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Quitclaim Deeds in Montana

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Quitclaim Deeds. What are they? When are they used? What are the risks? What could be some of the unintended tax consequences?

A MONTANA QUITCLAIM DEED IS A LEGAL FORM THAT allows for the transfer of real property (land and buildings) from a person typically called the **grantor**, to another person, usually called the **grantee**. The word “person” also includes an entity such as a trust or limited liability company (LLC). After the transfer, the grantee then holds title to the property. This MontGuide answers questions commonly asked about quitclaim deeds filed in Montana.

Does a quitclaim deed have the same features as a warranty deed?

No. A quitclaim deed is different from a warranty deed for real property. As its name suggests, a **warranty deed** usually includes several warranties. Warranties are a guarantee or promise. The grantor of a warranty deed makes promises or guarantees to the grantee about the title of the real property and its transfer to the grantee.

A **quitclaim deed** does not include any promises or guarantees to the grantee. Whatever interest the grantor has in the real property – even if the interest is nothing – that is what the grantee receives.

The grantee of a quitclaim deed accepts the risk of any known or unknown problems with the real property. The real property the grantee receives from a quitclaim deed can present problems. Unknown claims against the property could include a defect in a title, collection liens, missing heirs, unknown easements, survey disputes or a previous mortgage.

The previous owners of the property may create other problems for a grantee. An owner may have placed restrictions on the use of the property, commonly called covenants. A former owner may have established rules against parking a recreational vehicle in a driveway or having a car on blocks for a repair job on the lawn.

When is a quitclaim deed used?

Quitclaim deeds are rarely used for traditional real estate transfers by land title companies in Montana. A **title company** researches property records in a title search to verify the valid owner of real property. A title company also issues title insurance to protect the lender and/or owners against lawsuits or claims against the property that result from issues with quitclaim deeds discussed previously. Before issuing title insurance, some title companies may use a quitclaim deed to clear up some of these problems.

Quitclaim deeds are sometimes used between spouses to ensure both spouses names appear on the property. A quitclaim deed transfers any interest the person may have in the real property to the borrower-spouse. Lenders may require a quitclaim deed so that names on loans and property match. Other common reasons Montanans file a quitclaim deed include:

- Clear up questions or correct problems with the title;
- Sell or transfer property to family members;
- Add a new spouse to the title;
- Transfer of ownership between divorcing spouses;
- Remove a name from the title;
- Correct a spelling mistake of owners on the title;
- Correct an owner's name in the case of a name change or a gender reassignment;
- Transfer legal ownership of real property to an ex-spouse or a business organization;
- Remove a deceased person's name
- Transfer ownership of land to a trust.

Are there any taxes due when a quitclaim deed is filed?

Quitclaim deed transfers to a spouse or to a qualifying charity are not taxed. However, if the grantor owes property taxes or has a federal or state income tax lien, the grantor must pay the taxes.

While no money typically changes hands with a quitclaim deed, the Internal Revenue Service applies federal gift tax rules to the transfer if a gift is involved. Suppose a parent files