaim deeds differ from state to state and county to county there are common elements, including:

- The title
- The date of execution
- Who the grantor and grantee are
- The habendum, which describes the transfer of ownership rights
- The consideration, which describes what the grantee gives to the grantor in return for the rights
- A legal description of the property and signatures

***For more information, contact your Lawyers Title Representative.***

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# MONTHLY INDUSTRY TERMS

## Deed

Written instrument which, when properly executed and delivered, conveys title.

## Deed Restrictions

Limitations (covenants) written into a deed to restrict the control, occupancy, or use of a property.

## Fee Simple Deed

The absolute ownership of a parcel of land. The highest degree of ownership that a person can have in real estate, which gives the owner unqualified ownership and full power disposition.

