

# Transfer on Death Deed Kit

## GENERAL INSTRUCTIONS

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This Transfer on Death Deed Kit contains forms and instructions for: 1) creating a transfer on death deed, 2) canceling a transfer on death deed, and 3) creating an affidavit of death.

**WHAT IS A TRANSFER ON DEATH DEED?** A Transfer on Death Deed is a simple, inexpensive way to transfer real estate to someone else upon your death. It does not involve going through probate court, which can be a lengthy and costly process. It works similarly to a life insurance policy or a payable on death account at a bank because the asset passes to your named beneficiary upon your death outside the probate system.

**WHEN TO USE A TRANSFER ON DEATH DEED:** You may want to use a transfer on death deed when you own real property, such as a house or land, and you want to give that property to someone else when you die.

### **THINGS TO KNOW ABOUT USING A TRANSFER ON DEATH DEED:**

1. **A transfer on death deed does not affect any of your property rights during your lifetime.** It only takes effect after your death. You can sell the property, use it as collateral on a loan, get property tax exemptions, and enjoy all the other property rights you currently have.
  - The named beneficiary has no legal right to the property until your death. If you decide to sell the property, the named beneficiary cannot stop you from doing so. The sale simply “voids” the transfer on death deed and it is as if the transfer on death deed never existed.
2. **You can only give someone the portion of the property that you own.** For example, if you and your spouse own the property in equal shares and you file a transfer on death deed giving the property to someone, like a child or a friend, that person only gets your share of the property. Your spouse still has her share.
3. **A transfer on death deed trumps a will.**
  - If you already have a will that gives the property to someone else, this transfer on death deed “trumps” the will. The beneficiary named in the transfer on death deed gets the property, not the person named in your will. If you already have a will, it is best to talk to an attorney about the pros and cons of using a transfer on death deed.
  - If you make a will at some point in the future that gives the property to a different person than the beneficiary listed in this transfer on death deed, that provision does not override the deed. The beneficiary named in this transfer on death deed still gets the property. If you change your mind about who you want to get the property, you need to complete the cancellation of transfer on death deed in the will (see below) or file an updated transfer on death deed.
4. **A transfer on death deed does not protect the property from creditor claims.** You may use a transfer on death deed even if there is a debt or lien, such as a mortgage, against the property. However, upon your death, your beneficiary takes the property subject to all mortgages, liens and claims and will be responsible for paying those debts on the property. Also, if the property owner dies and has other unpaid debts, the property could be tied up in probate court until those debts are resolved.
5. **The transfer on death deed beneficiary must survive you by at least 120 hours.** If not, the property is treated as if the transfer on death deed did not exist.
6. **A transfer on death deed cannot be created by a person acting under a property owner’s power of attorney,** however, that person can cancel the transfer of death deed.

# Transfer on Death Deed Kit

## GENERAL INSTRUCTIONS

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**IMPORTANT INFORMATION:** Carefully read all instructions for each form. It is best to talk to a lawyer before using these forms. Do not file the instructions.

- **Each Form Must be Signed In Front of a Notary:** Each form in this packet, if used, must be signed before a notary. If two people own the property, both need to sign before a notary.
- **Must Record Transfer on Death Deed Before Your Death to be Effective:** You must file this transfer on death deed with the county clerk where the property is located before your death or it will not be effective.
- **If You Change Your Mind, You Must Cancel the Transfer on Death Deed Before You Die:** If you decide you do not want the listed primary or alternate beneficiaries to own the property upon your death, you may cancel (or revoke) the transfer on death deed by filing:
  1. **A Cancellation of Transfer on Death Deed** with the county clerk where you filed the original transfer on death deed before your death, or
  2. **A New Transfer on Death Deed Naming New Beneficiaries** with the county clerk where you filed the original transfer on death deed before your death, or
  3. **As Appropriate, Your Divorce Decree.** If the transfer on death deed names your former spouse as a beneficiary and you were awarded the property in the divorce, you may file your divorce decree to remove your spouse as a beneficiary on the transfer on death deed. However, you must do so before your death.

If you do not file one of the above documents before your death, the property will go to the person(s) listed as the primary or alternate beneficiaries in the transfer on death deed upon your death. Tearing up or destroying your copy, or the beneficiary's copy, of the transfer on death deed will not cancel the deed. A will that names someone else as the beneficiary does not trump the transfer on death deed even if it is executed after the transfer on death deed.

