

## 加州房屋避免認證新方法

2016年之前，要後人將來繼承房產而無需通過法庭認證（probate）手續，只有三個途徑，一是與子女以 Joint Tenancy（生死契）方式擁有，二是以「終生居住契約」（Life Estate Deed）擁有，三是設立可撤銷的生前信託（living trust）。第一和第二種方法到令父母失去控制權，第二種方法是為了避免白卡「遺產追收」（estate recovery），故有其特別用途。第三個方法最完善，但要花律師費。

2015年9月21日，加州州長簽署了 AB139 法案，由 2016 年 1 月 1 日生效。這個新法案讓加州居民增加一個既簡單又省費用的避免認證的方法，乃是透過登記一份「可撤銷死後轉移契」（Revocable Transfer on Death Deed），簡稱為 TOD Deed。2022 年一月加州議會通過延續這個法案至 2032 年一月，到時州議會會作決定是否延續。

這份 TOD Deed 只有一頁，而且表格已經按新法字眼預先印定，你只需要填上物業的 APN 號碼，受益人的姓名，將物業的法定描述（legal description）附在表格，找兩位與你資產無利害關係的見證人證明你的簽名，然後到地保官（notary public）面前簽名，之後拿到縣登記處（County Recorder's Office）登記便可以了（登記時無需遞交 Preliminary Change Of Ownership Report）。將來契上受益人無需通過認證手續，直接便可以憑死亡證明轉名。

這份 TOD 契夫婦每人要為每一個物業登記一份，夫婦其中一人先離世，在生配偶依然憑著共同擁有而自動繼承，無需認證，這份 TOD 契亦未產生功用。可是，當這位配偶亦離世時，受益人即可憑此契去進行轉名手續。

TOD 契適合簡單和平分的繼承指示，例如，三個受益人平分，即每人三份之一。假如繼承指示比較複雜，例如受益人並非平分，便需要設立信託了。

這份 TOD 契是隨時可以取消或更改的，假如物業有多於一份 TOD 契，則以最後的一份為準。

已經設立生前信託的讀者，無需另外設立 TOD 契。未設立信託的讀者，不妨考慮利用這個新方法去避免將來要認證。自己將 TOD 表格填好，附上

legal description（多數在屋契後頁）再拿到地保官面前簽名。一旦登記便完成了。

登記TOD契，產權並沒有改變，故完全不會地稅重估，也不影響產權轉移或物業買賣，對稅務也完全沒有影響。將來即使賣出物業，也無需要取消TOD契。

使用TOD契有兩個缺點，第一，由於要在縣登記處登記，成為公開記錄，任何人都可查閱，受益人姓名成為公眾記錄，缺乏私隱。第二，這個TOD契並無資產保障（asset protection）作用，無法擋住追債者，但使用TOD契的最大好處，是手續簡單而有效，並且可以省下設立生前信託的費用。

### 避免遺產追收（Estate Recovery）

加州 2016 年通過 SB833 提案，其中對白卡遺產追收（estate recovery）作了重大修改，讓大多數擁有自住房屋的白卡使用者，在離世後房屋不會被政府要求賣出售去歸還醫療費用或養老院費用。新例有以下條款：

**The bill would limit any claims against the estate of a decedent to only the real and personal property or other assets in the individual's probate estate that the state is required to seek recovery from under federal law.**

這個條款的意思就是：只有在遺產需要通過認證（probate）的法律程序時，政府才能進行遺產追收，換句話說，只要遺產無需通過認證過程，便沒有遺產追收。

要避免遺產要通過認證過程，有好幾種可行的方法。第一個方法，是提早將產權轉移子女，但這樣做除了自己失去擁有權和控制權之外，更令子女喪失「成本提升」（cost basis step up）的稅務優惠。第二個方法，是將產權以「終生居住契約」（life estate deed）轉給子女，但這個手續要找律師設立契約。如今只要設立生前信託，或登記「可撤銷死後轉移契」（Revocable Transfer on Death Deed），簡稱為 TOD Deed 便可避免認證，亦同時避免遺產追收。

