

www.saclaw.org

>> [Home](#) >> [Law 101](#)

TRANSFER ON DEATH (TOD) DEEDS

Naming Beneficiaries, Revoking TOD Deeds, and Clearing Title after a Death

This Guide includes instructions and sample filled-out forms. The Guide and related forms may be downloaded from:

saclaw.org/tod-deed

BACKGROUND

The “Simple Revocable Transfer on Death Deed,” also called “TOD Deed” or “beneficiary deed,” is a simple way to leave *your residence* to your heirs without the need for probate. The current owner or “transferor” names the intended heirs as “beneficiaries.” The deed has no effect until the transferor dies, when the beneficiaries receive the property just by filing an affidavit. This guide provides instructions and samples for:

1. [Filling Out and Recording a TOD Deed](#)
2. [Revoking a TOD Deed](#)
3. [Clearing Title after Death of Transferor](#)

A TOD deed can only be used to transfer a property with one to four residential dwelling or condominium units, or a single-family residence with less than 40 acres of agricultural land.

Advantages:

- Avoids probate, if done correctly and if no unexpected family changes occur (like beneficiaries who die before transferor);
- Simple, inexpensive alternative to a living trust or other probate avoidance techniques;
- Can be revoked at any time during the lifetime of the transferor;
- Same tax advantages as transfers by trust or inheritance under a will.

Disadvantages:

- Can only be used to transfer your residence, which can be a one- to four-residential dwelling property or condominium units, or a single-family residence with less than 40 acres of agricultural land;

Disclaimer: This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

Related Video

For detailed information on TOD deeds, see our five-part video series on TOD deeds by Jim Hlidreth:

- [Revocable Transfers on Death Deeds](#) (video)

>>[Home](#) >>[Law 101](#)

- Technical requirements are simple but very strict, and errors can void the TOD deed;
- Cannot transfer property held in joint tenancy or as community property with right of survivorship;
- No protection from transferor’s debts. If transferor dies with debts, beneficiary may get nothing;
- Since debts can be presented for three years after death, title companies may refuse to issue title insurance until then, effectively blocking sales of the property;
- Cannot name a class of beneficiaries (e.g., “my children”). Each beneficiary must be specifically named ;
- If a beneficiary dies before the transferor, their share won’t go to their heirs. Instead the remaining beneficiaries split it. If no beneficiaries survive, your home will probably need to go through probate;
- Transferors, especially elders with dementia, may be pressured or tricked into signing this simple document by unscrupulous people. Notaries are not mandated reporters for elder abuse, so there is no real oversight.
- Would-be heirs may have an easier time challenging a TOD deed than a will or trust.

If you co-own the property as joint tenancy or community property with right of survivorship, the other owner receives your share of the property upon your death. The TOD deed has no effect unless you outlive your co-owner.

If co-owners want to use a TOD deed, they must each sign a separate one.

1. FILLING OUT AND RECORDING A TOD DEED

Download a blank “[Simple Revocable Transfer on Death \(TOD\) Deed](#)” form from our website at saclaw.org/wp-content/uploads/form-TOD-deed.rtf.

Step 1: Locate the Current Deed for the Property

You will need information from your current deed (the deed you received when you bought or received the property) in Step 2.

If you do not have a copy of the current deed, you can purchase one from the Recorder’s Office. In Sacramento, this costs \$1 per page. You can contact the Sacramento office at (916) 874-6334 or visit one of the office locations (see www.ccr.saccounty.net/ for addresses and more information).

Make sure you are looking at the deed which gives you ownership of the property. Look for a name like “Grant Deed,” “Quitclaim Deed,” “Interspousal Deed,” “Corporation Deed,” or “Transfer Deed.” Ignore any “Deed of Trust.” That is related to the mortgage on your property. It will not have all the information you need.

>>[Home](#) >>[Law 101](#)

Step 2: Read the “Common Questions” Listed on Page 2 of the TOD Deed

Before you sign the deed, you are required to read the questions and answers about how the TOD deed works. They are written in small type on the second page and contain important information you need to know prior to filling out the deed, including how to complete it; how to revoke it; its effects on taxes, Medi-Cal eligibility and reimbursement requirements; and more.

Common Questions: Large Print Version

Prefer a larger version?
Download a [large-print version of the common questions](#) from our website
(saclaw.org/common-tod-questions-large-text/)

Step 3: Fill Out the TOD Deed (Do Not Sign)

The TOD deed can be typed, filled out online then printed, or neatly handwritten in dark blue or black ink.

You will need the following information:

- ✓ Assessor’s Parcel Number.
- ✓ Your name as spelled on the current deed.
- ✓ Names of “beneficiaries” (your intended heirs), and their relationship to you.
- ✓ The legal description of the property. This must match the current deed **exactly**. Attach the legal description as an exhibit if it is too long for the page.

