

Deeds.com Guide to Fighting Real Estate Deed Fraud

I. The Problem

As real estate owners, we understand the importance of regular maintenance, property insurance, and other routine tasks designed to preserve the value of what is, for many of us, our most significant asset—our real estate. One thing that often escapes our attention, though, is a routine examination of the public records.

Recent stories in Texas, Illinois, Pennsylvania, Ohio, and Florida tell us about people from every walk of life who were shocked to discover that they no longer owned real estate they thought was theirs. Whether it is a family home, a business, a vacation property, or anything else, we expect our land to stay in our control until *we* decide to transfer it. On the surface, it is counter-intuitive to think that a person can simply record a **deed** and steal our property, but similar scams are occurring with increasing regularity across the country.

How can this kind of theft happen? Purchases of real estate involve dealing with numerous regulations and signing forms that require proof of identity. This process is intended to ensure valid transfers and to preserve clear **chains of title**. For honest purchasers, the requirements may feel like unnecessary hoops to jump through; for criminals, they provide an opportunity to cheat unwary property owners.

II. Deed Basics

Before examining this complex issue, let's discuss some fundamental details. All fifty states and the District of Columbia demand written documents (primarily deeds) to transfer ownership of real property. A brief statutory review shows that these documents must contain, at minimum, the following information in order to effectively convey an interest in property:

Minimum requirements for all real estate deeds

- A title clearly stating the nature of the document (**warranty deed, grant deed, quitclaim deed**, and so on)
- The name of the property's owner of record (the **grantor**)
- A granting clause that states the grantor's intent to convey the property to the **grantee**
- The purchaser's name (the grantee)
- A detailed, formal description of the property
- The signature and printed name of the grantor or an authorized representative
- An **acknowledgement**¹ by a notarial officer

Valid **conveyances** require that the executed deed be delivered to and accepted by the grantee. Because **actual** (hand-to-hand) **delivery** is not always possible, most states also allow **constructive delivery**, wherein an acknowledged and recorded deed presumes prima facie evidence of due delivery.² The delivery requirement exists to ensure that the grantee knows about the transfer of ownership as well as the associated responsibilities such as taxes and maintenance.

Recording the deed, while not expressly required by law in every state, is an important factor in securing interests in real estate. Entering ownership changes into the public record serves as

¹ Glossary items are boldfaced the first time they appear in the text.

² For example, see C.R.S. 38-35-101 (2013).

constructive notice to future buyers, who should research the chain of title prior to purchasing property.

III. Forgery

Black's Law Dictionary defines **forgery** as the “act of fraudulently making a false document or altering a real one to be used as if genuine.” It is a criminal offense in the US, designated as either a felony or a high-degree misdemeanor. In some states, the charges depend on the details of the crime, including the dollar amount and/or the nature of the document; forging real estate deeds generally leads to a higher-level offense.

Types of deed forgery

Many fraudulent deeds contain one or more forged details. The grantor or an authorized representative must sign all real property deeds, so a “false document” may be a new transfer with a non-authentic signature. A signer may pose as the property owner and sign the deed in front of a **notary**. Others may use a completely made-up name or identify themselves as the owner’s personal representative.

Seemingly legitimate deeds become another kind of false document if the forger first executes and files a deed wherein he/she signs as the actual property owner or personal representative and conveys the **title** to him/herself. Once the records are changed, the fraudulent grantor sells the property to an innocent third party. These transactions often involve quitclaim deeds, which offer no warranties of title.

Altering an original, valid document is another kind of forgery. A criminal might gain access to a property owner’s actual deed, often by intimidation, misinformation, or outright theft. Depending on the individual state’s rules on correcting recorded documents, it might be possible to change some non-material details on the original deed and re-record it with the updated (but fraudulent) information.

IV. Public Records

Forgery brings other issues, too. When deeds containing forged or otherwise fraudulent information enter the public record, they perpetuate this junk data. This causes additional problems because numerous people and businesses access this information every day for real estate purchases, **mortgages**, title research, credit checks, and so forth.³

The role of public real estate records

Among other things, public land records verify real estate holdings. They confirm the existence of ownership claims by identifying boundaries, locations, and the chain of title. They also provide evidence of liens, easements, or other claims associated with the property.

