

# 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.](#)

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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.

Last updated on August 27, 2024.

[Advance Directives](#)

[TODD Transfer on Death Deed](#)

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