

Virginia Revocable Transfer on Death Deed

Virginia provides its residents with a unique tool to avoid having to probate real property (land or houses etc.) at someone's death. A revocable transfer on death (TOD) deed allows an individual to name a beneficiary, who will receive the person's real property when the individual dies. TOD deeds make sense when you own a home or land, and believe you are likely to own that real property at the time you die. In other words, you are not intending to move or sell that real property in the near future.

A TOD deed can be completed at any time during a person's life. If the real property is owned by more than one individual, all the individuals who own the property must sign the TOD deed for the deed to be valid. All of the owners of the property must have capacity to sign the deed. In other words, an individual cannot have dementia or Alzheimer's or another issue that would make it such that he/she could not execute a legal document such as a Last Will and Testament because of incapacity.

A TOD deed **MUST** be recorded at the local Clerk of Court's office in the county or city where the real property is located **BEFORE** the owner(s) of the real property have died in order for the deed to be effective. There is a small fee to record the deed at the Clerk's office, and you can contact your local Clerk of Court to determine the filing fee. However, there are **NO** real property transfer taxes due at the time of filing a TOD deed.

Anyone can be named as a beneficiary of a TOD deed. You can name one person or more than one person, and you can choose how the individuals will receive the property, whether as Joint Tenants with Rights of Survivorship or as Tenants in Common etc. You will want to consult a real property attorney to determine the meanings of these terms and to understand how you want to pass real property using a TOD deed.

Another nice feature of the TOD deed is that it is revocable. The benefit of this deed being revocable is that after the owners of a piece of real property have signed a TOD deed, and filed it at the local Clerk of Court's office, another deed can always be filed to revoke the TOD deed, with or without selling the property. Thus, an individual who owns real property, and files a TOD deed, still retains the full power to sell the property in the future, and does **NOT** require the consent or signature of the beneficiary named on the TOD deed to do so.

For more information about executing a TOD deed, you should consult a real property attorney who can prepare the deed on your behalf.