The cancellation applies **ONLY** to the portion of the property owned by the person signing this cancellation.

- **Beneficiary Must File Affidavit of Death to Get Deed:** After your death, your beneficiary **must** file an affidavit of death with the county clerk where the property is located to get the deed to the property and become the legal owner of the property.
- **Social Security Number and Driver's License Number Not Required:** For privacy reasons, do not put your social security number or driver's license number on these forms.
- **Personal Identification May Be Required:** The county clerk may require you to show personal identification before you file the transfer on death deed, the cancellation of transfer on death deed, or the affidavit of death.

# Transfer on Death Deed

## INSTRUCTIONS

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**IMPORTANT NOTICE TO PROPERTY OWNER:** Carefully read all instructions for this form. It is best to talk to a lawyer before using this form. For privacy and identity theft reasons, you should not put your social security number or driver's license number on this form.

**WHAT IS A TRANSFER ON DEATH DEED?:** A Transfer on Death Deed is a simple, inexpensive way to transfer real estate to someone else upon your death. It does not involve going through probate court, which can be a lengthy and costly process. It works similarly to a life insurance policy or a payable on death account at a bank because the asset passes to your named beneficiary upon your death outside the probate system.

**WHEN TO USE A TRANSFER ON DEATH DEED:** You may want to use a transfer on death deed when you own real property, such as a house or land, and you want to give that property to someone else when you die.

**THINGS TO KNOW ABOUT USING A TRANSFER ON DEATH DEED:**

1. **A transfer on death deed does not affect any of your property rights during your lifetime.** It only takes effect after your death. You can sell the property, use it as collateral on a loan, get property tax exemptions, and enjoy all the other property rights you currently have.
  - The named beneficiary has no legal right to the property until your death. If you decide to sell the property, the named beneficiary cannot stop you from doing so. The sale simply “voids” the transfer on death deed and it is as if the transfer on death deed never existed.
2. **You can only give someone the portion of the property that you own.** For example, if you and your spouse own the property in equal shares and you file a transfer on death deed giving the property to someone, like a child or a friend, that person only gets your share of the property. Your spouse still has her share.
3. **A transfer on death deed trumps a will.**
  - If you have a will that gives the property to someone else, this transfer on death deed “trumps” the will. The beneficiary named in the transfer on death deed gets the property, not the person named in your will. If you already have a will, it is best to talk to an attorney about the pros and cons of using a transfer on death deed.
  - If you make a will at some point in the future that gives the property to a different person than the beneficiary listed in this transfer on death deed, that provision does not override the deed. The beneficiary named in this transfer on death deed still gets the property. If you change your mind about who you want to get the property, you need to complete the cancellation of transfer on death deed in the will (see below) or file an updated transfer on death deed.
4. **A transfer on death deed does not protect the property from creditor claims.** You may use a transfer on death deed even if there is a debt or lien, such as a mortgage, against the property. However, upon your death, your beneficiary takes the property subject to all mortgages, liens and claims and will be responsible for paying those debts on the property. Also, if the property owner dies and has other unpaid debts, the property could be tied up in probate court until those debts are resolved.
5. **The transfer on death deed beneficiary must survive you by at least 120 hours.** If not, the property is treated as if the transfer on death deed did not exist.
6. **A transfer on death deed cannot be created by a person acting under a property owner's power of attorney,** however, that person can cancel the transfer on death deed.

