

Understanding Florida Real Estate Deeds

An Educational Overview of Warranty, Quitclaim, Life Estate, Trustee, and Other
Florida Deeds,
with Links to the Florida Statutes, Florida Administrative Code, and Federal Law

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Laws change. The links in this report point to official or primary sources. Always confirm you are reading the most recent version.

1. What a Deed Is

A **deed** is the written instrument by which an owner of real property (the **grantor**) transfers an interest in that property to another (the **grantee**). In Florida the rules for deeds are found chiefly in [Chapter 689, Florida Statutes](#) (conveyances of land) and [Chapter 695](#) (recording), together with the constitutional homestead provisions and the tax statutes discussed below.

Three ideas run through every deed question:

- **Title** is the legal right of ownership. A deed transfers whatever title the grantor actually has — no more. A deed cannot create title the grantor lacks.
- **Warranties** are promises the grantor makes about that title. Deeds are classified by how much the grantor promises (Section 3).
- **Recording** gives public notice of the transfer. An unrecorded deed is valid between the parties but may lose to a later purchaser or creditor who records first (Section 4).

2. Requirements for a Valid Florida Deed

Under [§ 689.01, Fla. Stat.](#), a deed conveying an interest in land must be **in writing, signed by the grantor**, and signed in the presence of **two subscribing witnesses**. For the deed to be recorded, it must also be **acknowledged before a notary** ([§ 695.03](#)) and meet the format requirements of [§ 695.26, Fla. Stat.](#): the names and post-office addresses of the grantor and grantee, the name and address of the person who prepared the instrument, a 3-inch by 3-inch blank space in the top right of the first page for the clerk's recording information, and the witnesses' names printed beneath their signatures. Since 2024, witnesses to a deed must also provide a post-office address ([§ 695.26\(1\)\(h\)](#)).

Every deed must also contain a **legal description** sufficient to identify the land — a lot and block in a recorded plat, a metes-and-bounds description, or a condominium unit with the recording data of the declaration. A street address alone is not a legal description. Most owners copy the description exactly from their prior recorded deed. The parcel identification number used by the property appraiser is helpful but is not itself the legal description.

Delivery and acceptance complete the transfer. A deed signed and kept in a drawer, never delivered to the grantee, generally conveys nothing. Recording is strong evidence of delivery.

3. Types of Deeds Used in Florida

General warranty deed

The grantor warrants that he or she holds good title and has the right to convey, that the property is free of encumbrances except those stated, and that he or she will defend the grantee's title against **all** claims — including defects that arose before the grantor owned the property. The statutory short form is in [§ 689.02, Fla. Stat.](#), with its effect described in [§ 689.03](#). This is the deed used in nearly every purchase and sale.

Special (limited) warranty deed

The grantor warrants only against defects arising **during the grantor's own period of ownership**, not before. Common in sales by banks, personal representatives, trustees, developers, and businesses that did not personally occupy the property.

Quitclaim deed

The grantor conveys **whatever interest the grantor has, if any**, with **no warranty** whatsoever. If the grantor owned nothing, the grantee receives nothing and has no claim against the grantor. Quitclaim deeds are widely used between family members, between spouses (adding or removing a name), to clear a cloud on title, and in divorces — situations where the grantee already knows the state of the title. Because a quitclaim contains no covenant, a buyer who takes one from a stranger has no recourse if the title proves defective, and many title insurers will not issue a policy based solely on a recent quitclaim without further inquiry.

Fee simple deed (deed without warranty)

A deed that purports to convey the property itself (not merely the grantor's interest) but without warranties. Less common in Florida than the three above.

Life estate deed (traditional)

The grantor conveys the property to a **remainderman** while reserving a **life estate** — the right to possess and use the property for life. The remainderman holds a vested future interest from the day the deed is recorded. The life tenant **cannot sell or mortgage the full property without the remainderman's signature**, may not commit waste, and has made a completed **gift** of the remainder for tax and Medicaid purposes. Traditional life estate deeds have largely been replaced in Florida by the enhanced version below, but they still appear in older chains of title.

