

TRANSFER ON DEATH DEEDS SURVEY

by

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A Transfer on Death Deed (TODD) is a non-probate mechanism to transfer real property which takes effect upon the death of the transferor. While TODDs may go by several different terms of art such as “beneficiary deeds” or “Residential Real Property Transfer on Death Instrument,” these instruments have several common features. However, significant jurisdictional differences and intricacies may exist.

The main purpose of a TODD is to keep a house or other real property out of probate and provide an immediate and simple transfer to the new owner. For jurisdictions where probate may be expensive and time-consuming, a TODD provides a method to keep property out of probate and save time and expense. These instruments usually have the same basic requirements of a deed with additional requirements such as expressly stating that the transfer does not become effective until the death of the transferor. TODDs must typically meet the normal deed requirements such as the legal description of the land and recordation in the appropriate state offices prior to death. However, a TODD typically does not have any effect on the owner’s current rights until the owner’s death. Additionally, different from an ordinary deed, TODDs are revocable by the owner, or in some jurisdictions, an agent of the owner, prior to death. This provides a flexible instrument contingent on the intent of the owner-grantor.

As of October 8, 2021, twenty-nine states, along with the District of Columbia and the U.S. Virgin Islands, have some form of TODD. Of these jurisdictions, nineteen have adopted the Uniform Real Property Transfer on Death Act.

Also as of October 8, 2021, the Uniform Act was pending in New Hampshire, North Carolina, and Tennessee.

If you detect any issues with this survey, please send your comments to me at gwb@professorbeyer.com so that appropriate changes may be timely made.

This survey would not have been possible without the stellar assistance of Mr. Joseph Reynolds (J.D. 2020, Texas Tech University School of Law), William Langford (J.D. 2021, Texas Tech University School of Law), and Jake W. Villanueva (2023 J.D. Candidate, Texas Tech University School of Law).

Transfer on Death Deeds Survey

	Alabama*	Alaska	Arizona	Arkansas
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	No	Yes	Yes	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?		Yes	No	No
What is the statutory citation?		Alaska Stat. § 13.48.195 ¹	Ariz. Rev. Stat. §33-405 ¹	Ark. Code § 18-12-608 ¹
What is the term of art used by the statute?		Transfer on Death Deed	Beneficiary Deed	Beneficiary Deed
Is a TODD non-testamentary?		Yes ²	Does not specify	Does not Specify
What capacity is required to execute a TODD?		The same capacity required to make a will. ³	Does not Specify	Does not Specify
What are the requirements to execute a TODD?		Deed + effective upon death + identify beneficiaries by name + recorded before the transferor's death in the public records in the office of the recorder in the recording district where the property is located. ⁴	Deed + effective upon death + recorded in office of the county recorder where property is located prior to transferor's death. ²	Valid deed + effective upon death of transferor + recorded in office of the county recorder where property is located prior to transferor's death. ²
Is there a statutory form TODD?		Yes ⁵	Yes ³	Yes ³
Are there limitations on real property that may be conveyed?		The real property must be located in Alaska. ⁶	Does not specify ⁴	Yes ⁴
May the interest be transferred to a trustee?		Does not specify	Yes ⁵	Yes ⁵
Must the beneficiary survive the transferor?		The default is yes, however, the TODD may provide otherwise. ⁷	No ⁶	No ⁶
What is the effect of more than one beneficiary?		The property is distributed as according to the TODD, or equal undivided shares if not specified. The distribution upon lapse of interest is dependent upon the instrument. ⁸	Varies dependent upon the construction of the Beneficiary Deed. ⁷	May be any tenant permitted by law. If a beneficiary does not survive, the property will be distributed according to the provisions of the Beneficiary Deed. ⁷
May the transferor include alternative beneficiaries?		Yes ⁹	Yes ⁸	Yes ⁸
May property owned by multiple individuals be transferred via TODD?		Yes ¹⁰	Yes ⁹	Yes ⁹
Does a TODD require acceptance by the beneficiary?		No ¹¹	No ¹⁰	Does not specify
Does a TODD require delivery to the beneficiary?		No ¹²	No ¹¹	Does not specify

Transfer on Death Deeds Survey

	Alabama*	Alaska	Arizona	Arkansas
Does a TODD require consideration?		No ¹³	Does not specify	No ¹⁰
May a beneficiary disclaim the TODD?		Yes ¹⁴	Does not specify	Does not specify
Is a TODD Revocable?		Yes ¹⁵	Yes ¹²	Yes ¹¹
May a TODD be revoked by an instrument?		Yes ¹⁶	Yes ¹³	Yes ¹²
Is there a statutory form for TODD revocation?		Yes ¹⁷	Yes ¹⁴	Yes ¹³
May a TODD be revoked by action?		No ¹⁸	Does not specify	Does not specify
Does a TODD affect the transferor's rights prior to death?		No ¹⁹	Does not specify	No ¹⁴
What is the effect of more than one TODD?		The most recent prevails ²⁰	The most recent prevails. ¹⁵	The most recently signed regardless of order of recordation. ¹⁵
Does a TODD transfer covenant or warranty of title?		No ²¹	Does not specify	Does not specify
Does a TODD affect any other permitted method of transferring property?		No ²²	No ¹⁶	No ¹⁶
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?		Yes ²³	Yes ¹⁷	Yes ¹⁷
Does a TODD affect the Transferor's state benefit eligibility?		No ²⁴	Does not specify	Yes ¹⁸
Deadline to contest?		Yes, 12 months ²⁵	Does not specify	Does not specify
May an Agent of the Transferor execute a TODD?		Does not specify for execution, but an agent may revoke a TODD ²⁶		Does not specify
If the beneficiary is the transferor's spouse, does divorce affect the TODD?		Does not specify	Does not specify	Does not specify
Are there affirmative steps the beneficiary must take upon the death of the transferor?		Does not specify	Does not specify	Does not specify
May the TODD be altered by a will?		Does not specify	No ¹⁹	No ¹⁹
Does a TODD require witnessing?		Does not specify	Does not specify	Does not specify
State reviewer, with great appreciation!	Elizabeth H. Hutchins	Peter Brautigam	Robert Fleming	Lee Moore

Transfer on Death Deeds Survey

	California	Colorado	Connecticut	Delaware
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes ¹ The California provisions are set to expire on 1/1/2022	Yes	No	No
Is the statute based on the Uniform Real Property Transfer on Death Act?	No	No		
What is the statutory citation?	Cal. Prob. Code §§ 5600-5696 ²	Colo. Rev. Stat. §§ 15-15-401 - 415 ¹		
What is the term of art used by the statute?	Revocable Transfer on Death Deed or Revocable TOD Deed	Beneficiary Deed		
Is a TODD non-testamentary?	Yes ³	Yes ²		
What capacity is required to execute a TODD?	Capacity to Contract ⁴	Does not specify		
What are the requirements to execute a TODD?	Deed+ identify beneficiary by name ⁵ + transferor signs, dates, and acknowledges ⁶ + recorded on or before 60 days after execution ⁷	Deed + effective upon death + recorded prior to the death of the owner in the office of the clerk and recorder in the county where the real property is located ³		
Is there a statutory form TODD?	Yes ⁸	Yes ⁴		
Are there limitations on real property that may be conveyed?	Yes ⁹	Does not specify		
May the interest be transferred to a trustee?	Does not specify	Does not specify		
Must the beneficiary survive the transferor?	Yes ¹⁰	Does not specify ⁵		
What is the effect of more than one beneficiary?	If there is more than one beneficiary, they take the property in equal shares as tenants in common. The share of a beneficiary that lapses or fails for any reason is transferred to the others in equal shares. ¹¹	If one of multiple grantee-beneficiaries fails to survive the owner, and no provision for such contingency is made in the beneficiary deed, the share of the deceased grantee-beneficiary shall be proportionately added to, and pass as a part of, the shares of the surviving grantee-beneficiaries. ⁶		
May the transferor include alternative beneficiaries?	No ¹²	Yes ⁷		
May property owned by a shared tenancy be transferred via TODD?	Yes, but limited to transferor's share ¹³	Yes ⁸		
Does a TODD require acceptance by the beneficiary?	No ¹⁴	No ⁹		

Transfer on Death Deeds Survey

	California	Colorado	Connecticut	Delaware
Does a TODD require delivery to the beneficiary?	No ¹⁵	No ¹⁰		
Does a TODD require consideration?	No ¹⁶	No ¹¹		
May a beneficiary disclaim the TODD?	Yes ¹⁷	Yes ¹²		
Is a TODD Revocable?	Yes ¹⁸	Yes ¹³		
May a TODD be revoked by an instrument?	Yes ¹⁹	Yes ¹⁴		
Is there a statutory form for TODD revocation?	Yes ²⁰	Yes ¹⁵		
May a TODD be revoked by action?	No ²¹	Not specified		
Does a TODD affect the transferor's rights prior to death?	No ²²	No ¹⁶		
What is the effect of more than one TODD?	Later executed deed controls ²³	Later executed deed controls ¹⁷		
Does a TODD transfer covenant or warranty of title?	No ²⁴	Sometimes ¹⁸		
Does a TODD affect any other permitted method of transferring property?	No ²⁵	No. ¹⁹		
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?	Yes ²⁶	Yes ²⁰		
Does a TODD affect the Transferor's state benefit eligibility?	No ²⁷	Yes ²¹		
Deadline to contest?	No, but remedies may be limited if contest after 120 days ²⁸	Yes ²²		
May an Agent of the Transferor execute a TODD?	Yes ²⁹	Does not specify		
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Yes ³⁰	Does not specify		
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Yes ³¹	Must provide proof of death ²³		
May the TODD be altered by a will?	No ³²	No ²⁴		

Transfer on Death Deeds Survey

	California	Colorado	Connecticut	Delaware
Does a TODD require witnessing?	No ³³	No ²⁵		
State reviewer, with great appreciation!	Nancy E. Howard	Stephanie M. Tuthill	Laura Beck	Peter F. Conaty, Jr.

Transfer on Death Deeds Survey

	Washington D.C.	Florida	Georgia	Hawaii
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes	No	No	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?	Yes			Yes
What is the statutory citation?	D.C. Code § 19-604.01 ¹			Haw. Rev. Stat. § 527-1 ¹
What is the term of art used by the statute?	Transfer on Death Deed			Transfer on Death Deed
Is a TODD non-testamentary?	Yes. ²			Yes ²
What capacity is required to execute a TODD?	Same capacity required to make a will ³			Same Capacity required to make a will. ³
What are the requirements to execute a TODD?	Deed + transfer effective at death + recorded before the transferor's death in the Office of Recorder of Deeds ⁴			Essential elements of a deed + transfer at death + recorded with the bureau of conveyances or filed in the office of the assistant registrar of the land court, as applicable, before the transferor's death. ⁴
Is there a statutory form TODD?	Yes ⁵			No
Are there limitations on real property that may be conveyed?	The real property must be located in Washington D.C. ⁶			The real property must be located in Hawaii ⁵
May the interest be transferred to a trustee?	Yes ⁷			Yes ⁶
Must the beneficiary survive the transferor?	No ⁸			Yes ⁷
What is the effect of more than one beneficiary?	Equally split between remaining beneficiaries ⁹			Equally split between remaining beneficiaries ⁸
May the transferor include alternative beneficiaries?	Does not specify			Does not specify
May property owned by a shared tenancy be transferred via TODD?	Yes ¹⁰			Yes ⁹
Does a TODD require acceptance by the beneficiary?	No ¹¹			No ¹⁰
Does a TODD require delivery to the beneficiary?	No ¹²			No ¹¹
Does a TODD require consideration?	No ¹³			No ¹²
May a beneficiary disclaim the TODD?	Yes ¹⁴			Yes ¹³
Is a TODD Revocable?	Yes ¹⁵			Yes ¹⁴

Transfer on Death Deeds Survey

	Washington D.C.	Florida	Georgia	Hawaii
May a TODD be revoked by an instrument?	Yes ¹⁶			Yes ¹⁵
Is there a statutory form for TODD revocation?	Yes ¹⁷			No
May a TODD be revoked by action?	No ¹⁸			No ¹⁶
Does a TODD affect the transferor's rights prior to death?	No ¹⁹			No ¹⁷
What is the effect of more than one TODD?	If a provision in one instrument conflicts with a provision in another, the later one prevails. ²⁰			later one prevails ¹⁸
Does a TODD transfer covenant or warranty of title?	No ²¹			No ¹⁹
Does a TODD affect any other permitted method of transferring property?	No ²²			No ²⁰
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?	Yes ²³			Yes ²¹
Does a TODD affect the Transferor's state benefit eligibility?	No ²⁴			No ²²
Deadline to contest?	Yes ²⁵			Yes ²³
May an Agent of the Transferor execute a TODD?	Yes ²⁶			Does not specify
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Does not specify			Yes ²⁴
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Does not specify			Does not specify
May the TODD be altered by a will?	No ²⁷			Does not specify
Does a TODD require witnessing?	Does not specify			Does not specify
State reviewer, with great appreciation!	Jeanne L. Newlon	Deborah L. Russell	Patricia D. Friedman	Eric S. T. Young

Transfer on Death Deeds Survey

	Idaho	Illinois	Indiana	Iowa
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	No	Yes This chart applies to TODDs executed on or after 1/1/2022	Yes	No
Is the statute based on the Uniform Real Property Transfer on Death Act?		Yes	No	
What is the statutory citation?		755 Ill. Comp. Stat. 27/1 ¹	Ind. Code § 32-17-14-11 ¹	
What is the term of art used by the statute?		Real Property Transfer on Death Instrument	Transfer on Death Deed	
Is a TODD non-testamentary?		Yes ²	Yes ²	
What capacity is required to execute a TODD?		Same capacity required to make a will. ³	Does not specify	
What are the requirements to execute a TODD?		Elements of a valid deed but consideration and addresses of the beneficiaries not needed + executed + witnessed + acknowledged + state effective upon death + recorded before the owner's death in the public records in the office of the recorder of the county or counties in which any part of the real property is located. ⁴	Elements of a valid deed + effective upon death + acknowledged ³ + recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner ⁴	
Is there a statutory form TODD?		No	No	
Are there limitations on real property that may be conveyed?		Yes (before 1/1/2022) No (on and after 1/1/2022) ⁵	the property subject to the beneficiary designation was situated in Indiana ⁵	
May the interest be transferred to a trustee?		Yes ⁶	Yes ⁶	
Must the beneficiary survive the transferor?		No ⁷	Yes ⁷	
What is the effect of more than one beneficiary?		Share equally with no survivorship rights ⁸	Subject to the designation in the TODD, however, there exists a statutory default ⁸	
May the transferor include alternative beneficiaries?		Yes ⁹	No	
May property owned by a shared tenancy be transferred via TODD?		Yes ¹⁰	Yes ⁹	
Does a TODD require acceptance by the beneficiary?		No ¹¹	No ¹⁰	
Does a TODD require delivery to the beneficiary?		No ¹²	No ¹¹	

Transfer on Death Deeds Survey

	Idaho	Illinois	Indiana	Iowa
Does a TODD require consideration?		No ¹³	No ¹²	
May a beneficiary disclaim the TODD?		Yes ¹⁴	Yes ¹³	
Is a TODD Revocable?		Yes ¹⁵	Yes ¹⁴	
May a TODD be revoked by an instrument?		Yes ¹⁶	Yes ¹⁵	
Is there a statutory form for TODD revocation?		No	No	
May a TODD be revoked by action?		Yes ¹⁷	No ¹⁶	
Does a TODD affect the transferor's rights prior to death?		No ¹⁸	No ¹⁷	
What is the effect of more than one TODD?		The later recorded controls ¹⁹	The later recorded controls ¹⁸	
Does a TODD transfer covenant or warranty of title?		No ²⁰	Does not specify	
Does a TODD affect any other permitted method of transferring property?		No ²¹	No ¹⁹	
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?		Yes ²²	Yes ²⁰	
Deadline to contest?		Yes ²³	Yes ²¹	
May an Agent of the Transferor execute a TODD?		No ²⁴	Yes ²²	
If the beneficiary is the transferor's spouse, does divorce affect the TODD?		Does not Specify	Does not specify	
Are there affirmative steps the beneficiary must take upon the death of the transferor?		Must file a notice of death affidavit ²⁵	Complying with the transferring entity's requirements and under recording affidavit generally ²³	
May the TODD be altered by a will?		No ²⁶	No ²⁴	
Does a TODD require witnessing?		Yes ²⁷	Does not specify	
State reviewer, with great appreciation!	John McGown	Mary Cascino	MaryEllen Bishop	Paul P. Morf

Transfer on Death Deeds Survey

	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes	No	No	Yes	No	No
Is the statute based on the Uniform Real Property Transfer on Death Act?	No			Yes		
What is the statutory citation?	Kan. Stat. §§ 59-3501 – 07 ¹			Me. Stat. tit. 18-C § 6-401 ¹		
What is the term of art used by the statute?	Transfer on Death Deed			Transfer on Death Deed		
Is a TODD non-testamentary?	Yes ²			Yes ²		
What capacity is required to execute a TODD?	Same capacity to make a will, contract, or change beneficiary designation. ³			Same capacity required to make a will. ³		
What are the requirements to execute a TODD?	Recording the deed in the office of the register of deeds in the county where the real estate is located, prior to death + designating a grantee beneficiary or beneficiaries of the interest + executed and acknowledged ⁴			Elements of a valid deed + state effective on death + recorded before the transferor’s death in the public records in the registry of deeds in the county where the property is located. ⁴		
Is there a statutory form TODD?	Yes ⁵			Yes ⁵		
Are there limitations on real property that may be conveyed?	Does not specify			Does not specify		
May the interest be transferred to a trustee?	Does not Specify			Does not specify		
Must the beneficiary survive the transferor?	Yes ⁶			No ⁶		
What is the effect of more than one beneficiary?	Tenancy in common Presumed ⁷			Does not specify		
May the transferor include alternative beneficiaries?	Yes ⁸			Does not specify		
May property owned by a shared tenancy be transferred via TODD?	Yes ⁹			Yes ⁷		
Does a TODD require acceptance by the beneficiary?	No ¹⁰			No ⁸		

Transfer on Death Deeds Survey

	Kansas	Kentucky	Louisiana	Maine	Maryland	Massachusetts
Does a TODD require delivery to the beneficiary?	No ¹¹			No ⁹		
Does a TODD require consideration?	No ¹²			No ¹⁰		
May a beneficiary disclaim the TODD?	Does not specify			Yes ¹¹		
Is a TODD Revocable?	Yes ¹³			Yes ¹²		
May a TODD be revoked by an instrument?	Yes ¹⁴			Yes ¹³		
Is there a statutory form for TODD revocation?	No			Yes ¹⁴		
May a TODD be revoked by action?	Does not specify			No ¹⁵		
Does a TODD affect the transferor's rights prior to death?	Does not specify ¹⁵			No ¹⁶		
What is the effect of more than one TODD?	The later prevails ¹⁶			The later prevails ¹⁷		
Does a TODD transfer covenant or warranty of title?	Does not specify			No ¹⁸		
Does a TODD affect any other permitted method of transferring property?	No ¹⁷			No ¹⁹		
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?	Yes ¹⁸			Yes ²⁰		
Deadline to contest?	Does not specify			Does not specify		
May an Agent of the Transferor execute a TODD?	Yes ¹⁹			Does not specify		
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Does not specify			Does not specify		
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Does not specify			No ²¹		
May the TODD be altered by a will?	No ²⁰			Does not specify		
Does a TODD require witnessing?	Does not specify			Does not specify		
State reviewer, with great appreciation!	Lora Smith	Jim Worthington	Laura Walker Plunkett	Molly Liddell	Charles Abell	