The amount and type of data contained within these records has changed over the years, largely in response to concerns about identity theft. To comply with requirements designed to protect personally identifiable information such as social security numbers and dates of birth, those details can often be redacted from previously recorded documents and not included on new forms submitted for recording.

Recording offices across the country face the challenge of preserving sensitive details while still allowing open access to essential data. Before the advent of modern storage techniques, deed

³ For a fuller discussion of public land records, see http://www.nsgic.org/public_resources/DSWGL_12_PRIA_White_Paper_Final_010406.pdf

searches required an in-person visit to the agency responsible for maintaining them; this is still a viable option. This method was automatically more secure because there was no other way to view the information. Browsing through transactions also presented a challenge – effective searches required prior knowledge of indexing details contained within a recorded deed.

The introduction of electronic documents and e-recording, as well as digital preservation and storage, are further attempts to strike a balance between privacy and availability. Online access to recorded documents and their images varies widely. Some jurisdictions require registration or subscriptions for any remote viewing. Others only provide names and property addresses for each transaction, and some **recorders** choose to make the full repository searchable.

Even with protections in place, public records are often the first place criminals look when they prepare falsified documents. Plus, the basic information used in deed forgery is likely to remain available: the parties' names and the property address, and often, the tax parcel ID and legal description.

Accessible public records are a necessary part of our legal landscape; we depend on their security and accuracy. Because deeds and other **instruments** relating to transfer of real property require notarization prior to recording, it makes sense to view notaries and recorders as gatekeepers – notaries can refuse to acknowledge a document if they believe its signature is forged or otherwise inauthentic, and recorders can refuse to accept documents without proper acknowledgement. These rejections should prevent at least some criminal acts, protect legitimate property rights, and help to maintain the overall integrity of the records.

V. Notaries Public

Notaries and deed forgery

Notaries are not permitted to determine a deed's correctness, but they can analyze the contents relating to their certificate and refuse to acknowledge anything that fails to meet the standards. Because notaries play such a significant role in legal documentation, we might expect training and supervision in line with their responsibilities, but this is not always the case. Instead, the rules for non-attorney notaries vary. Authorized notarial acts may also differ from one state to the next.⁴

Some states demand classes, tests, and continuing education while others only ask for a completed application and a payment. A criminal record is not an automatic disqualification in every state. (This detail is surprising, especially in light of the topic at hand.) Notary bonds and journals are not always required. For example, both new and renewing Pennsylvania notaries must complete three hours of coursework per term, maintain a journal of notarial acts, and keep a \$10,000 notary bond (57 Pa. C.S. Chapter 3). Contrast this with neighboring West Virginia, which has no such obligations for its notaries (W. Va. Code § 29C).

Administrative inconsistencies aside, deeds must meet certain minimum requirements for notarization:

- Witnessed original signature
- Location
- Date
- Full name of each signer
- Acknowledgement statement appropriate for nature of the document

⁴ <https://www.asnnotary.org/?form=stateinfo>

- Notary's name/rank
- Commission expiration date

All notaries are expected to know and understand these and any other locally specific rules. Verifying the information's authenticity prior to performing the notarial act is supposed to safeguard all parties, and render the instrument eligible for recording. Because we place so much trust in notarized documents, such as deeds, it comes as a surprise when we learn about notaries who participating in dishonest activity.

When a deed contains forged signatures, the notary may or may not be involved. As accomplices to the fraud, they might notarize a document containing a signature they know is faked. They might also facilitate fraudulent transfers by disregarding irregularities that should lead to a refusal to certify. For example, notaries must actually watch the signer execute the document – acknowledging a signature without witnessing the signing is a direct violation.

The forgery may also take place without the notary's active participation. For example, the fraudster might use a stolen or counterfeit notary stamp/seal. Another common trick involves using an "island" notary page in a multiple-page document: the acknowledgement form is presented separately from the actual deed document and contains little or no reference to the property being transferred or the parties named in the conveyance—it is effectively meaningless. Once the document is notarized, the main deed form is replaced with a fraudulent one. Alternately, someone presents an "island" notary page by itself, with no related document, and expects the notary to acknowledge the signature.