A sample completed “Simple Revocable Transfer on Death (TOD) Deed” with more detailed instructions is available at the end of this guide.

Step 4: Sign in Front of a Notary

You will need to sign the TOD deed in front of a notary. The notary will charge a fee for this service. You can find notaries at many banks, mailing services, and title companies.

The beneficiaries do not need to sign the TOD deed. In fact you do not need to tell the beneficiaries about the TOD deed at all, although telling them is a good idea.

Step 5: Record the Deed at the Recorder’s Office within 60 Days of Signing It

You must record a TOD deed within 60 days or it becomes invalid.

Record the TOD deed in the county where the property is located. The Recorder’s Office charges a recording fee (currently \$21/first page plus \$3 for additional pages). Current Sacramento fees are available at the County Clerk/Recorder’s website at www.ccr.saccounty.net/Pages/Fees.aspx.

>>[Home](#) >>[Law 101](#)

2. REVOKING A TOD DEED

You can revoke a TOD deed at any time for any reason. In order to do this, fill out and record a “Revocation of Revocable Transfer on Death (TOD) Deed.”

Download the “[Revocation of Revocable Transfer on Death \(TOD\) Deed](#)” form from our website at saclaw.org/wp-content/uploads/form-revocation-tod-deed.rtf.

Step 1: Locate your TOD Deed for the Property

You will need information from your TOD deed in Step 2.

If you do not have a copy of your TOD deed, you can purchase one from the Recorder’s Office. In Sacramento, this costs \$1 per page. You can contact the Sacramento office at (916) 874-6334 or visit one of the office locations (see www.ccr.saccounty.net/ for addresses and more information).

Step 2: Fill Out the TOD Revocation (Do Not Sign)

The revocation can be typed, filled out online then printed, or neatly handwritten in dark blue or black ink. You will need the following information from the TOD deed:

- ✓ Assessor’s Parcel Number.
- ✓ The legal description of the property. This must match the TOD deed **exactly**. Attach the legal description as an exhibit if it is too long for the page.
- ✓ Your name as spelled on the TOD deed.
- ✓ The date you signed the TOD deed, the date you recorded the TOD deed, and the book/reel and page/image numbers stamped on the upper right of the TOD deed. (If your county uses instrument numbers, you will need that number. Sacramento County does not use instrument numbers).
- ✓ Names of “beneficiaries” (your intended heirs), and their relationship to you, as written on your TOD deed.

A sample completed “Revocation of Revocable Transfer on Death (TOD) Deed” with more detailed instructions is available at the end of this guide.

Step 3: Sign in Front of a Notary

Sign in front of a notary. The notary will charge a fee for this service. You can find notaries at many banks, mailing services, and title companies.

Step 4: Record the Revocation at the Recorder’s Office

Record the revocation in the county where the property is located. The Recorder’s Office charges a recording fee (currently \$21/first page plus \$3 for additional pages). Current Sacramento fees are available at the County Clerk/Recorder’s website at www.ccr.saccounty.net/Pages/Fees.aspx.

>>[Home](#) >>[Law 101](#)

3. CLEARING TITLE AFTER THE OWNER (“TRANSFEROR”) DIES

After the owner passes away, the beneficiary or beneficiaries notarize and record a simple form called “Affidavit of Death of Transferor under TOD Deed,” along with a certified copy of the death certificate.

Download the form from our website at saclaw.org/wp-content/uploads/form-affidavit-death-TOD.rtf.

Step 1: Obtain the TOD Deed for the Property and a Certified Death Certificate

You will need information from the TOD deed in Step 2.

If you do not have a copy of the TOD deed, you can purchase one from the Recorder’s Office. In Sacramento, this costs \$1 per page. You can contact the Sacramento office at (916) 874-6334 or visit one of the office locations (see www.ccr.saccounty.net/ for addresses and more information).

You will also need a *certified death certificate* to record along with the Affidavit of Death. You may receive several of these from the funeral home. If you do not have one, you can obtain one from the county recorder’s office 4-6 weeks after the death.

Death Certificate Note for Non-Relatives

Only specified people (close relatives, probate executors, etc.) can obtain an “authorized” copy, but anyone can obtain an “informational” copy. The Sacramento County Recorder’s office will accept an informational copy issued by the county for purposes of recording only.

Step 2: Fill Out the Affidavit of Death (Do Not Sign)

The affidavit should be typed, filled out online and printed, or neatly handwritten in dark blue or black ink. The beneficiaries will need the following information from the TOD deed:

- ✓ Name of transferor as spelled on TOD deed and as spelled on death certificate.
- ✓ The dates the TOD deed was signed (executed) and recorded, and the book/reel and page/image numbers stamped on the upper right of the TOD deed. (If your county uses instrument numbers, you will need that number. Sacramento County does not use it).
- ✓ The names of “beneficiaries” (the intended heirs), and their relationship to the transferor, as written on TOD deed.
- ✓ The legal description of the property. This must match the TOD deed **exactly**. Attach the legal description as an exhibit if it is too long for the page. Sign in front of a notary, and record the affidavit in the county where the property is located.