Transfer on Death Deeds Survey

	Michigan	Minnesota	Mississippi	Missouri	Montana
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	No	Yes	Yes	Yes	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?		No	Yes	No	No
What is the statutory citation?		Minn. Stat. § 507.071 ¹	Miss. Code Ann. § 91-27-1 ¹	Mo. Stat. § 461.025 ¹	Mont. Code § 72-6-401 ¹
What is the term of art used by the statute?		Transfer on Death Deed	Transfer on Death Deed	Deeds Effective on Death of Owner, commonly referred to as a Beneficiary Deed	Transfer on Death Deed
Is a TODD non-testamentary?		Does not specify	Yes ²	Yes ²	Yes ²
What capacity is required to execute a TODD?		Does not specify	Same capacity required to make a contract ³	Does not specify	Same capacity required to make a will ³
What are the requirements to execute a TODD?		Valid Deed + effective on death + recorded in county where at least some part of property located + before death of grantor ²	Deed+ effective on death+ recorded before the transferor's death + recorded in the deed records in the records of the chancery clerk in the county where the real property is located. ⁴	Deed + effective on death + executed and filed of record with the recorder of deeds in the city or county or counties in which the real property is situated prior to the death of the owner. ³	Deed + effective on death + executed and recorded in the office of the county clerk and recorder of the county in which the property is located before the death of the owner. ⁴
Is there a statutory form TODD?		Yes ³	Yes, optional ⁵	No	Yes ⁵
Are there limitations on real property that may be conveyed?		Yes ⁴	Does not specify	Does not specify	Does not specify
May the interest be transferred to a trustee?		Yes ⁵	Yes ⁶	Yes, but see exceptions ⁴	Yes ⁶
Must the beneficiary survive the transferor?		At least one must survive to prevent lapse ⁶	At least one must survive to prevent lapse ⁷	Yes ⁵	Yes ⁷
What is the effect of more than one beneficiary?		The Transferor may determine the common ownership of the property. ⁷	Concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship ⁸	Subject to the designation in the TODD, however, there exists a statutory default ⁶	Concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship ⁸
May the transferor include alternative beneficiaries?		Yes ⁸	Yes ⁹	Yes ⁷	Yes ⁹

Transfer on Death Deeds Survey

	Michigan	Minnesota	Mississippi	Missouri	Montana
May property owned by a shared tenancy be transferred via TODD?		Yes ⁹	Yes, with some limitations ¹⁰	Yes ⁸	Yes, with some limitations ¹⁰
Does a TODD require acceptance by the beneficiary?		No ¹⁰	No ¹¹	Does not specify	No ¹¹
Does a TODD require delivery to the beneficiary?		No ¹¹	No ¹²	No ⁹	No ¹²
Does a TODD require consideration?		Does not specify	No ¹³	No, but it may ¹⁰	No ¹³
May a beneficiary disclaim the TODD?		Yes ¹²	Yes ¹⁴	Yes ¹¹	Yes ¹⁴
Is a TODD Revocable?		Yes ¹³	Yes ¹⁵	Yes ¹²	Yes ¹⁵
May a TODD be revoked by an instrument?		Yes ¹⁴	Yes ¹⁶	Yes ¹³	Yes ¹⁶
Is there a statutory form for TODD revocation?		Yes ¹⁵	Yes, optional ¹⁷	No	Yes ¹⁷
May a TODD be revoked by action?		Does not specify	No ¹⁸	Does not specify	No ¹⁸
Does a TODD affect the transferor's rights prior to death?		Does not specify ¹⁶	No ¹⁹	No ¹⁴	No ¹⁹
What is the effect of more than one TODD?		The later recorded is effective ¹⁷	The later recorded is effective ²⁰	The later recorded is effective ¹⁵	The later recorded is effective ²⁰
Does a TODD transfer covenant or warranty of title?		Does not Specify	No ²¹	Does not specify	No ²¹
Does a TODD affect any other permitted method of transferring property?		No ¹⁸	No ²²	No ¹⁶	No ²²
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?		Yes ¹⁹	Yes ²³	Yes ¹⁷	Yes ²³
Does a TODD affect the Transferor's state benefit eligibility?		Does not specify	No ²⁴	Does not Specify	Yes ²⁴

Transfer on Death Deeds Survey

	Michigan	Minnesota	Mississippi	Missouri	Montana
Deadline to contest?		Does not specify	Does not specify	Does not specify	Does not specify
May an Agent of the Transferor execute a TODD?		Yes ²⁰	Does not specify	Yes ¹⁸	Does not specify
If the beneficiary is the transferor's spouse, does divorce affect the TODD?		Does not specify	Yes ²⁵	Does not specify	Does not specify
Are there affirmative steps the beneficiary must take upon the death of the transferor?		Yes ²¹	Does not specify	Does not specify	Does not specify
May the TODD be altered by a will?		No ²²	No ²⁶	Does not specify	Does not specify
Does a TODD require witnessing?		No, but the signatures must be notarized and readable	Does not specify	Does not specify	Does not specify
State reviewer, with great appreciation!	John Mabley	Susan J. Link		Scot Boulton	

Transfer on Death Deeds Survey

	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes	Yes	No	No	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?	Yes	Yes			Yes
What is the statutory citation?	Neb. Rev. Stat. § 76-3401 ¹	Nev. Rev. Stat. § 111.655 ¹			N.M. Stat. § 45-6-401 ¹
What is the term of art used by the statute?	Transfer on Death Deed	Deed Upon Death			Transfer on Death Deed
Is a TODD non-testamentary?	Yes ²	Does not specify			Yes ²
What capacity is required to execute a TODD?	The same as to make a will ³	Same capacity required to make a will ²			Same capacity required to make a will ³
What are the requirements to execute a TODD?	Deed + attested to by 2 disinterested witnesses + effective upon death + recorded before the transferor's death, within 30 days following execution, and in the public records office of the register of deeds of the county where the property is located. ⁴	Deed + effective upon death + recorded in the office of the county recorder of the county where the property is located before the death of the owner or the death of the last surviving owner. ³			Deed + effective on death + recorded before the transferor's death in the public records in the office of the county clerk for the county where the property is located ⁴
Is there a statutory form TODD?	Yes ⁵	Yes ⁴			Yes ⁵
Are there limitations on real property that may be conveyed?	Must be located in Nebraska ⁶	Must be located in Nevada ⁵			Must be located in New Mexico ⁶
May the interest be transferred to a trustee?	Does not specify	Does not specify			Does not specify
Must the beneficiary survive the transferor?	No ⁷	Does not specify			Yes ⁷
What is the effect of more than one beneficiary?	Subject to the designation in the TODD, however, there exists a statutory default. ⁸	Subject to the designation in the TODD, however, there exists a statutory default ⁶			Subject to the designation in the TODD, however, there exists a statutory default ⁸
May the transferor include alternative beneficiaries?	Does not specify	Does not specify			Does not specify
May property owned by a shared tenancy be transferred via TODD?	Yes ⁹	Yes ⁷			Yes ⁹

Transfer on Death Deeds Survey

	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico
Does a TODD require acceptance by the beneficiary?	No ¹⁰	No ⁸			No ¹⁰
Does a TODD require delivery to the beneficiary?	No ¹¹	No ⁹			No ¹¹
Does a TODD require consideration?	No ¹²	No ¹⁰			No ¹²
May a beneficiary disclaim the TODD?	Yes ¹³	Yes ¹¹			Yes ¹³
Is a TODD revocable?	Yes ¹⁴	Yes ¹²			Yes ¹⁴
May a TODD be revoked by an instrument?	Yes ¹⁵	Yes ¹³			Yes ¹⁵
Is there a statutory form for TODD revocation?	No	Yes ¹⁴			Yes ¹⁶
May a TODD be revoked by action?	No ¹⁶	No ¹⁵			No ¹⁷
Does a TODD affect the transferor's rights prior to death?	No ¹⁷	No ¹⁶			No ¹⁸
What is the effect of more than one TODD?	The later recorded controls ¹⁸	The last executed controls ¹⁷			The later executed controls ¹⁹
Does a TODD transfer covenant or warranty of title?	No ¹⁹	Does not specify			No ²⁰
Does a TODD affect any other permitted method of transferring property?	No ²⁰	No ¹⁸			No ²¹
Is property transferred by a TODD subject to liabilities for Transferor's creditor claims and other statutory allowances?	Yes ²¹	Yes ¹⁹			Yes ²²
Does a TODD affect the Transferor's state benefit eligibility?	Yes ²²	Does not specify			No ²³
Deadline to contest?	Yes ²³	Yes, 18 months ²⁰			Does not specify
May an Agent of the Transferor execute a TODD?	Does not specify	Does not specify			Does not specify
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Yes ²⁴	Does not specify			Does not specify

Transfer on Death Deeds Survey

	Nebraska	Nevada	New Hampshire	New Jersey	New Mexico
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Does not specify	Does not specify			Does not specify
May the TODD be altered by a will?	Does not specify	Does not specify			No ²⁴
Does a TODD require witnessing?	Yes ²⁵	Does not specify			Does not specify
State reviewer, with great appreciation!	Christina L. Ball	Michaëlle Rafferty	William Zorn	Angela Titus McEwan	Vickie R. Wilcox

Transfer on Death Deeds Survey

	New York	North Carolina	North Dakota	Ohio	Oklahoma
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	No	No	Yes	Yes	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?			Yes	No	No
What is the statutory citation?			N.D. Cent. Code §§ 30.1–32.1 ¹	Ohio Rev. Code § 5302.23 ¹	Okla. Stat. Tit. 58, § 1251 ¹
What is the term of art used by the statute?			Transfer on Death Deed	Real Property Subject to TOD beneficiary	Transfer on Death Deed
Is a TODD non-testamentary?			Yes ²	Yes ²	Yes ²
What capacity is required to execute a TODD?			Same capacity required to make a will ³	Does not specify	Does not specify
What are the requirements to execute a TODD?			Deed + effective upon death + recorded before the transferor’s death in the public records in the office of the county recorder of the county where the property is located ⁴	Any affidavit containing language that shows a clear intent to designate a transfer on death beneficiary shall be liberally construed to do so. ³	Deed + effective upon death + recorded in the office of the county clerk in the county where the real estate is located, prior to the death of the owner + two witnesses ³
Is there a statutory form TODD?			No	No	Yes ⁴
Are there limitations on real property that may be conveyed?			The property must be located in North Dakota ⁵	Does not specify	Does not specify
May the interest be transferred to a trustee?			Does not specify	Does not specify	Does not specify
Must the beneficiary survive the transferor?			No ⁶	Yes ⁴	No ⁵
What is the effect of more than one beneficiary?			Subject to the designation in the TODD, however, there exists a statutory default. ⁷	If a beneficiaries share lapses, the beneficiaries shall take title to the interest in equal shares as tenants in common, unless the deceased owner has specifically designated other than equal shares or has designated that the beneficiaries take title as survivorship tenants ⁵	Subject to the designation in the TODD, however, there exists a statutory default ⁶
May the transferor include alternative beneficiaries?			Does not specify	Yes ⁶	Does not specify

Transfer on Death Deeds Survey

	New York	North Carolina	North Dakota	Ohio	Oklahoma
May property owned by a shared tenancy be transferred via TODD?			Yes ⁸	Yes ⁷	Yes ⁷
Does a TODD require acceptance by the beneficiary?			No ⁹	Does not specify	No ⁸
Does a TODD require delivery to the beneficiary?			No ¹⁰	Does not specify	No ⁹
Does a TODD require consideration?			No ¹¹	Does not Specify	No ¹⁰
May a beneficiary disclaim the TODD?			Yes ¹²	Does not Specify	Yes ¹¹
Is a TODD Revocable?			Yes ¹³	Yes ⁸	Yes ¹²
May a TODD be revoked by an instrument?			Yes ¹⁴	Yes ⁹	Yes ¹³
Is there a statutory form for TODD revocation?			No	No	No
May a TODD be revoked by action?			No ¹⁵	Does not specify ¹⁰	Does not specify
Does a TODD affect the transferor's rights prior to death?			No ¹⁶	No ¹¹	No ¹⁴
What is the effect of more than one TODD?			The later executed controls ¹⁷	A new affidavit automatically supersedes any prior executed Affidavit ¹² Also overrides previously executed Transfer on Death Deeds ¹³	The latest TODD controls ¹⁵
Does a TODD transfer covenant or warranty of title?			No ¹⁸	Does not specify	Does not specify
Does a TODD affect any other permitted method of transferring property?			No ¹⁹	Does not specify	Does not specify
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?			Yes ²⁰	Yes ¹⁴	Does not specify
Deadline to contest?			Yes ²¹	Does not specify	Does not specify
May an Agent of the Transferor execute a TODD?			Does not specify	Does not specify	Does not specify

Transfer on Death Deeds Survey

	New York	North Carolina	North Dakota	Ohio	Oklahoma
If the beneficiary is the transferor's spouse, does divorce affect the TODD?			Yes ²²	Yes ¹⁵	Does not specify
Are there affirmative steps the beneficiary must take upon the death of the transferor?			Does not specify	Does not specify	Yes ¹⁶
May the TODD be altered by a will?			Does not specify	Does not specify	No ¹⁷
Does a TODD require witnessing?			Does not specify	Does not specify	Yes ¹⁸
State reviewer, with great appreciation!	Jill M. Cicero	Jean Gordon Carter	Timothy Richard		Samantha Weyrauch Davis

Transfer on Death Deeds Survey

	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes	No	No	No	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?	Yes				Yes
What is the statutory citation?	Or. Rev. Stat. § 93.948–.979 ¹				S.D. Codified Laws § 29A-6-401 ¹
What is the term of art used by the statute?	Transfer on Death Deed				Transfer on Death Deed
Is a TODD non-testamentary?	Yes ²				Yes ²
What capacity is required to execute a TODD?	Same as required to make a will ³				Same as required to make a will ³
What are the requirements to execute a TODD?	Deed + Effective on death + identify Beneficiary by name + recorded before the transferor’s death in the deed records in the office of the county clerk for the county in which the property is located ⁴				Deed + effective upon death + recorded before the transferor’s death in the public records in the office of the register of deeds in the county where the property is located ⁴
Is there a statutory form TODD?	Yes ⁵				Yes ⁵
Are there limitations on real property that may be conveyed?	Must be located in Oregon ⁶				Must be located in South Dakota ⁶
May the interest be transferred to a trustee?	Yes ⁷				Yes ⁷
Must the beneficiary survive the transferor?	Yes ⁸				Default is yes (by 120 hours), but may provide otherwise in the TODD ⁸
What is the effect of more than one beneficiary?	Subject to the designation in the TODD, however, there exists a statutory default. ⁹				Subject to the designation in the TODD, however, there exists a statutory default. ⁹
May the transferor include alternative beneficiaries?	Yes ¹⁰				Yes ¹⁰
May property owned by a shared tenancy be transferred via TODD?	Yes ¹¹				Yes ¹¹
Does a TODD require acceptance by the beneficiary?	No ¹²				No ¹²

Transfer on Death Deeds Survey

	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota
Does a TODD require delivery to the beneficiary?	No ¹³				No ¹³
Does a TODD require consideration?	No ¹⁴				No ¹⁴
May a beneficiary disclaim the TODD?	Yes ¹⁵				Yes ¹⁵
Is a TODD Revocable?	Yes ¹⁶				Yes ¹⁶
May a TODD be revoked by an instrument?	Yes ¹⁷				Yes ¹⁷
Is there a statutory form for TODD revocation?	Yes ¹⁸				Yes ¹⁸
May a TODD be revoked by action?	No ¹⁹				No ¹⁹
Does a TODD affect the transferor's rights prior to death?	No ²⁰				No ²⁰
What is the effect of more than one TODD?	The later executed controls ²¹				The later executed controls ²¹
Does a TODD transfer covenant or warranty of title?	No ²²				No ²²
Does a TODD affect any other permitted method of transferring property?	No ²³				No ²³
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?	Yes ²⁴				Yes ²⁴
Deadline to contest?	Yes, 18 months ²⁵				Yes ²⁵
May an Agent of the Transferor execute a TODD?	Does not specify ²⁶				Yes ²⁶
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Yes ²⁷				Yes ²⁷

Transfer on Death Deeds Survey

	Oregon	Pennsylvania	Rhode Island	South Carolina	South Dakota
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Does not specify				Yes ²⁸
May the TODD be altered by a will?	Does not specify				No ²⁹
Does a TODD require witnessing?	No ²⁸				No ³⁰
State reviewer, with great appreciation!	Ian T. Richards	Linda Enion		J. Tod Hyché	Thomas E. Simmons

Transfer on Death Deeds Survey

	Tennessee	Texas	Utah	Vermont	Virginia
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	No	Yes	Yes	No	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?		Yes	Yes		Yes
What is the statutory citation?		Tex. Est. Code § 114.001 ¹	Utah Code § 75-6-401 ¹		Va. Code §§ 64.2-621 - 638 ¹
What is the term of art used by the statute?		Transfer on Death Deed	Transfer on Death Deed		Transfer on Death Deed
Is a TODD non-testamentary?		Yes ²	Yes ²		Yes ²
What capacity is required to execute a TODD?		Contractual Capacity ³	Same capacity required to make a will ³		Same capacity required to make a will ³
What are the requirements to execute a TODD?		Deed + effective upon death + recorded before the transferor's death in the deed records in the county clerk's office of the county where the real property is located ⁴	Deed + effective upon death + recorded before the transferor's death in the public records in the county recorder's office of the county where the property is located ⁴		Deed + effective upon death + recorded before the transferor's death in the land records of the clerk's office of the circuit court in the jurisdiction where the property is located ⁴
Is there a statutory form TODD?		No	Yes ⁵		Yes ⁵
Are there limitations on real property that may be conveyed?		Must be located in Texas ⁵	Must be located in Utah ⁶		Must be located in Virginia ⁶
May the interest be transferred to a trustee?		Does not specify	Yes ⁷		Yes ⁷
Must the beneficiary survive the transferor?		Subject to the designation in the TODD, however, there exists a statutory default. ⁶	Subject to the designation in the TODD, however, there exists a statutory default. ⁸		Subject to the designation in the TODD, however, there exists a statutory default. ⁸
What is the effect of more than one beneficiary?		Subject to the designation in the TODD, however, there exists a statutory default. ⁷	Subject to the designation in the TODD, however, there exists a statutory default. ⁹		Subject to the designation in the TODD, however, there exists a statutory default. ⁹
May the transferor include alternative beneficiaries?		Yes ⁸	Yes ¹⁰		Yes ¹⁰
May property owned by a shared tenancy be transferred via TODD?		Yes ⁹	Yes ¹¹		Yes ¹¹