林修榮

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## TRANSFER ON DEATH (TOD) DEEDS

# Naming Beneficiaries and Revoking TOD Deeds

*This Guide includes instructions and sample filled-out forms. The Guide and related forms may be downloaded from: [saclaw.org/tod-deed](http://saclaw.org/tod-deed)*

## BACKGROUND

The “Revocable Transfer on Death Deed,” also called “TOD Deed” or “beneficiary deed,” is a simple way to leave *your residence* to your beneficiaries without the need for probate. The current owner or “transferor” names the intended heirs as “beneficiaries.” The deed has no effect until the transferor dies, so you can change your mind, refinance, or sell the property if you choose. When you die, the beneficiaries receive the property without going to court, although they do have to notify all heirs and file or record several documents.

### Recent Changes to the Law

Beginning 2022, TOD deeds must now be signed by two witnesses, and after the donor dies, the beneficiaries must notify all heirs and file multiple papers.

This guide provides instructions and samples for:

1. [Filling Out and Recording a TOD Deed](#)
2. [Revoking a TOD Deed](#)

Beneficiaries who are transferring real estate into their name should use our guide “Clearing Title after a Death” (coming soon).

A TOD deed is intended to be an inexpensive way to plan who inherits your home after you die. It can only be used to transfer a property with one to four residential dwelling or condominium units, or a single-family residence with less than 40 acres of agricultural land. A mobile home may be transferred only if it is a “fixture.”

### Advantages:

- Avoids probate, if done correctly and if no unexpected family changes occur (like beneficiaries who die before transferor);
- Simple, inexpensive alternative to a living trust or other probate avoidance techniques;
- Can be revoked at any time during the lifetime of the transferor;
- Same tax advantages as transfers by trust or inheritance under a will.

### Disadvantages:

- Technical requirements are simple but very strict, and errors can void the TOD deed;

**Disclaimer:** This Guide is intended as general information only. Your case may have factors requiring different procedures or forms. The information and instructions are provided for use in the Sacramento County Superior Court. Please keep in mind that each court may have different requirements. If you need further assistance consult a lawyer.

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- The home is not protected from your debts. If you die with a mortgage or other debt, your beneficiaries may get nothing;
- Title companies may refuse to issue title insurance for three years after your death, blocking sales or refinancing of the property;
- If a beneficiary dies before the transferor, their share won't go to their heirs. Instead, the remaining beneficiaries split it. If no beneficiaries survive, your home will probably need to go through probate;
- After your death, the beneficiaries must take several steps to transfer the property, including notifying any possible heirs, allowing them to challenge the TOD deed.

If you co-own the property as joint tenancy or community property with right of survivorship, the other owner receives your share of the property upon your death. The TOD deed has no effect unless you outlive your co-owner.

If co-owners want to use a TOD deed, they must each sign a separate one.

## FILLING OUT AND RECORDING A TOD DEED

Download a blank "[Revocable Transfer on Death \(TOD\) Deed](#)" form from our website at [saclaw.org/wp-content/uploads/form-TOD-deed.rtf](http://saclaw.org/wp-content/uploads/form-TOD-deed.rtf).

### Step 1: Locate the Current Deed for the Property

You will need information from your current deed (the deed you received when you bought or received the property) in Step 2.

If you do not have a copy of the current deed, you can purchase one from the Recorder's Office. In Sacramento, this costs \$1 per page. You can call the Sacramento office at (916) 874-6334 or visit one of the office locations (see [www.ccr.saccounty.net/](http://www.ccr.saccounty.net/) for addresses and more information).

Make sure you are looking at the deed which gives you ownership of the property. Look for a name like "Grant Deed," "Quitclaim Deed," "Interspousal Deed," "Corporation Deed," or "Transfer Deed."

**Ignore any "Deed of Trust."** That is related to the mortgage on your property. It will not have all the information you need.

