

TITLE TRANSFER IN MARYLAND

By: John P. Hale, ABR, CRS, GRI, REALTOR®

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The laws regarding transfer of title or ownership of real estate vary a little from state to state. Under property law, a title is a bundle of rights in a piece of property in which a party may own either a legal interest or equitable interest afforded to the real estate title holder. It can include the right of possession, the right of control, the right of exclusion, the right of enjoyment and the right of disposition. The rights in the bundle may be separated and held by different parties. Title may also refer to a formal document, such as a deed, that serves as evidence of ownership.

There are two basic types of deeds for real estate. A warranty deed is used to convey and guarantee free and clear title with no liens against the property. This is further evidenced by title insurance purchased at the time of property transfer. A quit claim deed is a lessor form of deed which conveys property with no warranty of clear title.

In some states, money and keys (possession) are not exchanged until recordation of the transfer of ownership, evidenced by the deed, is confirmed by written receipt. The signing and notarization of the deed and all the other necessary documents is commonly done in separate ceremonies – one for the seller and another for the buyer. Those signing ceremonies are commonly referred to as “closings.” In those states, if something catastrophic (e.g., life or property loss) happens in the time between signings and recordation, there are going to be issues. It will be time to call the attorneys. All parties to the transaction are well advised to maintain appropriate hazard and liability insurance coverage on the property until the deal is done.

In the other states with table funding, the ceremony is commonly attended simultaneously by seller(s) and buyer(s) with all parties signing everything at once. Monies, keys and possession are exchanged on the spot. One contingency: all purchase funds must be “on the table” – or received by the settlement company by that day.

In Maryland, as in most places, a deed is the legal instrument used to evidence the transfer of ownership of, or “title” to, real property from one party or entity to another. It contains the names of the current owner (the grantor), and the new owner (the grantee), the legal description of the property, and is signed by the grantor. Transfers of real property must be in writing and notarized. Deeds should be recorded in the county where the property is located as soon as possible but recordation is not necessary for ownership transfer. However, not recording a deed and associated documents promptly may cause problems for the new owner in the future and is just irresponsible. Recordation updates the chain of title and most lenders are going to require it so that title insurance can be obtained.

Maryland Code, Real Property Section 7-109 states:

§7-109.

(a) (1) In this section the following words have the meanings indicated.

(2) “Affiliate” means any association, corporation, business trust, statutory trust, or other similar organization that controls, is controlled by, or is under common control with, a financial institution, as defined in § 1-101 of the Financial Institutions Article.

(3) “Settlement” means the process of executing and delivering to the lender or the agent responsible for settlement, legally binding documents evidencing or securing a loan secured by a deed of trust or mortgage encumbering real property in this State. (emphasis added).

(b) (1) In any consumer loan transaction in which the loan is secured by a purchase money mortgage or deed of trust on real property located in this State, on or before the day of settlement, the lender shall disburse the loan

proceeds in accordance with the loan documents to the agent responsible for settlement as provided in subsections (c) and (d) of this section.

(2) In any consumer loan transaction in which the loan is secured by a secondary deed of trust or mortgage on real property located in this State, on or before the day of funding the agent responsible for settlement may require the lender to disburse the loan proceeds as provided in paragraph (1) of this subsection.

(c) Except as provided in subsection (d) of this section, the lender shall disburse the loan proceeds in the form of:

(1) Cash;

(2) Wired funds;

(3) A certified check;

(4) A check issued by a political subdivision or on behalf of a governmental entity;

(5) A teller's check issued by a depository institution and drawn on another depository institution; or

(6) A cashier's check.

(d) In addition to the methods of loan disbursement provided in subsection (c) of this section, the loan proceeds may be disbursed in the form of a check drawn on a financial institution insured by the Federal Deposit Insurance Corporation and located in the 5th Federal Reserve District if the lender is:

(1) An affiliate or subsidiary of a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Share Insurance Program; or

(2) A mortgage company approved by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(e) If a loan subject to this section is not disbursed as provided in subsection (c) of this section, the lender may not charge interest on the loan for the first 30 days following the date of closing.

Whatever the laws and customs are regarding settlement or closing, there can be problems, delays, snags and issues to resolve. Sometimes one or more of the parties to the transaction will suffer from last minute remorse and cause a delay or cancellation. Severe weather events or natural disasters may cause delays. One of the parties may become very ill or injured, or die. The funding of the loan may be delayed. Power outages, security threats, last minute damage to the property – lots of possible issues can and do arise. These things can take time and delay the transfer of ownership. When planning this event, allow for some flexibility when scheduling the physical move out of the old house and the move into the new home.

DISCLAIMER

John P. Hale is a licensed real estate agent in Maryland and Pennsylvania. He is affiliated with Coldwell Banker Residential Brokerage in Westminster, Maryland. John has been licensed since 2000 and also practiced in Tucson, Arizona for many years. Mr. Hale holds the following designations and certifications awarded by the National Association of REALTORS® (NAR) and other authorized institutions: ABR-Accredited Buyers Representative, AHWD-At Home With Diversity, CNE-Certified Negotiation Expert, CRMS-Certified Risk Management Specialist, CRS-Certified Residential Specialist, CTA-Certified Tourism Ambassador, e-PRO-Online Real Estate Practice, GRI-Graduate of Realtor Institute, MRE-Master of Real Estate, MREP-Mortgage Real Estate Professional, and MRP-Military Relocation Professional.

Please note that this article was written by John to provide objective information and to also reflect his opinion of good practice at the time of its' writing for the general benefit of those considering sale or purchase of real estate. It is not intended as definitive legal advice and you should not act upon it as such without seeking independent legal and financial counsel. Frequent changes in the law and standards of practice may cause this information to become outdated and no longer applicable or incorrect.