Ways notaries can help prevent deed forgery

What other changes could help notaries reduce fraud without causing them to act beyond the limits of their responsibilities? The following suggestions are intended to start the conversation:

- Unify state requirements/rules
- Require positive identification of signatories.
 - This is already law in most jurisdictions, but it bears repeating.
 - For example, add a thumbprint requirement
 - Required in some states (ex: California)
 - Possible deterrent because it might make prosecution easier, especially if the criminal already has a record.
- Refuse to notarize documents with island notary pages.
- Require signatures and acknowledgments on the same page.
- Ensure that the parties' names and property information are consistent throughout the document.
- For multiple-page documents, require consistent, sequential marks (i.e. initials, numbers, stamps) on every page of the document being notarized.
- Verify correct acknowledgment for situation (individual, corporate, etc.).
 - Corporate officers must provide proof of position within company.
- Add a statutory requirement for all notaries to maintain and routinely upload a log/journal.
 - Many states direct, but do not always require by statute, each notary to maintain a journal of notarial acts that might include details such as the type of document, signer's name, type of identification, and signing date.
 - In states where sequential journals are not required, dishonest notaries can simply deny that they participated in a questionable transaction.
 - What is an appropriate frequency? Yearly, quarterly, monthly?

Notaries are the first line of defense against deed fraud. Most are honest and take their responsibilities seriously. For them, tighter regulation will likely amount to a slight inconvenience. For the dishonest, however, stricter guidelines, rigorous enforcement, and harsher penalties might change their minds about participating in illegal activities.

VI. Recordors

Recordors and deed forgery

Recordors also play an essential role in preventing deed fraud. As with notaries, however, the recorder's office and its employees are not responsible for determining the authenticity of each instrument presented to them. The Recorder of Deeds for Cook County, Illinois, is working toward changing state law to allow recording offices to intervene before the transfer under the forged deed takes effect.⁵

Until this happens, though, recordors in Illinois and the other states are only permitted to verify that submitted documents meet the minimum requirements for **recording**. Working within the current framework, increased fraud detection training coupled with more stringent adherence to the current rules could discourage abuse.

Ways the recorder's office might prevent deed forgery

As with notaries, inconsistencies in recording requirements from state to state can lead to confusion. How can recording office staff reject fraudulent documents while following statutory obligations and limits? Even though unified statutes may not be a viable solution, recordors can become more proactive in preventing forgeries. Here are some possible ideas:

- Employ an on-site attorney to evaluate the documents prior to accepting them.
 - This option could be cost-prohibitive in some locations.
 - It could act as a strong deterrent in jurisdictions where deed forgery is a consistent issue.
- Provide a fraud prevention notification program as a service to property owners.
 - Alerts owners of real estate when the enrolled land appears in a recorded document.
 - Offer automatic signup with recording.
 - A national registry may be impractical, but implementing a statewide program is a more manageable option.
- Add a witness requirement, in addition to notarization, for documents transferring land ownership.
 - This might help, but Florida requires two witnesses on real property transfers (Fla. Stat. § 689.01) and they still have a problem.
- Maintain database of notaries who have previously been involved in forgery.
 - Similar databases are already active in many states. For example,
 - Ohio's includes information about active and inactive notaries⁶
 - Arizona's allows a general search based on location, name, etc.⁷
 - Cross-checking a database of active valid notaries prior to recording should increase the chance of flagging a forged notarization.
 - Include an option for notaries to report lost or stolen stamps to the same registry.
- State that documents with island notary pages are invalid/not suitable for recording.
- Require notarized grantee signatures and ID.

⁵ <http://cookrecorder.com/>

⁶ <http://www.sos.state.oh.us/recordsIndexes/Notary/Search.aspx>

⁷ http://www.azsos.gov/business_services/notary/Services.htm

- Designate harsher penalties for deed forgery.
 - Forgery is already either a felony or a serious misdemeanor in all 50 states.
 - Specifically classifying deed forgery as a felony might encourage reluctant local law enforcement to investigate allegations.
 - Increase criminal prosecutions and penalties.

