



# OFFICE OF THE COUNTY CLERK

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We have put together this deed packet in an effort to better assist you. **We cannot and are never allowed to legally assist you but we can get you pointed in the right direction.** We are a recording office **ONLY** and record the documents that are presented to us. Although you may certainly record your own deed we **STRONGLY** advise you seek an attorney. You may need an attorney if you find your transaction is too complicated or you have more in depth questions as well as to avoid document errors and fraud.

This packet includes instructions on where to obtain the forms that you will need to complete your deed transfer. It **does not** include the deed or any of the New York State forms. **WE DO NOT CARRY FORMS.**

There are various types of deed and you will need to determine which deed applies to your situation. For your convenience we have enclosed a list of the most frequently used deed types. *(If you want to change a name or add a name on a deed this does require filing a new deed.)*

1. **NYS Deed Form** – To obtain a deed form try doing a online search for “NYS deed form” or you may obtain one at a office supply store such as office max.
2. **TP-584** – You will need to complete the entire form. The form will need to be signed by both the buyer and the seller. Incomplete or unsigned forms will not be accepted. (The information needed to complete this form can be found by doing a real property look up on Real Properties Tax Service’s website.)
3. **RP-5217** Real Property transfer report – You will need to complete the entire form. The form will need to be signed by both the buyer and the seller. Incomplete or unsigned forms will not be accepted. (The information needed to complete this form can be found by doing a real property look up on Real Properties Tax Service’s website.)
4. **Cover Page** – Provided is a cover page for recorder/mailback information. Once recorded the computer will generate an official cover letter for your document.
5. **Fee Schedule** – Included in this packet are all the filing fees required to file your new deed & the fees for the state forms.

**We do not accept personal checks unless guaranteed by an attorney**

# NEW YORK STATE TP584 & RP5217

## **TP584** (Combined Real Estate Transfer Tax Return)

You will need to complete the whole form & more importantly the form will need to be signed by both the buyer and the seller.

Listed here is how you may obtain this form.

Visit: [https://www.otsegocounty.com/departments/a-c/county\\_clerk/forms.php](https://www.otsegocounty.com/departments/a-c/county_clerk/forms.php)

OtsegoCounty.com ☞ Departments ☞ County Clerk ☞ Form tab on left ☞ Under land forms click TP584  
*Or*

Visit: <https://www.tax.ny.gov/forms/> and do a search for TP584

## **RP-5217** (Real Property transfer report)

You will need to complete the whole form. More importantly the form will need to be signed by both the buyer and the seller. This form will not be accepted if both signatures do not appear on the form.

Visit: [https://www.otsegocounty.com/departments/a-c/county\\_clerk/forms.php](https://www.otsegocounty.com/departments/a-c/county_clerk/forms.php)

OtsegoCounty.com ☞ Departments ☞ County Clerk ☞ Form tab on left ☞ Under land forms click RP5217  
*Or*

Visit: <https://www.tax.ny.gov/forms/> and do a search for RP5217

# DEEDS

A deed is a written instrument that, when executed and delivered, conveys title to or an interest in real estate.

The forms of deeds in New York are:

- Full covenant and warranty deed,
- Bargain and sale deed with covenant against grantor's acts,
- Bargain and sale deed without covenant against grantor's acts,
- Quitclaim deed,
- Executor's deed, and
- Referee's deed

Warranty deeds, a full covenant and warranty deed provides the greatest protection of any deed. In it the grantor makes certain covenants or warranties, which are legal promises that the grantee will have unchallenged ownership.

**Covenant of seisin (ownership):** The grantor warrants that he or she is the owner of the property and has the right to convey it.

**Covenant against encumbrances:** The grantor warrants that the property is free from any liens or encumbrances except these specifically stated in the deed.

**Covenant of quiet enjoyment:** The grantor guarantees that the grantee's title is good against anyone who challenges the grantee's ownership.

**Covenant of further assistance:** The grantor promises to obtain and deliver any instrument needed to make the title good.

**Covenant of warranty forever:** The grantor promises that if at any time in the future the title fails, he or she will be liable.

A deed in New York must contain a lien covenant, stating that the seller holds the proceeds of the sales in trust against unpaid improvements to the property.

(seisin) is a Middle English word which denotes ownership and control.

## ***Bargain and sale deed with covenant against grantor's acts***

With these deeds the grantors imply that they have title to the property and add only one covenant, stating that they have done nothing to encumber the property while it was in their possession.

The grantors are willing to warrant about the time they owned the property but not about the previous owners.

## ***Bargain and sale deed without covenant***

A bargain and sale deed without covenants contains no warranties. It does, however, imply that the grantor holds title to the property. The grantee has little legal recourse if defects later appear in the title.

## ***Forms of ownership***

A fee simple estate in land may be held (fee simple means Estate in land without limitation or condition.)

- in severalty where title is held by one owner
- in co-ownership where title is held by two or more persons
- in trust where title is held by a third person for the benefit of another.

### ***Co-Ownership***

Tenant in common – owns and undivided interest in property. Upon the death of the co-owner, his or her interest passes to heirs or devisees.

### ***Joint tenancy***

The basis of joint tenancy is unity of ownership. The property is owned by a group made up of two or more people. The death of one of the joint tenants simply means there is one fewer person in the group.

Four unities required to create a joint tenancy.

1. Unity of time
2. Unity of title
3. Unity of interest
4. Unity of possession.

### ***Tenancy by the entirety***

A tenancy by the entirety is a special joint tenancy between husband and wife. They have rights of survivorship but there is no right to partition.

## **SEVERAL FORMS OF DEEDS**

1. Warranty deed or full covenant and warranty deed
  - a. Greatest protection
  - b. Basic covenants (agreements) or warranties
    - i. Covenant of seizing (from the owner)
    - ii. Covenant against encumbrances (title free & clear)
    - iii. Covenant of quiet enjoyment (no 3<sup>rd</sup> party claims peaceable possession)
    - iv. Covenant of further assurance (previous owner will provide assurance)
    - v. Covenant of warranty forever (no time limit)
2. Bargain & Sale Deed with covenant agreement against the grantor
  - a. Covenant that the grantor has not done or suffered anything whereby the premises have been encumbered in any way.
3. Bargain & Sale Deed without covenant against grantor
  - a. Simplest form of deed, a good conveyance (title insurance)
4. Executor's Deed
  - a. Used to convey title to a Intestae's real property
5. Referee's Deed
  - a. Used for the conveyance of real property sold pursuant to a judicial order
    - i. Foreclosure, partition suit
6. Quitclaim Deed (tax sale)
  - a. Used to remove a cloud from the title

