

# Uniform Real Property Transfer on Death Act

Asset-specific mechanisms for the non-probate transfer of property to a beneficiary at death are now common. The proceeds of life insurance policies and pension plans, securities registered in transfer on death (TOD) form, and funds held in payable on death (POD) bank accounts, are examples of personal property that can be automatically transferred to a named beneficiary. Millions of Americans have benefitted from this trend in modern law to recognize and support the use of non-probate transfers. However, until recently there was no similarly straightforward, inexpensive, and reliable means of passing real estate directly to a beneficiary at death outside of the probate process. This was a significant gap in the law; for many people in low- and middle-income families a home is the single most valuable asset in their estate.

The Uniform Real Property Transfer on Death Act (URPTODA) was first approved by the Uniform Law Commission in 2009. URPTODA enables an owner to pass real property to a beneficiary at the owner's death simply, directly, and without probate by executing and recording a TOD deed. Just as importantly, URPTODA permits the owner to retain all ownership rights in the property while living, including the right to sell the property, revoke the deed, or name a different beneficiary.

Key elements of URPTODA include:

- The TOD deed is not subject to the statute of wills and passes title directly to the named beneficiary without probate.
- The TOD deed must contain all of the essential elements and formalities of any other properly recordable deed.
- The TOD deed must be signed by the transferor and properly recorded during the transferor's lifetime in the office of the recorder of deeds where the property is located.
- The capacity required to create a TOD deed is the same as the capacity to make a will.
- A TOD deed does not operate until the transferor's death and remains revocable until then. The transferor may revoke the deed by recording a revocatory instrument such as a direct revocation of the TOD deed, or a subsequent TOD deed that names a different beneficiary. If the transferor sells the property while living, the TOD deed is ineffective.
- Until the transferor's death, a recorded TOD deed has no effect — it does not affect any right or interest of the transferor or any other person in the property. The TOD deed creates no legal or equitable interest in the designated beneficiary; it does not affect the designated beneficiary's eligibility for public assistance; it does not subject the property to the designated beneficiary's creditors.
- At the time of the transferor's death, title to the property is transferred automatically to the beneficiary, subject to any conveyances, encumbrances, assignments, liens, or other interests in the property. In other words, the beneficiary receives only the interest that the transferor owned at the time of death, and the holders of any security interests in the property are protected.
- The beneficiary is liable for claims against the transferor's estate only when the estate is insolvent.
- The beneficiary may disclaim all or part of the transferred interest in the same manner as state law permits for any other testamentary devise.
- URPTODA includes optional TOD deed and revocation forms that each state legislature may choose whether to enact.

Submitted as:  
District of Columbia  
[B19-0753 / Uniform Act](#)  
Status: Signed into law on November 20, 2012.

## Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Definitions.*]  
2 For the purposes of this subchapter, the term:  
3 (1) “Beneficiary” means a person that receives property under a transfer on death deed.  
4 (2) “Designated beneficiary” means a person designated to receive property in a transfer on  
5 death deed.  
6 (3) “Joint owner” means an individual who owns property concurrently with one or more  
7 other individuals with a right of survivorship. The term “joint owner” includes a joint  
8 tenant and tenancy by the entirety. The term “joint owner” does not include a tenancy in  
9 common.  
10 (4) “Person” means an individual, estate, business or nonprofit entity, public corporation,  
11 government or governmental subdivision, agency, or instrumentality, or any other legal  
12 entity.  
13 (5) “Property” means an interest in real property located in the District of Columbia, which is  
14 transferable on the death of the owner.  
15 (6) “Transfer on death deed” means a deed authorized under this subchapter.  
16 (7) “Transferor” means an individual who makes a transfer on death deed.  
17  
18 Section 2. [*Applicability.*]  
19 This subchapter applies to a transfer on death deed made before, on, or after the effective date of  
20 this subchapter by a transferor dying on or after the effective date of this subchapter.  
21  
22 Section 3. [*Nonexclusivity.*]  
23 This subchapter does not affect any method of transferring property otherwise permitted under  
24 the law of the [District of Columbia].  
25  
26 Section 4. [*Transfer on death deed authorized.*]  
27 An individual may transfer property to one or more beneficiaries effective at the transferor’s  
28 death by a transfer on death deed.  
29  
30 Section 5. [*Transfer on death deed revocable.*]  
31 A transfer on death deed is revocable under section 10 even if the deed or another instrument  
32 contains a contrary provision.  
33  
34 Section 6. [*Transfer on death deed nontestamentary.*]  
35 A transfer on death deed is nontestamentary.