A sample completed “Affidavit of Death of Transferor” with more detailed instructions is available at the end of this guide.

Step 3: Sign in Front of a Notary

Sign in front of a notary. The notary will charge a fee for this service. You can find notaries at many banks, mailing services, and title companies.

>>[Home](#) >>[Law 101](#)

Step 4: Record the Affidavit of Death at the County Recorders' Office

Record the affidavit in the county where the property is located, along with the certified copy of the death certificate. The Recorder's Office charges a recording fee (currently \$21/first page plus \$3 for additional pages). Current Sacramento fees are available at the County Clerk/Recorder's website at www.ccr.saccounty.net/Pages/Fees.aspx.

Step 5: Next Steps

The new owner or owners may also want to record a new grant deed so that the chain of title is as clear as possible. See our [Grant and Quitclaim Deeds guide](#) for more information.

You may also be required to file certain forms at the County Assessor's office, including a Change in Ownership Statement Death of Real Property Owner, the death certificate, and applicable exclusions from reassessment. For details, see the Sacramento County Assessor's website at www.assessor.saccounty.net/DeathOfRealPropertyOwner/Pages/default.aspx.

FOR HELP

Senior Legal Hotline

Toll Free: (800) 222-1753; Sacramento County: (916) 551-2140

www.seniorlegalhotline.org/

Free legal assistance for Sacramento residents age 60 and over on almost any civil issue, including property transfers and deeds.

FOR MORE INFORMATION

On the Web:

California Advocates for Nursing Home Reform (CANHR)

"Revocable Transfer on Death Deeds ('TOD Deed')"

www.canhr.org/hepp/tod.html

Links several resources discussing advantages and disadvantages of TOD deeds, including a webinar for estate planning attorneys. CANHR also has a referral service to help you find attorneys specializing in elder law.

At the Law Library:

California Estate Planning [KFC 195 .A16 C3](#)

This book, published by CEB, discusses TOD deeds some of their tax and other implications, and possible alternatives in chapter 7.

Electronic Access: On the Law Library's computers, using *OnLaw*.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

Sample TOD Deed with Instructions: Children as Beneficiaries

Recording requested by (name):

Sara Sample

The name of the person who will be turning the deed in to the Recorder's Office.

And when recorded, mail this deed and tax statements to (name and address):

Sara Sample
123 Main Street
Sacramento, CA
95814

The name and address of the person who will receive the stamped deed and future tax statements.

The APN (Assessor's Parcel Number) of the property. This is on the current deed.

SIMPLE REVOCABLE TRANSFER ON DEATH (TOD) DEED

Assessor's Parcel Number (APN): 0000-123-45-6789

This document is exempt from documentary transfer tax under Rev. & Tax. Code § 11930. This document is exempt from preliminary change of ownership report under Rev. & Tax. Code § 480.3.

NOTICE: THIS DEED MUST BE RECORDED ON OR BEFORE 60 DAYS AFTER THE DATE IT IS SIGNED AND NOTARIZED

Use this deed to transfer the residential property described below directly to your named beneficiaries when you die. YOU SHOULD CAREFULLY READ ALL OF THE INFORMATION ON THE OTHER PAGES OF THIS FORM. You may wish to consult an attorney before using this deed. It may have results that you do not want. Provide only the information requested for in the form. DO NOT INSERT ANY OTHER INFORMATION OR INSTRUCTIONS. This form is effective only if recorded on or before 60 days after the date it is signed and notarized or it will not be effective.

PROPERTY DESCRIPTION

Print the legal description of the residential property affected by this deed:

Lot 14 of Blackacre Addition to the City of Sacramento, as delineated on the map of said addition, recorded January 30, 1965, in Book 625, Page 013065. Or: attach a copy marked "Exhibit A" and write "See Exhibit A."

Enter the exact legal description of the property as shown on the current deed.

OR: attach the description on a separate piece of paper labeled "Attachment A" and type or write "See Description in Attachment A" in this space.

BENEFICIARY(IES)

Print the FULL NAME(S) of the person(s) who will receive the property on your death (DO NOT use general terms like "my children") and state the RELATIONSHIP that each named person has to you (spouse, son, daughter, friend, etc.):

Dora Sample, my daughter, and Saul Sample, my son

List the beneficiaries and relationship to you.

