
Deeding Your Home

A deed is how you transfer ownership of your home to another person. You might deed your home because you've sold it, you want to give it to someone as a gift, or you want to make it easier on your family when you pass away.

There are several different kinds of deeds, and the correct one to use will depend on the circumstance. Once the deed is validly executed (signed), delivered (given to the recipient) and recorded (put on record with the county recorder's office), a transfer of ownership has taken place. That means you unless you retained some ownership interest in the property in the deed you signed- you no longer have a legal right to the property. That means you cannot force the new owner to let you continue living there, or to give the property back if your situation changes. In most situations, you cannot cancel or reverse a recorded deed.

For this reason, you should not deed your home to another party unless you are 100% ready to break ties with that home and have no interest or ownership in the property going forward. If you need to continue living in the home or you want to have a say in how the home is used in the future, a deed is probably not the best solution for you. In that situation, you should talk with an attorney about what other legal options you may have.

If, however, you were forced to deed property to another person under duress or fraud (e.g., the person you deeded it to lied to you about what you were signing or about what they were giving you in exchange for the property), then you may be able to challenge the deed in court. This is done through filing a case called an "action to quiet title." (See Idaho Code § 6-401). These cases typically require hiring an attorney who specializes in real property law.

Property Taxes and HOA Fees

Even when you own your home, failure to pay property taxes or Homeowner's Association (HOA) fees could lead to a potential lawsuit and lien against your home. If you are having trouble paying HOA fees, reach out to your HOA Board as soon as possible to discuss options that would avoid additional fines and/or foreclosure. If you are having trouble paying your property taxes, you may qualify for property tax reduction, also known as the "Circuit Breaker" program.

The Circuit Breaker program can reduce your taxes by as much as \$1,320. You must apply between January 1st and April 15th each year. In order to qualify, you must be age 65 or older, a widow or widower, blind, a fatherless or motherless child under 18, a former POW, a veteran with 10% or higher service-connected disability or receiving a VA pension, or disabled (as recognized by Social Security or other government programs). Additionally, you have to be low income (for 2021, your income has to be below \$31,900). To apply, contact your county assessor's office and complete your application before April 15th each year.

Another tax relief program offered in Idaho is the Property Tax Deferral Program, which lets you postpone paying your taxes if you need more time to get the funds needed. However, you will have to pay the taxes and interest at a later time.

Finally, the Veterans Property Tax Reduction benefit reduces property taxes for qualified 100% service-connected disabled veterans.



This document was supported, in part, by a grant No. 90LAEP0001 from the Administration for Community Living, U.S. Department of Health and Human Services (DHHS). Grantees carrying out projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration for Community Living or DHHS policy.



PROTECTING YOUR HOME

Our homes are our most valuable asset: they are both our shelter and a large financial investment. As we age, maintaining our homes often becomes challenging, and so we try to come up with solutions that make the situation more manageable. Many of those solutions, however, have potentially negative impacts on your rights to remain in your home. This brochure will explain how different decisions you can make may impact your legal rights to your home.

Letting Someone Move in With You

When bills get tight, or you need some extra help around the house, taking in a roommate or family member to help with expenses might seem like a great solution. However, when you let someone move in with you, they may be considered a tenant under Idaho law, even if there is no written lease agreement. This means you may have the responsibilities of a landlord!

The main thing to know is that, as a landlord, you have to follow Idaho's laws on eviction if you do not want your roommate living with you any longer. If there is no written lease, you can evict someone by giving them a 30-day notice and then filing for eviction in court if they don't move out at the end of 30 days. Or, if they are behind in rent, you can give them a 3-day pay or quit notice. This notice tells them how much money they owe and explains that they have three days to pay that amount. If they don't pay it or move out by the end of the three days, then you can file an expedited eviction case. Expedited eviction cases are scheduled faster, within 12 days. For more information on landlord/tenant requirements, see Idaho Legal Aid's Landlord-Tenant Rights & Responsibilities brochure,

<https://www.idaholegalaid.org/node/1333/landlord-tenant-rights-responsibilities>.

