Revocable Transfer on Death (TOD) Deed

California law allows for Revocable Transfer on Death (TOD) Deeds (sometimes referred to as "TODD" or "RTDD") to pass the property directly to a beneficiary (named grantee) without probate upon the death of the owner. Its main purpose is to provide an affordable alternative to traditional estate planning. The TOD does not affect any ownership rights during the lifetime of the transferor and does not convey any immediate rights to the transferee beneficiary.

The deed is effective only where the transferor dies on or after January 1, 2016, even if the deed was executed and recorded before the effective date. No TOD may be executed or recorded after January 1, 2032, unless the California Legislature elects to extend this legislation.

The TOD must substantially comply with the statutory form set forth in Probate Code Section 5642. This code section also addresses common questions regarding TOD, some of these are:



What does the TOD Deed do?

When you die, the identified property will transfer to your named beneficiary without probate. The TOD deed has no effect until you die. You can revoke it at any time. Due to Proposition 19, a TOD deed can be used to pass real estate to children if the property is worth less than \$1 million and the child(ren) intend(s) to make the property their primary residence.

Can I use this deed to transfer business property?

This deed can only be used to transfer (1) a parcel of property that contains one to four residential dwelling units, (2) a condominium unit, or (3) a parcel of agricultural land of 40 acres or less, which contains a single-family residence

Can I revoke the TOD Deed if I change my mind?

Yes. You may revoke the TOD deed at any time. No one, including your beneficiary, can prevent you from revoking the deed.

How do I revoke the TOD Deed?

There are three ways to revoke a recorded TOD deed:

- (1) Complete, have notarized, and RECORD a revocation form.
- (2) Create, have notarized, and RECORD a new TOD deed.
- (3) Sell or give away the property, or transfer it to a trust, before your death and RECORD the deed. A TOD deed can only affect property that you own when you die. A TOD deed cannot be revoked by will.

Can I revoke a TOD Deed by creating a new document that disposes of the property (for example, by creating a new TOD Deed or by assigning the property to a trust)?

Yes, but only if the new document is RECORDED. To avoid any doubt, you may want to RECORD a TOD deed revocation form before creating the new instrument. A TOD deed cannot be revoked by will, or by purporting to leave the subject property to anyone via will.

If I sell or give away the property described in a TOD Deed, what happens when I die?

If the deed or other document used to transfer your property is RECORDED before your death, the TOD deed will have no effect. If the transfer document is not RECORDED before your death, the TOD deed will take effect.

Continued...



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I am being pressured to complete this form. What should I do?

Do NOT complete this form unless you freely choose to do so. If you are being pressured to dispose of your property in a way that you do not want, you may want to alert a family member, friend, the district attorney, or a senior service agency.

Do I need to tell my beneficiary about the TOD Deed?

No. But secrecy can cause later complications and might make it easier for others to commit fraud.

What does my beneficiary need to do when I die?

Your beneficiary must RECORD evidence of your death (Prob. Code § 210), and file a change in ownership notice (Rev. & Tax. Code § 480). If you received Medi-Cal benefits, your beneficiary must notify the State Department of Health Care Services of your death and provide a copy of your death certificate (Prob. Code § 215).

What if I share ownership of the property?

This form only transfers YOUR share of the property. If a co-owner also wants to name a TOD beneficiary, that co-owner must complete and RECORD a separate form.

What is the effect of a TOD Deed on property that I own as joint tenancy or community property with right of survivorship?

If you are the first joint tenant or spouse to die, the deed is VOID and has no effect. The property transfers to your joint tenant or surviving spouse and not according to this deed. If you are the last joint tenant or spouse to die, the deed takes effect and controls the ownership of your property when you die. If you do not want these results, do not use this form. The deed does NOT transfer the share of a co-owner of the property. Any co-owner who wants to name a TOD beneficiary must complete and RECORD a SEPARATE deed.

Can I add other conditions on the form?

No. If you do, your beneficiary may need to go to court to clear title.

NOTE: Title companies are not required to rely on TODs when underwriting a policy of title insurance under the new law–an especially important detail given that there may be circumstances under which the TOD may be void or superseded by another document. A probate proceeding or quitclaim deed may be required as a condition of issuing a policy of title insurance.

SIMPLE REVOCABLE TRANSFER ON DEATH (TOD) DEED (California Probate Code Section 5642)

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REVOCATION OF REVOCABLE TRANSFER ON DEATH (TOD) DEED

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CITY, STATE & ZIP CODE		
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For additional information please contact your Cypress Title Representative.