

# Deeds FAQ

**They're not just for playing Monopoly -- answers to frequently asked questions about deeds.**

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## **What is a deed?**

A deed is the document that transfers ownership of real estate. It contains the names of the old and new owners and a legal description of the property, and is signed by the person transferring the property.

## **Do I need a deed to transfer property?**

Almost always. You can't transfer real estate without having something in writing. In some situations, a document other than a deed is used -- for example, in a divorce, a court order may transfer real estate from the couple to just one of them.

## **I'm confused by all the different kinds of deeds -- quitclaim deed, grant deed, warranty deed. Does it matter which kind of deed I use?**

Probably not. Usually, what's most important is the substance of the deed: the description of the property being transferred and the names of the old and new owners. Here's a brief rundown of the most common types of deeds:

A quitclaim deed transfers whatever ownership interest you have in the property. It makes no guarantees about the extent of your interest. Quitclaim deeds are commonly used by divorcing couples; one spouse signs all his rights in the couple's real estate over to the other. This can be especially useful if it isn't clear how much of an interest, if any, one spouse has in property that's held in another spouse's name.

A grant deed transfers your ownership and implies certain promises -- that the title hasn't already been transferred to someone else or been encumbered, except as set out in the deed. This is the most commonly used kind of deed, in most states.

A warranty deed transfers your ownership and explicitly promises the buyer that you have good title to the property. It may make other promises as well, to address particular problems with the transaction.

**Does a deed have to be notarized?**

Yes. The person who signs the deed (the person who is transferring the property) should take the deed to a notary public, who will sign and stamp it. The notarization means that a notary public has verified that the signature on the deed is genuine. The signature must be notarized before the deed will be accepted for recording (see the next question).

**After a deed is signed and notarized, do I have to put it on file anywhere?**

Yes. You should "record" (file) the deed in the land records office in the county where the property is located. This office goes by different names in different states; it's usually called the County Recorder's Office, Land Registry Office or Register of Deeds. In most counties, you'll find it in the courthouse.

Recording a deed is simple. Just take the signed, original deed to the land records office. The clerk will take the deed, stamp it with the date and some numbers, make a copy and give the original back to you. The numbers are usually book and page numbers, which show where the deed will be found in the county's filing system. There will be a small fee, probably about \$5 to \$15 a page, for recording.

**What's a trust deed?**

A trust deed (also called a deed of trust) isn't like the other types of deeds; it's not used to transfer property. It's really just a version of a mortgage, commonly used in some states (California, for example).

A trust deed transfers title to land to a "trustee," usually a trust or title company, which holds the land as security for a loan. When the loan is paid off, title is transferred to the borrower. The trustee has no powers unless the borrower defaults on the loan; then the trustee can sell the property and pay the lender back from the proceeds, without first going to court.