# Transfer on Death Deed

## INSTRUCTIONS

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### **REQUIRED:**

- **Must Sign in Front of a Notary:** Do not sign or date the transfer on death deed until you are standing in front of a notary public.
  - **Must Record Transfer on Death Deed Before Your Death:** You **must** record (*file*) this deed **before** your death with the county clerk where the property is located or it will not be effective.
1. **Property Owner (Transferor) Making this Deed:** Enter your first, middle (if any), and last name, along with your mailing address. Write your name exactly as it appears on the deed you received when you became an owner of the property. If you now go by a different name, write your name as listed on the deed, followed by AKA (also known as) and your current name. If more than one person owns the property, each person must do this.
  2. **Legal Description of the Property:** Enter the legal description of the property, which is different from the mailing or physical address of the property. This information is on the deed you received when you became an owner of the property and is also available at the county clerk's office in the county where the property is located. Do NOT use the legal description listed on your property tax bill because it is usually incomplete. IT IS VERY IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.
  3. **Address of the Property:** Enter the physical address of the property.
  4. **Beneficiary or Beneficiaries:** A "beneficiary" is the person who will own the property when you die. You must check the box for A, B, or C. Check **ONLY ONE** box and fill in the blanks in that section.
    - A. **If you are married and you and your spouse own the property together:**
      - *Fill out Section A if you want the surviving spouse to get your share of the property upon your death.* You may list alternate beneficiaries, who would get the property when both you and your spouse die, but it is not required.
      - *Fill out Section C if you want someone other than your spouse to get your share of the property upon your death.* Enter the name of each person you want to own your property when you die. You may also list alternate beneficiaries, but it is not required.
    - B. **If you are married and you own all or part of the property by yourself (your spouse doesn't own any part of it):**
      - *Fill out Section B if you want your spouse to get the property upon your death.* You may list alternate beneficiaries, who would get the property if your spouse is deceased at the time of your death, but it is not required.
      - *Fill out Section C if you want someone other than your spouse to get the property upon your death.* Enter the name of each person you want to own your property when you die. You may also list alternate beneficiaries, but it is not required.
    - C. **If you are not married, fill out Section C.** Enter the first and last name of each person you want to own your property when you die. You may also list alternate beneficiaries, who would get the property if your primary beneficiary is deceased at the time of your death, but it is not required.

# Transfer on Death Deed

## INSTRUCTIONS

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5. Transfer on Death: You do not need to fill out anything in this section.
6. Signature of Owner: This deed must be signed before a notary. **Do not sign your name or enter the date until you are in front of a notary.** If two people own the property, both need to sign before a notary.
7. Acknowledgement: You do not need to fill out anything in this box. The notary will fill it out.
8. "After Recording, Return to" Section: Fill in the property owner's name and address here. Once the transfer on death deed has been recorded, it will be returned to the property owner with the specific information (the volume, page number, and/or deed number) on where the deed has been recorded in the county's clerk office so that it can be located later. Keep the transfer on death deed in a safe place.
9. File the Deed (NOT these Instructions) in the County Clerk's Office:
  - **Bring Original and One Copy**: Bring the original and at least one copy of the complete and notarized transfer on death deed to the County Clerk's office in the county where the property is located.
  - **Bring Personal Identification**: The county clerk may require you to show personal identification before you file this document.
  - **Bring Money**: The County Clerk will charge a fee to file the transfer on death deed, which is typically a per page fee. Many County Clerks do not accept checks. You may want to call the County Clerk's office and find out how much the charge will be and whether they accept checks before you go. The File the original and ask them to return a copy of the original with the recording information on it to the owner.
  - **Do Not File the Instructions**: If you file the instructions, it may cause confusion and will also cost you more money.

# Transfer on Death Deed

**IMPORTANT NOTICE TO PROPERTY OWNER:** Carefully read all instructions for this form. It is always best to talk to a lawyer before using this form. For privacy reasons, do not put your social security number or driver's license number on this form. Do not file these instructions.

## **REQUIRED:**

- **Must Sign and Date Transfer on Death Deed In Front of A Notary.**
- **Must Record Transfer on Death Deed Before Your Death:** You must record (*file*) this deed before your death with the county clerk where the property is located or it will not be effective.

1. **Property Owner(s) (Transferors) Making this Deed.** *Enter your first, middle (if any), and last name here, along with your mailing address. If more than one person owns the property, all owners must list this information.*

\_\_\_\_\_  
Property Owner's Printed Name

\_\_\_\_\_  
Second Owner's Printed Name (If Applicable)

\_\_\_\_\_  
Mailing Address:

\_\_\_\_\_  
Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City State Zip*

\_\_\_\_\_  
*City State Zip*

2. **Legal Description of the Property.** *The legal description is not the mailing or physical address of the property. The legal description is listed on the deed to the property, which you should have gotten when you became an owner. This information may also be available at the county clerk's office in the county where the property is located. Do NOT use the legal description listed on your property tax bill because it may be incorrect. IT IS VERY IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Print legal description of the property.*

3. **Address of the Property (if any).** *This is the physical address of the property. Include county.*

\_\_\_\_\_  
*Address City County State Zip Code*

# Transfer on Death Deed

## 4. Primary and Alternate Beneficiaries. **MUST CHECK AND COMPLETE A, B, OR C (Check ONE and ONLY ONE):**

- A “beneficiary” is the person who you want to own the property when you die.
- Section A: Fill out this section if you are married, and you and your spouse own the property together, and you want your spouse to own the property when you die.
- Section B: Fill out this section if you are married and you own the property by yourself – your spouse doesn’t own any part of it – and you want your spouse to own the property when you die.
- Section C: Fill out this section in all other situations. See #4 in the detailed instructions to this form.

