

Transfer on Death Deed Information

What is a Transfer on Death Deed (TODD)?

A TODD is like a “payable on death” designation on a bank account. The new owner/beneficiary takes ownership of the property once the current owner(s) die. This person(s) has no rights to, or control of the property before the owner passes away.

How does a TODD work?

A TODD can be used to transfer property to a chosen individual upon your death. It can allow the property to transfer without going through the probate courts, but does not allow the beneficiary any rights until that time. It is a way to transfer property to your children, life partner, sibling, or anyone else.

You complete a TODD and sign it while you are alive, but the transfer does not happen until after your death. You can revoke a TODD at any time before your death, and you don't need the permission of the future owner to do so.

What happens to my mortgage, or liens on the property?

Nothing, the new owner of the property essentially steps into your shoes at time of the transfer. They take on the property as well as any mortgages, liens, judgments or other claims against the property. The TODD does not avoid any claims or liens against the property, even if you received Medical Assistance (MA) or General Assistance (GA) in your lifetime.

A TODD won't prevent you from getting MA for nursing home care, you are not giving away any interest in the property during your lifetime, but the new owner may be responsible for any MA liens.

Can I name more than one beneficiary?

Yes, you can name multiple beneficiaries, along with a successor or alternate beneficiaries.

What are the requirements for a TODD?

For a TODD to be valid, it needs to state the names of the beneficiaries, a legal description of the property, and language that the deed will not be effective until the death of the grantor(s). The deed must also be signed (If the grantor is married, the spouse should sign the TODD as well) and recorded with the County Recorder in the county that at least part of the property listed on it is located in before your death.

How is a TODD different from Joint Tenancy or a Life Estate?

With a TODD you are not giving up any of your interest in the property during your lifetime.

A Joint Tenancy gives part ownership to the joint tenant while you are still living. You lose part of your interest in the property.

A Life Estate gives someone a future interest in the property.

This document contains general information and is not legal advice. You should speak to an attorney to discuss your particular circumstances.

You cannot revoke or cancel a Joint Tenancy or Life Estate without the permission and signature of all parties, and their spouses.

A TODD can be cancelled, revoked or changed at any time during your lifetime without anyone's permission or authorization.

How do I cancel or revoke a TODD?

A TODD can be cancelled or revoked in the following ways:

- A Revocation form can be filed in the county where the property is located.
- A new TODD, giving the interest to someone else, or multiple persons can be filed. The TODD with the latest date is the valid one.
- You can deed all or part of your interest in the property to another party through a standard deed. If you sell or give your property to someone else during your lifetime, you no longer have an interest in the property to pass on through a TODD.

Unless the TODD has specific language to the contrary, a divorce or annulment will automatically revoke a TODD interest given to your former spouse.

Can a TODD be revoked by a Will?

No, a TODD cannot be revoked by a Will.

Why should I do a TODD?

A TODD can be helpful to your loved ones to avoid probate court when the only asset subject to probate is a home/property. An asset in an estate needs to be probated if the only name on the asset is that of the person who passed away, and has a value of \$50,000.00 or more.

Prior to the change in MN law allowing TODD's, the only way to avoid probate if you owned real estate was to add another person's name to the property. But, that had its own set of issues.

Are there any instances where I should NOT do a TODD?

Do not use a TODD to give property to someone who is under the age of 18.

Do not use a TODD to give property to someone who receives government benefits because of a disability or their low income. Their benefits could be affected or stopped if the estate is not handled in the proper way. Talk to a lawyer if this sounds like your situation.



Ledin, Hofstad, Troth & Fleming Ltd.

Phone: (320) 629-7537

Website: www.ledinandhofstad.com

Email: contact@ledinandhofstad.com