Enhanced life estate deed (“Lady Bird” deed)

The grantor reserves a life estate **enhanced** by the retained power to sell, mortgage, lease, gift, or revoke without the remainderman's consent. Because the grantor gives up nothing during life, the Florida Department of Revenue treats it as transferring no present interest ([TAA 20B4-004](#)), Florida Medicaid does not treat it as a transfer of assets, and the property passes outside probate at death. It is a creature of Florida common law; no statute creates it. A separate educational report on the Lady Bird deed is available on request.

Trustee's deed

A deed from the trustee of a trust. When property is held by a trustee, Florida law lets the deed recite the trustee's powers so that purchasers may rely on them without reading the trust ([§ 689.073, Fla. Stat.](#)). The deed **into** a trust is often a warranty or quitclaim deed from the owner to “[Name], as Trustee of the [Name] Trust dated ____.” A trust itself is not an entity and cannot hold title; the trustee does.

Personal representative's deed

A deed from the personal representative of a decedent's estate, conveying estate property under the powers in [§ 733.613, Fla. Stat.](#), and the court's Letters of Administration. Usually given with limited or no warranties.

Corrective deed

A re-recorded deed that fixes a scrivener's error in a prior deed — a misspelled name, a wrong lot number, a missing witness. It must be signed by the **original grantor** with full formalities and should state what it corrects. A corrective deed cannot change the substance of what was conveyed or add a new grantee.

4. Recording and Why It Matters

Deeds are recorded with the **Clerk of the Circuit Court** (as County Recorder) in the county where the land lies. Florida is a “**notice**” **recording state**: an unrecorded deed is good between grantor and grantee, but is **not effective against later creditors or subsequent purchasers for value without notice** who record first. See [§ 695.01, Fla. Stat.](#) An heir who finds an unrecorded deed from a deceased parent may have a valid deed, but if a judgment lien attached to the property while title still appeared in the parent's name, the lien may have priority. Recording promptly is the rule.

Recording fees are set by [§ 28.24, Fla. Stat.](#) (currently \$10 for the first page and \$8.50 for each additional page) plus documentary stamp tax (Section 6). Most clerks accept e-recording through approved vendors and in-person recording.

5. How Co-Owners Hold Title

When two or more people take title, the deed's wording determines the form of co-ownership, which controls what happens when one owner dies. See [§ 689.15, Fla. Stat.](#):

- **Tenants in common** — each owner holds an undivided share that passes to that owner's *estate* at death (through probate), not to the co-owner. This is the **default** in Florida when the deed is silent, except for married couples.
- **Joint tenants with right of survivorship** — on one owner's death, the survivor automatically owns the whole. The deed **must expressly state** the right of survivorship; the words “joint tenants” alone are not enough in Florida.
- **Tenants by the entirety** — available only to a **married couple**. Includes survivorship, and neither spouse alone may sell or encumber the property. A deed to a husband and wife is presumed to create a tenancy by the entirety unless it says otherwise. Property so held is generally protected from the creditors of only one spouse (but not from joint creditors). A conveyance between spouses to create or sever the tenancy is governed by [§ 689.11](#).

6. Documentary Stamp Tax

Florida imposes **documentary stamp tax** on deeds at **\$0.70 per \$100** (or fraction) of consideration (Miami-Dade County has a different rate for some property). See [§ 201.02, Fla. Stat.](#); [Rule 12B-4.013, F.A.C.](#) (taxable conveyances); and [Rule 12B-4.014, F.A.C.](#) (conveyances not subject to tax). Points that frequently surprise people:

- “**Consideration**” includes any mortgage the grantee takes subject to or assumes. A quitclaim deed of a mortgaged home to a child, for “love and affection,” is taxed on the outstanding mortgage balance — often thousands of dollars.
- A deed for **no consideration and no mortgage** is subject only to the minimum tax of \$0.70.

