



TRANSFER ON DEATH DEED (TODD)

Planning for what happens to your home after your death can be difficult. Transfer on death deeds provide a simple, cheap way to make sure your home is passed on as you wish.

How It Works

A transfer on death deed names the person or people who will get your home after your death. During your lifetime, you keep ownership of your home and you may revoke the transfer on death deed. Upon your death, your home goes to any surviving person named in the transfer on death deed.

Benefits of a Transfer on Death Deed

- Allows you to plan for what happens to your house during your lifetime.
- May be canceled at any time if you want to change what happens to your home.
- Your heirs may avoid probate.
- You keep ownership of your home, so you may still sell, mortgage, or transfer the home.
- You may also keep any tax benefits for senior homeowners.
- Unlike wills, there is no risk the deed is lost or destroyed



Disadvantages of a Transfer on Death Deed (TODD) & Special Considerations

To be eligible for a TODD, your real property **deed** must show that you have an **ownership interest** in your home.

There are special considerations to take into account if you own the property as a **joint tenant**, as opposed to a tenant in common, with another individual. As a **joint tenant**, if you predecease your co-owner, the TODD will not have any effect because the property automatically would transfer upon your death to the surviving joint tenant.

If you name **two people** as the **primary beneficiaries** and one predeceases you, the survivor will receive the entire property (unless you revoke the TODD). For example, if two daughters are beneficiaries, and one daughter passes away before you, her interest will **not** pass on to your deceased daughter's children. Your surviving daughter will own the whole house.

If you are **married**, but your spouse is **not** on the deed, and you give your home to **someone other** than your spouse in a TODD, then your spouse may not have a legal claim to a spousal share of the home because a TODD is not part of your Last Will & Testament.

If you become incompetent, you **cannot** revoke a TODD, but your power of attorney with authority over real property can sell or transfer your home for your benefit in your lifetime.

Creating a Transfer on Death Deed

A transfer on death deed requires the following information be filed with the Office of Recorder of Deeds in a notarized form:

- The names and addresses of all owners of the property.
- The legal description of the property to be transferred.
- The people receiving the property. You may name as many people as you wish.
- A statement that the property will transfer at the owner's death.
- The signature of the owner making the transfer and the date.

The Office of the Recorder of Deeds provides one example of what this form could look like online at <http://otr.cfo.dc.gov/node/501452>. You do not have to use this exact form, however, as long as what you file has all the information listed above. More information about filing with the Office of Recorder of Deeds also can be found online at <http://otr.cfo.dc.gov/service/otr-recorder-deeds>.

If you are age 60 or over and are interested in creating a transfer on death deed, call LCE at (202) 434-2120 and ask for "help creating a transfer on death deed." LCE will prepare the deed for those people who qualify for our free legal services.