

Quit Claim Deeds and Life Estates

What is a Quit Claim Deed?

All real estate transactions must be in writing. A quit claim deed is one way to transfer real property such as a house, land, or certain mobile homes. The person who transfers the property by selling it or making a gift of it is called the 'Grantor'. The person the property is transferred to is called the 'Grantee'. One of the most important differences between a quit claim deed and other types of deeds is that the Grantor makes no guarantee or promises that the property is free of debt. Another difference is that the Grantor makes no promises that no one else claims to own the property. The quit claim deed says, in effect, that the Grantor is signing over whatever ownership interest he or she may have in the property. It does not even guarantee that the Grantor has any ownership interest at all. Before transferring any property, it is best to consult with a lawyer to find out all the possible consequences of the transfer in your specific circumstances. Some lawyers will provide services free of charge or for a reduced fee for low-income people. Contact your local bar association for more information.

What if I want my property back after I sign the form?

Once you sign a quit claim deed and give it to the Grantee, the transfer is final. **YOU NO LONGER OWN THE PROPERTY.** If you change your mind later and decide you want to keep the property, it may be impossible or extremely difficult to undo the deed unless the Grantee agrees to quit claim the property back to you. If the Grantee refuses to quit claim the property back to you, you would have to prove that the

transfer was invalid, for example because you signed the deed under threats or other extreme pressure, or you signed it due to lies the Grantee told you. You may have to hire a lawyer to invalidate the transfer, and that can be very expensive and often unsuccessful. **DO NOT SIGN THE QUIT CLAIM DEED IF YOU FEEL THREATENED OR RUSHED OR UNDER PRESSURE TO SIGN IT.** You should not sign the deed if you feel the person you are giving the property to may be lying about something related to the property, or your ability to continue living there. Because a quit claim deed is nearly impossible to undo once it has been signed and delivered to the Grantee, it is very important to talk to a lawyer before you sign the deed.

What if I was Lied to or Tricked into Signing a Quit Claim Deed?

If someone deceives you and gets you to sign a quit claim deed, they may be found guilty of theft by deception in the first degree, a class B felony. This kind of felony is punishable by up to 10 years in prison, up to a \$20,000 fine, a \$500 payment to a victims fund, court costs, and \$100 for DNA profiling. In addition, a court may order restitution up to double the value of the loss. If found guilty, the person would lose some of their civil rights, such as the right to vote and the right to own a firearm. There are other criminal penalties if someone forges your signature on a quit claim deed. In addition to criminal penalties, there are civil penalties for such fraudulent transfers. Depending on the circumstances, you may be able to get your property back, but it will be extremely difficult. It is very important to consult a lawyer before you sign a quit claim deed.

Will a transfer of property affect Medicaid for long-term care?

Yes. Transferring property for less than fair market value may make the Grantor ineligible for currently received Medicaid long-term care benefits and also for future Medicaid long-term care benefits for as long as 5 years after the date that the transfer was made, depending on when the transfer occurred. For more information regarding the consequences of transferring property on current or future Medicaid benefits, please see our publication [Question and Answers on Medicaid for Nursing Home Residents](#), or [Questions and Answers on COPEs](#). If you might need long-term care within 5 years after the planned transfer of property, or if you are currently receiving Medicaid, it is best to consult with a lawyer.

How will a transfer of property affect other public assistance?

Transferring property may affect current or future eligibility for all types of public benefits, including SSI and Medicaid. The effect on eligibility will depend on who owns the property, who lives at the property, when and to whom the property is transferred, and the reason for the transfer. Laws regarding the transfer of property and the effect on public benefits eligibility are complicated and change frequently. You should discuss any transfer with a lawyer and/or your DSHS caseworker BEFORE making the transfer. Get any advice from your caseworker in writing before relying on it, and ask for a copy of the law supporting the advice.

How will transferring property affect the property tax exemption for seniors and disabled persons?

If you are eligible for lower property taxes because you are a senior citizen or disabled, the taxes might go up unless you, the Grantor, retain a 'life estate' for yourself (see the section in this publication on life estates), or unless the Grantee is eligible for the reduced taxes. For more information you may want to order the publication [Property Tax Exemptions for Senior Citizens and Disabled People](#).

What is a Life Estate?

