

OBTAINING ALLODIAL TITLE TO YOUR LAND

A land patent is the only form of [proof of absolute title to land](#) in the United States. It protects the landowner from claimants of co-ownership as well as the United States government.

A land patent is granted to the named party and his, her, or their heirs and assigns forever. Without a land patent, there is the potential to lose ownership of your property in a land contest. With a land patent, the property is no longer subject to any third party challenge.

Filing for a land patent is not difficult however you must be thorough in gathering your documentation to render proof of ownership. Land patents need not be filed publicly, however many landowners protect their land interests with a public filing. [Sign up for CourthouseDirect.com to access deed records »](#)

Background on Land Patents

The [concept of the land patent](#) descended from old English law. At the time, the King owned all the land, but when the people demanded it, he conveyed the land to them under an allodial title or title in allodium.

In the United States, the land has been transferred to the government through treaties, purchases, grants, and conquest. The United States then passed the land to the people of the nation using land patents as allodial title, such that it becomes public land.

However, public land is not the same as public domain.

The difference between public land and public domain depends on whether the property has been appropriated.

- Public land is land that has been appropriated or designated for a specific use. Public land includes property labeled as monuments, national forest, parks, wilderness, and other uses.
- Land patents convey property in the public domain to private ownership, including public land conveyed to the government.
- [Summa Corporation v. California](#) established that ownership through a land patent could not be superseded by the State or anyone else. Ownership preferred by a land patent cannot have its authority or its jurisdiction diminished.

There is one potential exception to the subordination of a state's constitution and statutes to federal land patents.

The State of Texas, unlike the other 49 states in the union, never officially ceded its lands via an enabling act to the U.S. government during its annexation. The federal government, therefore, may not enjoy supremacy over land patents and deeds issued by the Texas state government.

Advantages of a Land Patent

- The land cannot undergo foreclosure.
- The land cannot be taxed.
- No third party claim can be brought against it.
- The government may not encumber the land through legislation.
- Ownership of land through a land patent also confers ownership of the water rights to any water or minerals originating on or under the property. Nobody can regulate or monitor the use of that water.

Disadvantages of a Land Patent

- A land patent could make it difficult to obtain financing or a loan on the land.
- Removal of the land from the tax rolls cancels any obligation to emergency services paid for by taxes.
- The land patent owner may enter into a private contract with each branch of emergency services to be served.

[Interested in learning more about mineral rights?](#)

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How to File a Land Patent

There are four steps, or elements, to filing a land patent.

1. Prove you own the land

You must produce adequate evidence that you own the rights to the property in question. You must procure either a [certified copy of the warranty deed](#) to the land, or, if you own the land through a quitclaim deed, you must establish a chain of title between your deed and the original warranty deed.

A certified warranty deed can be obtained from whichever local authority manages local properties. Typically, the authority is the county or municipal clerk's office. If you are working with a quitclaim deed, you must produce certified copies of every quitclaim deed between yours and the original warranty deed. You can visit the county or municipal clerk's office to obtain the certified documents to prove your chain of title.

Other documents to provide include assignment of ownership and proof of ownership through inheritance.

2. Describe and confirm the location of the property

You must confirm the exact location and bounds of the property. The best way to obtain an official description is by securing a certified plat map from the county clerk's office.

If the county clerk cannot provide the document, you may hire a licensed surveyor to draw a plat acceptable to the local, state, and federal authorities.

In the 13 original states (and Texas) the land description consists of "metes" and "bounds." The description started at a known point and described how far to go in each direction until the entire property is described. An acceptable description today may require a certified instrument showing the land is physically located within the boundary of the land patent's land description.

The rest of the country was mapped in Section, Township, or Range format, which is acceptable for the land patent application. If the description of your property in the warranty deed or other proof of property right is not in STRf, it must be converted to that format. Your current deed may state where the original subdivision plat map is located, which will show the exact boundaries of your land.

3. Obtain the land patent

Take your property deed and the legal description of the land to the local Bureau of Land Management offices to request a legal copy of your land patent. The request may take some time to fulfill because the BLM must use the official documents you provide to produce a certified copy of the land patent.

Ask for at least two certified copies of the land patent and a copy of the patent plat map for the Township in which your land is located.

While you wait, create an official declaration of acceptance to convey your acceptance of the restrictions the land patent imposes. You are reaffirming your respect for federal law, and ensuring you adhere to any restrictions the land patent places on your use of the land.

4. File your patent publicly (optional)

It is not necessary to publicly file any records of your land patent, but many choose to do so. There are several ways to accomplish the public filing.

- File it in the Clerk and Recorder's office with the land records of the county.
- Create a public notice in the legal notices section of your local paper, indicating you accepted the assignment of the patent.

- Post the copyrighted quitclaim deed, certified copy of the warranty deed, copyrighted declaration of acceptance of the land patent, and the certified copy of the land patent in the post office, county or district courthouse or the Sheriff's office.