Recorders are obligated to process deeds that meet minimum statutory requirements. They are expressly forbidden from analyzing the contents of documents presented to them because that review might cross over into unlawful practice of law. Still, it makes sense to expand the authority of recording office staff, at least allowing them to suspend acceptance of deeds containing potential irregularities until the suspect information is verified.

VII. Owners

**Suggestions
for owners**

Given the current limits in place for intervention on the parts of notaries and recorders, how can we, as property owners, protect ourselves and our assets? Tools are available, but they depend on a proactive approach and diligent follow-up.

One simple preventive measure is signing up for fraud prevention notifications through the local recording office. While these programs are not available everywhere, their primary purpose is to alert owners when documents or transfers involving their enrolled property enter the public record.

Regularly reviewing your own property records is another simple, inexpensive step. Land records for a majority of the US are available for viewing online, often for little or no charge. In addition, recording locations generally allow free in-person searches from terminals or books located in the office. Deeds.com recommends that owners check these records at least every six months.

Consider purchasing title insurance. This product is intended to protect the interests of two primary groups: lenders and homeowners.⁸

- A loan policy, which most lenders require when they issue a mortgage, safeguards the lender against any title issues that arise during the period of indebtedness. The annual cost of this policy decreases with the balance of the loan, and it is cancelled when the borrower repays the note.
- A separate owner's policy is purchased by the buyer for a one-time fee at the closing, and usually covers the amount of the real estate purchase. It protects against unexpected title problems, such as unknown heirs and errors and omissions in the chain of title or on recorded deeds. Recently, many owner's policies have been expanded to defend against forgery and other types of deed fraud.

While title insurance is generally only available at the time of purchase, there may be other options. Contact a local title agency or the American Land Title Association for more information.

Check your credit report at least once per year. Victims of deed forgery may also be susceptible to identity theft, and your credit report often shows the earliest signs that something is amiss.

⁸ <http://www.homeclosing101.org/whyneed.cfm>. Note that this is general information. Actual policies may differ from state to state, or based on circumstances.

Visit annualcreditreport.com for a free copy of your report from each of the three primary credit reporting companies. Pay close attention to new or unusual activity, as well as unexpected negative information. Address any irregularities right away.

Communicate with the entity holding your mortgage if you realize you will have trouble making the payments – this is most effective when the account is still current. Many mortgage lenders offer programs to help, but the availability of assistance tends to decrease as the account becomes past due. This tactic can help preserve your credit and may prevent or delay foreclosure actions.

As property owners, we must actively engage in protecting our interests. This takes time and effort, but failing to pay adequate attention to real estate assets could, at best, result in lengthy legal battles to restore formal ownership rights. A bad outcome might lead to permanent loss of property, ruined credit, and the waste of hundreds or thousands of dollars on fruitless attempts to resolve an issue that might well have been prevented.

VIII. Warning Signs

Red flags

Pay attention to clues that something is amiss with the title.⁹ Know the status of your property and its documentation (condition, maintenance schedule, mortgage, property tax payments and due dates, insurance) and respond immediately to unplanned changes. Look out for the following red flags:

- Receiving a demand for payment in full from mortgage holder
 - Some mortgages include provisions that a transfer of ownership triggers immediate payment of balance due.
- Not receiving an expected property tax bill or notice
- Discovering unauthorized changes made to a document you previously recorded
- Receiving information in the mail about a mortgage or other financial obligation that you did not request
- Encountering unexpected activity at your property
- Finding a notice of foreclosure, default, or trustee's sale when the property is paid in full, or the mortgage payments are current
- Reviewing your deed and finding a new name added as an owner

Prevention is essential, but so is awareness. Take note of changes related to your property and investigate any suspicious activity immediately. Although circumstances are improving in some situations, it can be difficult to convince local law enforcement to investigate allegations of deed forgery and its associated crimes. As such, a quick response while the trail is still warm increases the likelihood of a positive outcome for the owner.

