



WHAT SHOULD I KNOW ABOUT DEED FRAUD?



1 Hour of Required General CE
by Internet Delivery

Approved by the Arizona Department of Real Estate

Participant Outline

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Joe Fitzpatrick graduated from The University of Nevada, Las Vegas in 1985 and began his career with Coldwell Banker in Margate, Florida, listing and selling real estate. Joe went on to manage the North Miami office and opened Century 21 Fitzpatrick Realty with family. The firm became the top-ranked Century 21 company in Broward County, Florida.

In 1991, Joe returned to Las Vegas where he began teaching and authoring real estate courses. He also continued on as Vice-President of Century 21 MoneyWorld, which was consistently ranked among the top 10 Century 21 firms in the world where he led the education division among other duties.

Joe has authored and published over 30 real estate licensing textbooks and courses available on Amazon.com and which have been approved for utilization in several states. He made a few stops along the way including being the Education Director at LVR. You may recognize his voice from other online sites. Living through sellers' markets and buyer's markets, Joe has experienced interest rate fluctuations of 17.5% and 2%. He knows what it takes to stay successful in the business no matter what the market conditions may be.

Joe opened Fitzpatrick Real Estate School in both Nevada and Arizona, and continues to practice real estate in addition to his other responsibilities. We trust you will find Mr. Fitzpatrick's courses to be informative, interesting, and entertaining too.

HOW IT WORKS

The student participant must:

- view all hour(s) of the video presentation (links are located on the website under the Internet course title).
- direct attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction and distracting.
- complete the “Online Video Worksheet” included in the course outline as you view the presentation, filling in the “Checkpoints” as they are displayed throughout the videos.
- take the quiz found in the outline.
- complete the course evaluation upon the conclusion of the course.
- submit the (1) Attestation, (2) Quiz answers, (3) Online View Worksheet, and the (4) Course Evaluation using the links provided directly above the videos.
- obtain score of 80% or more on the quiz and a score of 80% must be obtained on the Online Video Worksheet. A student, who tries to skip through the course and not devote the required hours, will not pass. The answers for the worksheet are sprinkled throughout the presentation.
- With a passing score on the quiz and worksheet, along with the submitted evaluation, a certificate will be emailed to you promptly.

ONLINE VIDEO WORKSHEET

The Arizona Department of Real Estate holds CE course sponsors, such as Fitzpatrick Real Estate School, accountable for the following regarding online/distance learning courses:

- verify that students watch the complete presentation and spend the appropriate number of hours required to earn a certificate;
- verify that students did not start the presentation and leave the presentation to run on its own without the student viewing it;
- evaluate the student mastery of the material;
- provide the student with support services and interaction;
- have a method to assess student performance during instruction.

To accomplish these goals, we have developed this “Online Video Worksheet” to accompany the videos we use to teach CE courses online. Throughout the videos, have embedded “checkpoints” that will prompt you to fill in the answers below.

In order to receive credit for the online course, you must answer the checkpoints correctly with a score of 80% and submit using the Online Video Worksheet link located above the three videos.

NOTE: There are only 5 checkpoints in our 1-hour courses. When you upload your responses using the form, please enter “N/A” for Checkpoints #6-10.

CHECKPOINT #1: _____

CHECKPOINT #2: _____

CHECKPOINT #3: _____

CHECKPOINT #4: _____

CHECKPOINT #5: _____

Student Name: _____ Date: _____

Course Title: What Should I Know About Deed Fraud?

MODULE 1

Course Objective: To inform students of this complex crime which targets unsuspecting property owners. Participants will gain a general understanding of how this wrongdoing works and will equip them with the means to identify and recognize its occurrence appropriately. By being acquainted with the warning signs of fraudulent activity, licensees will be better able to protect the public from transactional deed fraud.

Completing a 1-hour course on the subject of Deed Fraud is a requirement of the Arizona Department of Real Estate as of January 1, 2025.

Introduction:

- We will cover various methods perpetrators utilize.
- We will point out warning signs that might indicate fraudulent activity.
- We will provide guidance as to what you and your clients can do if they become victims.
- The end goal is to protect you and your clients from this egregious crime.

What is Deed Fraud?