Transfer on Death Deeds Survey

	Tennessee	Texas	Utah	Vermont	Virginia
Does a TODD require acceptance by the beneficiary?		No ¹⁰	No ¹²		No ¹²
Does a TODD require delivery to the beneficiary?		No ¹¹	No ¹³		No ¹³
Does a TODD require consideration?		No ¹²	No ¹⁴		No ¹⁴
May a beneficiary disclaim the TODD?		Yes ¹³	Yes ¹⁵		Yes ¹⁵
Is a TODD Revocable?		Yes ¹⁴	Yes ¹⁶		Yes ¹⁶
May a TODD be revoked by an instrument?		Yes ¹⁵	Yes ¹⁷		Yes ¹⁷
Is there a statutory form for TODD revocation?		No	Yes ¹⁸		Yes ¹⁸
May a TODD be revoked by action?		Does not specify	No ¹⁹		No ¹⁹
Does a TODD affect the transferor's rights prior to death?		No ¹⁶	No ²⁰		No ²⁰
What is the effect of more than one TODD?		Subsequent is valid ¹⁷	Most recently recorded ²¹		Most recently recorded ²¹
Does a TODD transfer covenant or warranty of title?		No ¹⁸	No ²²		No ²²
Does a TODD affect any other permitted method of transferring property?		No ¹⁹	No ²³		No ²³
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?		Yes ²⁰	Yes ²⁴		Yes ²⁴
Deadline to contest?		In some circumstances ²¹	Yes ²⁵		Does not specify
May an Agent of the Transferor execute a TODD?		No ²²	Does not specify		Does not specify ²⁵
If the beneficiary is the transferor's spouse, does divorce affect the TODD?		Yes, under certain circumstances	Does not specify		Yes ²⁶
Are there affirmative steps the beneficiary must take upon the death of the transferor?		Does not specify ^{22.5}	Does not specify		Does not specify
May the TODD be altered by a will?		No ²³	Does not specify		No

Transfer on Death Deeds Survey

	Tennessee	Texas	Utah	Vermont	Virginia
Does a TODD require witnessing?		Does not specify	Does not specify		No ²⁷
State reviewer, with great appreciation!	Blaine Smith	author	Carol Warnick	Willemien Dingemans Miller	James Cox & Katherine Ramsey

Transfer on Death Deeds Survey

	Washington	West Virginia	Wisconsin	Wyoming
Has the State Adopted a Transfer on Death Deed (TODD) Statute?	Yes	Yes	Yes	Yes
Is the statute based on the Uniform Real Property Transfer on Death Act?	Yes	Yes	No	No
What is the statutory citation?	Wash. Rev. Code § 64.80.010-904 ¹	W. Va. Code § 36-12-1 ¹	Wis. Stat. § 705.15 ¹	Wyo. Stat. § 2-18-101 ¹
What is the term of art used by the statute?	Transfer on Death Deed	Transfer on Death Deed	Non-probate Transfer of Property upon Death	Transfer on Death Deed
Is a TODD non-testamentary?	Yes ²	Yes ²	Does not specify	Yes ²
What capacity is required to execute a TODD?	Same capacity required to make a will ³	Same Capacity required to make a will ³	Same capacity required to make a will ²	Does not specify
What are the requirements to execute a TODD?	Deed + effective upon death + recorded before the transferor's death in the public records in the office of the auditor of the county where the property is located ⁴	Deed + effective upon death + recorded before the transferor's death in the office of the clerk of the county commission in the county where the property is located ⁴	In writing + name of owners and beneficiary + effective upon death + recorded in register of deeds office of the county in which the real property is located before the death of the sole owner or the last to die of multiple owners ³	Deed + effective on death + beneficiary by name + in the office of the county clerk in the county in which the real property is situated, before the death of the owner or the last surviving owner ³
Is there a statutory form TODD?	No	No	No	Yes ⁴
Are there limitations on real property that may be conveyed?	Must be located in Washington ⁵	Must be located in West Virginia ⁵	Does not specify	Does not specify
May the interest be transferred to a trustee?	Yes ⁶	Yes ⁶	Yes ⁴	Yes ⁵
Must the beneficiary survive the transferor?	Yes ⁷	Yes ⁷	No ⁵	Does not specify
What is the effect of more than one beneficiary?	Subject to the designation in the TODD, however, there exists a statutory default ⁸	Subject to the designation in the TODD, however, there exists a statutory default ⁸	Does not specify	Subject to the designation in the TODD, however, there exists a statutory default ⁶
May the transferor include alternative beneficiaries?	Does not specify	Yes ⁹	Yes ⁶	Yes ⁷
May property owned by a shared tenancy be transferred via TODD?	Yes ⁹	Yes ¹⁰	Yes ⁷	Yes ⁸
Does a TODD require acceptance by the beneficiary?	No ¹⁰	No ¹¹	Does not specify	No ⁹

Transfer on Death Deeds Survey

	Washington	West Virginia	Wisconsin	Wyoming
Does a TODD require delivery to the beneficiary?	No ¹¹	No ¹²	Does not specify	No ¹⁰
Does a TODD require consideration?	No ¹²	No ¹³	Does not specify	No ¹¹
May a beneficiary disclaim the TODD?	Yes ¹³	Yes ¹⁴	Does not specify	Yes ¹²
Is a TODD Revocable?	Yes ¹⁴	Yes ¹⁵	Yes ⁸	Yes ¹³
May a TODD be revoked by an instrument?	Yes ¹⁵	Yes ¹⁶	Yes ⁹	Yes ¹⁴
Is there a statutory form for TODD revocation?	No	No	No	Yes ¹⁵
May a TODD be revoked by action?	No ¹⁶	No ¹⁷	Does not specify	Does not specify
Does a TODD affect the transferor's rights prior to death?	No ¹⁷	No ¹⁸	No ¹⁰	No ¹⁶
What is the effect of more than one TODD?	The later controls ¹⁸	The later controls ¹⁹	The later controls ¹¹	The later executed controls ¹⁷
Does a TODD transfer covenant or warranty of title?	No ¹⁹	No ²⁰	Does not specify	Does not specify
Does a TODD affect any other permitted method of transferring property?	No ²⁰	No ²¹	No ¹²	No ¹⁸
Is property transferred by a TODD subject to liabilities for creditor claims and other statutory allowances?	Yes ²¹	Does not specify	Yes ¹³	Does not specify
Does a TODD affect the Transferor's state benefit eligibility?	No ²²	Does not specify	Does not specify	Yes ¹⁹
Deadline to contest?	Yes ²³	Does not specify	Yes ¹⁴	Does not specify
May an Agent of the Transferor execute a TODD?	Yes ²⁴	Does not specify	Does not specify	Does not specify
If the beneficiary is the transferor's spouse, does divorce affect the TODD?	Yes ²⁵	Does not specify	Does not specify	Does not specify
Are there affirmative steps the beneficiary must take upon the death of the transferor?	Yes ²⁶	Does not specify	Yes ¹⁵	Yes ²⁰
May the TODD be altered by a will?	No ²⁷	Does not specify	Does not specify	No ²¹
Does a TODD require witnessing?	No ²⁸	Does not specify	Does not specify	Does not specify.

Transfer on Death Deeds Survey

	Washington	West Virginia	Wisconsin	Wyoming
State reviewer, with great appreciation!	Alfred M. Falk	John F. Allevato		Timothy O. Beppler

Transfer on Death Deeds Survey

Alaska

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Alaska Stat. § 13.48.030.

³ § 13.48.040.

⁴ A valid TODD must state that the transfer to the beneficiary occurs upon the death of the transferor. The TODD must identify the beneficiary by name and not by class. A TODD that identifies the beneficiaries by a class is void. The TODD must be recorded before the transferor's death in the public records in the office of the recorder in the recording district where the property is located. § 13.48.050.

⁵ § 13.48.120.

⁶ § 13.48.190(5).

⁷ The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor; the interest of a designated beneficiary that fails to survive the transferor lapses, however this provision is subject to the provisions of the TODD. § 13.48.090.

⁸ *Id.* (“(3) subject to (4) and (5) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship; (4) if the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property and if the transferor has not named an alternate designated beneficiary under (5) of this subsection for the share of a designated beneficiary that lapses or fails for any reason, the lapsing or failing share is transferred to the other remaining designated beneficiaries in proportion to the interest of each remaining beneficiary in the remaining part of the property held concurrently; (5) the transferor may identify one or more alternate designated beneficiaries to take the share of a designated beneficiary that lapses or fails for any reason.”).

⁹ *Id.*

¹⁰ *Id.* (“(c) If a transferor is a joint owner and is (1) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or (2) the last surviving joint owner, the transfer on death deed is effective.”).

¹¹ § 13.48.060.

¹² *Id.*

¹³ *Id.*

¹⁴ § 13.48.100.

¹⁵ A TODD is revocable even if the deed or another instrument contains a contrary provision. § 13.48.020.

¹⁶ An instrument is effective to revoke the TODD, or any part of the TODD if the instrument is: (1) another valid TODD that expressly revokes the previous TODD or by inconsistency; (2) an instrument of revocation that expressly revokes the TODD in part or whole; (3) an inter vivos deed that expressly revokes the transfer on death deed or part of the deed; or (4) to the extent of the interest transferred by the inter vivos deed, an inter vivos deed that transfers an interest in property that is the subject of a transfer on death deed; and the instrument is acknowledged by the transferor after the acknowledgment of the TODD being revoked and recorded in the office of the recorder in the recording district where the property is located prior to the transferor's death. § 13.48.070.

¹⁷ § 13.48.130.

¹⁸ § 13.48.070

¹⁹ § 13.48.080 (“During a transferor's life, a transfer on death deed does not (1) affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property; (2) affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed; (3) affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed; (4) affect the transferor's or designated beneficiary's eligibility for any form of public assistance; (5) create a legal or equitable interest in favor of the designated beneficiary; or (6) subject the property to claims or process of a creditor of the designated beneficiary.”).

²⁰ § 13.48.070(a)(1)(A)

²¹ § 13.48.090.

²² § 13.48.140.

²³ § 13.48.140 (“(a) To the extent the transferor's probate estate is insufficient to satisfy an allowed claim against the estate, the costs of administration of the estate, or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred at the transferor's death by a transfer on death deed. (b) If more than one property is transferred by one or more transfer on death deeds, the liability under (a) of this section is apportioned among the properties in proportion to their net values at the transferor's death. (c) A proceeding to enforce the liability under this section must be commenced not later than 12 months after the transferor's death. A proceeding to enforce the liability under (a) of this section may not be commenced unless the personal representative of the transferor's estate has received a written demand by the surviving spouse, a creditor, a child, or a person acting for a child of the decedent.”).

²⁴ § 13.48.080(4).

Transfer on Death Deeds Survey

²⁵ § 13.48.110.

²⁶ *Id.*

Arizona

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Ariz. Rev. Stat. § 33-405(E)

³ § 33-405(K)

⁴ § 33-405 (A)

⁵ § 33-405 (E).

⁶ Arizona statutory form for beneficiary deed permits the conveyance of the property upon death to transfer to estate of the grantee beneficiary in the event that the grantee beneficiary predeceases the transferor. § 33-405(K).

⁷ § 33-405 (B) (“A beneficiary deed may designate multiple grantees who take title as joint tenants with right of survivorship, tenants in common, a husband and wife as community property or as community property with right of survivorship, or any other tenancy that is valid under the laws of this state.”).

⁸ § 33-405(C) (“A beneficiary deed may designate a successor grantee beneficiary. If the beneficiary deed designates a successor grantee beneficiary, the deed shall state the condition on which the interest of the successor grantee beneficiary would vest.”).

⁹ § 33-405 (D) (“If real property is owned as joint tenants with the right of survivorship or as community property with the right of survivorship, a deed that conveys an interest in the real property to a grantee beneficiary designated by all of the then surviving owners and that expressly states that the deed is effective on the death of the last surviving owner transfers the interest to the designated grantee beneficiary effective on the death of the last surviving owner. If a beneficiary deed is executed by fewer than all of the owners of real property owned as joint tenants with right of survivorship or community property with right of survivorship, the beneficiary deed is valid if the last surviving owner is one of the persons who executes the beneficiary deed. If the last surviving owner did not execute the beneficiary deed, the transfer shall lapse and the deed is void. An estate in joint tenancy with right of survivorship or community property with right of survivorship is not affected by the execution of a beneficiary deed that is executed by fewer than all of the owners of the real property, and the rights of a surviving joint tenant with right of survivorship or a surviving spouse in community property with right of survivorship shall prevail over a grantee beneficiary named in a beneficiary deed.”).

¹⁰ § 33-405 (I).

¹¹ § 33-405(I)

¹² § 33-405 (F)

¹³ § 33-405 (F) (“A beneficiary deed may be revoked at any time by the owner or, if there is more than one owner, by any of the owners who executed the beneficiary deed. To be effective, the revocation must be executed and recorded as provided by law in the office of the county recorder of the county in which the real property is located before the death of the owner who executes the revocation. If the real property is owned as joint tenants with right of survivorship or community property with right of survivorship and if the revocation is not executed by all the owners, the revocation is not effective unless executed by the last surviving owner.”).

¹⁴ § 33-405 (L)

¹⁵ § 33-405 (G) (“If an owner executes and records more than one beneficiary deed concerning the same real property, the last beneficiary deed that is recorded before the owner’s death is the effective beneficiary deed.”).

¹⁶ § 33-405 (H) (“This section does not prohibit other methods of conveying property that are permitted by law and that have the effect of postponing enjoyment of an interest in real property until the death of the owner. This section does not invalidate any deed otherwise effective by law to convey title to the interests and estates provided in the deed that is not recorded until after the death of the owner.”)

¹⁷ § 33-405 (A).

¹⁸ § 33-405 (J) (“A beneficiary deed that is executed, acknowledged and recorded in accordance with this section is not revoked by the provisions of a will.”)

Arkansas

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² § 18-12-608(a)(1)(A)

³ § 18-12-608(g)

⁴ § 18-12-608(a)(1)(A) (“A beneficiary deed is a deed without current tangible consideration that conveys upon the death of the owner an ownership interest in real property other than a leasehold or lien interest to a grantee designated by the owner and that expressly states that the deed is not to take effect until the death of the owner.”).

Transfer on Death Deeds Survey

⁵ § 18-12-608(c)(2) (“A beneficiary deed may be used to transfer an interest in real property to a trustee of a trust estate even if the trust is revocable and may include one (1) or more unnamed successor trustees as successor grantees.”).

⁶ § 18-12-608(a)(3) (“The owner may designate one (1) or more successor grantees, including one (1) or more unnamed heirs of the original grantee or grantees, under a beneficiary deed. The condition upon which the interest of a successor grantee vests, such as the failure of the original grantee to survive the grantor, shall be included in the beneficiary deed.”).

⁷ § 18-12-608(a)(2)(B) (“Multiple grantees may be joint tenants with right of survivorship, tenants in common, holders of a tenancy by the entirety, or any other tenancy that is otherwise valid under the laws of this state.”).

⁸ § 18-12-608(a)(3)(B).

⁹ § 18-12-608 (“(b)(1) If real property is owned as a tenancy by the entirety or as a joint tenancy with the right of survivorship, a beneficiary deed that conveys an interest in the real property to a grantee designated by all of the then surviving owners and that expressly states the beneficiary deed is not to take effect until the death of the last surviving owner transfers the interest to the designated grantee effective upon the death of the last surviving owner. (2)(A) If a beneficiary deed is executed by fewer than all of the owners of real property owned as a tenancy by the entirety or as joint tenants with right of survivorship, the beneficiary deed is valid if the last surviving owner is a person who executed the beneficiary deed. (B) If the last surviving owner did not execute the beneficiary deed, the beneficiary deed is invalid. (c)(1) A beneficiary deed is valid only if the beneficiary deed is recorded before the death of the owner or the last surviving owner as provided by law in the office of the county recorder of the county in which the real property is located.”).

¹⁰ § 18-12-608(a)(1)(A).

¹¹ § 18-12-608(d)(1).

¹² § 18-12-608 (“(2) To be effective, the revocation shall be: (A) Executed before the death of the owner who executes the revocation; and (B) Recorded in the office of the county recorder of the county in which the real property is located before the death of the owner as provided by law. (3) If the revocation is not executed by all the owners, the revocation is not effective unless executed by the last surviving owner and recorded before the death of the last surviving owner.”).

¹³ § 18-12-608(h).

¹⁴ § 18-12-608(a)(1)(B)(ii) (“No legal or equitable interest shall vest in the grantee until the death of the owner prior to revocation of the beneficiary deed.”).

¹⁵ § 18-12-608(e).

¹⁶ § 18-12-608(f)(1).

¹⁷ § 18-12-608(a)(1)(B)(i) (“A beneficiary deed transfers the interest to the designated grantee effective upon the death of the owner, subject to: (a) All conveyances, assignments, contracts, leases, mortgages, deeds of trust, liens, security pledges, oil, gas, or mineral leases, and other encumbrances made by the owner or to which the real property was subject at the time of the owner’s death, whether or not the conveyance or encumbrance was created before or after the execution of the beneficiary deed; and (b) A claim for reimbursement of federal or state benefits by the Department of Human Services from the estate of the grantor or the interest acquired by a grantee of the beneficiary deed”).

¹⁸ § 18-12-608(a)(1)(B)(i)(b) (“A claim for reimbursement of federal or state benefits by the Department of Human Services from the estate of the grantor or the interest acquired by a grantee of the beneficiary deed”).

¹⁹ § 18-12-608 (d)(4).

California

¹ Repealed as of January 1, 2022.

² [Click here](#) to access an online version of the applicable statutory provisions.

³ Cal. Prob. Code § 5000(a).

⁴ Prob. § 5620 (“An owner of real property who has the capacity to contract may make a revocable transfer on death deed of the property.”).

⁵ Prob. § 5622 (“The transferor shall identify the beneficiary by name in a revocable transfer on death deed.”).

⁶ Prob. § 5624 (“A revocable transfer on death deed is not effective unless the transferor signs and dates the deed and acknowledges the deed before a notary public.”).

⁷ Prob. § 5626 (“A revocable transfer on death deed is not effective unless the deed is recorded on or before 60 days after the date it was executed.”).

⁸ Prob. § 5642.

⁹ Prob. § 5610 (“Real property” means any of the following:(a) Real property improved with not less than one nor more than four residential dwelling units.(b) A condominium unit, including the limited common elements allocated to the exclusive use thereof that form an integral part of the condominium unit.(c) A single tract of agricultural real estate consisting of 40 acres or less that is improved with a single-family residence.”).

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¹⁰ Prob. § 5652(a)(2).

¹¹ Prob. § 5652(a)(3), (a)(4).

¹² While the statute does not explicitly prohibit alternative beneficiaries, the requirements in the California Probate Code §§ 5652(a)(3) and (a)(4) are inconsistent with naming alternative beneficiaries.