1 Section 7. [*Capacity of transferor.*]

2 The capacity required to make or revoke a transfer on death deed is the same as the capacity  
3 required to make a will.  
4

5 Section 8. [*Requirements.*]

6 (a) Except as provided in subsection (b) of this section, a transfer on death deed shall contain the  
7 essential elements and formalities of a properly recordable inter vivos deed.

8 (b) A transfer on death deed shall state that the transfer to the designated beneficiary is to occur  
9 at the transferor's death.

10 (c) A transfer on death deed shall be recorded before the transferor's death in the Office of  
11 Recorder of Deeds.  
12

13 Section 9. [*Notice, delivery, acceptance, consideration not required.*]

14 A transfer on death deed is effective without:

15 (1) Notice or delivery to or acceptance by the designated beneficiary during the transferor's  
16 life; or

17 (2) Consideration.  
18

19 Section 10. [*Revocation by instrument authorized; revocation by act not permitted.*]

20 (a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded  
21 transfer on death deed, or any part of it, only if the instrument:

22 (1) Is one of the following:

23 (A) A transfer on death deed that revokes the deed or part of the deed expressly or by  
24 inconsistency;

25 (B) An instrument of revocation that expressly revokes the deed or part of the deed; or

26 (C) An inter vivos deed that expressly revokes the transfer on death deed or part of the  
27 deed; and

28 (2) Is acknowledged by the transferor after the acknowledgment of the deed being revoked  
29 and recorded before the transferor's death in the public records in the Office of the  
30 Recorder of Deeds.

31 (b) If a transfer on death deed is made by more than one transferor:

32 (1) Revocation by a transferor does not affect the deed as to the interest of another transferor;  
33 and

34 (2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.

35 (c) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the  
36 deed.

37 (d) This section does not limit the effect of an inter vivos transfer of the property.  
38

39 Section 11. [*Effect of transfer on death deed during transferor's life.*]

40 During a transferor's life, a transfer on death deed does not:

41 (1) Affect an interest or right of the transferor or any other owner, including the right to  
42 transfer or encumber the property;

43 (2) Affect an interest or right of a transferee, even if the transferee has actual or constructive  
44 notice of the deed;

45 (3) Affect an interest or right of a secured or unsecured creditor or future creditor of the  
46 transferor, even if the creditor has actual or constructive notice of the deed;

- 1 (4) Affect the transferor's or designated beneficiary's eligibility for any form of public
- 2 assistance;
- 3 (5) Create a legal or equitable interest in favor of the designated beneficiary; or
- 4 (6) Subject the property to claims or process of a creditor of the designated beneficiary.

5  
6 Section 12. [*Effect of transfer on death deed at transferor's death.*]

7 (a) Except as otherwise provided in the transfer on death deed, in this section, or in [Insert  
8 citations - antilapse, revocation by divorce or homicide, survival and simultaneous death, and  
9 elective share, if applicable to nonprobate transfers], on the death of the transferor, the  
10 following rules apply to property that is the subject of a transfer on death deed and owned by  
11 the transferor at death:

- 12 (1) Subject to paragraph (2) of this section, the interest in the property is transferred to the
- 13 designated beneficiary in accordance with the deed.
- 14 (2) The interest of a designated beneficiary is contingent on the designated beneficiary
- 15 surviving the transferor. The interest lapses if a designated beneficiary fails to survive the
- 16 transferor.
- 17 (3) Subject to paragraph (4) of this section, concurrent interests are transferred to the
- 18 beneficiaries in equal and undivided shares with no right of survivorship.
- 19 (4) If the transferor has identified 2 or more designated beneficiaries to receive concurrent
- 20 interests in the property, the share of one which lapses or fails for any reason is
- 21 transferred to the other, or to the others in proportion to the interest of each in the
- 22 remaining part of the property held concurrently.

23 (b) A beneficiary takes the property subject to all conveyances, encumbrances, assignments,  
24 contracts, mortgages, liens, and other interests to which the property is subject at the  
25 transferor's death. For purposes of this subsection, the recording of the transfer on death deed  
26 is deemed to have occurred at the transferor's death.