One of the many rights of ownership of property is the right to possess the property. If you sign a quit claim deed, you can keep the right to possess the property by retaining a life estate for yourself. A life estate gives you the absolute right to live at the property until you die. After you die, the Grantee then has the right to possession of the property. Without a life estate, you have no legal right to the property at all after the deed is signed and given to the Grantee. The Grantor with a life estate has some duties towards the Grantee, such as not destroying the property.

Should I Retain a Life Estate?

Some advantages of a life estate are: the control you have until death; continuing eligibility for the tax exemption program (for a Grantor who qualifies); avoidance of probate on death of the Grantor (the property passes automatically upon the Grantor's death); and a possible tax advantage (consult a tax advisor for more information). Some disadvantages of retaining a life estate are: for people who get Medicaid (the State would have a lien on a certain portion of the estate upon the Grantor's death); the Grantee not having full ownership and control until the Grantor dies; and the Grantor's responsibility for property taxes, insurance, etc. until the Grantor dies. Deciding whether or not to retain a life estate can be very complicated

and have many consequences. If the Grantor expects to receive Medicaid benefits, it is best to consult a lawyer before deciding whether or not to retain a life estate.

How do I complete the quit claim form?

There is a sample form enclosed to help you understand the instructions as well as a blank form which the Grantor can actually complete and record. You should type or print clearly using black ink.

- "Filed for Record at the Request of" - Fill in your name.
- "When Recorded Return to" - Fill in the Grantor's name and address.
- Grantor's Name - Fill in the full name(s) of the person or persons transferring the property. You must name both spouses or both domestic partners if the property is community property. If there is only one Grantor, fill in only the first blank.
- Consideration - Consideration is the legal term for what the Grantor is getting out of the deal. Fill in the purchase amount or, if the transfer is a gift, fill in "one dollar and love and affection."
- Grantee's Name - Fill in the full name of the person or persons who will be getting the property. If the property is being transferred to a husband and wife, or to both domestic partners of a domestic partnership, both names should be listed unless the transfer is intended to be a gift to one spouse or domestic partner only.

If this is the case, fill in the individual spouse or domestic partner's name, then write "as her (or his) separate property." If there is only one Grantee, fill in only the first blank.

- County - Fill in the county where the property is located.
- Legal Description - Fill in the complete legal description of the property and the tax parcel number. You can find a legal description and tax parcel number on property tax forms or documents such as the mortgage or deed of trust. If the Grantor will retain a life estate, add the words "Retaining unto the Grantor a life estate." after the legal description.
- Signatures - The Grantor(s) must sign the deed before a notary public. The Grantee does not get that portion of the property belonging to any Grantor who does not sign. If the property is community property, both spouses or domestic partners must sign the deed.

What do I do with the form once it is completed and signed?

First, the deed must be "delivered" to the Grantee to be effective. The easiest way to "deliver" a deed is to give the deed to the Grantee. Recording a deed creates a presumption that it was delivered. Recording a deed means that it is filed with the county where the property is located. The deed then is part of the public record. The deed should always be recorded to protect the Grantee. There is a small fee for recording a deed. You must file an excise tax affidavit before the county will record

your deed. If the Grantor or an escrow company is going to hold the deed after it is signed, consult with a lawyer to be sure there is valid "delivery."

Real estate excise taxes must also be paid for certain transfers. Within 30 days after property is transferred, a Real Estate Excise Tax affidavit must be filed with the county auditor. The affidavit must include the sale

price, if any, and must be signed and filed even if there was no money paid for the transfer, and even if no excise tax is assessed. The Auditor will determine if any excise tax is due. For more information, or to get an affidavit form, call the auditor of the county where the property is located.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, November 2008.

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WHEN RECORDED RETURN TO:

NAME _____

ADDRESS _____

CITY, STATE, ZIP _____

QUIT CLAIM DEED

THE GRANTOR(S), _____ for and in consideration of: _____ conveys and quit claims to the GRANTEE(S), _____ the following described real estate, situated in the County of _____ State of Washington, together with all after acquired title of the Grantor(s) therein (legal description):

Tax Parcel Number: _____

DATED _____

DATED: _____

Grantor

Grantor

State of Washington }
 } ss
County of }

On this day personally appeared before me _____ and _____, Grantor(s), to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that s/he signed the same as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 20__.

NOTARY PUBLIC in and for the State of Washington,
Residing at _____
My commission expires _____