¹³ Prob. § 5664 (“If, at the time of the transferor’s death, title to the property described in the revocable transfer on death deed is held in joint tenancy or as community property with right of survivorship, the revocable transfer on death deed is void. The transferor’s interest in the property is governed by the right of survivorship and not by the revocable transfer on death deed.”).

¹⁴ Prob. § 5626(c).

¹⁵ Prob. § 5626(b).

¹⁶ Prob. § 5626.

¹⁷ Prob. § 5267(b)(4) (“‘Interest’ includes, but is not limited to, an interest created in any of the following manners . . . (14) Under a transfer on death beneficiary designation in a deed or other instrument.”).

¹⁸ Prob. § 5630 (“A revocable transfer on death deed is not effective unless the deed at anytime.”).

¹⁹ Prob. § 5632 (“(a) An instrument revoking a revocable transfer on death deed shall be executed and recorded before the transferor’s death in the same manner as execution and recordation of a revocable transfer on death deed. (b) Joinder, consent, or agreement of, or notice to, the beneficiary is not required for revocation of a revocable transfer on death deed.”).

²⁰ Prob. § 5644.

²¹ See Prob. §§ 5626(a), 5628(a).

²² Prob. § 5650.

²³ Prob. § 5628.

²⁴ Prob. § 5652(c).

²⁵ Prob. § 5602. The other conveyance is only valid if recorded before the death of the transferor. Prob. § 5660

²⁶ Prob. § 5670–76; (“Notwithstanding any other statute governing priorities among creditors, a creditor of the transferor whose right is evidenced at the time of the transferor’s death by an encumbrance or lien of record on property transferred by a revocable transfer on death deed has priority against the property over a creditor of the beneficiary, regardless of whether the beneficiary’s obligation was created before or after the transferor’s death and regardless of whether the obligation is secured or unsecured, voluntary or involuntary, recorded or unrecorded.”); Prob. § 5672 (“Each beneficiary is personally liable to the extent provided in Section 5674 for the unsecured debts of the transferor. Any such debt may be enforced against the beneficiary in the same manner as it could have been enforced against the transferor if the transferor had not died. In any action based on the debt, the beneficiary may assert any defense, cross-complaint, or setoff that would have been available to the transferor if the transferor had not died. Nothing in this section permits enforcement of a claim that is barred under Part 4 (commencing with Section 9000) of Division 7. Section 366.2 of the Code of Civil Procedure applies in an action under this section.”).

²⁷ Prob. § 5654 (“(a) For the purpose of determination of eligibility for health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, execution and recordation of a revocable transfer on death deed is not a lifetime transfer of the property. (b) Property transferred by a revocable transfer on death deed is subject to claims of the State Department of Health Care Services to the extent authorized by law.”).

²⁸ Prob. § 5694 (“If the court in a contest proceeding determines that a transfer of property by a revocable transfer on death deed is invalid, the court shall order the following relief: (a) If the proceeding was commenced and a lis pendens was recorded within 120 days after the transferor’s death, the court shall void the deed and order transfer of the property to the person entitled to it. (b) If the proceeding was not commenced and a lis pendens was not recorded within 120 days after the transferor’s death, the court shall grant appropriate relief but the court order shall not affect the rights in the property of a purchaser or encumbrancer for value and in good faith acquired before commencement of the proceeding and recordation of a lis pendens.”)

²⁹ Prob. § 4264(f) (“An attorney-in-fact under a power of attorney may perform any of the following acts on behalf of the principal or with the property of the principal only if the power of attorney expressly grants that authority to the attorney-in-fact: . . . (f) Designate or change the designation of beneficiaries to receive any property, benefit, or contract right on the principal’s death.”) See also Annotations Prob. § 5630 (“The transferor’s agent under a durable power of attorney may not revoke a Transfer on Death Deed unless expressly authorized.”).

³⁰ Prob. § 5040(a) (“Except as provided in subdivision (b), a nonprobate transfer to the transferor’s former spouse, in an instrument executed by the transferor before or during the marriage or registered domestic partnership, fails if, at the time of the transferor’s death, the former spouse is not the transferor’s surviving spouse as defined in Section 78, as a result of the dissolution or annulment of the marriage or termination of registered domestic partnership. A judgment of legal separation that does not terminate the status of spouses is not a dissolution for purposes of this section.”).

³¹ Prob. § 5680(a) provides that the beneficiary may record an affidavit of death of the transferor.

³² Prob. § Revocation is by an instrument executed and recorded before the transferor’s death. Prob. § 5632(a). Or by recordation of a subsequent TODD. Prob. § 5628(a).

³³ Prob. § 5626.

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Colorado

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Colo. Rev. Stat. § 15-15-412 (“A beneficiary deed shall not be construed to be a testamentary disposition and shall not be invalidated due to nonconformity with the provisions of the “Colorado Probate Code” governing wills.”).

³ §§ 15-15-401, 402

⁴ § 15-15-404

⁵ While it does not specify, the language when referring to a successor grantee beneficiary suggests that in order for the property to vest the grantee must be alive.

⁶ § 15-15-407.

⁷ § 15-15-401 (“(5) “Successor grantee-beneficiary” means the person or entity designated in a beneficiary deed to receive an interest in the property if the primary grantee-beneficiary does not survive the owner.”).

⁸ § 15-15-408 (“(1) A joint tenant of an interest in real property may use the procedures described in this part 4 to transfer his or her interest effective upon the death of such joint tenant. However, title to the interest shall vest in the designated grantee-beneficiary only if the joint tenant-grantor is the last to die of all of the joint tenants of such interest. If a joint tenant-grantor is not the last joint tenant to die, the beneficiary deed shall not be effective, and the beneficiary deed shall not make the grantee-beneficiary an owner in joint tenancy with the surviving joint tenant or tenants. A beneficiary deed shall not sever a joint tenancy. (2) As used in this section, “joint tenant” means a person who owns an interest in real property as a joint tenant with right of survivorship.”).

⁹ § 15-15-402(a).

¹⁰ *Id.*

¹¹ *Id.*

¹² § 15-15-414 (“A grantee-beneficiary may refuse to accept all or any part of the real property interest described in a beneficiary deed. A grantee-beneficiary may disclaim all or any part of the real property interest described in a beneficiary deed by any method provided by law. If a grantee-beneficiary refuses to accept or disclaims any real property interest, the grantee-beneficiary shall have no liability by reason of being designated as a grantee-beneficiary under this part 4.”).

¹³ § 15-15-405 (“An owner may revoke a beneficiary deed by executing an instrument that describes the real property affected, that revokes the deed, and that is recorded prior to the death of the owner in the office of the clerk and recorder in the county where the real property is located. The joinder, signature, consent, agreement of, or notice to, the grantee-beneficiary is not required for the revocation to be effective.”).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ § 15-15-402(c) (“During the lifetime of the owner, the grantee-beneficiary shall have no right, title, or interest in or to the property, and the owner shall retain the full power and authority with respect to the property without the joinder, signature, consent, or agreement of, or notice to, the grantee-beneficiary for any purpose.”).

¹⁷ § 15-15-405 (“(2) A subsequent beneficiary deed revokes all prior grantee-beneficiary designations by the owner for the described real property in their entirety even if the subsequent beneficiary deed fails to convey all of the owner’s interest in the described real property. The joinder, signature, consent, or agreement of, or notice to, either the original or new grantee-beneficiary is not required for the change to be effective. The most recently executed beneficiary deed or revocation of all beneficiary deeds or revocations that have been recorded prior to the owner’s death shall control regardless of the order of recording.”).

¹⁸ Unless the owner designates otherwise in a beneficiary deed, a beneficiary deed shall not be deemed to contain any warranties of title and shall have the same force and effect as a conveyance made using a bargain and sale deed. Colo. Rev. Stat. § 15-15-404.

¹⁹ § 15-15-402

²⁰ § 15-15-410 (“Subject to the rights of claimants under section 15-15-407(2), if the property acquired by a grantee-beneficiary or a security interest therein is acquired for value and without notice by a purchaser from, or lender to, a grantee-beneficiary, the purchaser or lender shall take title free of rights of an interested person in the deceased owner’s estate and shall not incur personal liability to the estate or to any interested person.”).

²¹ § 15-15-403 (“No person who is an applicant for or recipient of medical assistance for which it would be permissible for the department of health care policy and financing to assert a claim pursuant to section 25.5-4-301 or 25.5-4-302, C.R.S., shall be entitled to such medical assistance if the person has in effect a beneficiary deed. Notwithstanding the provisions of section 15-15-402(1), the execution of a beneficiary deed by an applicant for or recipient of medical assistance as described in this section shall cause the property to be considered a countable resource in accordance with section 25.5-4-302(6), C.R.S., and applicable rules.”); § 15-15-407 (“(4) The interest of the grantee-beneficiary shall be subject to any claim of the department of health care policy and financing for recovery of medical assistance payments pursuant to section 25.5-4-301 or 25.5-4-302, C.R.S., which shall be enforced in accordance with section 15-15-103.”).

²² § 15-15-411 (“(1) Unless previously adjudicated or otherwise barred, the claim of a claimant to recover from a grantee-beneficiary who is liable to pay the claim, and the right of an heir or devisee or of a personal representative acting on behalf of an heir or devisee,

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to recover property from a grantee-beneficiary or the value thereof from a grantee-beneficiary is forever barred as follows: (a) A claim by a creditor of the owner is forever barred at one year after the owner's death. (b) Any other claimant or an heir or devisee is forever barred at the earlier of the following: (I) Three years after the owner's death; or (II) One year after the time of recording the proof of death of the owner in the office of the clerk and recorder in the county in which the legal property is located. (2) Nothing in this section shall be construed to bar an action to recover property or value received as the result of fraud.”).

²³ § 15-15-413.

²⁴ § 15-15-405.

²⁵ § 15-25-404(1).

Washington D.C.

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² D.C. Code §§ 19-601.01(a), 604.07.

³ § 19-604.08

⁴ § 19-604.09

⁵ § 19-604.16

⁶ § 19-604.02(5) (“‘Property’ means an interest in real property located in the District of Columbia, which is transferable on the death of the owner.”).

⁷ § 19-601.02(i)(2)

⁸ While the default under D.C. Code § 19-604.13(a)(2) is that the beneficiary must survive the transferor, this provision is subject to what is actually included in the TODD. A transferor may allow the interest to vest with the deceased beneficiaries estate, however it must be express in the TODD.

⁹ § 19-604.13(a)(4) (“If the transferor has identified 2 or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

¹⁰ § 19-604.13(c),(d) (“(c) If a transferor is a joint owner and is survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship. (d) If a transferor is a joint owner and is the last surviving joint owner, the transfer-on death-deed is effective.”).

¹¹ § 19-604.10

¹² *Id.*

¹³ *Id.*

¹⁴ § 19-604.14

¹⁵ §§ 19-604.06 & .011

¹⁶ § 19-604.11 (“(a) Subject to subsection (b) of this section, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: (1) Is one of the following: (A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency; (B) An instrument of revocation that expressly revokes the deed or part of the deed; or (C) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and (2) Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor's death in the public records in the Office of the Recorder of Deeds. (b) If a transfer on death deed is made by more than one transferor: (1) Revocation by a transferor does not affect the deed as to the interest of another transferor; and (2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.”).

¹⁷ § 19-604.17

¹⁸ § 19-604.11(c) (“After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.”)

¹⁹ § 19-604.12 (“During a transferor's life, a transfer on death deed does not: (1) Affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property; (2) Affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed; (3) Affect an interest or right of a secured or unsecured creditor or future creditor of the transferor, even if the creditor has actual or constructive notice of the deed; (4) Affect the transferor's or designated beneficiary's eligibility for any form of public assistance; (5) Create a legal or equitable interest in favor of the designated beneficiary; or (6) Subject the property to claims or process of a creditor of the designated beneficiary.”)

²⁰ § 19-601.02(e) (“If a provision in one instrument conflicts with a provision in another, the later one prevails”).

²¹ § 19-604.13(e).

²² § 19-604.11(d) (“This section does not limit the effect of an inter vivos transfer of the property. “); § 19-604.04 (“This subchapter does not affect any method of transferring property otherwise permitted under the law of the District of Columbia.”).

²³ § 19-604.15 (“A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor's probate estate and statutory allowances to a surviving spouse and children to the extent provided in § 19-601.02.”); § 19-601.02(b) (“Except as otherwise

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provided by statute, a transferee of a nonprobate transfer is subject to liability to any probate estate of the decedent for allowed claims against decedent's probate for estate and statutory allowances to the decedent's spouse and children to the extent the estate is insufficient to satisfy those claims and allowances. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received or controlled by that transferee.); § 19-604.13(b) (A beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this subsection, the recording of the transfer on death deed is deemed to have occurred at the transferor's death.)

²⁴ § 19-604.12(4).

²⁵ § 19-604.01(h) ("A proceeding under this section must be commenced within one year after the decedent's death, but a proceeding on behalf of a creditor whose claim was allowed after proceedings challenging disallowance of the claim may be commenced within 60 days after final allowance of the claim.").

²⁶ § 19-602.05

²⁷ § 19-604.16

Hawaii

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Haw. Rev. Stat. § 527-7.

³ § 527-8.

⁴ § 527-9.

⁵ § 527-2 ("Property" means an interest in real property located in this State that is transferable on the death of the owner.").

⁶ *Id.*

⁷ § 527-13(a)(2).

⁸ § 527-13(a)(4) ("If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the subject property, any share that lapses or fails for any reason shall be transferred to the other beneficiaries in proportion to the interest of each in the remaining concurrently-held subject property.").

⁹ § 527-13 ("(b) If a transfer on death deed is executed by more than one transferor: (1) Revocation by one transferor does not affect the deed as to the interest of another transferor; and (2) A deed executed by joint owners is revoked only if it is revoked by all living joint owners. Haw. Rev. Stat. § 527-11. (c) If a transferor is a joint owner and is survived by one or more other joint owners, the subject property shall belong to the surviving joint owner or owners with the right of survivorship and the transfer on death deed shall have no effect. If a transferor is a joint owner and is the last surviving joint owner, the transfer on death deed shall be effective.").

¹⁰ § 527-10.

¹¹ *Id.*

¹² *Id.*

¹³ § 527-14.

¹⁴ § 527-6 ("A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.").

¹⁵ § 527-11 ("(a) Subject to subsection (b), an instrument is effective to revoke all or any part of a recorded or filed transfer on death deed only if the instrument is acknowledged by the transferor after the acknowledgment of the transfer on death deed being revoked and is recorded in the bureau of conveyances or filed in the office of the assistant registrar of the land court, as applicable, before the transferor's death and is: (1) A subsequently recorded or filed transfer on death deed that revokes all or a part of the recorded or filed transfer on death deed either expressly or because of inconsistency; (2) An instrument of revocation that expressly revokes all or a part of the recorded or filed transfer on death deed; or (3) An inter vivos deed that expressly revokes all or a part of the transfer on death deed. (b) If a transfer on death deed is executed by more than one transferor: (1) Revocation by one transferor does not affect the deed as to the interest of another transferor; and (2) A deed executed by joint owners is revoked only if it is revoked by all living joint owners.").

¹⁶ § 527-11(c) ("After a transfer on death deed is recorded or filed, as applicable, it may not be revoked by a revocatory act on the deed. For purposes of this subsection, "revocatory act" includes burning, tearing, canceling, obliterating, or destroying the transfer on death deed or any part of it.").

¹⁷ § 527-12 ("During a transferor's life, a transfer on death deed shall not: (1) Affect an interest or right in the subject property of the transferor or any other owner, including the right to transfer or encumber the subject property; (2) Affect an interest or right in the subject property of a transferee, regardless of whether the transferee has actual or constructive notice of the deed; (3) Affect an interest or right in the subject property of a secured or unsecured creditor or future creditor of the transferor regardless of whether the creditor has actual or constructive notice of the deed; (4) Affect the transferor's or designated beneficiary's eligibility for any form of public assistance; (5) Create a legal or equitable interest in the subject property in favor of the designated beneficiary; or (6) Subject the subject property to claims or process of a creditor of the designated beneficiary.").

¹⁸ § 527-11.

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¹⁹ § 527-13(d).

²⁰ § 527-4, 11(d).

²¹ § 527-15 (“(a) To the extent the transferor’s probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against the subject property transferred at the transferor’s death by a transfer on death deed. (b) If more than one property is transferred by one or more transfer on death deeds, the liability under subsection (a) shall be apportioned among the subject properties in proportion to their respective net values at the time of the transferor’s death.”). § 527-4 (“as applicable, a beneficiary shall take the subject property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the subject property is subject at the transferor’s death.”); § 527-13(b).

²² § 527-12 (4) (“During a transferor’s life, a transfer on death deed shall not: (4) Affect the transferor’s or designated beneficiary’s eligibility for any form of public assistance.”).

²³ § 527-15(c) (“A proceeding to enforce liability under this section shall be commenced not later than eighteen months after the transferor’s death.”).

²⁴ § 560:2-804.

Illinois

¹ [Click here](#) to access an online version of the applicable statutory provisions. Amendments made in 2021 expanded the use of TODD to *all* real property an individual owns, not just residential real property, effective January 1, 2022.

² 755 Ill. Comp. Stat. 27/30. In addition, “[a] transfer on death instrument may not be admitted to probate as the will of the owner or as a codicil thereto.”

³ 755 Ill. Comp. Stat. 27/35.

⁴ 755 Ill. Comp. Stat. 27/40–45.

⁵ 755 Ill. Comp. Stat. 27/5. TODD were allowed only for residential real property prior to January 1, 2022.

⁶ 755 Ill. Comp. Stat. 27/21 (“A transfer of real property by a transfer on death instrument to a trustee of a trust that is in existence when the owner executes a transfer on death instrument and that is identified in the transfer on death instrument, to a trustee of a trust created under the owner's will, to a trustee of a trust created under the transfer on death instrument, or to a trustee of a trust under the will of another individual if that individual has predeceased the owner, is permitted even if the trust is subject to amendment, modification, revocation, or termination. Unless the transfer on death instrument provides otherwise, the real property transferred shall be governed by the terms and provisions of the instrument creating the trust, including any amendments or modifications in writing made at any time before or after the execution of the owner’s transfer on death instrument and after the death of the owner. The existence or lack thereof of a trust corpus is immaterial to the validity of the transfer by the transfer on death instrument. Unless the transfer on death instrument provides otherwise, a revocation or termination of the trust before the owner's death causes the transfer to the trust to pass to the owner’s estate.”)

