
General Warranty Deeds vs. Special Warranty Deeds in Real Estate Transfers

When transferring real estate, a “Deed” is the name of the most common document used to transfer title from one owner to the next. The most common deeds are the General Warranty Deed and the Special Warranty Deed. These are **not** “warranties” as they relate to the condition of the property, such as the foundation or an air-conditioner. Instead, these are warranties of title or ownership of the property. The primary difference between these two deeds is the extent of the “warranties” the seller is giving to the buyer.

General Warranty Deeds provide the highest level of protection for the buyer. They guarantee that the seller holds clear title to the property and has the right to sell it, free of any encumbrances, liens, or claims, extending back to the property's origins. The seller commits to defending the buyer against any claims related to the property’s title, even if they arose before the seller's ownership. It’s important to note that without a proper title search and title insurance, the warranty for any type of deed is only as good as the knowledge and intention of the seller. In other words, any seller can intentionally or unintentionally misrepresent a property’s title history, therefore it is never advisable to receive any type of deed for real estate without title insurance accompanying it.

Special Warranty Deeds, offer more limited, or as some say “realistic” protection. They only assure that the seller has not incurred any title issues during their period of ownership. The seller does not warrant against defects that existed before they acquired the property. Sellers of multiple properties, such as banks, builders, and institutional real estate investment trusts (REITs) prefer and in many cases are legally restricted to offering this type of deed, primarily because of the scale, expense, and liability required to warranty large numbers of properties back to each property’s origin.

However, if the buyer secures a **Title Insurance Policy**, the limitations of a Special Warranty Deed are effectively mitigated. Title insurance protects the buyer from financial loss due to title defects, encumbrances, or claims that may not be covered by the Special Warranty Deed or that may have been misrepresented by a General Warranty Deed. This policy ensures that the buyer’s interest in the property is safeguarded regardless of past title issues, providing peace of mind and comprehensive coverage.

In summary, while a General Warranty Deed offers broader protection directly from the seller, **a Special Warranty Deed combined with title insurance can provide equivalent security for the buyer, ensuring their investment is protected.**

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