☐ **A. Both Spouses Own the Property and Want to Leave to Surviving Spouse:** Fill out this section if you are married, and you and your spouse own the property together, and you want your spouse to own the property when you die. Both spouses must sign the transfer on death deed.

- 1) Primary Beneficiary is Surviving Spouse: The owners of this property are married to each other and are both signing this deed. If one of us dies and the other is living, the living spouse will be the sole owner of the property.
- 2) Alternate Beneficiary or Beneficiaries: Enter the first, middle (if any), and last name of each person you want to get the property when both you and your spouse have died. This person(s) will be named the “beneficiary(ies).” You may list more than two beneficiaries by attaching a page with their name and mailing address.

When we are both deceased, we want the following person(s) to own our property. This person(s) may or may not be our child, descendant, or a member of our family. If more than one alternate beneficiary is listed, they will own the property in equal shares.

\_\_\_\_\_  
Alternate Beneficiary  
*Print Name*

Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City State Zip*

\_\_\_\_\_  
Second Alternate Beneficiary (Optional)  
*Print Name*

Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City State Zip*

# Transfer on Death Deed

- ☐ **B. Only One Spouse Owns the Property:** *Fill out this section if you are married and you own all or part of the property by yourself – your spouse doesn't own any part of it – and you want your spouse to own the property when you die.*

- 1) Primary Beneficiary: I designate my spouse as the primary beneficiary if I die before my spouse:

\_\_\_\_\_  
Spouse's Printed Name

Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip*

- 2) Alternate Beneficiary or Beneficiaries: *Enter the first, middle (if any), and last name of each person you want to get the property if your spouse dies before you. You may list more than two alternate beneficiaries by attaching a page with their name and mailing address.*

If my spouse dies before me, I want the following person(s) to own my property when I die. This person(s) may or may not be my child, descendant, or a member of my family. If more than one alternate beneficiary is listed, they will own the property in equal shares:

\_\_\_\_\_  
Alternate Beneficiary

*Print Name*

Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip*

\_\_\_\_\_  
Second Alternate Beneficiary (Optional)

*Print Name*

Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip*



# Transfer on Death Deed

☐ **c. Other:** *Fill out this section if neither section A or B apply to you, including if you are married and you do not want your share of the property to go to your spouse.*

- 1) **Primary Beneficiary:** *Enter the first, middle (if any), and last name of each person you want to get the property when you die. This person or people will be named the "beneficiary". You may list more than two primary beneficiaries by attaching a page with their name and mailing address.*

I want the following person(s) to own my property. This person(s) may or may not be my child, descendant, or a member of my family. If more than one primary beneficiary is listed, they will own the property in equal shares:

Primary Beneficiary

*Print Name*

Mailing Address:

*Address 1*

*Address 2*

*City*

*State*

*Zip*

Second Primary Beneficiary (Optional)

*Print Name*

Mailing Address:

*Address 1*

*Address 2*

*City*

*State*

*Zip*

- 2) **Alternate Beneficiary or Beneficiaries:** *Enter the first, middle (if any), and last name of each person you want to get the property if all primary beneficiaries die before you. You may list more than two alternate beneficiaries by attaching a page with their name and mailing address.*

If the primary beneficiary or beneficiaries die before me, I want the following person(s) to own my property. If more than one alternate beneficiary is listed, they will own the property in equal shares:

Alternate Beneficiary

*Print Name*

Mailing Address:

*Address 1*

*Address 2*

*City*

*State*

*Zip*

Second Alternate Beneficiary (Optional)

*Print Name*

Mailing Address:

*Address 1*

*Address 2*

*City*

*State*

*Zip*

# Transfer on Death Deed

## 5. Transfer on Death

At my death, I convey to (*give*) the primary beneficiary or beneficiaries my interest in the property to have and hold forever. If all my primary beneficiaries die before I do, I grant and convey to (*give*) any listed alternate beneficiary or beneficiaries, my interest in the property to have and hold forever. If no primary or alternate beneficiary is alive when I die, this deed is canceled and has no force and effect, as if it had never been executed.