IX. Risk Factors

Common targets

Anyone can fall victim to crimes associated with deed forgery – even financial professionals like a Chicago city treasurer.¹⁰ We are all at risk, but specific factors make some kinds of property and/or groups of people more attractive to criminals.

⁹ The California Department of Real Estate drafted a useful consumer alert about deed forgery. The CDRE alert was a valuable resource for several sections of this white paper, but especially sections VIII-Warning Signs and X-Victims. http://www.dre.ca.gov/files/pdf/ca/2012/ConsumerAlert_ForgedFraudulentDeeds.pdf

¹⁰ <http://cookrecorder.com/dirty-deeds-nbc-shows-how-loophole-could-cost-you-your-home/>

Unoccupied, abandoned, or distressed homes, lots, or businesses are easy targets for fraudsters. If you have multiple real estate holdings, make a habit of visiting each one regularly, at unpredictable times. Keep all properties in the best possible condition. Maintain and secure doors, locks, and windows.

Pay attention to homes owned by deceased friends or relatives. Criminals watch the death notices and can act quickly to steal the property by forging the name of the decedent on a deed, then recording the document in an attempt to secure title.

Senior citizens, immigrants, and those facing foreclosure or other financial difficulties are also at risk. These groups are often perceived as vulnerable by scammers who try to bully or confuse them into signing away their rights. In particular, criminals found guilty of defrauding seniors of their homes are also frequently convicted of elder abuse, which adds additional penalties.

Understand who and what faces the highest degree of risk for deed-related crimes. Reduce obvious signs of neglect and take the time to check on those who might be more likely to fall prey to scams. This increased awareness can put members of targeted groups on notice, and encourage more aggressive preventative actions.

X. Victims

Advice for victims

If you become a victim of deed forgery or its associated crimes, all is not lost. Take control of the situation by knowing your rights, pressing charges, and actively following up on any resulting investigation.

Report the theft to local law enforcement IMMEDIATELY. Depending on the location, police might be unwilling to investigate the crime, so be prepared to call county or state officials, too. If the property is situated in a different municipality than your primary residence or place of business, contact your area's authorities as well. Remember, forgery is a criminal offense in the US, so if nothing else works, contact the FBI.

Gather all relevant documents (deeds, mortgages, insurance policies, etc.) to provide a starting point. In fact, why wait for an emergency? Organize this information today and store it in one accessible location. This way, if the police need additional documentation for your case, you will be able to provide it quickly.

Alert the recorder for the county where the property is located. There might be procedures in place to help you. Some counties have established real estate fraud units to focus on this problem. A Chicago-area woman's quick response saved her property when she caught the thief in the midst of changing the locks on her front door!¹¹ She contacted the recorder's fraud unit, who reviewed the property's chain of title, saw the potential crime, and brought in the police. Even if the recorder's office is unable to help you directly, bringing the crime to their attention might stop the scammer from victimizing others.

Contact an attorney who specializes in real estate law. If you cannot afford legal counsel, call the state or local bar association for the names of attorneys who might help you at a reduced fee. The lawyer should be able to help identify the nature of the fraud (void or voidable) and to initiate actions to protect or regain your interest in the property.

¹¹ <http://chicago.cbslocal.com/2013/09/05/recorder-cracking-down-on-home-hijacking-fraud/>

XI. Scams and Secondary Victims

**Scams and
their larger
impact**

Deed forgery is one of many real estate scams with the potential to harm multiple victims. When defending against any of them, a quick response is the most important thing. The original owner's chance of successfully restoring title also depends on the type of criminal act and the recording statute in place for the jurisdiction. Here are some of the more common tricks involving forged deeds:

House flipping is a legitimate investment plan in which distressed properties are purchased for a low price, quickly repaired, and resold. Plenty of these transactions are legal, but they make use of quick turnovers, which do not leave much time for title searches. As such, it is an attractive scheme for fraudsters.

Properties used in house flipping scams may be sold at prices that are either unusually high or unusually low for the local market; criminal involvement in house flipping tends to involve fraudulent appraisals and target unused or abandoned houses.¹² The deeds may also contain forged signatures in order to sell the property to a third party.