27 (c) If a transferor is a joint owner and is survived by one or more other joint owners, the property  
28 that is the subject of a transfer on death deed belongs to the surviving joint owner or owners  
29 with right of survivorship.

30 (d) If a transferor is a joint owner and is the last surviving joint owner, the transferon death-deed  
31 is effective.

32 (e) A transfer on death deed transfers property without covenant or warranty of title even if the  
33 deed contains a contrary provision.

34  
35 Section 13. [*Disclaimer.*]

36 A beneficiary may disclaim all or part of the beneficiary's interest as provided by Chapter 15 of  
37 this title.

38  
39 Section 14. [*Liability for creditor claims and statutory allowances.*]

40 A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor's  
41 probate estate and statutory allowances to a surviving spouse and children to the extent provided  
42 in [Insert citation.]

1 Section 15. [*Optional form of transfer on death deed.*]  
2 The following form may be used to create a transfer on death deed. The other sections of this  
3 subchapter govern the effect of this or any other instrument used to create a transfer on death deed:  
4

5 **REVOCABLE TRANSFER ON DEATH DEED**  
6 **NOTICE TO OWNER**  
7

8 You should carefully read all information on the other side of this form. You May Want to  
9 Consult a Lawyer Before Using This Form.

10 This form must be recorded before your death, or it will not be effective.

11  
12  
13 **IDENTIFYING INFORMATION**

14 Owner or Owners Making This Deed:

15 \_\_\_\_\_  
16 Printed name Mailing address

17 \_\_\_\_\_  
18 Printed name Mailing address

19  
20 Legal description of the property:  
21 \_\_\_\_\_  
22

23 **PRIMARY BENEFICIARY**

24 I designate the following beneficiary if the beneficiary survives me.

25 \_\_\_\_\_  
26 Printed name Mailing address, if available

27  
28 **ALTERNATE BENEFICIARY – Optional**

29 If my primary beneficiary does not survive me, I designate the following alternate beneficiary if  
30 that beneficiary survives me.

31 \_\_\_\_\_  
32 Printed name Mailing address, if available

33  
34 **TRANSFER ON DEATH**

35 At my death, I transfer my interest in the described property to the beneficiaries as designated above.

36  
37 Before my death, I have the right to revoke this deed.

38  
39 **SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED**

40 \_\_\_\_\_ [(SEAL)] \_\_\_\_\_  
41 Signature Date

42  
43 \_\_\_\_\_ [(SEAL)] \_\_\_\_\_  
44 Signature Date

45  
46 **ACKNOWLEDGMENT**

47 (insert acknowledgment for deed here)

1 (back of form)

2  
3 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

4 What does the Transfer on Death (TOD) deed do? When you die, this deed transfers the  
5 described property, subject to any liens or mortgages (or other encumbrances) on the property at  
6 your death. Probate is not required. The TOD deed has no effect until you die. You can revoke it  
7 at any time. You are also free to transfer the property to someone else during your lifetime. If  
8 you do not own any interest in the property when you die, this deed will have no effect.

9 How do I make a TOD deed? Complete this form. Have it acknowledged before a notary public  
10 or other individual authorized by law to take acknowledgments. Record the form in each  
11 [county] where any part of the property is located. The form has no effect unless it is  
12 acknowledged and recorded before your death.

13  
14 Is the “legal description” of the property necessary? Yes.

15  
16 How do I find the “legal description” of the property? This information may be on the deed you  
17 received when you became an owner of the property. This information may also be available in  
18 [the office of the county recorder of deeds] for the [county] where the property is located. If you  
19 are not absolutely sure, consult a lawyer.

20  
21 Can I change my mind before I record the TOD deed? Yes. If you have not yet recorded the deed  
22 and want to change your mind, simply tear up or otherwise destroy the deed.

23  
24 How do I “record” the TOD deed? Take the completed and acknowledged form to [the office of  
25 the county recorder of deeds] of the [county] where the property is located. Follow the  
26 instructions given by the [county recorder] to make the form part of the official property records.  
27 If the property is in more than one [county], you should record the deed in each [county].

28  
29 Can I later revoke the TOD deed if I change my mind? Yes. You can revoke the TOD deed. No  
30 one, including the beneficiaries, can prevent you from revoking the deed.