TRANSFER ON DEATH

I, Sara Sample, transfer all of my interest in the described property to the named beneficiary(ies) on my death. I may revoke this deed. When recorded, this deed revokes any

Write your name as shown on your current deed. ed.

Sign and print your name below (your name should exactly match the name shown on your title documents):

Date: Nov. 12, 2015

Sign in front of notary.

(Signature of declarant)

Sara Sample

NOTE: This deed only transfers MY ownership share of the property. The deed does NOT transfer the share of any co-owner of the property. Any co-owner who wants to name a TOD beneficiary must execute and RECORD a SEPARATE deed.

Home > Law 101

Recording requested by (name):
Sara Sample
 And when recorded, mail this deed and tax statements to (name and address):
Sara Sample
123 Main Street
Sacramento, CA
95814

Name of person recording the Revocable Transfer on Death Deed
Sara Sample

Name and address of person who should receive the stamped copy of this document when recorded
Sara Sample
123 Main Street
Sacramento, CA
95814

REVOCACTION OF REVOCABLE TRANSFER ON DEATH (TOD) DEED
 (California Probate Code Section 5600)

Assessor's Parcel Number (APN): 0000-123-45-6789

This deed revocation is exempt from documentary transfer tax under Rev. & Tax. Code § 11930. This deed revocation is exempt from preliminary change of ownership report under Rev. & Tax. Code § 480.3.

Copy this from your current Deed or property tax statement.

IMPORTANT NOTICE: THIS DEED MUST BE RECORDED TO BE EFFECTIVE

This form MUST be RECORDED before your death or it will not be effective. This revocation form transfer on death deed that YOU made. A transfer on death deed made by a co-owner of your affected by this revocation form. A co-owner who wants to revoke a transfer on death deed that the entire interest must complete and RECORD a SEPARATE revocation form.

PROPERTY DESCRIPTION

Print the legal description of the property affected by this revocation:

See Exhibit "A"

REVOCACTION

I, Sara Sample, am the transferor under the Revocable TOD deed dated Nov. 12, 2015 and recorded on Nov. 13, 2015 as Instrument No. N/A in Book/Reel 11132015, Page/Image 621 of the Official Records of Sacramento County, California, which named as beneficiary(ies) Dora Sample, my daughter, and Saul Sample, my son

I hereby revoke any TOD deed to transfer the described property that I executed before executing this form, including the Revocable TOD deed described above.

SIGNATURE AND DATE

Sign and print your name below (your name should exactly match the name shown on your title documents):

Date: Dec. 15, 2015

(Signature of declarant)

Wait to sign until you are with the notary.

Note: Sacramento does not use Instrument Numbers. Some counties use Instrument Number as well as, or instead of, the Page/Image and Book/Reel numbers. Fill in whatever is on the Transfer on Death Deed

Exhibit A

Lot 14 of Blackacre Addition, City of Sacramento, as delineated on the map of said addition, recorded January 30, 1965, in Book 625, Page 01301965.

Type description on blank page (or photocopy description page from prior deed) onto a blank piece of standard 8-1/2"x11" paper. Staple it to the Revocation.

>>Home >>Law 101

Recording requested by (name):
Dora Sample

And when recorded, mail this deed and tax statements to (name and address):
Dora Sample
123 Main Street
Sacramento, CA
95814

Name of person recording the Affidavit-Death of Transferor (Revocable TOD Deed)

Name and address of person who should receive the stamped copy of this document when recorded

For recorder's use

AFFIDAVIT – DEATH OF TRANSFEROR (REVOCABLE TOD DEED)

Name of person completing and signing this form

Dora Sample, of legal age, being first duly sworn,

Name of prior owner as spelled in death certificate

deposes and says:
Sara Sample, the decedent mentioned in the attached certified copy of Certificate of Death, is the same person as

Name of prior owner as spelled on Deed

Sara Sample, the transferor under the Revocable Transfer on Death Deed dated Nov. 12, 2015 and recorded on Nov. 12, 2015 as Instrument No. ★ in Book/Reel 20151113, Page/Image 151 of Official Records of Sacramento County, California, which named as beneficiary(ies) Dora Sample, her daughter and Saul Sample, her son

and which transferred the following described property situated in Sacramento County, California (insert legal description):

Lot 14 of Blackacre Addition to the City of Sacramento, as delineated in the map of said addition, recorded January 30, 1965, in Book 625, Page 013065. Or: attach a copy marked "Exhibit A" and write "See Exhibit A."

Copy this information from the Transfer on Death Deed

Nov. 12, 2015

Dora Sample

(Signature of declarant)

Dora Sample

(Typed or written name of declarant)



Note: Sacramento does not use Instrument Numbers. Some counties use Instrument Number as well as, or instead of, the Page/Image and Book/Reel numbers. Fill in whatever is on the Transfer on Death Deed.