House stealing involves many of the same characteristics of house flipping. The FBI discusses several scenarios for house stealing, all of which include deed forgery and identity theft.¹³ After identifying a likely property, (most often abandoned or unoccupied, but sometimes with residents still living inside!) the scammers, posing as the owners, sign deeds transferring ownership into their names (or their fake names). Or, the criminals may claim to be personal representatives of the estate of a deceased owner, or refer to non-existent powers of attorney. Then, at least on paper, they have rights to the property and can sell, rent, or otherwise abuse it at will. These transactions often use quitclaim deeds and may not require a mortgage, so they are unlikely to involve title insurance.

In addition to deed forgery and identity theft, house flipping and house stealing can also include other crimes, including elder abuse, property theft, **tax fraud**, and **mortgage fraud**.

Forged deeds can also be a component of a mortgage fraud. As with house stealing, the FBI is actively working to educate vulnerable homeowners about this type of real estate crime.¹⁴ They define mortgage fraud as “a material misstatement, misrepresentation, or omission relied upon by an underwriter or lender to fund, purchase, or insure a loan. There are two types of Mortgage Fraud: fraud for property and fraud for profit. Fraud for Property, also known as Fraud for Housing, usually involves the borrower as the perpetrator on a single loan... Fraud for Profit involves industry professionals. There are generally multiple loan transactions with several financial institutions involved.”¹⁵

If there is still an outstanding mortgage on the real estate, recording a transfer might trigger a “due on sale” clause if/when the lender receives notice. Alternately, the fraudulent owners could apply for a new first or second mortgage on the property, take the money, and never make a payment.

¹² <http://www.fbi.gov/stats-services/publications/financial-crimes-report-2010-2011/financial-crimes-report-2010-2011#Mortgage>

¹³ http://www.fbi.gov/news/stories/2008/march/housestealing_032508

¹⁴ http://www.fbi.gov/about-us/investigate/white_collar/mortgage-fraud

¹⁵ <http://www.fbi.gov/news/pressrel/press-releases/mortgage-fraud-operation-quick-flip>

In addition to forgery, mortgage fraud might include other criminal acts, such as identity theft, property theft, tax fraud, **mail fraud**, **wire fraud**, and elder abuse.

In addition to the crimes perpetrated against the primary homeowners, others suffer losses from deed fraud, too. What happens to **bona fide purchasers** of real property that turns out to be stolen? Depending on the type of deed and the nature of the fraud, they might end up with nothing but an expensive lesson.

XII. Conclusion

Deed forgery is an increasingly common problem. The methods may vary, but the net outcome is the same: loss of property. We have three primary lines of defense against it: notaries, recorders, and owners. Each of these groups plays a role in protecting our property rights, but the most important tools for everyone are diligence and responsiveness.

Notes

Glossary

Acceptance: An offeree's assent, either by express act or by implication from conduct, to the terms of an offer in a manner authorized or requested by the offeror, so that a binding contract is formed. [In the present context, the offeree is the grantee/purchaser of real estate, and the offeror is the grantor/seller.]

Acknowledgment: A formal declaration made in the presence of an authorized officer, such as a notary public, by someone who signs a document and confirms that the signature is authentic. In most cases, the officer certifies that (1) he or she personally knows the document signer or has established the signer's identity through satisfactory evidence; (2) the signer appeared before the officer on the date and in the place (usually the county) indicated; and (3) the signer acknowledged signing the document. [Also, a name for] the officer's certificate that is affixed to the document.

Bona fide purchaser: One who buys something for value without notice of another's claim to the property and without actual or constructive notice of any defects in or infirmities, claims, or equities against the seller's title; one who has, in good faith, paid valuable consideration for property without notice of prior adverse claims. Generally, a bona fide purchaser for value is not affected by the transferor's fraud against a third party and has a superior right to the transferred property as against the transferor's creditor to the extent of the consideration that the purchaser has paid.

Chain of title: The ownership history of a piece of land, from its first owner to the present one.

Consideration: Something (such as an act, a forbearance, or a return promise) bargained for and received by a promisor from a promisee; that which motivates a person to do something, esp. to engage in a legal act. Consideration, or a substitution such as promissory estoppel, is necessary for an agreement to be enforceable. [In the present context, consideration identifies something of value, usually money, given by the grantee to the grantor in exchange for rights to a specific parcel of real property.]

