

DEEDS AND TRANSFER OF PROPERTY

STUDY SHEET

Summary

Transfer of property can be either voluntary or involuntary. When it's voluntary, a deed is involved, or a will. This section focused on the voluntary transfer of property, documents, or actions that are involved in the transfer, and possible issues that may arise. It also explored the closing process and the licensee's role in outlining and estimating closing costs for the buyer and seller.

Top Takeaways

Elements of a deed

- Grantor/grantee
- Act of conveyance (granting clause)
- Consideration
- Legal description
- Habendum clause
- Limitations and "subject to" clause
- Signature of the grantor
- Acknowledgment/recording
- Delivery and acceptance

Legal description: A description of real estate that is sufficient to identify it for legal purposes

Types of deeds

- Full covenant and warranty
- Bargain and sale
- Quitclaim
- Referee's
- Executor's
- Deed of trust (trust deed)
- Trustee's
- Reconveyance

Six basic covenants

- Seisin
- Right to convey
- Against encumbrances
- Quiet enjoyment
- Further assurances
- Warranty

Recording a deed

- Must be acknowledged before recording
- Protects title

Key title-related closing documents

- Deed—Establishes proof of ownership
- Survey—Shows boundaries and proves no encroachments exist
- Chain of title—Establishes path of ownership
- Abstract of title—Summary of title history
- Title insurance policy—Insures against title defects for policy holder

Closing process

- Buyer responsibilities prior to and at closing
- Seller responsibilities prior to and at closing
- Escrow agent responsibilities prior to and at closing
- Federal laws affecting closing

Closing costs

- Property taxes
- Transfer tax
- Expenses that are prorated for buyers and sellers
- Use of Closing Disclosures
- Estimating closing costs for clients

Common title problems

- Errors in public records
- Missing heirs
- Unknown liens
- Survey or boundary issues
- Forgeries

Distressed property transactions: Short sales, foreclosures, and Real Estate-Owned properties (REOs) carry additional risk for title issues.