

# THE MOST COMMON PROPERTY DEEDS: Warranty and Quitclaim

Before buying or selling a property, one of the most important considerations should be the type of deed that will be used to convey and transfer the property's ownership. Deeds are not all the same. As such, your rights as

a buyer and your obligations as a seller will vary depending on the type you use. In Rhode Island, the two most common deeds are the Warranty Deed and the Quitclaim Deed. Although both forms of deeds lawfully convey property, the



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rights and protections granted with each are very different.

The Warranty Deed is the most commonly used in

Rhode Island when buying or selling a home, especially when the buyer and seller are unknown to each other or are unrelated to one another. The Warranty Deed includes a specific clause that indicates the Grantor (seller) is granting the property to the Grantee (buyer) with WARRANTY COVENANTS. Per Rhode Island law, with warranty covenants, a Grantor is stating that (1) the Grantee actually owns the property and can therefore transfer it, (2) that the property is free from all encumbrances and (3) that the Grantee shall peaceably and quietly enjoy the property. Perhaps most importantly, the

Grantor will warrant and defend the property on behalf of the Grantee against the lawful claims and demands of all persons.

This is very important. It means that if the buyer experiences any issues that are the result of any previous ownership, then s/he has the legal authority to request the Grantor to resolve the issue(s), whether or not the issue was created during the Grantor's ownership. For example, suppose the Grantee later learns of an outstanding mortgage against the property that was incurred by the person who owned the property prior to the Grantor — something now affecting the property's marketability. The Grantee may then turn to the Grantor to resolve the title defect in whatever manner they deem appropriate and effective.

By contrast, a Quitclaim Deed does not provide the same covenants as a Warranty Deed; therefore, it does not offer the same protections and obligations as a Warranty

Deed. The Quitclaim Deed is generally used in those instances in which the buyer and seller know each other very well, such as family members, or a husband and wife in connection with divorce proceedings. The Quitclaim Deed includes a specific clause that indicates the Grantor is granting the property to the Grantee with QUITCLAIM

COVENANTS. Per Rhode Island law, quitclaim covenants are simply that the Grantor will warrant and defend the property to the Grantee against any lawful claims and demands that occurred while the Grantor had an interest in the property and only while the Grantor had an interest in the property.

As such, a Quitclaim Deed conveys whatever interest in the property the Grantor has and the Grantor is not liable for any clouds on title that may have occurred previous to his/her ownership.

Remember the previous example in which the Grantee learned of an outstanding mortgage against the property

that was incurred by the person who owned the property prior to the Grantor? If the Grantee had taken title by Quitclaim Deed, rather than Warranty Deed, then the Grantee would not have the right to turn to the Grantor to remedy this title defect. This is because the quitclaim covenants only provide a guaranty for the time period that the Grantor had an interest in the property. The Grantee would have to find other means to resolve the outstanding lien. This may mean turning to the Grantee's own title insurance company and/or money out of the Grantee's own pocket.

When buying or selling property, you should always consider, with the assistance of an attorney, the type of deed you ultimately choose. Your decision may affect you for years to come.

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