Conveyance: The transfer of an interest in real property from one living person to another, by means of an instrument such as a deed. [Also,] the document (usually a deed) by which such a transfer occurs.

Deed: A written instrument by which land is conveyed. At common law, any written instrument that is signed, sealed, and delivered, and that conveys some interest in property.

Bargain and sale deed: A deed that conveys property to a buyer for valuable consideration but that lacks any guarantee from the seller about the validity of the title. [In most jurisdictions, the bargain and sale deed has been replaced by the statutory grant deed.]

Grant deed: A deed containing or having implied by law, some but not all of the usual covenants of title; especially, a deed in which the grantor warrants that he or she (1) has not previously conveyed the estate being granted, (2) has not encumbered the property except as noted in the deed, and (3) will convey to the grantee any title to the property acquired after the date of the deed. [Also, special warranty deed.]

Quitclaim deed: A deed that conveys a grantor's complete interest or claim in certain real property but that neither warrants nor professes that the title is valid. [Quitclaim deeds are commonly used in forgery situations.]

Warranty deed: A deed containing one or more of the covenants of title; esp., a deed that expressly guarantees the grantor's good, clear title and that contains covenants concerning the quality of title, including warranties of seisin, quiet enjoyment, right to convey, freedom from encumbrances, and defense of title against all claims.

Deed of trust (trust deed): A deed conveying title to real property to a trustee as security until the grantor repays a loan. This type of deed resembles a mortgage [and generally accompanies a promissory note.]

Delivery: The formal act of transferring something, such as a deed; the giving or yielding possession or control of something to another.

Actual delivery: The act of giving real and immediate possession to the buyer or the buyer's agent.

Constructive delivery: An act that amounts to a transfer of title by operation of law when actual transfer is impractical or impossible.

Forgery: The act of fraudulently making a false document or altering a real one to be used as if genuine. Though forgery was a misdemeanor at common law, modern statutes typically make it a felony. A false or altered document made to look genuine by someone with the intent to deceive. Under the Model Penal Code, [forgery is] the act of fraudulently altering, authenticating, issuing, or transferring a writing without appropriate authorization.

Fraud: A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Fraud is usually a tort, but in some cases (esp. when the conduct is willful) it may be a crime.

Bank/mortgage fraud: The criminal offense of knowingly executing, or attempting to execute, a scheme or artifice to defraud a financial institution, or to obtain property

owned by or under the control of a financial institution, by means of false or fraudulent pretenses, representations, or promises. [May also include mail fraud and/or wire fraud.]

Tax fraud/tax evasion: The willful attempt to defeat or circumvent the tax law in order to illegally reduce one's tax liability. Tax evasion is punishable by both civil and criminal penalties.

Grantee: One to whom property is conveyed. [Usually the buyer]

Grantor: One who conveys property to another. [Usually the seller/owner]

Instrument: A written legal document that defines rights, duties, entitlements, or liabilities, such as [a deed,] contract, will, promissory note, or share certificate.

Mortgage: A conveyance of title to property that is given as security for the payment of a debt or the performance of a duty and that will become void upon payment or performance according to the stipulated terms. A lien against property that is granted to secure an obligation (such as a debt) and that is extinguished upon payment or performance according to stipulated terms.

Notary Public: A person authorized by a state to administer oaths, certify documents, attest to the authenticity of signatures, and perform official acts in commercial matters.

Notary's certificate: A notary's signed and sealed or stamped statement attesting to the time and place that the specified acts and documents were authenticated.

Notary seal: The imprint or embossment made by a notary public's seal.

Notice: Legal notification required by law or agreement, or imparted by operation of law as a result of some fact (such as the recording of an instrument); definite legal cognizance, actual or constructive, of an existing right or title. A person has notice of a fact or condition if that person (1) has actual knowledge of it; (2) has received information about it; (3) has reason to know about it; (4) knows about a related fact; or (5) is considered as having been able to ascertain it by checking an official filing or recording.