- Deed fraud is a crime.
- Criminals illegally transfer ownership of real estate using forged documents or other means.
- It usually involves forged signatures, fake deeds, identity theft, or even an impersonation of the rightful owner.
- Once creating a fake deed, criminals can sell or lease the property, mortgage it, and more. This all takes place without the knowledge of the rightful owner.
- A form of identity theft (impersonation)

Deed Fraud and the Arizona Attorney Generals' Office

- The Arizona Attorney General's Office investigates and prosecutes cases of deed fraud.
- video insert: Don Carroll, Attorney General's Office <https://youtu.be/cgmyE7qDsJo>

Bullet Points from the Video:

- deed fraud is also called Title Theft and House Stealing
- notary stamps stolen or cut and paste job over the internet
- vacant properties, corporate-owned, or homes of deceased more vulnerable
- costly to fix as a fraudulent deed cannot be “unrecorded”
- attorney hired to demonstrate forgery
- check county records on your property

How confident are you in your ability to detect and prevent deed fraud now, before you have taken this course?

- Very confident
- Somewhat confident
- Not very confident
- Not confident at all

MODULE 2

Deeds and Deed Fraud Criminals

- Deeds are the only instrument used for the conveyance of title to land and its improvements
- There are three concepts common to all deeds:
 - **Recordation** – Deeds are recorded in the county in which the land is located.
 - **Two parties** – There are two parties to a deed – the **grantor** is the person making the conveyance and the **grantee** is the person to whom the conveyance is made.
 - **Warranties and covenants** – a **warranty** or **covenant** is a promise by the grantor to the grantee concerning the title to the property, that some condition exists and will continue to exist, or, that a condition does not exist and never will.

General Warranty Deed (also known as a warranty deed, or grant, bargain, and sale deed):

This is the most commonly used form of deed and it contains five (5) warranties (covenants):

1. Warranty of Seisin – The grantor owns the property and that the right to convey it.
2. Warranty against Undisclosed Encumbrances – The grantor has disclosed to the grantee all encumbrances *known* against the property.
3. Warranty of Quiet Enjoyment – The grantee will not “hear” from anyone claiming an interest in the property.
4. Warranty of Further Assurances – The grantor promises should a claim be made, the grantor will defend it and defeat it.
5. Warranty of Title Forever – The grantor promises that should another party successfully claim an interest, the grantor will re-pay the purchase price (title insurance.)

Special Warranty Deed

Used by Executors, Trustees, and Universal/General Agents of the Grantor):

1. Warranty against Undisclosed Encumbrances – The grantor has disclosed to the grantee all encumbrances *known* against the property.
 - Only this warranty is made.
 - If the grantor, him or herself, created an encumbrance, it is being disclosed.
 - Grantor makes no promises or warranties for when the property was not own by him or her.
 - Grantor is authorized to convey under a will, trust, or power of attorney.

Quit Claim Deed (not “Quick”)

No warranties at all.

- Grantor is *quitting any and all claims* the grantor may have, but does not assure there are any claims at all
- Often used to remove liens and encumbrances or even to clear *clouds* on the title.

Bargain and Sale Deed

Only an “implied” warranty of seisen (the grantor has the right to convey)

Requirements for a Valid Deed

1. In Writing – in writing and signed by all owners
2. Valid Grantor – lawful age, mental capacity, or lawful existence
3. Identifiable Grantee – not John Doe and Spouse
4. Consideration Clause – usually the purchase price
5. Granting Clause – such as “fee simple” and “100% interest in”
6. Vesting Clauses – in severalty, tenants in common, etc.
7. Habendum Clause – optional, “to have and to hold”
8. Valid Legal Description
9. Exceptions and Reservations – “subject to the encumbrance”
10. Grantor’s Signature
11. Attestation – notary
12. Acknowledgement – witness
13. Delivery and Acceptance – conveyed during grantor’s lifetime

Recording of Deeds

1. Interestingly, deeds do not have to be recorded to convey real property.
2. Deeds are recorded to establish *priority* of the grantee over any others who may claim an interest.
3. Recording provides “Actual Notice” – puts people on notice who search the public records
4. Unrecorded deeds may make the grantee vulnerable.
5. Having a recorded deed makes it easier for future transactions, such as selling, refinancing, etc.