31  
32 How do I revoke the TOD deed after it is recorded? There are three ways to revoke a recorded  
33 TOD deed: (1) Complete and acknowledge a revocation form, and record it in each [county]  
34 where the property is located. (2) Complete and acknowledge a new TOD deed that disposes of  
35 the same property, and record it in each [county] where the property is located. (3) Transfer the  
36 property to someone else during your lifetime by a recorded deed that expressly revokes the  
37 TOD deed. You may not revoke the TOD deed by will.

38  
39 I am being pressured to complete this form. What should I do? Do not complete this form under  
40 pressure. Seek help from a trusted family member, friend, or lawyer.

41  
42 Do I need to tell the beneficiaries about the TOD deed? No, but it is recommended. Secrecy can  
43 cause later complications and might make it easier for others to commit fraud.

44  
45 I have other questions about this form. What should I do? This form is designed to fit some but  
46 not all situations. If you have other questions, you are encouraged to consult a lawyer.]

1 Section 16. [Optional form of revocation.]  
2 The following form may be used to create an instrument of revocation under this subchapter.  
3 The other sections of this subchapter govern the effect of this or any other instrument used to  
4 revoke a transfer on death deed.

5  
6 (front of form)

7 **REVOCATION OF TRANSFER ON DEATH DEED**

8 **NOTICE TO OWNER**

9 This revocation must be recorded before you die or it will not be effective. This revocation is  
10 effective only as to the interests in the property of owners who sign this revocation.

11  
12 **IDENTIFYING INFORMATION**

13 Owner or Owners of Property Making This Revocation:

14 \_\_\_\_\_  
15 Printed name Mailing address

16 \_\_\_\_\_  
17 Printed name Mailing address

18  
19 Legal description of the property:  
20 \_\_\_\_\_

21  
22 **REVOCATION**

23 I revoke all my previous transfers of this property by transfer on death deed.

24  
25 **SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION**

26 \_\_\_\_\_ [(SEAL)] \_\_\_\_\_  
27 Signature Date

28 \_\_\_\_\_ [(SEAL)] \_\_\_\_\_  
29 Signature Date

30  
31 **ACKNOWLEDGMENT**

32 (insert acknowledgment here)

33  
34 (back of form)

35 **COMMON QUESTIONS ABOUT THE USE OF THIS FORM**

36  
37 How do I use this form to revoke a Transfer on Death (TOD) deed? Complete this form. Have it  
38 acknowledged before a notary public or other individual authorized to take acknowledgments.  
39 Record the form in the public records in [the office of the county recorder of deeds] of each  
40 [county] where the property is located. The form must be acknowledged and recorded before  
41 your death or it has no effect.

42  
43 How do I find the “legal description” of the property? This information may be on the TOD  
44 deed. It may also be available in [the office of the county recorder of deeds] for the [county]  
45 where the property is located. If you are not absolutely sure, consult a lawyer.

1 How do I “record” the form? Take the completed and acknowledged form to [the office of the  
2 county recorder of deeds] of the [county] where the property is located. Follow the instructions  
3 given by the [county recorder] to make the form part of the official property records. If the  
4 property is located in more than one [county], you should record the form in each of those  
5 [counties].  
6

7 I am being pressured to complete this form. What should I do? Do not complete this form under  
8 pressure. Seek help from a trusted family member, friend, or lawyer.  
9

10 I have other questions about this form. What should I do? This form is designed to fit some but  
11 not all situations. If you have other questions, consult a lawyer.]  
12

13 Section 17. [*Uniformity of application and construction.*]

14 In applying and construing this uniform act, consideration must be given to the need to promote  
15 uniformity of the law with respect to its subject matter among the states that enact it.  
16

17 Section 18. [*Relation to Electronic Signatures in Global and National Commerce Act.*]

18 This subchapter modifies, limits, or supersedes the Electronic Signatures in Global and National  
19 Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 et seq.) (“Electronic  
20 Signatures Act”), but does not modify, limit, or supersede section 101(c) of the Electronic  
21 Signatures Act, or authorize electronic delivery of any of the notices described in section 103(b)  
22 of the Electronic Signatures Act.  
23

24 Section 19. [*Conforming Amendments.*]