### Step 2: Read the "Common Questions" Listed on Page 2 of the TOD Deed

Before you sign the deed, you are required to read the questions and answers about how the TOD deed works. They are written in small type on page three and four contain important information you need to know prior to filling out the deed, including how to complete it; how to revoke it; its effects on taxes, Medi-Cal eligibility and reimbursement requirements; and more.

Prefer a larger version?  
Download a [large-print version of the common questions](#) from our website  
([saclaw.org/common-tod-questions-large-text/](http://saclaw.org/common-tod-questions-large-text/))

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### Step 3: Fill Out the TOD Deed (Do Not Sign)

The TOD deed can be typed, filled out online then printed, or neatly handwritten in dark blue or black ink.

You will need the following information:

- ✓ Assessor's Parcel Number.
- ✓ Your name as spelled on the current deed.
- ✓ Names of "beneficiaries" (your intended heirs), and their relationship to you.
- ✓ The legal description of the property. This must match the current deed **exactly**. Attach the legal description as an exhibit if it is too long for the page.

A sample completed "Revocable Transfer on Death (TOD) Deed" with more detailed instructions is available at the end of this guide.

### Step 4: Sign in Front of a Notary; Have Two Witnesses Sign

You will need to sign the TOD deed in front of a notary. The notary will charge a fee for this service. You can find notaries at many banks, mailing services, and title companies.

Two witnesses need to sign. Their signatures do not need to be notarized. They must either witness you signing, or witness you acknowledging the form. (In other words, you must tell them, in person, what the form is and that you have signed it.)

Beneficiaries do not need to sign the TOD deed, but it is legal for them to be a witness. However, if anyone challenges the TOD deed, the court must presume that the beneficiary/witness tricked or forced you to sign, and must invalidate the deed unless the beneficiary can prove otherwise.

### Step 5: Record the Deed at the Recorder's Office within 60 Days of Signing It

**You must record a TOD deed within 60 days of notarizing it or it becomes invalid.**

Record the TOD deed in the county where the property is located. The Recorder's Office charges a recording fee and additional fees as set by state law. Current Sacramento fees are available at the County Clerk/Recorder's website at [www.ccr.saccounty.net/Pages/Fees.aspx](http://www.ccr.saccounty.net/Pages/Fees.aspx).

## REVOKING A TOD DEED

You can revoke a TOD deed at any time for any reason. If you sell the property, the deed is automatically revoked. To revoke it without selling it, fill out and record a "Revocation of Revocable Transfer on Death (TOD) Deed."

Download the "[Revocation of Revocable Transfer on Death \(TOD\) Deed](#)" form from our website at [sacclaw.org/wp-content/uploads/form-revocation-tod-deed.rtf](http://sacclaw.org/wp-content/uploads/form-revocation-tod-deed.rtf).

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### Step 1: Locate your TOD Deed for the Property

You will need information from your TOD deed in Step 2.

If you do not have a copy of your TOD deed, you can purchase one from the Recorder's Office. In Sacramento, this costs \$1 per page. You can contact the Sacramento office at (916) 874-6334 or visit one of the office locations (see [www.ccr.saccounty.net/](http://www.ccr.saccounty.net/) for addresses and more information).

### Step 2: Fill Out the TOD Revocation (Do Not Sign)

The revocation can be typed, filled out online then printed, or neatly handwritten in dark blue or black ink. You will need the following information from the TOD deed:

- ✓ Assessor's Parcel Number.
- ✓ The legal description of the property. This must match the TOD deed **exactly**. Attach the legal description as an exhibit if it is too long for the page.
- ✓ Your name as spelled on the TOD deed.
- ✓ The date you signed the TOD deed, the date you recorded the TOD deed, and the book/reel and page/image numbers stamped on the upper right of the TOD deed. (If your county uses instrument numbers, you will need that number. Sacramento County does not use instrument numbers).
- ✓ Names of "beneficiaries" (your intended heirs), and their relationship to you, as written on your TOD deed.

A sample completed "Revocation of Revocable Transfer on Death (TOD) Deed" with more detailed instructions is available at the end of this guide.