⁷ 755 Ill. Comp. Stat. 27/65(a) (“(2) If the owner has identified 2 or more designated beneficiaries to receive concurrent interests in the real property, the interests are taken in equal and undivided shares with no right of survivorship. (3) Except as provided in paragraph (5), if the owner has identified a single designated beneficiary and the designated beneficiary fails to survive the owner or is not in existence on the date of the owner's death, then the real property shall pass to the owner’s estate. (4) Except as provided in paragraph (5), if the owner has identified 2 or more designated beneficiaries to receive concurrent interests, and one or more, but less than all, designated beneficiaries predecease the owner, then the interests of those that lapse or fail for any reason are transferred to the other remaining designated beneficiary or beneficiaries in proportion to the interest of each in the remaining part of the real property held concurrently. (5) If the designated beneficiary who dies before the owner is a descendant of the owner, the descendants of the deceased designated beneficiary living at the time of the owner's death shall take the deceased designated beneficiary's share of the real property per stirpes.”); 755 Ill. Comp. Stat. 27/20 (“An owner may transfer real property by a transfer on death instrument to one or more beneficiaries in any form of ownership valid under State law, concurrent or successive, absolute or conditional, contingent or vested, effective at the owner’s death.”); 755 Ill. Comp. Stat. 27/65(d) (“If there is no sufficient evidence of the order of the owner and designated beneficiary’s deaths, otherwise than simultaneously, and there is no other provision in the transfer on death instrument, for purposes of this Section, the designated beneficiary shall be deemed to have predeceased the owner.”).

⁸ 755 Ill. Comp. Stat. 27/65(a)(2).

⁹ 755 Ill. Comp. Stat. 27/20 (“An owner may transfer real property by a transfer on death instrument to one or more beneficiaries in any form of ownership valid under State law, concurrent or successive, absolute or conditional, contingent or vested, effective at the owner’s death.”).

¹⁰ *Id.*

¹¹ 755 Ill. Comp. Stat. 27/50.

¹² *Id.*

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- ¹³ *Id.*
- ¹⁴ *Id.* Ill. Comp. Stat. 27/80. See Ill. Comp. Stat. 27/66 for special provisions applicable to a renunciation by a spouse.
- ¹⁵ 755 Ill. Comp. Stat. 27/25 (“A transfer on death instrument is revocable even if the instrument or another instrument contains a contrary provision.”).
- ¹⁶ 755 Ill. Comp. Stat. 27/55 (“(a) An instrument is effective to revoke a recorded transfer on death instrument, or any part of it, only if: (1) it is: (A) another transfer on death instrument that revokes the instrument or part of the instrument expressly or by inconsistency; or (B) an instrument of revocation that expressly revokes the instrument or part of the instrument; and (2) it is: (A) executed, witnessed, and acknowledged in the same manner as is required by Section 45 on a date that is after the date of the acknowledgment of the instrument being revoked; and (B) recorded before the owner’s death in the public records in the office of the recorder of the county or counties where the prior transfer on death instrument is recorded.”).
- ¹⁷ 755 Ill. Comp. Stat. 27/60. An owner may sell property prior to death, and extinguish the beneficiary’s interest, as long as no part of the contract remains executory at the owner’s death. *Id.*
- ¹⁸ *Id.* (“(a) During an owner’s life, a transfer on death instrument does not: (1) affect the right or interest of the owner, any other owner, or an agent for the owner to sell, transfer, or encumber the real property; (2) affect an interest or right of a transferee, lienholder, mortgagee, or option holder even if the transferee, lienholder, mortgagee, or option holder has actual or constructive notice of the instrument; (3) affect an interest or right of a secured or unsecured creditor or future creditor of the owner, even if the creditor has actual or constructive notice of the instrument; (4) affect the owner’s or designated beneficiary’s eligibility for any form of public assistance; (5) create a legal or equitable interest in favor of the designated beneficiary; or (6) subject the real property to claims or process of a creditor of the designated beneficiary.”).
- ¹⁹ 755 Ill. Comp. Stat. 26/55(a) While there is no statutory mention of an additional Transfer on Death instrument, based on other language, the later recorded instrument would control.
- ²⁰ 755 Ill. Comp. Stat. 27/65(c) (“A transfer on death instrument transfers real property without covenant or warranty of title even if the instrument contains a contrary provision.”).
- ²¹ 755 Ill. Comp. Stat. 27/15; *see also* 755 Ill. Comp. Stat. 27/60(b) (“If after recording a transfer on death instrument, the owner makes a contract for the sale or transfer of the real property or some part thereof that is the subject of the transfer on death instrument and the whole or any part of the contract remains executory at the owner’s death, the disposition of the real property by the contract does not revoke the transfer on death instrument but the real property passes to the designated beneficiary or beneficiary subject to the contract.”).
- ²² 755 Ill. Comp. Stat. 27/85 (“A beneficiary of a transfer on death instrument is subject to creditor, administrative, funeral and burial, and statutory claims to the same extent and in the same manner as a beneficiary of a trust that was revocable at the time of the settlor’s death as provided in Section 505 of the Illinois Trust Code, except that if more than one real property is transferred by a transfer on death instrument, the liability will be apportioned among the real properties in proportion to the net values of the real properties at the time of the owner’s death.”).
- ²³ 755 Ill. Comp. Stat. 27/90 (“(a) An action to set aside or contest the validity of a transfer on death instrument shall be commenced within the earlier of 2 years after the date of the owner’s death or 6 months from the date letters of office are issued pursuant to the Probate Act of 1975. (b) A bona fide purchaser or mortgagee for value shall take the real property free and clear of any action, claim, liability, or contest if the transfer to the bona fide purchaser or mortgagee for value occurs prior to the recording of a lis pendens under Section 2–1901 of the Code of Civil Procedure or prior to the filing of the a notice of renunciation pursuant to Section 66 of this Act.”).
- ²⁴ 755 Ill. Comp. Stat. 27/35 (“An agent under a durable power of attorney or other instrument creating an agency, even if authorized, does not have the authority to create or revoke a transfer on death instrument on behalf of the owner. This Section shall not be construed to prohibit the agent from selling, transferring, or encumbering the real property under the terms of the agency.”).
- ²⁵ 755 Ill. Comp. Stat. 27/75 (“Notice of death affidavit. Any beneficiary who takes under a transfer on death instrument may file in the office of the recorder in the county or counties where the real property is located a notice of death affidavit to confirm title following the death of the owner. The notice of death affidavit shall contain the name and address, if known, of each beneficiary taking under the transfer on death instrument, the legal description of the property, the street address and parcel identification number of the real property, if known, the date of the transfer on death instrument and its recording document number, the name of the deceased owner, the date and place of death, and the name and address to which all future tax bills should be mailed. The affidavit shall be acknowledged under penalty of perjury before a notary public or person authorized to administer oaths. The filing of the notice of death affidavit is not a condition to the transfer of title.”).
- ²⁶ 755 Ill. Comp. Stat. 27/55(b).
- ²⁷ 755 Ill. Comp. Stat. 27/45 (“(a) Every transfer on death instrument shall be signed by the owner or by some person in his or her presence and by his or her direction, and shall be attested in writing by 2 or more credible witnesses, and the signatures of the witnesses along with the owner’s signature shall be acknowledged in front of a notary public. The witnesses shall attest in writing substantially as follows: (i) that on the date thereof the owner executed the transfer on death instrument in the presence of the witnesses; (ii) that the owner’s execution was his or her own free and voluntary act; and (iii) that at the time of the execution, the

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witnesses believed the owner to be of sound mind and memory. (b) Except as provided in subsection (c), if the transfer on death instrument is not witnessed by at least 2 credible witnesses, it is not executed in substantial compliance with subsection (a) and is void. (c) If a beneficiary, or his or her spouse, attests to the execution of the transfer on death instrument, the interest transferred to that beneficiary and all persons claiming under him or her is void as to that beneficiary unless the transfer on death instrument is otherwise duly attested by a sufficient number of witnesses as under subsection (a) exclusive of that person and the notary, and he or she may be compelled to testify as if the interest had not been given, but the beneficiary is entitled to receive so much of the interest or share given to him or her by the transfer on death instrument not to exceed the value or share that he or she would have received had no transfer on death instrument been established.”).

Indiana

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Ind. Code § 32-17-14-5.

³ § 32-17-14-12 (“A deed of gift, bill of sale, or other writing intended to transfer an interest in tangible personal property is effective on the death of the owner and transfers ownership to the designated transferee beneficiary if the document: (1) expressly creates ownership in beneficiary form; (2) is in other respects sufficient to transfer the type of property involved; and (3) is executed by the owner and acknowledged before a notary public or other person authorized to administer oaths.”).

⁴ § 32-17-14-11(b).

⁵ § 32-17-14-2.

⁶ § 32-17-14-11(d).

⁷ § 32-17-14-20 (“An individual who is a beneficiary of a transfer on death transfer is not entitled to a transfer unless the individual: (1) survives the owner; and (2) survives the owner by the time, if any, required by the terms of the beneficiary designation.”).

⁸ § 32-17-14-15(e)-(f). (“If two (2) or more beneficiaries survive, there is no right of survivorship among the beneficiaries when the death of a beneficiary occurs after the death of the owner unless the beneficiary designation expressly provides for survivorship among the beneficiaries. Except as expressly provided otherwise, the surviving beneficiaries hold their separate interest in the property as tenants in common. The share of any beneficiary who dies after the owner dies belongs to the deceased beneficiary’s estate. (f) If no beneficiary survives the owner, the property belongs to the estate of the owner unless the beneficiary designation directs the transfer to a substitute beneficiary in the manner required by section 22 of this chapter.”).

⁹ § 32-17-14-11(e) (“If the owner records a transfer on death deed, the effect of the recording the transfer on death deed is determined as follows: (1) If the owner’s interest in the real property is as a tenant by the entirety, the conveyance is inoperable and void unless the other spouse joins in the conveyance. (2) If the owner’s interest in the real property is as a joint tenant with rights of survivorship, the conveyance severs the joint tenancy and the cotenancy becomes a tenancy in common. (3) If the owner’s interest in the real property is as a joint tenant with rights of survivorship and the property is subject to a beneficiary designation, a conveyance of any joint owner’s interest has no effect on the original beneficiary designation for the nonsevering joint tenant. (4) If the owner’s interest is as a tenant in common, the owner’s interest passes to the beneficiary as a transfer on death transfer. (5) If the owner’s interest is a life estate determined by the owner’s life, the conveyance is inoperable and void. (6) If the owner’s interest is any other interest, the interest passes in accordance with this chapter and the terms and conditions of the conveyance establishing the interest. If a conflict exists between the conveyance establishing the interest and this chapter, the terms and conditions of the conveyance establishing the interest prevail. § 32-17-14-15(b). On the death of one (1) of two (2) or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners. If at least two (2) joint owners survive, the right of survivorship continues as between the surviving owners. (c) On the death of a tenant by the entireties, property with respect to which a beneficiary designation has been made belongs to the surviving tenant. (d) On the death of the owner, property with respect to which a beneficiary designation has been made passes by operation of law to the beneficiary.”).

¹⁰ § 32-17-14-7.

¹¹ § 32-17-14-11(c).

¹² *Id.*

¹³ § 32-17.5-4-1(6).

¹⁴ § 32-17-14-16.

¹⁵ § 32-17-14-16(f); § 32-17-14-16(j) (“An owner may revoke a beneficiary designation made in a transfer on death deed by executing and recording before the death of the owner with the recorder of deeds in the county in which the real property is situated either:”).

¹⁶ § 32-17-14-16(k).

¹⁷ § 32-17-14-15(a) (“Before the death of the owner, a beneficiary has no rights in the property because of the beneficiary designation. The signature or agreement of the beneficiary is not required for any transaction relating to property transferred under this chapter.”).

¹⁸ § 32-17-14-16(e).

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¹⁹ § 32-17-14-11(h) (“This section does not preclude other methods of conveying real property that are permitted by law and have the effect of postponing enjoyment of an interest in real property until after the death of the owner. This section applies only to transfer on death deeds and does not invalidate any deed that is otherwise effective by law to convey title to the interest and estates provided in the deed.”).

²⁰ § 32-17-14-29.

²¹ § 32-17-14-26.

²² § 32-17-14-11(a)(1).

²³ § 32-17-14-8.

²⁴ § 32-17-14-16(g).

Kansas

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Kan. Stat. § 59-3507 (“A deed in transfer-on-death form shall not be considered a testamentary disposition and shall not be invalidated due to nonconformity with the provisions of chapter 59 of the Kansas Statutes Annotated.”).

³ *Matter of Estate of Moore*, 390 P.3d 551 (Kan. Ct. App. 2017).

⁴ §§ 59-3501–02.

⁵ § 59-3502.

⁶ § 59-3504(c).

⁷ § 58-501.

⁸ *Id.*

⁹ § 59-3505(a) (“A record joint owner of an interest in real estate may use the procedures in this act to title such interest in transfer-on-death form. However, title to such interest shall vest in the designated grantee beneficiary or beneficiaries only if such record joint owner is the last to die of all of the record joint owners of such interest. A deed in transfer-on-death form shall not sever a joint tenancy.”).

¹⁰ § 59-3501(b).

¹¹ *Id.*

¹² *Id.*

¹³ § 59-3503.

¹⁴ *Id.* (“(a) A designation of the grantee beneficiary may be revoked at any time prior to the death of the record owner, by executing, acknowledging and recording in the office of the register of deeds in the county where the real estate is located an instrument describing the interest revoking the designation. The signature, consent or agreement of or notice to the grantee beneficiary or beneficiaries is not required. (b) A designation of the grantee beneficiary may be changed at any time prior to the death of the record owner, by executing, acknowledging and recording a subsequent transfer-on-death deed in accordance with K.S.A. 59-3502. The signature, consent or agreement of or notice to the grantee beneficiary or beneficiaries is not required. A subsequent transfer-on-death beneficiary designation revokes all prior designations of grantee beneficiary or beneficiaries by such record owner for such interest in real estate. (c) A transfer-on-death deed executed, acknowledged and recorded in accordance with this act may not be revoked by the provisions of a will.”).

¹⁵ While the statute does not specify the effects on ownership, it is reasonable to imply that there are no effects based on the effective upon death nature and the national trend.

¹⁶ While it does not state the impact that executing a TOD instrument has on the owner’s rights during the remainder of the owner’s life, the fact that the deed is not effective until the death of the owner illustrates that there is no change on the disposition of the property until the death of the owner.

¹⁷ § 59-3505(a)-(b).

¹⁸ § 59-3504 (“Grantee beneficiaries of a transfer-on-death deed take the record owner’s interest in the real estate at death subject to all conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the record owner’s lifetime including, but not limited to, any executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, claims of the state of Kansas for medical assistance, as defined in K.S.A. 39-702, and amendments thereto, pursuant to K.S.A. 39-709, and amendments thereto, and to any interest conveyed by the record owner that is less than all of the record owner’s interest in the property.”).

¹⁹ § 58-654(f)(6).

²⁰ § 59-3503(c).

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Maine

¹ Me. Stat. tit. 18 C § 6-401; [Click here](#) to access an online version of the applicable statutory provisions.

² Me. Stat. tit. 18 C § 6-407.

³ Me. Stat. tit. 18 C § 6-408(1) (“The capacity required to make or revoke a transfer on death deed is the same as the capacity required to make a will.”).

⁴ Me. Stat. tit. 18 C § 6-409.

⁵ Me. Stat. tit. 18 C § 6-417.

⁶ Me. Stat. tit. 18 C § 6-413 (“Except as otherwise provided in the transfer on death deed . . . The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.”).

⁷ Me. Stat. tit. 18 C § 6-413(3) (“Joint owner. If a transferor is a joint owner and is: A. Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or B. The last surviving joint owner, the transfer on death deed is effective.”).

⁸ Me. Stat. tit. 18 C § 6-410.

⁹ *Id.*

¹⁰ Me. Stat. tit. 18 C § 6-415.

¹¹ Me. Stat. tit. 18 C § 6-405 (“An individual may transfer for no consideration property to one or more beneficiaries effective at the transferor’s death by a transfer on death deed.”).

¹² Me. Stat. tit. 18 C § 6-406.

¹³ Me. Stat. tit. 18 C § 6-411(1) (“Revocation by instrument. Subject to subsection 2, an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: A. Is one of the following: (1) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency; (2) An instrument of revocation that expressly revokes the deed or part of the deed; or (3) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and B. Is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded before the transferor’s death in the registry of deeds in the county where the deed is recorded.”).

¹⁴ Me. Stat. tit. 18 C § 6-418.

¹⁵ Me. Stat. tit. 18 C § 6-411.

¹⁶ Me. Stat. tit. 18 C §§ 6-404, 412.

¹⁷ Me. Stat. tit. 18 C § 6-417.

¹⁸ Me. Stat. tit. 18 C § 6-413(4).

¹⁹ Me. Stat. tit. 18 C §§ 6-412.

²⁰ Me. Stat. tit. 18 C § 6-416.

²¹ Me. Stat. tit. 18 C §§ 6-414. While this provision does provide for additional steps to record the transfer of title they are not mandatory for the transfer to be effective. *Id.* (“The filing of the notice of death affidavit is not a condition to the transfer of title.”).

Minnesota

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Minn. Stat. § 507.071 Subd. 8

³ § 507.071 Subd. 24

⁴ § 507.071 subd.1(e) (“‘Property’ and ‘interest in real property’ mean any interest in real property located in this state which is transferable on the death of the owner and includes, without limitation, an interest in real property defined in chapter 500, a mortgage, a deed of trust, a security interest in, or a security pledge of, an interest in real property, including the rights to payments of the indebtedness secured by the security instrument, a judgment, a tax lien, both the seller’s and purchaser’s interest in a contract for deed, land contract, purchase agreement, or earnest money contract for the sale and purchase of real property, including the rights to payments under such contracts, or any other lien on, or interest in, real property.”).

⁵ § 507.071 Subd. 9

⁶ § 507.071 Subd. 11 (“(a) If a grantee beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor owner fails to survive the grantor owner, the issue of the deceased grantee beneficiary who survive the grantor owner take in place of the deceased grantee beneficiary. If they are all of the same degree of kinship to the deceased grantee beneficiary, they take equally. If they are of unequal degree, those of more remote degree take by right of representation. (b) For the purposes of this subdivision, words of survivorship such as, in a conveyance to an individual, “if he or she survives me,” or, in a class gift, to “my surviving children,” are a sufficient indication of intent to condition the conveyance or transfer upon the beneficiary surviving the grantor owner.”).

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⁷ A transfer on death deed may designate multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any other form of ownership or tenancy that is valid under the laws of this state. § 507.071 Subd. 4

⁸ § 507.071 Subd. 5

⁹ § 507.071 Subd. 6. (“If an interest in real property is owned as joint tenants, a transfer on death deed executed by all of the owners and, if required by section 507.02, their respective spouses, if any, that conveys an interest in real property to one or more grantee beneficiaries transfers the interest to the grantee beneficiary or beneficiaries effective only after the death of the last surviving grantor owner. If the last surviving joint tenant owner did not execute the transfer on death deed, the deed is ineffective to transfer any interest and the deed is void. An estate in joint tenancy is not severed or affected by the subsequent execution of a transfer on death deed and the right of a surviving joint tenant owner who did not execute the transfer on death deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the deed specifically states that it severs the joint tenancy ownership.”).

¹⁰ Minn. Stat. § 507.071 Subd. 18 (“The signature, consent or agreement of, or notice to, a grantee beneficiary under a transfer on death deed, or delivery of the transfer on death deed to the grantee beneficiary, is not required for any purpose during the lifetime of the grantor owner.”)