Before you agree to let someone move in with you, you should understand these legal implications and consider whether it would be to your benefit to have a lease agreement in place that clearly states the rights and obligations of all parties. Or, carefully consider whether this is a person you feel safe living with in the event future disagreements arise, knowing that it could take a month or longer to have them evicted from your home.

If someone you are living with is hurting you or your pets or stealing from you, then you can call Idaho Legal Aid at 208-746-7541 to find out what other legal options you may have, such as filing for a civil protection order. If you are in immediate danger, call 9-1-1.

Your Home and Medicaid

A homeowner may be worried that if they someday need Medicaid to help pay for nursing home or assisted living care, that the State will take their home. This is not the case. Your home is not counted by Medicaid when they are deciding if you are eligible for long term care benefits. However, there are two things to be aware of when it

comes to Medicaid and your home.

First, in Idaho, if you have gifted your home away for less than fair market value during the five years prior to applying for Medicaid, this will trigger a transfer penalty. If you want to give away your home or sell it for significantly less than its value, you should talk to an attorney familiar with Medicaid and transfer penalties.

Second, after a person on Medicaid for long term care has passed away, Medicaid will have what is called an "estate recovery" claim against that person's property, including their home. However, Medicaid does not try to go after the home while a spouse or a disabled child of the Medicaid recipient is living in the home. A spouse could still choose to sell, refinance, or continue living in the home after the Medicaid recipient passed away and no action is taken by Medicaid until both spouses have died. If you are a senior and have questions about how estate recovery works, you can call Idaho Legal Aid at 208-746-7541.

Protecting Your Home from Foreclosure

If you are facing a potential foreclosure, we recommend contacting Idaho Legal Aid Services or a HUD-approved housing counselor as soon as possible. Time is of the essence in these cases and the sooner you reach out for help, the better. Idaho is a non-judicial foreclosure state, so your case may never go before a judge; for this reason, it is important to get assistance early in the process. If you are facing a potential foreclosure of your home, you have several options:

- See if you qualify for the Home Affordable Modification Program (HAMP) or the Home Affordable Refinance Program (HARP). HAMP is designed to reduce your interest rate and monthly payments. HARP is designed to help you refinance your mortgage.
- Ask your loan servicer for other Loan Modification options they have available
- If you are unemployed, ask about your eligibility for the Home Affordable Unemployment Program or FHA's Special Forbearance.
- Refinance your home
- Sell your home
- If none of the above options will work for you, you

may be eligible to do a short sale or deed-in-lieu of foreclosure through Home Affordable Foreclosure Alternatives (HAFA).

- Finally, a bankruptcy filing may delay or prevent a foreclosure sale, so consider contacting a bankruptcy attorney to discuss your options.

More tips on preventing foreclosure are available in this brochure from the Federal Housing Administration: https://www.hud.gov/sites/documents/FHA_SAVEYOURHOME.PDF.

Reverse Mortgages

A reverse mortgage is a type of home loan available to people aged 62 and older. It allows you to withdraw equity from your home that you do not pay back during your lifetime. Instead, it is paid back when you sell the home, move out of the home, or pass away. A reverse mortgage may be a good option to avoid foreclosure of a home or reduce monthly expenses. However, there are some key things you should know about reverse mortgages.

First, reverse mortgages do have a cost – both through fees and via the interest the loan will accrue over time. Be sure to read through the loan documents carefully so you understand the costs and know what your interest rate will be, including whether it is a fixed or variable interest rate. Second, if only one person is on the reverse mortgage loan, then when that person moves out of the home or passes away, the reverse mortgage may become due even though a spouse is still alive and living in the home. This can cause an unexpected financial hardship. Third, because a reverse mortgage is loan against the equity in your home, it means your intended heirs will have to pay off the loan if they want to keep the home.

We recommend talking to a reverse mortgage loan counselor before entering into a reverse mortgage agreement:

- U. S. Department of Housing and Urban Development (HUD)
1-800-CALL-FHA (1-800-225-5342)
- Consumer Financial Protection Bureau
1-855- 411-CFPB (1-855-411-2372)
- AARP Foundation
1-800-209-8085