- Deeds **between spouses**, including those incident to a dissolution of marriage, have specific treatment in § 201.02 and Rule 12B-4.014.
- Transfers of mortgaged property into an **LLC or other entity** controlled by the grantor can trigger tax on the mortgage balance; § 201.02(1)(b) also taxes certain transfers of entity interests shortly after a deed to the entity.
- The enhanced life estate deed is treated as transferring no present interest and is subject only to the minimum tax (Section 3).

The Department of Revenue publishes its Technical Assistance Advisements on documentary stamp tax at floridarevenue.com/TaxLaw.

7. Homestead — Spousal Joinder and Devise Restrictions

Florida's constitutional homestead protection affects deeds in two ways. First, a **married owner may not sell or mortgage the homestead without the spouse's joinder**, even if title is in one spouse's name alone. See [Art. X, § 4\(c\), Fla. Const.](#) A deed of homestead signed by only one spouse is ineffective. Second, the homestead **may not be devised** (left at death) to anyone other than the spouse when a spouse or minor child survives; see [§ 732.4015](#) and [§ 732.401, Fla. Stat.](#) This rule shapes how homestead can be deeded into trusts or by life estate deeds.

8. Property Tax Consequences of a Deed

- **Homestead exemption.** The exemption under [§ 196.031](#) belongs to the owner who makes the property a permanent residence. Deeding the home to someone who does not live there — a child, an LLC — generally ends the exemption. Life-estate holders retain the right to the exemption ([§ 196.041](#)).
- **Save Our Homes reassessment.** A “change of ownership” resets the capped assessed value to market value the following January 1, which can raise taxes sharply. [Section 193.155\(3\), Fla. Stat.](#), lists transfers that are **not** treated as a change of ownership — including transfers between spouses, transfers to a revocable trust where the grantor remains the beneficiary, and certain transfers at death to a surviving spouse or dependent. Owners should read the statute and may ask the county property appraiser how a proposed deed will be treated.
- **Non-homestead property** is subject to the 10% annual assessment cap under [§§ 193.1554–193.1555, Fla. Stat.](#), which also resets on a change of ownership.
- The Florida Department of Revenue's property tax information is at floridarevenue.com/property.

9. Federal Tax Notes (Information Only)

- **Gifts of real estate during life** are generally completed gifts. Gifts above the annual exclusion amount require a federal gift tax return (Form 709) under [26 U.S.C. § 2503](#), though tax is rarely owed because of the lifetime exemption. More importantly, the recipient takes the donor's **carryover basis** under [26 U.S.C. § 1015](#) and may owe capital-gains tax on the parent's entire appreciation when the property is later sold.

- **Property passing at death** — by will, trust, survivorship, or an enhanced life estate deed — receives a **stepped-up basis** to fair market value under [26 U.S.C. § 1014](#). The difference between a lifetime quitclaim to a child and a transfer at death can be the entire capital-gains tax on decades of appreciation.
- **Due-on-sale clauses.** Most mortgages allow the lender to demand full payment if the property is transferred. Federal law prohibits enforcement for certain transfers — to a spouse or child, on the borrower's death to a relative, between spouses in a divorce, and to a revocable trust in which the borrower remains a beneficiary and occupant — under [12 U.S.C. § 1701j-3\(d\)](#). A transfer to an LLC is **not** protected.
- A sale of a principal residence may qualify for the capital-gains exclusion of [26 U.S.C. § 121](#).

10. Common Mistakes Seen in Family Deeds

- **Adding a child to the deed “to avoid probate.”** This makes a gift of half the property (carryover basis, possible gift tax return), exposes the home to the child's creditors, divorces, and judgments, requires the child's signature to sell or refinance, may end part of the homestead exemption, and still leaves the parent's half in probate unless survivorship language is used. Florida practice generally favors other tools for probate avoidance.
- **Deeding mortgaged property without checking the stamp tax** (Section 6) or the due-on-sale clause (Section 9).
- **Omitting survivorship language** when it was intended, producing a tenancy in common and a probate.
- **One spouse signing alone** on homestead (Section 7).
- **Using the street address** instead of the legal description, or copying the description with an error.
- **Deeding to “the Smith Family Trust”** rather than to the trustee by name.
- **Not recording**, or recording in the wrong county.
- **Quitclaiming to a buyer** who expects warranties, or accepting a quitclaim from a seller the buyer does not know.
- **Signing the wrong deed type for a title-insured sale.** Lenders and buyers generally expect a warranty deed; a quitclaim may be rejected at closing.