¹¹ § 507.071 Subd. 18.

¹² § 507.071 Subd. 16.

¹³ § 507.071 Subd. 10

¹⁴ § 507.071 Subd. 10 (“To be effective, the revocation must be recorded in a county in which at least a part of the real property is located before the death of the grantor owner or owners who execute the revocation.”).

¹⁵ § 507.071 Subd. 25.

¹⁶ While the statute does not specify the effects on ownership, based on the nature of the TOD instrument to only become effective upon death, it is reasonable to infer that there would be no change in the owner’s rights to the property.

¹⁷ § 507.071 Subd. 13

¹⁸ § 507.071 Subd. 17 (“This section does not prohibit other methods of conveying property that are permitted by law and that have the effect of postponing ownership or enjoyment of an interest in real property until the death of the owner. This section does not invalidate any deed that is not a transfer on death deed and that is otherwise effective to convey title to the interests and estates described in the deed that is not recorded until after the death of the owner.”).

¹⁹ § 507.071 Subd. 3 (“Rights of creditors and rights of state and county under sections 246.53, 256B.15, 256D.16, 261.04, and 514.981. The interest transferred to a beneficiary under a transfer on death deed after the death of a grantor owner is transferred subject to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, judgments, tax liens, and any other matters or encumbrances to which the interest was subject on the date of death of the grantor owner, upon whose death the transfer becomes effective including, but not limited to, any claim by a surviving spouse who did not join in the execution of, or consent in writing to, the transfer on death deed, and any claim or lien by the state or county agency authorized by sections 246.53, 256B.15, 256D.16, 261.04, and 514.981, if other assets of the deceased grantor’s estate are insufficient to pay the amount of any such claim. A beneficiary to whom the interest is transferred after the death of a grantor owner shall be liable to account to the state or county agency with a claim or lien authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the deceased grantor owner’s estate, but such liability shall be limited to the value of the interest transferred to the beneficiary. To establish compliance with this subdivision and subdivision 23, the beneficiary must record a clearance certificate issued in accordance with subdivision 23 in each county in which the real property described in the transfer on death deed is located”).

²⁰ § 507.071 Subd. 7

²¹ § 507.071 Subd. 20 (“An affidavit of identity and survivorship with a certified copy of a record of death as an attachment may be combined with a clearance certificate under this section and the combined documents may be recorded separately or as one document in each county in which the real estate described in the clearance certificate is located. The affidavit must include the name and mailing address of the person to whom future property tax statements should be sent. The affidavit, record of death, and clearance certificate, whether combined or separate, shall be prima facie evidence of the facts stated in each, and the registrar of titles may rely on the statements to transfer title to the property described in the clearance certificate.”).

²² § 507.071 Subd. 19

Mississippi

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Miss. Code Ann. § 91-27-13 (2020).

³ § 91-27-15(a).

⁴ § 91-27-17 (“To be effective, a transfer-on-death deed must: (1) except as otherwise provided in subsection (2), contain the essential elements and formalities of a recordable deed; (2) state that the transfer of an interest in real property to the designated beneficiary is

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to occur at the transferor's death; (3) be recorded before the transferor's death in the deed records in the official records of the chancery clerk of the county where the real property is located.”).

⁵ § 91-27-33.

⁶ See § 91-27-3(d) (“‘Person’ means an individual...*trust*...or any other legal or commercial entity.”)(emphasis added).

⁷ § 91-27-27(4) (“The interest in the property is transferred to a designated beneficiary in accordance with the deed, but the interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.”).

⁸ § 91-27-27(5).

⁹ § 91-27-9; see § 91-27-33.

¹⁰ § 91-27-27 (“If a transferor is a joint owner with right of survivorship who is survived by one or more other joint owners, the real property that is the subject of the transfer-on-death deed belongs to the surviving joint owner or owners. If a transferor is a joint owner with right of survivorship who is the last-surviving joint owner, the transfer-on-death deed is effective.”).

¹¹ § 91-27-19.

¹² § 91-27-19.

¹³ § 91-27-19.

¹⁴ § 91-27-31.

¹⁵ § 91-27-11.

¹⁶ § 91-27-21 (“a instrument is effective to revoke a recorded transfer-on-death deed, or any part of it, if the instrument: (1) is one (1) of the following: (A) A subsequent transfer-on-death deed that revokes the preceding transfer-on-death deed or part of the deed expressly or by inconsistency; or (B) except as provided by subsection (b), an instrument or revocation that expressly revokes the transfer-on-death deed or part of the deed; (2) is acknowledged by the transferor after the acknowledgment of the deed being revoked; and (3) is recorded before the transferor's death in the official records of the chancery clerk of the county where the deed being revoked is recorded.”).

¹⁷ § 91-27-35.

¹⁸ § 91-27-21.

¹⁹ § 91-27-23 (“During a transferor's life, a transfer-on-death deed does not: (1) affect an interest or right of the transferor or any other owner, including: (A) The right to transfer or encumber the real property that is the subject of the deed;”).

²⁰ § 91-27-21(a)(1)(a) (“An instrument is effective to revoke a recorded transfer-on-death deed...if the instrument...(is) a subsequent transfer-on-death deed that revokes the preceding transfer-on-death deed or part of the deed expressly *or by inconsistency*”)(emphasis added).

²¹ § 91-27-27(3) (“A transfer-on-death deed transfers real property without covenant or warranty of title even if the deed contains a contrary provision”).

²² § 91-27-23(1)(A) (“During a transferor's life, a transfer-on-death deed does not: Affect an interest or right of the transferor or any other owner, including: the right to transfer or encumber the real property that is the subject of the deed”).

²³ § 91-27-29.

²⁴ § 91-27-23(4) (“[A transfer-on-death deed does not] affect the transferor's or designated beneficiary's eligibility for any form of public assistance, subject to federal law”).

²⁵ § 91-27-21(c) (“If a marriage between the transferor and a designated beneficiary is dissolved after a transfer-on-death deed is recorded, a final judgment of the court dissolving the marriage operates to revoke the transfer-on-death deed as to that designated beneficiary”).

²⁶ § 91-27-21(b) (“A will does not revoke or supersede a transfer-on-death deed.”).

Missouri

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Mo. Stat. § 461.001.

³ § 461.025.

⁴ § 461.043 (“1. A beneficiary designation designating a trustee under a trust established or to be established by the owner or some other person, including a funded or unfunded trust, shall not be invalid because the trust is amendable or revocable or both or because the trust was amended after the designation. 2. Unless a beneficiary designation provides otherwise, a trust that was revoked or terminated before the death of the owner shall be deemed not to have survived the owner. 3. Unless a beneficiary designation provides otherwise, a legal entity or trust that does not exist or come into existence at the time of the owner's death shall be deemed not to have survived the owner.”); § 461.025.

⁵ § 461.042 (“1. An individual who is a beneficiary of a nonprobate transfer shall not be entitled to a transfer unless the individual survives the owner by one hundred twenty hours. 2. If an owner provides and the transferring entity accepts, or if a governing

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instrument or applicable law provides, a period of survival different than one hundred twenty hours, the period designated shall determine the survival requirement of beneficiaries under this section. An owner and transferring entity may agree that certain circumstances raise a different presumption of survival or nonsurvival”); Mo. Stat. § 461.031 *but see* Mo. Stat. § 461.045 (“1. Whenever a person designated as beneficiary of a nonprobate transfer is a lineal descendant of the owner, and the beneficiary is deceased at the time the beneficiary designation is made or does not survive the owner, or is treated as not surviving the owner, the nonsurviving beneficiary’s share shall belong to that beneficiary’s lineal descendants per stirpes who survive the owner, to take in place of and in substitution for the nonsurviving beneficiary, the same as the beneficiary would have taken if the beneficiary had survived. This subsection shall not apply to a beneficiary designation with the notation “no LDPS” after a beneficiary’s name or other words negating an intention to direct the transfer to the lineal descendant substitutes of a nonsurviving beneficiary. 2. A beneficiary designation may provide that the share of any beneficiary not related to the owner as provided in subsection 1 of this section, and who does not survive the owner, shall belong to that beneficiary’s lineal descendants per stirpes who survive the owner, by including after the name of the beneficiary the words “and lineal descendants per stirpes” or the abbreviation “LDPS”. 3. Lineal descendants, taking as substitutes for a beneficiary of a nonprobate transfer, if they are of the same degree of kinship to the nonsurviving beneficiary, share equally, but if they are of unequal degree, then those of more remote degree take the share of their parent by representation. 4. Whenever a nonprobate transfer is to be made to a beneficiary’s lineal descendants per stirpes, the property shall belong to such lineal descendants of the beneficiary who survive the owner, and in such proportions, as would result if the survivors were inheriting personal property of the beneficiary under the laws of Missouri and the beneficiary had died at the time of the owner’s death, intestate, unmarried, domiciled in Missouri and possessed of such property. 5. Whenever a beneficiary of a nonprobate transfer does not survive the owner and the beneficiary is a person for whom the beneficiary’s surviving lineal descendants take as substitutes under subsection 1 or 2 of this section, if there are no lineal descendants of the beneficiary who survive the owner, the beneficiary’s share shall belong to the surviving beneficiaries, or to the owner’s estate, as would be the case if transfer to the beneficiary’s lineal descendants were not required to be considered.”)

⁶ § 461.031 (“3. On death of the owner, property passes by operation of law to the beneficiary. 4. If two or more beneficiaries survive, there is no right of survivorship among the beneficiaries in the event of death of a beneficiary thereafter unless the beneficiary designation expressly provides for survivorship among them, and, unless so expressly provided, surviving beneficiaries hold their separate interests in the property as tenants in common. The share of any subsequently deceased beneficiary belongs to that beneficiary’s estate. 5. If no beneficiary survives the owner, the property belongs to the estate of the owner.”).

⁷ § 461.062 (“If a beneficiary of a nonprobate transfer disclaims in whole or in part the nonprobate transfer in the manner provided by law, then with respect to the disclaimed transfer, the disclaimant is treated as having predeceased the owner unless the beneficiary designation provides otherwise; but the possibility that a beneficiary or descendant may disclaim a transfer shall not require any transferring entity to withhold making the transfer in the normal course of business.”).

⁸ § 461.031 (“ On death of one of two or more joint owners, property with respect to which a beneficiary designation has been made belongs to the surviving joint owner or owners, and the right of survivorship continues as between two or more surviving joint owners.”).

⁹ § 461.025

¹⁰ § 461.025 (“A beneficiary deed need not be supported by consideration or be delivered to the grantee beneficiary”) *but see* Mo. Stat. § 461.021 (“A beneficiary designation, under a written instrument or law, that authorizes a transfer of property pursuant to a written designation of beneficiary, transfers the right to receive the property to the designated beneficiary who survives, effective on death of the owner, if the beneficiary designation is executed and delivered in proper form to the transferring entity prior to the death of the owner.”).

¹¹ § 461.009 (“Nonprobate transfers are effective with or without consideration”).

¹² § 461.048 (“If a beneficiary of a nonprobate transfer disclaims in whole or in part the nonprobate transfer in the manner provided by law, then with respect to the disclaimed transfer, the disclaimant is treated as having predeceased the owner unless the beneficiary designation provides otherwise; but the possibility that a beneficiary or descendant may disclaim a transfer shall not require any transferring entity to withhold making the transfer in the normal course of business.”).

¹³ § 461.033(1) (noting that revocation by joint owners is only effect upon agreement of all living owners).

¹⁴ § 461.031

¹⁵ § 461.033(2)

¹⁶ § 461.025

¹⁷ § 461.071

¹⁸ § 461.011 (“For the purpose of discharging its duties under the nonprobate transfers law, the authority of a transferring entity acting as agent for an owner of property subject to a nonprobate transfer shall not cease at death of the owner. The transferring entity shall transfer the property to the designated beneficiary in accordance with the governing instrument, the rules of the transferring entity and sections 461.003 to 461.081.”) *but see* Mo. Stat. § 461.035 (“1. An attorney in fact, custodian, conservator or other agent may not make, revoke or change a beneficiary designation unless the document establishing the agent’s right to act, or a court order, expressly authorizes such action and such action complies with the terms of the governing instrument, the rules of the transferring entity and

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applicable law. 2. This section shall not prohibit the authorized withdrawal, sale, pledge or other present transfer of the property by an attorney in fact, custodian, conservator or other agent notwithstanding the fact that the effect of the transaction may be to extinguish a beneficiary's right to receive a transfer of the property at the death of the owner.”)

Montana

¹ Mont. Code Ann. 72-6-401 (2021); [Click here](#) to access an online version of the applicable statutory provisions.

² § 72-6-406.

³ § 72-6-407.

⁴ § 72-6-408.

⁵ 72-6-415.

⁶ § 72-6-402(4) (“‘Person’ means an individual, corporation, business trust, estate, *trust*...or any other legal or commercial entity”)(emphasis added).

⁷ § 72-6-412(b) (“The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.”).

⁸ § 72-6-412(d) (“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

⁹ § 72-6-404 (“An individual may transfer property to one or more beneficiaries effective at the transferor’s death by a transfer on death deed”).

¹⁰ § 72-6-412(3) (“If a transferor is a joint owner and is: survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or the last surviving joint owner, the transfer on death deed is effective.”).

¹¹ § 72-6-409(1).

¹² *Id.*

¹³ § 72-6-409(2).

¹⁴ § 72-6-413.

¹⁵ § 72-6-405 (“A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.”).

¹⁶ § 72-6-410(a).

¹⁷ § 72-6-416.

¹⁸ § 72-6-410.

¹⁹ § 72-6-411(1) (“During a transferor’s life, a transfer on death deed does not: affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property”).

²⁰ § 72-6-410(a) (A subsequent transfer on death deed may revoke a prior deed if the instrument “revokes the deed or part of the deed expressly or by inconsistency.”).

²¹ § 72-6-412(4) (“A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.”).

²² § 72-6-411(1).

²³ § 72-6-414.

²⁴ § 72-6-411(4) (“[Does not] affect the transferor’s or designated beneficiary’s eligibility for any form of public assistance”).

Nebraska

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Neb. Rev. Stat. § 76-3407

³ § 76-3408

⁴ §§ 76-3409, 10

⁵ § 76-3409

⁶ § 76-3402(6)

⁷ The statute does not require it, however if it is not addressed in the TODD, then it defaults to Neb. Rev. Stat. § 76-3415(a)(2) (“The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor by one hundred twenty hours. If the deed provides for a different survival period, the deed shall determine the survival requirement for designated beneficiaries. The interest of a designated beneficiary that fails to survive the transferor by one hundred twenty hours or as otherwise provided in the deed shall be treated as if the designated beneficiary predeceased the transferor”).

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⁸ § 76-3415 (“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

⁹ § 76- 3415(c) (“ If a transferor is a joint owner and is: (1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or (2) The last surviving joint owner, the transfer on death deed of the last surviving joint owner transferor is effective.”); § 76-3413 (“A deed of joint owners is revoked only if it is revoked by all of the living joint owners who were transferors.”).

¹⁰ § 76-3411(1)

¹¹ § 76-3411(1)

¹² § 76-3411(2)

¹³ § 76-3416

¹⁴ § 76-3406 (A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.”).

¹⁵ § 76-3413

¹⁶ § 76-3413(b)(2)

¹⁷ § 76-3414

¹⁸ § 76-3413

¹⁹ § 76-3415(d)

²⁰ § 76-3404; *see* § 76-3413(d)

²¹ §§ 76-3410(b)(1), 3417-18

²² § 76-3421 (“The Department of Health and Human Services may require revocation of a transfer on death deed by a transferor, a transferor’s spouse, or both a transferor and the transferor’s spouse in order for the transferor to qualify or remain qualified for medicaid assistance.”).

²³ § 76-3410

²⁴ § 76-3415 (“(e) If after recording a transfer on death deed the transferor is divorced or his or her marriage is dissolved or annulled, the divorce, dissolution, or annulment revokes any disposition or appointment of property made by the transfer on death deed as provided in section 30-2333.”).

²⁵ §§ 76-3410

Nevada

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Nev. Rev. Stat. § 111.679

³ § 111.681; *see* § 111.105–.235 (addressing some of the requirements for the recordation and execution of a TODD); § 111.700–781.

⁴ § 111.695

⁵ § 111.669

⁶ § 111.673 (“The owner of an interest in property who creates a deed upon death may designate in the deed: 1. Multiple beneficiaries who will take title to the property upon his or her death as joint tenants with right of survivorship, tenants in common, a married couple as community property, community property with right of survivorship or any other tenancy that is recognized in this State. 2. The beneficiary or beneficiaries who will take title to the property upon his or her death as the sole and separate property of the beneficiary or beneficiaries without the necessity of the filing of a quitclaim deed or disclaimer by the spouse of any beneficiary.”).

⁷ § 111.675 (“If the owner of the property which is the subject of a deed upon death holds the interest in the property as a joint tenant with right of survivorship or as community property with the right of survivorship and: 1. The deed includes a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the last surviving owner. 2. The deed does not include a conveyance of the interest from each of the other owners, the deed becomes effective on the date of the death of the owner who created the deed only if that owner is the last surviving owner.”) *see* § 111.697 (“If the property is held as joint tenants with right of survivorship or as community property with the right of survivorship and the revocation is not executed by all the owners, the revocation does not become effective unless the revocation is executed and recorded by the last surviving owner”)

⁸ § 111.683(1)

⁹ *Id.*

¹⁰ § 111.683(2)

¹¹ § 111.687

¹² Nev. Rev. Stat. § 111.697 (“A deed upon death may be revoked at any time by the owner or, if there is more than one owner, by any of the owners who created the deed even if the deed or other instrument contains a contrary provision.”).

¹³ *Id.* (“The revocation is valid only if executed and recorded as provided by law in the office of the county recorder of the county in which the property is located before the death of the owner who executes the revocation.”).

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¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ § 111.685

¹⁷ § 111.677(2)

¹⁸ § 111.685.

¹⁹ § 111.689, *see also* Nev. Rev. Stat. § 111.693

²⁰ § 111.689(3)

New Mexico

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² N.M. Stat. § 45-6-407.

³ § 45-6-408.

⁴ § 45-6-409.

⁵ § 45-6-416.

⁶ § 45-6-402(F).

⁷ § 45-6-413.

⁸ § 45-6-413(A)(3) (“if the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”). Concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship. *Id.*

⁹ § 45-6-413 (“If a transferor is a joint owner and is: (1) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or (2) the last surviving joint owner, the transfer on death deed is effective.”).

¹⁰ § 45-6-410(A). It is important to note that acceptance is not required during the transferor’s life. *Id.*

¹¹ *Id.*

¹² § 45-6-410(B).

¹³ § 45-6-414.

¹⁴ § 45-6-406 (“A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision”).

¹⁵ § 45-6-411.

¹⁶ § 45-6-417.

¹⁷ § 45-6-411(C).

¹⁸ § 45-6-412.

¹⁹ § 45-6-411(A)(3).

²⁰ § 45-6-413(D).

²¹ § 45-6-404.

²² § 45-6-415 (“A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor’s probate estate and statutory allowances to a surviving spouse and children”).

