

EFFECTIVE JANUARY 1, 2016

# Nonprobate Transfers by Simple Revocable Transfer on Death Deed



California Assembly Bill 139 provides for the **AUTOMATIC TRANSFER OF OWNERSHIP OF RESIDENTIAL REAL PROPERTY UPON THE DEATH OF THE OWNER WITHOUT THE NEED FOR PROBATE.**

The new law requires the recording of a statutory form document entitled "**Simple Revocable Transfer on Death (TOD) Deed**" ("TOD").

The TOD is effective for any transferor who dies on or after January 1, 2016, whether or not the TOD was executed or recorded before, on or after January 1, 2016. The law is scheduled to remain in effect until January 1, 2021.

The TOD does not alter the current record title of the property. The TOD provides the full names of the parties, called beneficiaries, who will receive the property upon the death of the owner. Multiple beneficiaries may be named.

## Accompanying Documents:

An **Affidavit of Death** or other evidence of death is recorded when the owner dies, transferring the ownership to the named beneficiary.

A **Change in Ownership Notice** must accompany the evidence of death.

## How to Revoke the TOD:

The TOD may be revoked by recording the statutory form "**Revocation of Revocable Transfer on Death (TOD) Deed**". There are three ways to revoke a recorded TOD deed:

1. Complete, have notarized, and record a revocation form.
2. Create, have notarized, and record a new TOD deed.
3. Sell or give away the property, or transfer it to a trust, before your death and record the deed. A TOD deed can only affect property that you own when you die. A TOD deed cannot be revoked by will.

## TOD Requirements:

1. The TOD must be signed and dated by the record owner and acknowledged before a notary public.
2. The TOD must be recorded on or within 60 days of execution. The deed will be deemed to be ineffective if it is not recorded in that time frame.
3. The TOD form must substantially comply with the statutory form set out in Probate Code Section 5642, which includes a list of common questions about the use of the form.

**NOTE:** The TOD will be deemed to be void if the owner of the property holds title in joint tenancy or as community property with right of survivorship *at the time of death*. If a co-owner wants to name a TOD beneficiary, that co-owner must complete and record a separate TOD.

Evidence of death of the owner (transferor) must be recorded in order to vest title in the beneficiary(ies) shown on the TOD. Please consult with a real estate attorney before preparing or executing a TOD or any related document.

For more information, please contact your First American Title representative.



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