Quitclaim Deeds and Life Estates

What is a Quitclaim Deed?
A quitclaim deed is one way to transfer ownership of real property such as:

- A house
- Land
- Certain mobile homes

The person who transfers the property by selling or making a gift of it is the “Grantor.” The person who gets the property is the “Grantee.”

All real estate transactions must be in writing.

A Quitclaim deed is different from other types of deeds:

- The grantor of a quitclaim deed makes no guarantee or promises that the property is free of debt.
- The Grantor of a quitclaim deed makes no promises that no one else claims to own the property.

The Quitclaim deed says that the Grantor is signing over whatever ownership interest s/he may have in the property. It does not even guarantee that the Grantor has any ownership interest at all.

Before transferring any property, talk to a lawyer. Find out all the possible consequences of the transfer in your case.

Once you sign a Quitclaim deed and give it to the Grantee, the transfer is final. You no longer own the property.

What if I want my property back after I sign the form?
It may be impossible or very hard to undo the deed. The Grantee would have to agree to Quitclaim the property back to you.

If the Grantee refuses to do this, you would have to prove the transfer was invalid.

Examples:

- You signed the deed under threats or other extreme pressure
- You signed it due to lies the Grantee told you

You may have to hire a lawyer to invalidate the transfer. That can cost a lot. It may not work.

Do not sign the quitclaim deed if:

- You feel threatened or rushed or under pressure to sign it.
- 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.

A Quitclaim deed is nearly impossible to undo once you have signed it and given it to the Grantee. Talk to a lawyer before you sign the deed.

What if I was lied to or tricked into signing a quitclaim deed?
Someone who tricks you into signing a Quitclaim deed 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 ten years in prison
- up to a $20,000 fine
• a $500 payment to a victims fund
• court costs
• $100 for DNA profiling
• restitution up to double the value of the loss

A person found guilty would lose rights like the rights to vote and to own a firearm.

There are other criminal penalties if someone forges your signature on a Quitclaim deed. There are also civil penalties.

You may be able to get your property back, but it will be very hard. Talk to a lawyer before you sign a Quitclaim deed.

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

**Yes.** If you sell or give real property for less than fair market value, it may make you ineligible for Medicaid long-term care benefits both now and in the future, for as long as five years after the date that you made the transfer, depending on when the transfer happened.

Our publications called Question and Answers on Medicaid for Nursing Home Residents and Questions and Answers on COPES have more information on the consequences to current or future Medicaid benefits of transferring property.

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- If you might need long-term care within five years after the planned transfer of property, or if you are currently getting Medicaid, talk to a lawyer.

### Will a transfer of property affect my eligibility for other public assistance?

It may affect current or future eligibility for all types of public benefits, including SSI and Medicaid. It depends on:

- Who owns the property
- Who lives at the property,
- When and to whom the property is transferred
- The reason for the transfer

Laws regarding the transfer of property and the effect on public benefits eligibility are complicated and change a lot. 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. Ask for a copy of the law supporting the advice.

**I am a senior or disabled. Will transferring my property affect my property tax?**

Your taxes might go up unless:

- you retain a ‘life estate’ for yourself OR
- the Grantee is also eligible for the reduced taxes

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- Our publication called Property Tax Exemptions for Senior
What is a life estate?
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 you sign the deed and give it to the Grantee.

When you have a life estate, you have 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)
- No need for probate on death of the Grantor (the property passes automatically upon the Grantor's death)
- A possible tax advantage (get more information from a tax advisor)

Some disadvantages of retaining a life estate are:

- If you get Medicaid, the State would have a lien on some of your estate after your death)
- The Grantee not having full ownership and control until you die
- Your responsibility until death for property taxes, insurance, and so on

The decision whether to keep a life estate can be hard. It can have many consequences. If you expect to get Medicaid, talk to a lawyer before deciding whether to retain a life estate.

How do I fill out the quitclaim form?
In this publication we have included:

- A sample form to help you understand the instructions
- A blank form which the Grantor can actually fill out and record

You should type or print clearly. Use 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/s transferring the property. If the property is community property, you must name both spouses/domestic partners. If there is only one Grantor, fill in only the first blank.

Consideration – This is the legal term for what the Grantor is getting out of the deal. Fill in the purchase amount. 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/s who will be getting the property. If the property is going to a husband and wife, or to both domestic partners of a domestic partnership, list both names. If the transfer is a gift to one spouse/domestic partner only, fill in the one spouse/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 property’s complete legal description property and 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 keep 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 the portion of the property belonging to any Grantor who does not sign. If the property is community property, both spouses/domestic partners must sign the deed.

The form is completed and signed. What now?

First, the deed must be "delivered" to the Grantee to be effective. The easiest way to "deliver" a deed is to give it to the Grantee.

"Recording” a deed creates a presumption that it was delivered. You record a deed by filing it with the county where the property is located.

The deed then is part of the public record. The deed should always be recorded. This protects the Grantee. There is a small fee for recording a deed. You must also 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, talk to a lawyer. Make 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
- 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.

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 June 2015.

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QUITCLAIM DEED SAMPLE

THIS SPACE PROVIDED FOR RECORDER'S USE

FILED FOR RECORD AT REQUEST OF John Smith
WHEN RECORDED RETURN TO:
NAME John Smith
ADDRESS P.O. Box 320
CITY, STATE, ZIP Seattle, WA 98101

QUITCLAIM DEED
THE GRANTOR(S), John Smith for and in consideration of: One dollar and love and affection conveys and Quitclaims to the GRANTEE(S), John Smith, Jr. and Mary Smith, husband and wife, the following described real estate, situated in the County of King, State of Washington, together with all after acquired title of the Grantor(s) therein (legal description): The Southerly 90 feet of lots 8 and 9, Block 12, Stewart's first addition to Highland home, an addition to the City of Seattle, as per plat recorded in Volume 2 of plats, page 85, Records of King County situated in the County of King, State of Washington.

Tax Parcel Number: 3355479823

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.
NOTARY PUBLIC in and for the State of Washington,

________________________________________________
Residing at ________________________________
My commission expires _____________________________
QUITCLAIM DEED

THE GRANTOR(S), ___________________________________ for and in consideration of: _____________________________ conveys and Quitclaims 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.

NOTARY PUBLIC in and for the State of Washington,

________________________________________________

Residing at ________________________________

My commission expires ___________________________