More on Deed Fraud

- Criminals unlawfully transfer property ownership using forged documents, often exploiting digital/online systems.
- The consequences of deed fraud can include unauthorized property sales, leases, mortgages, and legal battles.
- The Attorney General’s Office prosecutes cases of deed fraud, working closely with law enforcement to protect the public.
- The Arizona Department of Real Estate oversees licensees, providing education to help prevent real estate fraud and ensure compliance with state laws.

The Culprits, the Criminals in Deed Fraud Crimes

- **Criminal Syndicates**
 - o groups who specialize in real estate fraud
 - o possess extensive knowledge of real estate and legal documentation
 - o can forge deeds, falsify signatures, and manipulate public records

- **Industry Professionals**
 - o insiders who work within the real estate, legal, or financial industries
 - o have access to private information
 - o real estate licensees, mortgage brokers, attorneys, or employees at title companies
 - o could be targets, could be accomplices
- **Identity Thieves**
 - o use personal information to “impersonate” property owners
 - o can transfer deeds to themselves or their companies
- **Accomplices**
 - o assist others with deed fraud
 - o provide false notary services, issue fake documents, or help illegal transactions
 - o appear to be legitimate but are part of the fraudulent scheme
- **Family, Relatives, and Caregivers**
 - o can become involved in deed fraud cases due to their close relationship with the property owner
 - o given access to personal information and power of attorney in some cases
- **Criminal Syndicates**
 - o operate with high level of sophistication
 - o constantly a step ahead
 - o difficult for law enforcement and others to disband
 - o mask IP addresses, fake phone numbers, looks like their operating outside of Arizona, etc.
 - o tricks with technology the typical real estate agent, title company, or owner wouldn't know

Who might be at fault – unknowingly or knowingly?

- **Real Estate Agents**
 - o have access to sensitive information and documents
 - o might unknowingly, or knowingly, facilitate fraudulent transaction, forge documents, misrepresent property ownership
- **Title/Escrow Agents**
 - o might have a fraudulent escrow agent manipulating documents and transfers
- **Notaries**
 - o could have a corrupt notary authenticating fake deeds
 - o some notarizes could be fooled without realizing they are part of a scam

MODULE 3

So, What Can We Do? Responses by fellow licensees

- obtain driver's licenses or ID
- verify identities
- avoid public Wi-Fi for transactions
- be cautious with wire transfers and payments
- report suspicious activity promptly
- work with trusted title companies and legal experts also help ensure the validity of transactions
- be vigilant and protect your clients' information

- verify ownership through a title company or assessors web site
- be very suspicious of a deal that falls in your lap and if it just sounds too good to be true - it most likely is
- be alert to any unusual requests or high-pressure tactics from buyers or sellers
- regularly update knowledge on the latest fraud schemes
- utilizing secure methods for document exchange, such as encrypted emails or secure portals, which can help prevent unauthorized access to sensitive information.
- regular training on recognizing red flags of fraud and staying updated on the latest fraud schemes can also empower agents to identify suspicious activity early on
- verify the ownership of property through the County Recorder's Office
- look for recent activity on a property and confirm with title or the county that it is legit

Preventing Deed Fraud**Preventive Measures for Property Owners**

- Check the property records at the county recorder's office and County Assessor's Office periodically to be sure no unauthorized changes have been made.
- Enroll in services that notify you once a new deed has been recorded. This system is currently available in Maricopa County.
- If you haven't already done so, purchase Title Insurance - Title insurance can protect against losses due to title defects, including fraud.
- File an encumbrance on the deed - Talk to an Attorney about your rights as a property owner and what clouds you could file on your own title to stop it from being sold without your knowledge or consent.

Preventive Measures for Real Estate Professionals

- verify the identities of all parties involved in a transaction using multiple forms of identification
- conduct due diligence - run searches to ensure there are no discrepancies or red flags in the property's history
- inform clients about the risks of deed fraud and advise them on how to protect their property
- keep informed with the latest fraud schemes and prevention techniques

Preventive Measures for Title Agents and Notaries

- Verification Processes - Ensure all documents are thoroughly reviewed and verified before recording. This includes checking for forged signatures and verifying the legitimacy and accuracy of notarizations.
- Utilizing Secure Notarization Practices - Require valid, government-issued identification for all signatories and keep detailed records of notarizations.
- Audits - Regularly audit proprietary internal processes and logs/records to ensure compliance with legal standards.