Actual notice: Notice given directly to, or received personally by, a party.

Constructive notice: Notice arising by presumption if law from the existence of facts and circumstances that a party had a duty to take notice of, such as a registered deed or a pending lawsuit; notice presumed by law to have been acquired by a person and thus imputed to that person.

Promissory note: An unconditional written promise, signed by the maker, to pay absolutely and in any event a certain sum of money either to, or to the order of, the bearer or a designated person.

Recordation: The act or process of recording an instrument, such as a deed or mortgage, in a public registry. Recordation generally perfects a person's interest in the property against later purchasers (including later mortgagees), but the effect of recordation depends on the type of recording act in effect.

Recorder/Register of Deeds: A municipal or county officer who keeps public records such as deeds, liens, and judgments.

Recording act: A law that establishes the requirements for recording a deed or other property interest and the standards for determining priorities between persons claiming interests in the same property (usually real property). Recording acts – the three main types of which are the *notice statute*, the *race statute*, and the *race-notice statute* – are designed to protect bona fide purchasers from earlier unrecorded interests.

Notice act/statute: A recording act providing that the person with the most recent valid claim, and who purchased without notice of an earlier, unrecorded claim, has priority.

Race-notice act/statute: A recording law providing that the person who records first, without notice of prior unrecorded claims, has priority.

Race act/statute: A recording act providing that the person who records first, regardless of notice, has priority.

Title: The union of all elements (as ownership, possession, and custody) constituting the legal right to control and dispose of property; the legal link between a person who owns property and the property itself. Legal evidence of a person's ownership rights in property; an instrument (such as a deed) that constitutes such evidence.

Title search: An examination of public records to determine whether any defects or encumbrances exist in a given property's chain of title. A title search is typically conducted by a title company or a real-estate lawyer at a prospective buyer's or mortgagee's request.

Void deed: Of no legal effect; null. [In almost all cases, a deed with a forged grantor's signature is void.]

Voidable deed: Valid until annulled; esp. capable of being affirmed or rejected at the option of one of the parties. This term describes a valid act that may be voided rather than an invalid act that may be ratified.

All definitions are from *Black's Law Dictionary* (8th Ed.2004). Text in [brackets] added for clarification.

References:

- <http://www.deeds.com/>
http://www.dre.ca.gov/files/pdf/ca/2012/ConsumerAlert_ForgedFraudulentDeeds.pdf
<http://cookrecorder.com/>
http://www.fbi.gov/news/stories/2008/march/housestealing_032508
<http://www.phila.gov/districtattorney/fraud/RealEstate.html>
<http://www.phila.gov/records/documentrecording/Deeds.html>
<http://www.shouselaw.com/forging-deeds.html>
<http://homeequitytheft-cases-articles.blogspot.com/search?q=%22DeedVoidVoidable%22>
<http://www.advocacycentreelderly.org/appimages/file/Title%20Fraud.pdf>
<http://www.homeclosing101.org/shopping.cfm>
<http://www.alt.a.org/consumer/index.cfm?CFID=24423722&CFTOKEN=45322532&jsessionid=843041a0d26299da082a104d283934512977>
<https://www.annualcreditreport.com/index.action>
<http://www.consumer.ftc.gov/articles/0058-credit-repair-how-help-yourself>
<http://www.lasvegasnvcriminaldefenseblog.com/2014/04/nevada-father-facing-charges-for-real-estate-fraud.shtml>
<http://www.sos.state.oh.us/recordsIndexes/Notary/Search.aspx>
<http://www.dfs.ny.gov/consumer/hetpa.htm>
<http://www.fbi.gov/news/stories/2012/october/dont-let-mortgage-fraud-happen-to-you>
<http://www.fbi.gov/news/pressrel/press-releases/mortgage-fraud-operation-quick-flip>
http://www.azsos.gov/business_services/notary/Services.htm
http://www.nsgic.org/public_resources/DSWGL_12_PRIA_White_Paper_Final_010406.pdf
<http://www.sdcca.org/preventing/real-estate-fraud/real-estate-fraud-brochure.pdf>
<https://www.asnnotary.org/?form=stateinfo>

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