²³ § 45-6-412(D).

²⁴ § 45-6-411.

North Dakota

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² N.D. Cent. Code § 30.1-32.1-04.

³ § 30.1-32.1-05.

⁴ § 30.1-32.1-06.

⁵ § 30.1-32.1-01.

⁶ The statute defers to what is actually in the TOD instrument, however provides a default via N.D. Cent. Code § 30.1-32.1-10(1)(b) (“The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses.”).

⁷ § 30.1-32.1-10 (“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

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⁸ § 30.1-32.1-08(2) (“If a transfer on death deed is made by more than one transferor, revocation by a transferor does not affect the deed as to the interest of another transferor and a deed of joint owners is revoked only if it is revoked by all of the living joint owners.”) *see also* § 30.1-32.1-10(3) (“If a transferor is a joint owner and is: a. Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or b. The last surviving joint owner, the transfer on death deed is effective.”).

⁹ § 30.1-32.1-07.

¹⁰ *Id.*

¹¹ *Id.*

¹² § 30.1-32.1-11.

¹³ § 30.1-32.1-03 (“A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.”).

¹⁴ § 30.1-32.1-08.

¹⁵ *Id.*

¹⁶ § 30.1-32.1-09.

¹⁷ § 30.1-32.1-10(4).

¹⁸ § 30.1-32.1-08.

¹⁹ § 30.1-32.1-08(4).

²⁰ § 30.1-32.1-12 (“ 1. To the extent the transferor’s probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, the estate may enforce the liability against property transferred at the transferor’s death by a transfer on death deed. The estate may not enforce the liability against a purchaser of the property for value or a person that acquires an encumbrance in the property for value from the person that received the property by a transfer on death deed. 2. If more than one property is transferred by one or more transfer on death deeds, the liability under subsection 1 is apportioned among the properties in proportion to the net values of the property at the transferor’s death. 3. A proceeding to enforce the liability under this section may not be commenced later than eighteen months after the transferor’s death. Any proceeding to enforce the liability as to property that has been purchased or encumbered for value must be brought against the person that received the property by a transfer on death deed for the net value at the time of the transferor’s death.”).

²¹ § 30.1-32.1-12 (“A proceeding to enforce the liability under this section may not be commenced later than eighteen months after the transferor’s death. Any proceeding to enforce the liability as to property that has been purchased or encumbered for value must be brought against the person that received the property by a transfer on death deed for the net value at the time of the transferor’s death.”).

²² § 30.1-32.1-10 (“Except as otherwise provided in the transfer on death deed, in this section, or in state law on antilapse, revocation by divorce or homicide, survival and simultaneous death, and elective share, if applicable to nonprobate transfers, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death: a. Subject to subdivision b, the interest in the property is transferred to the designated beneficiary in accordance with the deed. b. The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. The interest of a designated beneficiary that fails to survive the transferor lapses. c. Subject to subdivision d, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship. d. If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

Ohio

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Ohio previously had a transfer on death deed statute, however was replaced by a transfer on death beneficiary affidavit in 2009. Ohio Rev. Code § 5302.22

³ Ohio Rev. Code § 5302.23(B)(9) (“That transfer on death shall supersede any attempted testate or intestate transfer of that real property or interest in real property.”)

⁴ § 5302.23(A)

⁵ § 5302.23(B)(1) (“(1) An interest of a deceased owner shall be transferred to the transfer on death beneficiaries who are identified in the affidavit by name and who survive the deceased owner or that are in existence on the date of the deceased owner’s death. If there is a designation of more than one transfer on death beneficiary, the beneficiaries shall take title to the interest in equal shares as tenants in common, unless the deceased owner has specifically designated other than equal shares or has designated that the beneficiaries take title as survivorship tenants, subject to division (B)(3) of this section. If a transfer on death beneficiary does not survive the deceased owner or is not in existence on the date of the deceased owner’s death, and the deceased owner has designated one or more persons as contingent transfer on death beneficiaries as provided in division (B)(2) of this section, the designated contingent transfer on death beneficiaries shall take the same interest that would have passed to the transfer on death beneficiary had that transfer on death

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beneficiary survived the deceased owner or been in existence on the date of the deceased owner's death. If none of the designated transfer on death beneficiaries survives the deceased owner or is in existence on the date of the deceased owner's death and no contingent transfer on death beneficiaries have been designated, have survived the deceased owner, or are in existence on the date of death of the deceased owner, the interest of the deceased owner shall be distributed as part of the probate estate of the deceased owner of the interest. If there are two or more transfer on death beneficiaries and the deceased owner has designated that title to the interest in the real property be taken by those beneficiaries as survivorship tenants, no designated contingent transfer on death beneficiaries shall take title to the interest unless none of the transfer on death beneficiaries survives the deceased owner on the date of death of the deceased owner.”).

⁶ § 5302.23(B)(1) (“but, If there are two or more transfer on death beneficiaries and the deceased owner has designated that title to the interest in the real property be taken by those beneficiaries as survivorship tenants, no designated contingent transfer on death beneficiaries shall take title to the interest unless none of the transfer on death beneficiaries survives the deceased owner on the date of death of the deceased owner.”).

⁷ § 5302.23 (“(b) If the owners hold title to the interest in a survivorship tenancy, the death of all except the last survivorship tenant automatically terminates and nullifies any transfer on death beneficiary designations made solely by the deceased survivorship tenant or tenants without joinder by the last surviving survivorship tenant. The termination or nullification of any transfer on death beneficiary designations under division (B)(7)(b) of this section is effective as of the date of death of a deceased survivorship tenant. No affirmative act of revocation is required of the last surviving survivorship tenant for the termination or nullification of the transfer on death beneficiary designations to occur as described in division (B)(7)(b) of this section. If the last surviving survivorship tenant dies with no transfer on death beneficiary designation, the entire interest of that last surviving survivorship tenant shall be distributed as part of the tenant's probate estate. (c) If the owners hold title to the interest in a tenancy by the entireties, the death of the first tenant by the entireties automatically terminates and nullifies any transfer on death beneficiary designations made solely by that deceased first tenant without joinder by the remaining tenant by the entireties. The termination or nullification of any transfer on death beneficiary designations under division (B)(7)(c) of this section is effective as of the date of death of the first tenant by the entireties. No affirmative act of revocation is required of the remaining tenant by the entireties for the termination or nullification of the transfer on death beneficiary designations to occur as described in division (B)(7)(c) of this section. If the remaining tenant by the entireties dies with no transfer on death beneficiary designation, the entire interest of that remaining tenant shall be distributed as part of the tenant's probate estate.”).

⁸ § 5302.23(B)(5)

⁹ § 5302.23(B)(5)

¹⁰ While the statute does not mention action, the omission from the language and the inclusion of explicit routes of revocation suggests that action is not an acceptable form of revocation.

¹¹ § 5302.23(B)(4)

¹² § 5302.23(B)(5)

¹³ § 5302.23(B)(10)

¹⁴ § 5302.23(B)(8) (“No rights of any lienholder, including, but not limited to, any mortgagee, judgment creditor, or mechanic's lien holder, shall be affected by the designation of a transfer on death beneficiary pursuant to this section and section 5302.22 of the Revised Code. If any lienholder takes action to enforce the lien, by foreclosure or otherwise through a court proceeding, it is not necessary to join any transfer on death beneficiary as a party defendant in the action unless the transfer on death beneficiary has another interest in the real property.”)

¹⁵ § 5302.23 (“(12) If, after the execution and recording of a transfer on death designation affidavit under which the owner of the real property's spouse is designated the transfer on death beneficiary, the owner of the real property and such owner's spouse are divorced, obtain a dissolution of the marriage, or have the marriage annulled, then the designation of the owner's spouse as a transfer on death beneficiary on such instrument shall be terminated and the spouse shall be deemed to have predeceased the owner of the real property. (C) If, after the execution and recording of a transfer on death deed under which the owner of the real property's spouse is designated the transfer on death beneficiary, the owner of the real property and such owner's spouse are divorced, obtain a dissolution of the marriage, or have the marriage annulled, then the designation of the owner's spouse as a transfer on death beneficiary on such instrument shall be terminated and the spouse shall be deemed to have predeceased the owner of the real property.”).

Oklahoma

¹ [Click here](#) to access an online downloadable version of the applicable statutory provisions (Title 58).

² Okla. Stat. Tit. 58, § 1258

³ Okla. Stat. Tit. 58, § 1253

⁴ Okla. Stat. Tit. 58, § 1253

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⁵ Okla. Stat. Tit. 58, § 1255 (“If one or more of the grantee beneficiaries dies prior to the death of the grantor owner, the transfer to those beneficiaries who predecease the grantor owner shall lapse. In the event the grantee beneficiaries are designated in the deed to be joint tenants with right of survivorship, the death of one or more of the grantee beneficiaries prior to the death of the grantor owner shall not invalidate an otherwise validly created joint tenancy estate as to those grantee beneficiaries who are living at the time of the death of the grantor owner.”).

⁶ Okla. Stat. Tit. 58, § 1255 (“A. Grantee beneficiaries of a transfer-on-death deed take the interest of the record owner in the real estate at the death of the grantor owner, free and clear of any claims or interest under Section 44 of Title 84 of the Oklahoma Statutes as to a person who became the spouse of the grantor subsequent to the execution of the transfer-on-death deed, subject to all recorded conveyances, assignments, contracts, mortgages, liens and security pledges made by the record owner or to which the record owner was subject during the lifetime of the record owner including, but not limited to, any recorded executory contract of sale, option to purchase, lease, license, easement, mortgage, deed of trust or lien, and to any interest conveyed by the record owner that is less than all of the record owner’s interest in the property, provided however, a non-consensual lien against the grantee beneficiary shall not attach to the property until the recording of the affidavit described in Section 1252 of this title. B. If one or more of the grantee beneficiaries dies prior to the death of the grantor owner, the transfer to those beneficiaries who predecease the grantor owner shall lapse. In the event the grantee beneficiaries are designated in the deed to be joint tenants with right of survivorship, the death of one or more of the grantee beneficiaries prior to the death of the grantor owner shall not invalidate an otherwise validly created joint tenancy estate as to those grantee beneficiaries who are living at the time of the death of the grantor owner. Credits”).

⁷ Okla. Stat. Tit. 58, § 1256(A) (“A record joint owner of an interest in real estate may use the procedures in the Nontestamentary Transfer of Property Act to title the interest in transfer-on-death form. However, title to the interest shall vest in the designated grantee beneficiary or beneficiaries only if the record joint owner is the last to die of all of the record joint owners of the interest. A deed in transfer-on-death form shall not sever a joint tenancy.”).

⁸ Okla. Stat. Tit. 58, § 1251(B)

⁹ Okla. Stat. Tit. 58, § 1251(B)

¹⁰ Okla. Stat. Tit. 58, § 1251(A)

¹¹ Okla. Stat. Tit. 58, § 1254 (“A transfer-on-death deed executed, acknowledged and recorded in accordance with the Nontestamentary Transfer of Property Act may be disclaimed in whole or in part or with reference to specific parts by the grantee beneficiary or beneficiaries. The disclaimer must occur within nine (9) months after the death of the landowner. The disclaimer shall be filed with the office of the county clerk in which the transfer-on-death deed was recorded. If a grantee beneficiary exerts dominion over the real estate within the nine-month period, the disclaimer is waived. Dominion may be evidenced by acts including, but not limited to, possession or the execution of any conveyance, assignment, contract, mortgage, security pledge, executory contract for sale, option to purchase, lease, license, easement or right-of-way. A guardian, executor, administrator or other personal representative of a minor or legally incompetent beneficiary may execute and file a disclaimer on behalf of the beneficiary within the time and in the manner in which the beneficiary could disclaim, if the guardian, executor, administrator or other personal representative deems it in the best interests of and not detrimental to the best interests of the beneficiary.”).

¹² Okla. Stat. Tit. 58, § 1254(A)

¹³ Okla. Stat. Tit. 58, § 1254(A)

¹⁴ Okla. Stat. Tit. 58, § 1257

¹⁵ Okla. Stat. Tit. 58, § 1254(B)

¹⁶ Okla. Stat. Tit. 58, § 1252 (“C. To accept real estate pursuant to a transfer-on-death deed, a designated grantee beneficiary shall execute an affidavit affirming: 1. Verification of the record owner’s death; 2. Whether the record owner and the designated beneficiary were married at the time of the record owner’s death; and 3. A legal description of the real estate. D. The grantee shall attach a copy of the record owner’s death certificate to the beneficiary affidavit. For a record owner’s death occurring on or after November 1, 2011, the beneficiary shall record the affidavit and related documents with the office of the county clerk where the real estate is located within nine (9) months of the grantor’s death, otherwise the interest in the property reverts to the deceased grantor’s estate; provided, however, for a record owner’s death occurring before November 1, 2011, such recording of the affidavit and related documents by the beneficiary shall not be subject to the nine-month time limitation. Notwithstanding the provisions of Section 26 of Title 16 of the Oklahoma Statutes, an affidavit properly sworn to before a notary shall be received for record and recorded by the county clerk without having been acknowledged and, when recorded, shall be effective as if it had been acknowledged.”).

¹⁷ Okla. Stat. Tit. 58, § 1254.

¹⁸ Okla. Stat. Tit. 58, § 1253.

Oregon

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Or. Rev. Stat. § 93.957.

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³ § 93.959.

⁴ § 93.961.

⁵ § 93.975.

⁶ § 93.949(5).

⁷ § 93.949(1), (2), (4); § 93.91(2).

⁸ § 93.969(1)(a)(B).

⁹ § 93.969(3).

¹⁰ § 93.953(2)(b); § 93.969(1)(b) (“(b) If the transferor has identified multiple designated beneficiaries to receive concurrent interests in the property: (A) Concurrent interests are transferred to the designated beneficiaries in equal and undivided shares with no right of survivorship; and (B) The share of a designated beneficiary that lapses or fails for any reason is transferred to the remaining designated beneficiaries in proportion to the interest of each designated beneficiary in the remaining part of the property held concurrently.”).

¹¹ § 93.965 (“If a transfer on death deed is made by more than one transferor, revocation by one transferor does not affect the transfer of another transferor’s interest in property by the transfer on death deed.”) Or. Rev. Stat. § 93.969(3) (West 2012) (“If a transferor is a joint owner and is: (a) Survived by one or more joint owners, the property subject to a transfer on death deed belongs to the surviving joint owners with a right of survivorship. (b) The last surviving joint owner, the transfer on death deed is effective.”).

¹² § 93.963(1).

¹³ *Id.*

¹⁴ § 93.963(2).

¹⁵ § 93.971.

¹⁶ § 93.955 (“A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision”).

¹⁷ § 93.965.

¹⁸ § 93.977.

¹⁹ § 93.965(4).

²⁰ § 93.967.

²¹ § 93.965(1).

²² § 93.969(4)

²³ § 93.951.

²⁴ § 93.967(3).

²⁵ § 93.959.

²⁶ § 93.965(2) (“If authority is expressly granted by the transfer on death deed, a designated agent of the transferor may revoke the transfer on death deed as provided in this section.”).

²⁷ § 93.981 (“Unless a transfer on death deed provided for under ORS 93.948 to 93.979 evidences a different intent of the transferor, the divorce or annulment of the marriage of the transferor after the recording of the transfer on death deed revokes all provisions in the transfer on death deed in favor of the former spouse of the transferor and the effect of the transfer on death deed is the same as though the former spouse did not survive the transferor.”).

²⁸ § 93.961(1); § 93.975.

South Dakota

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² S.D. Codified Laws § 29A-6-406.

³ § 29A-6-407.

⁴ § 29A-6-408.

⁵ § 29A-6-430.

⁶ § 29A-6-402(5).

⁷ § 29A-6-402.

⁸ § 29A-6-415 (2).

⁹ § 29A-6-415(4) (“If the transferor identifies two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

¹⁰ § 29-6-432.

¹¹ § 29A-6-411 (“If a transfer on death deed is made by more than one transferor: (1) Revocation by one transferor does not affect the deed as to the interest of another transferor; and (2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.”); § 29A-6-417 (“ If a transferor is a joint owner and is: (1) Survived by one or more other joint owners, then the property that

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is the subject of a deed belongs to the surviving joint owner or owners with right of survivorship; or (2) The last surviving joint owner, then the transfer on death deed is effective.”).

¹² § 29A-6-409(1).

¹³ *Id.*

¹⁴ § 29A-6-409(2).

¹⁵ § 29A-6-419.

¹⁶ § 29A-6-405 .

¹⁷ § 29A-6-410 .

¹⁸ § 29A-6-431 (noting the requirement of acknowledgment of revocation after acknowledgment of deed).

¹⁹ § 29A-6-412 (“After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed. Such revocatory act includes burning, tearing, canceling, obliterating, or destroying the deed, or any part of it.”).

²⁰ § 29A-6-414

²¹ § 29A-6-410.

²² § 29A-6-418.

²³ § 29A-6-404 .

²⁴ § 29A-6-420 (“Upon the death of the transferor, the beneficiary is liable for the debts and obligations of the deceased transferor”); § 29A-6-421 (“Unless a settlement is made with the beneficiary, a creditor or personal representative of the deceased transferor may institute an action in any court of competent jurisdiction, within six months after the death of the transferor, against the beneficiary setting forth such claim, unless the action is for recovery of medical assistance initiated by the Department of Social Services pursuant to Title 28, in which case the action must be commenced within the shorter of two years after the death of the transferor, or within six months of written notice to the Department of Social Services with information of the transferor’s death, social security number, and if available upon reasonable investigation, the transferor’s deceased spouse’s name and social security number.”) *but see* S.D. Codified Laws § 29A-6-423 (“The beneficiary is liable to the creditors or personal representatives of the deceased transferor for the lawful debts and obligations of the deceased transferor only in an amount equal to the value of the property contributed by the deceased transferor determined as of the time of transferor’s death, but subject to all homestead and legal exemptions in the deceased transferor’s property.”)

²⁵ § 29A-6-421 (“Unless a settlement is made with the beneficiary, a creditor or personal representative of the deceased transferor may institute an action in any court of competent jurisdiction, within six months after the death of the transferor, against the beneficiary setting forth such claim, unless the action is for recovery of medical assistance initiated by the Department of Social Services pursuant to Title 28, in which case the action must be commenced within the shorter of two years after the death of the transferor, or within six months of written notice to the Department of Social Services with information of the transferor’s death, social security number, and if available upon reasonable investigation, the transferor’s deceased spouse’s name and social security number.”).

²⁶ § 29A-6-426 (“An attorney in fact, custodian, conservator, or other agent may not make, revoke, or change a beneficiary designation unless the document establishing the agent’s right to act, or a court order, expressly authorizes such action and such action complies with the terms of the governing instrument, the rulings of the court, and applicable law. This section does not prohibit the authorized withdrawal, sale, pledge, or other present transfer of the property by an attorney in fact, custodian, conservator, or other agent notwithstanding the fact that the effect of the transaction may be to extinguish a designated beneficiary’s right to receive a transfer of the property at the death of the owner.”)

²⁷ § 29A-6-415.