## 6. Signature of Property Owner(s) Making this Deed: ***Do not sign or date below until you are in front of a notary public.***

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Second Owner's Signature (If Applicable)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

### FOR NOTARY TO COMPLETE Acknowledgement

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by

\_\_\_\_\_.

\_\_\_\_\_  
Notary Public's Signature

**After recording, please return to:**

\_\_\_\_\_  
Owner's Name

Owner's Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City State Zip*

# Cancellation of Transfer on Death Deed

## INSTRUCTIONS

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**IMPORTANT NOTICE TO PROPERTY OWNER:** Carefully read all instructions for this form. It is best to talk to a lawyer before using this form. For privacy reasons, do not put your social security number or driver's license number on this form. Do not file these instructions.

### **WHEN TO USE THIS FORM:**

- If you change your mind and decide you do not want the primary or alternate beneficiaries listed in your transfer on death deed to own the property upon your death, use this form to cancel the Transfer on Death Deed. *See the General Instructions to the Transfer on Death Deed Kit for information on cancelling a transfer on death deed by filing a new transfer on death deed or after a divorce.*
- Tearing up or destroying your copy or the beneficiary's copy of the transfer on death deed will not cancel the deed.

### **IMPORTANT INFORMATION:**

- **The Cancellation Applies ONLY to the Portion of the Property You Own.** For example: Joe and Sue own property together. They both sign and file a transfer on death deed naming Ann as the beneficiary. Sue changes her mind and files a cancellation of transfer on death deed but Joe doesn't. When Joe dies, Ann will get his share of the property but not Sue's share.
- **If more than one owner wants to cancel the transfer on death deed,** it is best if each owner completes a separate Cancellation of Transfer on Death Deed.
- Cancellation of a transfer on death deed is sometimes called a "revocation" of a transfer on death deed.

### **REQUIRED:**

- **Must Sign in Front of a Notary:** Do not sign or date the transfer on death deed until you are standing in front of a notary public.
- **Must Record Cancellation Form Before Your Death:** You must file this Cancellation of Death Deed form with the county clerk where the property is located before your death. If you don't, the property will go to the person(s) listed as the primary or alternate beneficiaries in the transfer on death deed upon your death. NOTE: Tearing up or destroying your copy or the beneficiary's copy of the transfer on death deed will not cancel the deed.

### **COMPLETING THE CANCELLATION OF TRANSFER ON DEATH DEED FORM:**

1. Property Owner (Transferor) Making this Cancellation:
  - A. The person who currently owns the property must complete this Cancellation form.
  - B. If more than one person owns the property, each property owner who wants to cancel the transfer on death deed for their share of the property should complete a cancellation of transfer on death deed form.

# Cancellation of Transfer on Death Deed

## INSTRUCTIONS

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2. Legal Description of the Property: Enter the legal description of the property exactly as it appears on the original transfer on death deed. IT IS VERY IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.
3. Address of the Property: Enter the physical address of the property.
4. Cancellation: You do not need to fill out anything in this section.
5. Signature of Owner: The cancellation must be signed before a notary. **Do not sign your name or enter the date until you are standing in front of a notary.**
6. Acknowledgement: You do not need to fill out anything in this box. The notary will fill it out.
7. "After Recording, Return to" Section: Fill in your name and address. Once the transfer on death deed has been recorded, it will be returned to you with the specific information on where the cancellation of the transfer on death deed has been recorded in the county's clerk office so that it can be located later. Keep the cancellation of transfer on death deed in a safe place.
8. File the Cancellation of Transfer on Death Deed (NOT these Instructions) in the County Clerk's Office:
  - A. **Bring Original and One Copy**: Bring the original and one copy of the complete and notarized Cancellation of Transfer on Death Deed to the County Clerk's office in the county where the property is located.
  - B. **Bring Money**: The County Clerk will charge a fee to file the Cancellation of Transfer on Death Deed and may not take a check. You may want to call the County Clerk's office and find out how much the charge will be before you go. File the original and ask them to return a copy of the original with the recording information on it to the owner.
  - C. **Do Not File the Instructions**: If you file the instructions, it may cause confusion and will also cost you more money.