11. Title Insurance and Title Searches

A deed transfers title; it does not guarantee that the title is good. **Title insurance**, regulated under [Chapter 627, Part XIII, Fla. Stat.](#), insures the owner (and, separately, the lender) against covered defects that existed as of the policy date, and is customarily issued at every financed purchase. Family transfers by quitclaim are rarely insured at the time, which is one reason a later sale sometimes surfaces problems. The public records a title examiner searches — deeds, mortgages, liens, judgments, probate records — are available at each county clerk's official records website.

12. Do Your Own Research — Primary Sources

Each link below goes to an official or primary source. If you are reading a printed copy, the full web address is shown.

[Chapter 689, Fla. Stat. — Conveyances of Land and Declarations of Trust](https://www.flsenate.gov/Laws/Statutes/2025/Chapter689)

<https://www.flsenate.gov/Laws/Statutes/2025/Chapter689>

[§ 689.01 — How real estate conveyed \(two witnesses\)](https://www.flsenate.gov/Laws/Statutes/2025/689.01)

<https://www.flsenate.gov/Laws/Statutes/2025/689.01>

[§ 689.02 & § 689.03 — Form and effect of statutory warranty deed](https://www.flsenate.gov/Laws/Statutes/2025/689.02)

<https://www.flsenate.gov/Laws/Statutes/2025/689.02>

[§ 689.11 — Conveyances between husband and wife](https://www.flsenate.gov/Laws/Statutes/2025/689.11)

<https://www.flsenate.gov/Laws/Statutes/2025/689.11>

[§ 689.15 — Estates by survivorship; tenants in common; tenancy by the entirety](https://www.flsenate.gov/Laws/Statutes/2025/689.15)

<https://www.flsenate.gov/Laws/Statutes/2025/689.15>

[§ 689.073 — Powers conferred on trustee in recorded instrument](https://www.flsenate.gov/Laws/Statutes/2025/689.073)

<https://www.flsenate.gov/Laws/Statutes/2025/689.073>

[Chapter 695, Fla. Stat. — Record of Conveyances of Real Estate](https://www.flsenate.gov/Laws/Statutes/2025/Chapter695)

<https://www.flsenate.gov/Laws/Statutes/2025/Chapter695>

[§ 695.01 — Conveyances to be recorded \(notice statute\)](https://www.flsenate.gov/Laws/Statutes/2025/695.01)

<https://www.flsenate.gov/Laws/Statutes/2025/695.01>

[§ 695.03 — Acknowledgment and proof](https://www.flsenate.gov/Laws/Statutes/2025/695.03)

<https://www.flsenate.gov/Laws/Statutes/2025/695.03>

[§ 695.26 — Requirements for recording instruments affecting real property](https://www.flsenate.gov/Laws/Statutes/2025/695.26)

<https://www.flsenate.gov/Laws/Statutes/2025/695.26>

[§ 28.24 — Clerk's recording fees](https://www.flsenate.gov/Laws/Statutes/2025/28.24)

<https://www.flsenate.gov/Laws/Statutes/2025/28.24>

[§ 733.613 — Personal representative's right to sell real property](https://www.flsenate.gov/Laws/Statutes/2025/733.613)

<https://www.flsenate.gov/Laws/Statutes/2025/733.613>

[Florida Constitution, Article X, § 4 — Homestead; spousal joinder; devise restrictions](https://www.flsenate.gov/Laws/Constitution)

<https://www.flsenate.gov/Laws/Constitution>

[§ 732.401 & § 732.4015 — Descent and devise of homestead](https://www.flsenate.gov/Laws/Statutes/2025/732.4015)

