

Transfer on Death Deed: Basic Advantages and Disadvantages

A transfer on death deed is effective after your death (or the last of your deaths if you are married) and serves to transfer real estate directly to whatever beneficiary you choose (typically a child or children who survive you).

Advantages:

- You have control over the real estate while you are alive.
- Your beneficiaries have no right to the property during your lifetime. So, the real estate is not subject to your beneficiaries' creditors and the beneficiaries have no right to transfer or mortgage the property as long as you are alive.
- If you change your mind about who should get the real estate, you can revoke the transfer on death deed by recording a new one naming a different beneficiary.
- The transfer on death deed avoids probate of the real estate.
- A transfer on death deed is cost effective. The cost of creating the deed and recording it is approximately \$250.

Disadvantages:

- You cannot list a class of beneficiaries such as "my grandchildren," as a probate proceeding would be necessary to determine the members of the class.
- The transfer on death deed does not protect against your creditors or any medical assistance claims or liens. To qualify for medical assistance, the real estate is a countable asset which may need to be sold to cover nursing home expenses if neither you nor your spouse is living there.
- The transfer on death deed doesn't avoid probate on any other assets. To completely avoid probate, you will need to make sure that all of your other assets have beneficiary designations on them so that they pass directly to your beneficiaries without probate.
- If a beneficiary predeceases you and you die without revoking and submitting a new transfer on death deed, the beneficiary's interest may lapse and either be transferred to that beneficiary's children or the transfer on death deed may be void, depending on the circumstances.
- If you list more than one beneficiary, it can be difficult for multiple beneficiaries to manage the real estate after you pass away because all names are on the deed. Spouses of all beneficiaries may also have an interest.
- You cannot list minor beneficiaries, as minors owning real estate can cause significant problems and additional expenses.

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