

Kansas Transfer on Death Deed



What is a Transfer on Death (TOD) Deed? Benefits, Drawbacks, and How to Use It

A transfer-on-death (TOD) deed, also called a beneficiary deed, looks like a regular deed used to transfer real estate. But there's a crucial divide: It doesn't take effect until your death. You are free to change your mind and revoke the deed at any time during your life.

For Land, Home, Certain Types of Oil Gas and Mineral Rights, and Royalties Thereof:

- A TOD is a document that can be prepared and signed at any time.
- It directs the transfer of your interest in property to another person at the moment of your death.
- It doesn't avoid creditors or SRS Estate Recovery. It doesn't avoid taxes (although only very large estates are taxed in Kansas now).

- It doesn't transfer ownership until your death, so you don't cause possible Medicaid Transfer of Asset penalties.
- You still own your property, so you can sell it at any time.
- Property owned in joint tenancy with right of survivorship is fully transferred to the surviving owner, upon the death of one owner.
- Note: You must give an exact legal description of the property, so obtaining a copy of your deed is best.

For Car, Recreational or Other Vehicle:

- Transfer on Death Form – this is a label you can have added to your car title.
- It is best to do with when pay your annual vehicle registration.
- Work with the County Treasurer or Tag office to complete the paperwork.
- The vehicle will be transferred to them upon the proof of death of all owners.
- This must be done for each vehicle owned.

Making it Official:

- A TOD for Land, home, or mineral and oil rights should be filed with the Recorder of Deeds in the county where the real estate is located.
 - A small fee is included for recording the deed.
 - You will need a full description of your real estate.
- A TOD for Vehicles can be recorded by taking the title to the County Treasurer in the owner's county of residence and paying a fee.
- The grantor need not inform the recipient or get their approval to be able to record a TOD.

Benefits of a Transfer on Death Deed

- A TOD allows you to transfer ownership of property after death by naming a recipient and bypassing the probate process.

- Even if you choose a beneficiary of a piece of property in your will, it will still need to be probated.
- A TOD however will not go through the probate system and transfers the property without the need for court and clerical fees.

- TOD do not replace wills.

- It is still a good idea to have a valid will in place to properly give out your estate.
- A TOD has a place within an estate plan along with a will, but should not replace a will totally.
- Make sure to check out our KLS resource: [Do I Need A Will?](#)

- A benefit of the TOD is that, because the recipient has no interest in the property until the owner dies, the recipient's creditors cannot reach the property.

- In contrast with the transfer of property under a revocable trust or a will, the transfer of property through a TOD deed is much less costly.

- In some states the cost of probate is great, and in any state a probate proceeding will cost more than the fees related to a TOD deed.

Possible Drawbacks of Transfer on Death Deeds

A downside of TOD deeds is that people may use them without consulting a lawyer and may make legal mistakes. For example, an owner might name one beneficiary but neglect to arrange for the possibility that the recipient predeceases the owner.

Revoking a TOD?

To revoke a TOD, it must be done formally and in writing.

- Simply denying a TOD in a will is not enough to undo the TOD.

Want help?

For help with Estate Planning, Wills and TOD deeds, contact Kansas Legal Services at 316-267-3975 or complete an online application. [Click here to complete an online application.](#)

Additional reading:

[This article from an ABA Journal](#), explains the options provided by a Transfer on Death Deed. Kansas is one of only nine states that allows this option.

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