



CALIFORNIA

Revocable Transfer on Death Deed

Effective Jan. 2022 | Extended Jan. 2032

A Revocable Transfer on Death Deed (“RTODD”) is a deed of real property that designates a beneficiary to receive the property when the transferor dies. An RTODD enables a homeowner to transfer the property directly to a desired beneficiary without the expense of creating a trust or going through a probate proceeding. The statute authorizing the use of RTODDs was recently extended, adding additional rules and procedures in an effort to make RTODDs more useful.

This newly extended version of the statute comes with some of the changes listed below. RTODDs executed prior to January 1, 2022 will not be subject to these changes but will instead fall under the previous RTODD regulations.

An RTODD can be used on residential properties with 1-4 units, a condominium, and agricultural land of 40 acres or less. An RTODD can also provide for a transfer of real property into a trust and allows transfers to a public entity or private nonprofit entity.

An RTODD must be signed by two witnesses that must be present when the transferor signs or acknowledges the transfer. The witnesses must be competent to provide evidence in an action to contest the validity of the RTODD. The witnesses should not be a beneficiary or it will be presumed fraud or undue influence.

It is required that an RTODD beneficiary give notice to the transferor’s heirs when the transferor dies. A beneficiary of a revoked RTODD has standing to contest the validity of a revocation, but only after the transferor’s death.

Per existing rules of abatement, a beneficiary may be responsible for a calculated share of the transferor’s debts including funeral expenses, last illness expenses, and wage claims.

The law contains a statutory form for an RTODD. There is also a statutory form for revocation. A beneficiary completes the transfer by recording an affidavit of the transferor’s death.

Title companies will not be required to rely on RTODDs when underwriting a policy of title insurance under the new law – an especially important detail given that there may be circumstances under which the RTODD may be void or superseded by another document. In cases where the RTODD is void or superseded, a probate proceeding or quitclaims deed may be required.

Source: cta.org and leginfo.legislature.ca.gov

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