<https://www.flsenate.gov/Laws/Statutes/2025/732.4015>

[§ 201.02 — Documentary stamp tax on deeds](https://www.flsenate.gov/Laws/Statutes/2025/201.02)

<https://www.flsenate.gov/Laws/Statutes/2025/201.02>

[Rule 12B-4.013, F.A.C. — Conveyances subject to documentary stamp tax](https://www.flrules.org/gateway/ruleno.asp?id=12B-4.013)

<https://www.flrules.org/gateway/ruleno.asp?id=12B-4.013>

[Rule 12B-4.014, F.A.C. — Conveyances not subject to tax](https://www.flrules.org/gateway/ruleno.asp?id=12B-4.014)

<https://www.flrules.org/gateway/ruleno.asp?id=12B-4.014>

[Florida Dept. of Revenue — Technical Assistance Advisements \(including TAA 20B4-004 on Lady Bird deeds\)](https://floridarevenue.com/TaxLaw/Pages/default.aspx)

<https://floridarevenue.com/TaxLaw/Pages/default.aspx>

[§ 193.155 — Homestead assessments; change of ownership \(Save Our Homes\)](https://www.flsenate.gov/Laws/Statutes/2025/193.155)

<https://www.flsenate.gov/Laws/Statutes/2025/193.155>

[§§ 193.1554–193.1555 — Assessment caps on non-homestead property](https://www.flsenate.gov/Laws/Statutes/2025/193.1554)

<https://www.flsenate.gov/Laws/Statutes/2025/193.1554>

[§ 196.031 & § 196.041 — Homestead exemption; life-estate holders](https://www.flsenate.gov/Laws/Statutes/2025/196.041)

<https://www.flsenate.gov/Laws/Statutes/2025/196.041>

[Florida Dept. of Revenue — Property Tax Oversight](https://floridarevenue.com/property/Pages/default.aspx)

<https://floridarevenue.com/property/Pages/default.aspx>

[Chapter 627, Part XIII, Fla. Stat. — Title Insurance](https://www.flsenate.gov/Laws/Statutes/2025/Chapter627)

<https://www.flsenate.gov/Laws/Statutes/2025/Chapter627>

[26 U.S.C. § 1015 — Carryover basis of gifted property](https://www.law.cornell.edu/uscode/text/26/1015)

<https://www.law.cornell.edu/uscode/text/26/1015>

[26 U.S.C. § 1014 — Stepped-up basis of property acquired from a decedent](https://www.law.cornell.edu/uscode/text/26/1014)

<https://www.law.cornell.edu/uscode/text/26/1014>

[26 U.S.C. § 2503 — Gift tax annual exclusion](https://www.law.cornell.edu/uscode/text/26/2503)

<https://www.law.cornell.edu/uscode/text/26/2503>

[26 U.S.C. § 121 — Exclusion of gain on sale of principal residence](https://www.law.cornell.edu/uscode/text/26/121)

<https://www.law.cornell.edu/uscode/text/26/121>

[12 U.S.C. § 1701j-3 — Due-on-sale clauses; exempt transfers](https://www.law.cornell.edu/uscode/text/12/1701j-3)

<https://www.law.cornell.edu/uscode/text/12/1701j-3>

[Rules Regulating The Florida Bar, Chapter 10 — Unlicensed practice of law; nonlawyer form assistance \(Rules 10-2.1 and 10-2.2\)](https://www.floridabar.org/rules/rrtfb/)

<https://www.floridabar.org/rules/rrtfb/>

[In re Amendments to Fla. Family Law Rules of Procedure and Rule Regulating The Florida Bar 10-2.2, No. SC2026-1262 \(Fla. Sept. 10, 2026\) — nonlawyer form-assistance disclosure](https://flcourts-media.flcourts.gov/content/download/2495059/opinion/Opinion_SC2026-1262.pdf)

https://flcourts-media.flcourts.gov/content/download/2495059/opinion/Opinion_SC2026-1262.pdf

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Respectfully prepared for your education,

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