Government and Regulatory Bodies

- Legislation and Regulations – Governmental agencies play a vital role by the development and enforcement of laws that require more stringent verification processes for property transactions, licensees, and notarizations.
- Public Outreach – Governmental agencies conduct public outreach seminars to educate property owners about the risks of deed fraud and how to protect themselves.
- Reporting Suspicious Activity – Governmental agencies help foster a community of heightened vigilance where suspicious activities related to property transactions are promptly reported.

Preventive Measures from Deed Fraud

Video from Bob Hertzog, “Protecting Your Property from Deed Fraud In Arizona”

Fixing It

- “Undoing” deed fraud involves legal action, documentation, and involvement of certain authorities
- a property owner targeted by deed fraud should first contact an experienced real estate attorney to coach them through the necessary legal steps
- the owner should contact ADRE and the Attorney General’s Office
- A suit to quiet title might be sought which establishes the rightful ownership of the property and removes any clouds on the title caused by the criminals
- the property owner should report the incident to the county recorder’s office where the deed is recorded
- the County Recorder’s Office can place a notice on the record to alert the public of the pending legal action
- law enforcement should also be notified
- Should the judge rule in favor of the property owner, an order to cancel the fraudulent deed and restore the rightful title will be initiated.
- The property owner should then file the court order with the County Recorder’s Office to correct public records.

Arizona Department of Real Estate, an Active Participant

- actively engaged in addressing deed fraud complaints
- committed to safeguarding property owners, ensuring fraudulent transactions do not occur
- cooperates with Criminal Investigators at Attorney General’s Office
- makes every effort to stop the fraud before an illegal transfer can occur
- offers public education seminars

MODULE 4

Quiz

QUIZ

1. What is deed fraud, title theft, or house stealing?
 - a. transfer of real estate ownership through legal means
 - b. the purchase of a property with illegal funds
 - c. not recording the deed at the County Record's Office
 - d. fraudulent transfer of property ownership
2. Which of the following is NOT a consequence of deed fraud?
 - a. finding squatters occupying the property
 - b. unauthorized loans leveraged against the property
 - c. levied assessments or foreclosure notices
 - d. efficient transfer of property ownership between buyer and seller
3. What is one key strategy real estate professionals can use to prevent deed fraud?
 - a. accelerating the closing and recording process without careful verification
 - b. non-use of electronic documentation
 - c. conducting thorough due diligence and verifying client identifications
 - d. offering discounts on title insurance
4. What is a suit to "quiet title"?
 - a. legal action to silence any claims of property ownership
 - b. a lawsuit to establish rightful ownership and remove clouds on the title caused by fraudulent deeds
 - c. offering real property for sale without marketing it
 - d. an application for a new title to be issued
5. How does the Arizona Department of Real Estate further prevent deed fraud?
 - a. investigating fraud cases to turn over to the Attorney General
 - b. requiring title and escrow companies to be licensed
 - c. by providing education regarding the subject to real estate licensees
 - d. All of the above
6. Why is recording a deed legally not required but highly recommended?
 - a. It increases the property value.
 - b. It provides constructive notice of property ownership.
 - c. It is required to obtain a mortgage.
 - d. It is required for property tax purposes.

7. What role do real estate licensees, title agents, and notaries play in deed fraud crimes?
 - a. They cannot be involved in any capacity.
 - b. They might become unknowing participants.
 - c. They only work on behalf of the property owner.
 - d. They can only verify the purchase price.
8. How does the ADRE handle deed fraud complaints?
 - a. They will not be addressed if the victim does not first seek counsel.
 - b. They investigate, verify documents, and work to stop transactions from closing.
 - c. They will not be handled if the transaction has not closed.
 - d. They will be referred to federal authorities.
9. Why is it important that licensees exercise due diligence in confirming rightful property ownership?
 - a. To be sure who is responsible for the commissions.
 - b. To know they are working with the rightful ownership.
 - c. To be positive they are not working with a fraudster.
 - d. To gain trust.
10. Why is it beneficial for property owners to periodically monitor property records?
 - a. To stay abreast of market value.
 - b. To watch for unauthorized changes and detect potential fraud.
 - c. To challenge the property taxes.
 - d. To renew hazard insurance policies.