

- Good Deeds
- EARLY PREPARATION
- TO HELP AVOID PROBATE

Here, for your consideration, are several low or no cost ways to avoid probate and save your family from legal costs down the road.

Real Estate Survivorship Deeds for Couples

Unless your property is in a trust or an LLC, the deed MUST include language to the effect of “FOR THEIR JOINT LIVES, REMAINDER TO THE SURVIVOR OF THEM.” Otherwise, after a death the property would be considered a probate asset costing you more time and money by having to go through the probate process just to transfer ownership of the property into the surviving spouse’s name alone.

Therefore, in most cases, couples buying a house may want a survivorship deed issued at the time of purchase. If you are recently married and are in the process of buying your first house, you may want to instruct the preparer of your deed to include the necessary survivorship language in your deed. Preparation NOW will save you time and money later.

Transfer on Death (T.O.D.) Affidavit for Single People and Widows

Another way for single individuals and widows to transfer property while saving time and money, and without having to go through the probate process, is to execute a Transfer on Death (T.O.D.) Affidavit that states the individual’s name, legally identifies the property, and names the beneficiary or beneficiaries of the property upon the death of the current property owner. Once executed, if the property is located in Franklin County, the property owner should file the T.O.D. Affidavit with the Franklin County Recorder’s Office, 373 South High Street, 18th Floor, Columbus, Ohio, 43215.

The cost to prepare and file a T.O.D. Affidavit are minimal compared to the costs to probate property after the death of the property owner.

Bank Accounts & Payable on Death (P.O.D.) Accounts

Single or married people who have bank accounts can add Payable on Death (P.O.D.) beneficiaries to the bank account at NO COST. All you need are the names, addresses and social security numbers of the beneficiaries, and the bank that holds the account can add the P.O.D. beneficiaries at no cost. Upon death, the money in the P.O.D. account is paid directly to the P.O.D. beneficiaries upon presentation of the death certificate of the original account holder.

Until the account holder’s death, the beneficiaries can’t access the bank account. Without a P.O.D. account, the person who would have inherited the money must wait until the original account holder’s estate is administered in probate court.

Motor Vehicle Transfer on Death (T.O.D.)

A vehicle owner can have a Transfer on Death (T.O.D.) notation placed on the vehicle title at the Franklin County Clerk of Courts Title Office with the original vehicle title, the names of up to two (2) beneficiaries, their addresses and social security numbers. There is a small fee to re-issue a vehicle title with a T.O.D. notation. With the T.O.D. notation, ownership of the vehicle passes to the T.O.D. beneficiary by showing the vehicle title and the death certificate of the deceased owner. A T.O.D. notation helps avoid probate court, and saves time and money later.

Married Couples: A surviving spouse may transfer vehicles (total value of all vehicles shall not exceed \$65,000.00 in value) by presenting the title(s) and an affidavit prescribed under R.C. 4505.10(B), 2106.18.

Boats, Campers, Recreational Vehicles and Mobile Homes

You can have boats, campers, recreational vehicles and mobile homes designated with a Transfer on Death (T.O.D.) title. These are titled assets, which would need either a co-owner or a T.O.D. notation on the title to avoid being held up in probate court. The procedure for a T.O.D. notation is similar to the motor vehicle T.O.D. process.

Stocks & Bonds

Shares of Stock: most stocks are now held in mutual fund accounts which have a beneficiary designation that was made when the account opened. Individual shares of stock will transfer through the probate court if they are owned by an individual without a designated co-owner.

You may place a T.O.D. notation on shares of stock through the issuer of the stocks. You can find help with this process on-line at www.computershare.com or by contacting the issuer of the stock owned.

Savings Bonds: The asset must be jointly owned or have an official T.O.D. notation right on the bond in order to transfer directly. If one person holds bonds only in their name, they automatically become a probate asset requiring transfer in probate court, which requires time and court costs. To add a co-owner to a bond, or to designate a T.O.D. beneficiary, visit www.treasurydirect.gov.

CDs, Life Insurance, Annuities, Investment Accounts, Retirement Accounts, IRAs, 401Ks and 403Bs

You should have a beneficiary designation on all long-term investments to help avoid the transfer of assets being held up in probate court. Typically, you identified beneficiaries when you signed up for the life insurance or investment account.

Be warned, you should be aware that if you named “your estate” as a beneficiary, the asset becomes a probate asset requiring transfer through probate court. Check all your beneficiary designation forms online, or by asking the issuer for a copy of these forms. It’s a good idea to review beneficiary designation forms yearly to ensure they accurately reflect your current situation.

Remember, it is still important to have a WILL because some of your possessions may not be able to transfer outside of probate court through one of the techniques described in this brochure. Parents with minor children should have a WILL to designate their choice of guardian for the children should something happen to the parents. Your WILL should be stored in a fireproof place. You may deposit your WILL safely with the Franklin County Probate Court for a small fee.