# Cancellation of Transfer on Death Deed

## **IMPORTANT NOTICE TO PROPERTY OWNER:**

- Carefully read all instructions for this form. You may want to talk to a lawyer before using this form.
- **The Cancellation Applies ONLY to the Portion of the Property Owned by the Person Signing this Cancellation.** For example: Joe and Sue own property together. They both sign and file a transfer on death deed naming Ann as the beneficiary. Sue changes her mind and files a cancellation of transfer on death deed but Joe doesn't. When Joe dies, Ann will get his share of the property but not Sue's share.
- **Must Record Cancellation Before Your Death:** You **must** file the completed Cancellation of Death Deed form with the county clerk where the property is located **before** your death. If you don't, the property will go to the person(s) listed as the primary or alternate beneficiaries in the transfer on death deed upon your death. NOTE: Tearing up or destroying your copy or the beneficiary's copy of the transfer on death deed will **not** cancel the deed.

1. **Property Owner (Transferor) Making this Cancellation.** *Enter your first, middle (if any), and last name here, along with your mailing address. If more than one person owns the property, each property owner who wants to cancel the transfer on death deed for their share of the property should complete a cancellation of transfer on death deed form.*

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Property Owner's Printed Name

Owner's Mailing Address:

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*Address 1*

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*Address 2*

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*City*

*State*

*Zip*

2. **Legal Description of the Property.** *Enter the legal description of the property exactly as it appears on the original transfer on death deed. IT IS VERY IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.*

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*Print legal description of the property.*

3. **Address of the Property (if any).** *This is the physical address of the property. Include county.*

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*Address*

*City*

*County*

*State*

*Zip Code*

# Cancellation of Transfer on Death Deed

## 4. Cancellation.

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

## 5. Printed Name and Signature of Owner (Transferor) Making this Cancellation. ***Do not sign your name or enter the date until you are standing in front of a notary.***

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Owner's Printed Name

### FOR NOTARY TO COMPLETE Acknowledgement

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me by the above named Owner on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

By \_\_\_\_\_.  
Notary Public, State of \_\_\_\_\_

### After recording, return to:

\_\_\_\_\_  
Owner's Name

Owner's Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City State Zip*

# Affidavit of Death Form

## INSTRUCTIONS

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**IMPORTANT NOTICE TO PROPERTY OWNER:** Carefully read all instructions for this form. It is best to talk to a lawyer before using this form. For privacy reasons, you do not need to put your social security number or driver's license number on this form. Do not file these instructions.

### **WHEN TO USE THIS FORM:**

- When the property owner who created the transfer on death deed dies, this form is used by a named beneficiary to get legal ownership of the property.
- Title to the property does not pass to the beneficiary(ies) until the affidavit of death is filed. Without legal title, you cannot sell the property, or get property tax exemptions, or use the property as collateral on a loan.

### **IMPORTANT INFORMATION:**

- **Primary Beneficiary Takes Before Alternate Beneficiary.** If any primary beneficiary is alive for more than 120 hours after the property owner who created the Transfer on Death Deed dies (now called the "Decedent"), no alternate beneficiary will get the property. An alternate beneficiary can only get the property if all primary beneficiaries have died before the decedent's death or within 120 hours after the decedent's death.
- **Proof of Death:** After the Affidavit of Death is filed, you will need to provide acceptable proof that the Decedent has died, such as a death certificate or an obituary, to the title company before the property can be sold, used as collateral for a loan, or otherwise encumbered.

### **REQUIRED:**

- **Must Sign In Front of A Notary:** Do not sign or date the Affidavit of Death until you are in front of a notary.
- **Must Record Affidavit of Death for Property Title to Transfer to Beneficiary:** You must record (*file*) this Affidavit of Death with the county clerk where the property is located for title to the property to legally transfer to the named beneficiary(ies) listed in the transfer on death deed.

### **COMPLETING THE AFFIDAVIT OF DEATH FORM:**

1. **Information of Person Signing Affidavit:** Enter your first, middle (if any), and last name. You are the affiant (the person filling out and signing the affidavit).
2. **Legal Description of the Property:** Enter the legal description of the property **exactly** as it appears on the original Transfer on Death Deed. IT IS IMPORTANT THAT THIS INFORMATION IS CORRECT. If you are not absolutely sure, talk to a lawyer.

