

TRANSFER ON DEATH DEEDS A QUICK GUIDE

WHAT IS A TRANSFER-ON-DEATH (TOD) DEED?

A TOD Deed is a statutory instrument that lets an Oklahoma property owner designate one or more beneficiaries to receive real estate upon the owner's death—without the need for probate.

Governing Law

- Statute: Okla. Stat. tit. 58 § 1253 ("Transfer-on-Death Deed")

How to Create a TOD

1. Prepare the Deed

- Must include: grantor name, legal description of property, name(s) of beneficiary(ies), execution language stating transfer "upon death."
- Often use free form provided by county clerk.

2. Sign and Notarize

- Signature of grantor before a notary public.

3. Record

- File with the county clerk in the county where the property lies.
- Recording PRIOR to death is mandatory; post-death recording is void.

Pros

1. Easy

- Simple form; no trust-level complexity.

2. Cheap

- Minimal drafting costs; only standard recording fees.

Cons

1. Public

- Recorded deed is visible to the public.

2. Joint-Tenancy for Beneficiaries

- Beneficiaries take title as joint tenants—may not suit all planning goals.

3. Acceptance Deadline

- Beneficiary must record an acceptance within 9 months of grantor's death, or property may still require probate.

4. Lapsing Interest

- If a beneficiary dies before acceptance, their interest lapses and property may pass as though no TOD deed existed.

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Practical Tips

- Multiple Beneficiaries: Consider separate deeds or contingent beneficiaries to avoid joint-tenancy pitfalls.
- Record Early: File ASAP after execution to prevent challenges.
- Combine with Estate Plan: TOD deeds are useful but may not address incapacity; consider pairing with a durable power of attorney and healthcare directives.
- Review Regularly: Update or revoke TOD deeds after major life events (marriage, divorce, births, deaths).