²⁸ § 29A-6-427.

²⁹ *See* § 29-6-410 (requiring a revoking instrument).

²⁹ § 29A-6-408.

Texas

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Tex. Est. Code § 114.053.

³ Est. § 114.054.

⁴ Est. § 114.055.

⁵ Est. § 114.002(5).

⁶ Est. § 114.151.

⁷ *Id.*

⁸ *Id.*

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⁹ Est. § 114.057 (“(d) If a transfer on death deed is made by more than one transferor, revocation by a transferor does not affect the deed as to the interest of another transferor who does not make that revocation. (e) A transfer on death deed made by joint owners with right of survivorship is revoked only if it is revoked by all of the living joint owners.”).

¹⁰ Est. § 114.056(1).

¹¹ *Id.*

¹² Est. § 114.056(2).

¹³ Est. § 114.105.

¹⁴ Est. § 114.052.

¹⁵ Est. § 114.057(a) (“an instrument is effective to revoke a recorded transfer on death deed, or any part of it, if the instrument: (1) is one of the following: (A) a subsequent transfer on death deed that revokes the preceding transfer on death deed or part of the deed expressly or by inconsistency; or (B) except as provided by Subsection (b), an instrument of revocation that expressly revokes the transfer on death deed or part of the deed; (2) is acknowledged by the transferor after the acknowledgment of the deed being revoked; and (3) is recorded before the transferor’s death in the deed records in the county clerk’s office of the county where the deed being revoked is recorded.”).

¹⁶ Est. § 114.101.

¹⁷ Est. § 114.102.

¹⁸ Est. § 114.103.

¹⁹ Est. § 114.004.

²⁰ Est. § 114.106(a) (“To the extent the transferor’s estate is insufficient to satisfy a claim against the estate, expenses of administration, any estate tax owed by the estate, or an allowance in lieu of exempt property or family allowance to a surviving spouse, minor children, or incapacitated adult children, the personal representative may enforce that liability against real property transferred at the transferor’s death by a transfer on death deed to the same extent the personal representative could enforce that liability if the real property were part of the probate estate.”).

²¹ Est. § 114.106(c) (“If a personal representative does not commence a proceeding to enforce a liability under Subsection (a) on or before the 90th day after the date the representative receives a demand for payment, a proceeding to enforce the liability may be brought by a creditor, a distributee of the estate, a surviving spouse of the decedent, a guardian or other appropriate person on behalf of a minor child or adult incapacitated child of the decedent, or any taxing authority.”).

^{22.5} Est. § 114.057(c) (“If a marriage between the transferor and a designated beneficiary is dissolved after a transfer on death deed is recorded, a final judgment of the court dissolving the marriage operates to revoke the transfer on death deed as to that designated beneficiary if notice of the judgment is recorded before the transferor’s death in the deed records in the county clerk’s office of the county where the deed is recorded, notwithstanding Section 111.052.”).

²² Est. § 114.054 (“A transfer on death deed may not be created through use of a power of attorney.”).

²³ Est. § 114.057.

Utah

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Utah Code § 75-6-407.

³ § 75-6-408.

⁴ § 75-6-409.

⁵ § 75-6-416.

⁶ § 75-6-402(8).

⁷ § 75-6-402.

⁸ § 75-6-413.

⁹ § 75-6-413 (“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

¹⁰ § 75-6-416.

¹¹ § 75-6-411(2) (“If a transfer on death deed is made by more than one transferor: (a) revocation by a transferor does not affect the deed as to the interest of another transferor; and (b) a deed of joint owners is revoked only if it is revoked by all of the living joint owners.”) *see* § 75-6-413(3) (“If a transferor is a joint owner and is: (a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or (b) the last surviving joint owner, the transfer on death deed is effective.”).

¹² § 75-6-410(1).

¹³ *Id.*

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¹⁴ § 75-6-410(2).

¹⁵ § 75-6-414.

¹⁶ § 75-6-406 (“A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.”).

¹⁷ § 75-6-411 (“an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: (a) is one of the following: (i) a transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency; (ii) an instrument of revocation that expressly revokes the deed or part of the deed; or (iii) an inter vivos deed that revokes the transfer on death deed or part of the deed expressly or by inconsistency; and (b) is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded in the public records in the office of the county recorder where the deed is recorded before the transferor’s death.”).

¹⁸ § 75-6-417.

¹⁹ § 75-6-411(3).

²⁰ § 75-6-411.

²¹ § 75-6-412.

²² § 75-6-413(4).

²³ § 75-6-404.

²⁴ § 75-6-415 (“(1) To the extent the transferor’s probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, only the estate may enforce the liability against property transferred at the transferor’s death by a transfer on death deed.”).

²⁵ § 75-6-415 (“If more than one property is transferred by one or more transfer on death deeds, the liability under Subsection (1) is apportioned among the properties in proportion to their net values at the transferor’s death. (3) A probate proceeding to enforce the liability under this section shall be commenced not later than 12 months after the transferor’s death. (4) The estate may expressly waive the estate’s claim against the property.”).

Virginia

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Va. Code § 64.2-626.

³ § 64.2-627.

⁴ § 64.2-628.

⁵ § 64.2-635.

⁶ § 64.2-621.

⁷ *Id.*

⁸ § 64.2-632.

⁹ *Id.* (“Subject to the designation in the TODD, however, there exists a statutory default.”).

¹⁰ § 64.2-635.

¹¹ § 64.2-632 (“If a transferor is a joint owner and is: 1. Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship but remains subject to the naming of the designated beneficiary in the transfer on death deed; or 2. The last surviving joint owner, the transfer on death deed is effective.”); § 64.2-628(6) (“For property owned by joint owners to be effective, shall be executed by all joint owners”); § 64.2-630 (“A transfer on death deed of joint owners is revoked only if it is revoked by all of the living joint owners.”); § 64.2-632 (“If a transferor is a joint owner and is: 1. Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship but remains subject to the naming of the designated beneficiary in the transfer on death deed; or 2. The last surviving joint owner, the transfer on death deed is effective.”).

¹² § 64.2-629(1).

¹³ *Id.*

¹⁴ § 64.2-629(2).

¹⁵ § 64.2-633.

¹⁶ § 64.2-625.

¹⁷ § 64.2-630 (“an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: 1. Is one of the following: a. A transfer on death deed that revokes the transfer on death deed or part of the transfer on death deed expressly; b. A transfer on death deed that names a designated beneficiary that is inconsistent with the designated beneficiary in a prior transfer on death deed; c. An instrument of revocation that expressly revokes the transfer on death deed or part of the transfer on death deed; or d. An inter vivos deed that expressly revokes the transfer on death deed or part of the transfer on death deed. 2. Is acknowledged by the transferor after the acknowledgment of the transfer on death deed being revoked and recorded before the transferor’s death in the land records of the clerk’s office of the circuit court where the deed is recorded.”).

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¹⁸ § 64.2-636.

¹⁹ § 64.2-630(C).

²⁰ § 64.2-631.

²¹ § 64.2-630.

²² § 64.2-632(D).

²³ § 64.2-623.

²⁴ § 64.2-634 (“After the death of the transferor, and subject to the transferor’s right to direct the source from which liabilities will be paid, property transferred at the transferor’s death by a transfer on death deed is subject to claims of the transferor’s creditors, costs of administration of the transferor’s estate, the expenses of the transferor’s funeral and disposal of remains, and statutory allowances to a surviving spouse and children of the transferor including the family allowance, the right to exempt property, and the homestead allowance to the extent the transferor’s probate estate is inadequate to satisfy those claims, costs, expenses, and allowances.”)

²⁵ See § 64.2-1622 (permitting an agent under a power of attorney to create or change a beneficiary designation if the power of attorney expressly grants the agent the authority).

²⁶ Va. Code § 64.2-632 (“If, after making a transfer on death deed, the transferor is divorced a vinculo matrimonii or his marriage is annulled, the divorce or annulment revokes any transfer to a former spouse as designated beneficiary unless the transfer on death deed expressly provides otherwise.”).

²⁷ §§ 64.2-635, 636 (statement “Witness the following signature and seals” does not indicate that witnessing is required).

Washington

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Wash. Rev. Code § 64.80.040.

³ Code § 64.80.050.

⁴ § 64.80.060.

⁵ § 64.80.010(5).

⁶ § 64.80.010(4).

⁷ § 64.80.100 (1)(b).

⁸ § 64.80.100 (1)(d) (“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

⁹ § 64.80.080(2) (“If a transfer on death deed is made by more than one transferor: (a) Revocation by a transferor does not affect the deed as to the interest of another transferor; (b) A deed of joint owners is revoked only if it is revoked by all of the joint owners living at the time that the revocation is recorded; and (c) A deed of community property by both spouses or by both domestic partners is revoked only if it is revoked by both of the spouses or domestic partners, provided that if only one of the spouses or domestic partners is then surviving, that spouse or domestic partner may revoke the deed.”); § 64.80.100(4) (“If the property that is the subject of a transfer on death deed is community property and: (a) The transferor is married and is not joined in the deed by the transferor’s spouse or is in a registered domestic partnership and is not joined in the deed by the transferor’s domestic partner, the transferor’s interest in the property is transferred to the designated beneficiary in accordance with the deed on the transferor’s death; or (b) The transferor is married and is joined in the deed by the transferor’s spouse, or is in a registered domestic partnership and is joined in the deed by the transferor’s domestic partner, and: (i) Is survived by the transferor’s spouse or domestic partner, the deed is not effective upon the transferor’s death; or (ii) Is the surviving spouse or domestic partner, the transfer on death deed is effective on the transferor’s death with respect to the transferor’s interest in the property as of the time of the transferor’s death.”).

¹⁰ § 64.80.070(1).

¹¹ *Id.*

¹² § 64.80.070(2).

¹³ § 64.80.110.

¹⁴ § 64.80.030.

¹⁵ § 64.80.080 (“an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: (a) Is one of the following: (i) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency; (ii) An instrument of revocation that expressly revokes the deed or part of the deed; or (iii) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and”).

¹⁶ § 64.80.080(3).

¹⁷ § 64.80.090.

¹⁸ § 64.80.080.

¹⁹ § 64.80.100(5).

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²⁰ § 64.80.902.

²¹ § 64.80.120 (“A beneficiary of a transfer on death deed is liable for an allowed claim against the transferor’s probate estate and statutory allowances to a surviving spouse and children”).

²² § 64.80.090.

²³ § 64.80.100(2) (“Subject to chapter 65.08 RCW, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor’s death, including liens recorded within twenty-four months after the transferor’s death under RCW 41.05A.090 and 43.20B.080. For purposes of this subsection and chapter 65.08 RCW, the recording of the transfer on death deed is deemed to have occurred at the transferor’s death.”).

²⁴ § 11.125.240(1)(k) (outlining the Washington version of the uniform powers of attorney act.) Under this act, an agent may execute a TODD deed only if the power of attorney expressly authorizes the agent to do so. *Id.*

²⁵ § 11.070.010.

²⁶ § 82.45.197(7) (requiring a beneficiary to record a copy of the death certificate accompanied by a real estate tax affidavit which provides the Department of Revenue some assurance that there was no consideration for the TODD, and further informs them where to send real estate tax billings).

²⁷ § 11.11.010(7)(a)(iii).

²⁸ A TODD need only satisfy the requirements for a recordable deed the Washington conveyancing statute does not require witnesses to a deed of any kind.

West Virginia

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² W. Va. Code § 36-12-7.

³ § 36-12-8.

⁴ § 36-12-9.

⁵ § 36-12-2(6).

⁶ § 36-12-2(5).

⁷ § 36-12-13(a)(2).

⁸ § 36-12-13(a)(3)-(4) (“Subject to subdivision (4) of this subsection, concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship. (4) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one which lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.”).

⁹ § 36-12-5.

¹⁰ § 36-12-10(1).

¹¹ *Id.*

¹² § 36-12-10(2).

¹³ § 36-12-14.

¹⁴ § 36-12-11 (b) (“If a transfer on death deed is made by more than one transferor: (1) Revocation by a transferor does not affect the deed as to the interest of another transferor; and (2) A deed of joint owners is revoked only if it is revoked by all of the living joint owners.”); § 36-12-13 (“If a transferor is a joint owner and is: (1) Survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or (2) The last surviving joint owner, the transfer on death deed is effective.”).

¹⁵ § 36-12-6.

¹⁶ § 36-12-11 (“an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument: (1) Is one of the following: (A) A transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency; (B) An instrument of revocation that expressly revokes the deed or part of the deed; or (C) An inter vivos deed that expressly revokes the transfer on death deed or part of the deed; and”).

¹⁷ § 36-12-11.

¹⁸ § 36-12-12.

¹⁹ § 36-12-11.

²⁰ § 36-12-11(c); *see* § 36-12-13(d).

²¹ § 36-12-4; *but see* § 36-12-15 (“(a) Any transfer on death deed properly recorded in an office of the clerk of a county commission before the effective date of this article containing language that shows a clear intent to designate a transfer on death beneficiary shall be liberally construed to do so. (b) Any survivorship clause in a deed properly recorded before the effective date of this article in an office of the clerk of a county commission that attempts to create a right of survivorship tenancy, which survivorship tenancy otherwise fails, but otherwise is an effective deed, and shows a clear intent to designate a beneficiary to receive the property upon

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death of one or more cotenants by survivorship shall be liberally construed to be an effective transfer on death deed governed by this article.”).

Wisconsin

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Wis. Stat. § 705.15(7).

³ §§ 705.15(2)(a), (c).

⁴ § 705.15(1b)(a).

⁵ § 705.15(4) (“On the death of the sole owner or the last to die of multiple owners, ownership of the interest in the real property passes, subject to any lien or encumbrance against the real property, to the designated TOD beneficiary or beneficiaries who survive all owners and to any predeceased beneficiary’s issue who would take under s. 854.06(3). If no TOD beneficiary or predeceased TOD beneficiary’s issue who would take under s. 854.06(3) survives the death of all owners, the interest in the real property passes to the estate of the deceased sole owner or the estate of the last to die of the multiple owners.”); Wis. Stat. § 854.06(3) (“(3) Substitute gift to issue of covered transferee. Subject to sub. (4), if a transferee under a provision described in sub. (2) does not survive the decedent but has issue who do survive, the issue of the transferee take the transfer per stirpes, as provided in s. 854.04 (1).”).

⁶ § 705.15(4)(b).

⁷ § 705.15 (“(1m) Any of the following interests in real property may be transferred without probate to a designated TOD beneficiary as provided in this section on the death of the sole owner or the last to die of the multiple owners: (a) An interest in real property that is owned by one individual and is not concurrently owned by any other person. (b) A fractional interest in real property that is owned by an individual as a tenant in common. (c) An interest in real property that is owned by a spouse as marital property. This paragraph does not include an interest in real property owned as survivorship marital property. (d) An interest in real property owned by spouses as survivorship marital property. (e) An interest in real property owned by 2 or more individuals as joint tenants.”).

⁸ § 705.15(3).

⁹ § 705.15(3) (“The recording of a document that designates a TOD beneficiary or no beneficiary revokes any designation made in a previously recorded document relating to the same property interest.”).

¹⁰ § 705.15(3) (“The designation of a TOD beneficiary on a document does not affect ownership of the property until the death of the sole owner or the last to die of multiple owners regardless of whether the document provides otherwise. The designation may be canceled or changed at any time by the sole owner or all then surviving owners, without the consent of the TOD beneficiary, by executing and recording another document that designates a different TOD beneficiary or no beneficiary.”).

¹¹ § 705.15(3).

¹² *Id.*

¹³ § 705.10(2).

¹⁴ § 705.15(8) (“Unless previously adjudicated in a formal testacy proceeding or otherwise barred, the claim of any claimant to recover real property transferred to a TOD beneficiary under this section is barred unless, by no later than 120 days after the death of the sole owner or the last to die of multiple owners, a complaint is filed in an action in which the relief demanded may confirm or change interests in the real property transferred under this section and a lis pendens is filed or recorded in each county where any part of the real property is located.”).

¹⁵ § 705.15(5) (“A TOD beneficiary’s interest in the property on the death of the sole owner or the last to die of multiple owners may be confirmed as provided in s. 863.27, 865.201, or 867.046.”).

Wyoming

¹ [Click here](#) to access an online version of the applicable statutory provisions.

² Wyo. Stat. § 2-18-101.

³ § 2-18-103(e).

⁴ § 2-18-104.

⁵ § 2-18-103(e).

⁶ § 2-18-103(b) (A transfer on death deed may designate multiple grantees who take title as joint tenants with right of survivorship, tenants in common, or any other tenancy that is valid under the laws of this state.”).

⁷ § 2-18-103(c).

⁸ § 2-18-103(d) (“If real property is owned by persons as joint tenants with the right of survivorship, a deed that conveys an interest in the real property to a grantee beneficiary designated by all of the then surviving owners and that expressly states that the deed is effective on the death of the last surviving owner transfers the interest to the designated grantee beneficiary effective on the death of

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the last surviving owner. If a transfer on death deed is executed by fewer than all of the owners of real property owned as joint tenants with right of survivorship, the transfer on death deed is valid if the last surviving owner is one of the persons who executes the transfer on death deed. If the last surviving owner did not execute the transfer on death deed, the transfer lapses and the deed is void. An estate in joint tenancy with right of survivorship is not affected by the execution of a transfer on death deed that is executed by fewer than all of the owners of the real property, and the rights of a surviving joint tenant with right of survivorship prevail over a grantee beneficiary named in a transfer on death deed.”) *see also* Wyo. Stat. § 2-18-103(f) (“if there is more than one (1) owner, by any of the owners who executed the transfer on death deed. To be effective, the revocation must be executed and recorded, as provided by law, in the office of the county clerk in the county in which the real property is situated, before the death of the owner who executes the revocation. If the real property is owned as joint tenants with right of survivorship and if the revocation is not executed by all the owners who executed the transfer on death deed, the revocation is not effective unless executed by the last surviving owner.”).

⁹ § 2-18-103(k).

¹⁰ *Id.*

¹¹ *Id.*

¹² § 2-18-106.

¹³ § 2-18-103(f).

¹⁴ *Id.*

¹⁵ § 2-18-105.

¹⁶ § 2-18-103(j).

¹⁷ § 2-18-103(h).

¹⁸ § 2-18-103(j).

¹⁹ § 2-18-103(g) (“If an individual who is a recipient of medical assistance for which it would be permissible for the department of health to file a claim pursuant to W.S. 42-4-206 or to assert a lien pursuant to W.S. 42-4-207 conveys an interest in real property by means of a transfer on death deed, the department of health may assert a lien against the property that is the subject of the transfer on death deed for the amount which would have been recoverable against the owner’s estate pursuant to W.S. 42-4-206 and may file a lien against the property pursuant to W.S. 42-4-207.”).

²⁰ § 2-18-103(n) (requiring proof of the death of the property owner and the transfer of ownership by operation of law to be established by recording an affidavit under § 34-11-01 and an accompanying certificate of clearance from the Wyoming department of health certifying that all medical assistance claims have been satisfied).

²¹ § 2-18-103.