# Affidavit of Death Form

## INSTRUCTIONS

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3. Transfer on Death Deed Filed by Decedent:

- a. Enter the name of the person who signed the Transfer on Death Deed and has now died exactly as it appeared in the Transfer on Death Deed in the chart. This person is now called the “Decedent.”
- b. Enter the date the Transfer on Death Deed was filed, and the county the deed was filed in the appropriate blanks.
- c. Enter the volume and page number where the Transfer on Death Deed was filed. This can be found on a file-stamped copy of the Transfer on Death Deed. Some counties have stopped using volume and page numbers. If the file-stamped copy does not have a volume and page number, use the instrument or document number instead. If you don’t have a stamped copy of the Transfer on Death Deed, you can get a copy at the county clerk’s office in the county where it was filed.

4. Information of Person Who Signed the Transfer on Death Deed: Enter the date the Decedent died, and the city, county, and state where they died in the chart.

5. Affiant’s Signature: This affidavit must be signed before a notary. **Do not sign your name or enter the date until you are standing in front of a notary.**

6. Acknowledgement: You do not need to fill out anything in this box. The notary will fill it out.

7. “After Recording, Return to” Section: Fill in the name and address of the beneficiary, who is a new owner of the property now that the Decedent has died, here. Once the affidavit is recorded, it will be returned to the beneficiary with a document number or a volume and page number so that it can be located later.

8. File the Affidavit of Death (NOT these Instructions) in the County Clerk’s Office:

- **Bring Original and One Copy:** Bring the original and at least one copy of the complete and notarized Affidavit of Death to the County Clerk’s office in the county where the property is located.
- **Bring Personal Identification:** The county clerk may require you to show personal identification.
- **Bring Money:** The County Clerk will charge a fee to file the Affidavit of Death and may not accept a check. You may want to call the County Clerk’s office and find out how much the charge will be before you go.
- **Do Not File the Instructions:** If you file the instructions, it may cause confusion and will also cost you more money.



**AFFIDAVIT OF DEATH  
FOR TRANSFERING TITLE ON PROPERTY LISTED IN A TRANSFER ON DEATH DEED**

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

I swear that the following statements are true:

1. **Information of Person Signing Affidavit (Affiant).** *Print your first, middle (if any), and last name here.*

My name is \_\_\_\_\_. I am at least eighteen (18) years old or older and am competent to make this affidavit. I am familiar with the past ownership and occupancy of the real property described below in this affidavit.

2. **Legal Description of the Property.** *The legal description is not the mailing or physical address of the property. The legal description is listed on the deed to the property, which can be found on the Transfer on Death Deed as well as at the county clerk's office in the county where the property is located.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Print legal description of the property.*

3. **Transfer on Death Deed Filed by Decedent.**

- *Print the first, middle and last name of the deceased person who signed the transfer on death deed for the property exactly as it appeared on the Transfer on Death Deed. This person is now called the "Decedent."*
- *Print the date the transfer on death deed was filed and the county where the transfer on death deed was filed. Print the volume and page number where the Transfer on Death Deed was filed, or if not available, print the transfer on death deed's document or instrument number.*

\_\_\_\_\_ (Decedent) signed a transfer on death  
*First Middle Last*

deed regarding this property on \_\_\_\_\_. The transfer on death deed was  
*Date*

filed with the county clerk in \_\_\_\_\_ County, Texas, on \_\_\_\_\_  
*Date*

and can be found in Volume \_\_\_\_\_, Page \_\_\_\_\_ of the county clerk's records, or if not available

under document or instrument number \_\_\_\_\_.

**AFFIDAVIT OF DEATH  
FOR TRANSFERING TITLE ON PROPERTY LISTED IN A TRANSFER ON DEATH DEED**

4. Information of Deceased Person Who Signed the Transfer on Death Deed (Decedent).

- *Print the date the person died, and the county and state where they died.*

The information regarding the death of the above named Decedent is as follows:

Date of Death			Date and Place of Death		
Month	Day	Year	City	County	State

5. Affiant's Signature. ***Do not sign or date until you are standing in front of a notary.*** *Once the Affidavit of Death is signed and notarized, you must file it with the county clerk in the county where the property is located.*

\_\_\_\_\_  
Affiant's Signature

\_\_\_\_\_  
Date

**FOR NOTARY TO COMPLETE  
Acknowledgement and Affidavit**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was acknowledged and sworn to before me on the \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_, by \_\_\_\_\_.

By \_\_\_\_\_.

Notary Public, State of \_\_\_\_\_

**After recording, please return to:**

Beneficiary's Name:

\_\_\_\_\_

Beneficiary's Mailing Address:

\_\_\_\_\_  
*Address 1*

\_\_\_\_\_  
*Address 2*

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip*