

What Is A Warranty Deed?

And Is There More Than One Kind?

A deed is the legal document that transfers real property title, or ownership, from one person to another. In their most basic form, deeds contain:

- ▶ A description of the real estate involved
- ▶ The names of the respective parties
- ▶ The signature of the person transferring the real estate

Different types of property deeds may be used, depending on the details of the transaction. The most common types of deeds include the following:

General Warranty Deed

A general warranty deed is the strongest deed. Pursuant to Title 2 Sections 5.022 and 5.023 of the Texas Property Code, the deed warrants to the grantee:

- ▶ That the Grantor has not previously conveyed the estate or any interest therein to anyone except the Grantee; and
- ▶ The estate is free from encumbrances.

The general warranty deed is the most common deed used in insuring titles to real property and gives the most protection to the grantee.

Special Warranty Deed

A special warranty deed limits the warranty to “by, through or under the Grantor but not otherwise.” These deeds are often used when the conveyance is from an executor, administrator, trustee, guardian, etc. There must be a valid reason for the grantor to be limiting the warranty. We want to be certain that the grantor does not have knowledge of some defect in the chain of title that is not being acknowledged.

A Deed Without Warranty

A deed without warranty excludes the implied warranties under Section 5.023, Property Code. It is used when the grantor never had any real interest in the property for himself – perhaps an executor, administrator, receiver, trustee, guardian, etc. There are circumstances that would permit the use of a deed without warranty in the direct chain of title; however, approval must be made on a case-by-case basis.

A Quitclaim Deed

A quitclaim deed does not contain “grant and convey” language, which gives implied warranties under the Property Code. Quitclaim deeds are not acceptable in the direct chain of title and are normally used only for curative matters. An example would be where a divorce decree properly divests one spouse’s interest in the property to the other — a quitclaim deed may then be used to satisfy disposal of the spouse’s interest in the real property records.