### Step 3: Sign in Front of a Notary

Sign in front of a notary. The notary will charge a fee for this service. You can find notaries at many banks, mailing services, and title companies.

### Step 4: Record the Revocation at the Recorder's Office

The Recorder's Office charges a recording fee and additional fees as set by state law. Current Sacramento fees are available at the County Clerk/Recorder's website at [www.ccr.saccounty.net/Pages/Fees.aspx](http://www.ccr.saccounty.net/Pages/Fees.aspx).



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## FOR HELP

### **Senior Legal Hotline**

Toll Free: (800) 222-1753; Sacramento County: (916) 551-2140

[www.seniorlegalhotline.org/](http://www.seniorlegalhotline.org/)

Free legal assistance for Sacramento residents age 60 and over on almost any civil issue, including property transfers and deeds.

### **Capitol Pro Bono**

916-551-2102

Free estate planning assistance for low-income residents.

## FOR MORE INFORMATION

### **On the Web:**

California Advocates for Nursing Home Reform (CANHR)

*"Revocable Transfer on Death Deeds ('TOD Deed')"*

[www.canhr.org/hepp/tod.html](http://www.canhr.org/hepp/tod.html)

Links several resources discussing advantages and disadvantages of TOD deeds, including a webinar for estate planning attorneys. CANHR also has a referral service to help you find attorneys specializing in elder law.

Sacramento County Public Law Library

*"Revocable Transfers on Death Deeds"* (video)

<https://saclaw.org/video-library/revocable-transfers-death-deeds-part-1-intro-tod-deed-overview/>

This five-part series of videos provides detailed information on TOD deeds by Jim Hlidreth. It does not include the 2022 changes to the law.

### **At the Law Library:**

#### **California Estate Planning** [KFC 195 .A16 C3](#)

This book, published by CEB, discusses TOD deeds some of their tax and other implications, and possible alternatives in chapter 7.

**Electronic Access:** On the Law Library's computers, using *OnLaw*.

IF YOU HAVE QUESTIONS ABOUT THIS GUIDE, OR IF YOU NEED HELP FINDING OR USING THE MATERIALS LISTED, DON'T HESITATE TO ASK A REFERENCE LIBRARIAN.

<p>Recording requested by (name): <u>Sara Sample</u></p> <p>When recorded mail to and mail tax statements to: <u>Sara Sample</u> <u>123 Main St.</u> <u>Sacramento, CA 95814</u></p>	<div style="border: 1px solid red; padding: 2px; margin-bottom: 10px;"> <p>The name of the person who will be turning the deed in to the recorder's office.</p> </div> <div style="border: 1px solid red; padding: 2px; margin-bottom: 10px;"> <p>The name and address of the people who will receive stamped deed and the tax statements.</p> </div> <div style="border: 1px solid red; padding: 2px;"> <p>The APN (assessor's parcel number) of the property. This is on the current deed.</p> </div>
<p><b>REVOCABLE TRANSFER ON DEATH (TOD) DEED</b> (California Probate Code Section 5642)</p>	
<p>This document is exempt from documentary transfer tax under Rev. &amp; Tax. Code § 11930. This document is exempt from preliminary change of ownership report under Rev. &amp; Tax. Code § 480.3.</p> <p><b>Assessor's Parcel No.:</b> <u>123-456-7890-0000</u></p>	<p><b>Declaration of Exemption From Gov't Code § 27388.1 Fee</b></p> <p><input type="checkbox"/> Transfer is exempt from fee per GC § 27388.1(a)(2):</p> <p style="margin-left: 20px;"><input type="checkbox"/> recorded concurrently "in connection with" transfer subject to DTT</p> <p style="margin-left: 20px;"><input type="checkbox"/> recorded concurrently "in connection with" a transfer of residential dwelling to an owner-occupier</p> <p><input type="checkbox"/> Transfer is exempt from fee per GC 27388.1(a)(1):</p> <p style="margin-left: 20px;"><input type="checkbox"/> Fee cap of \$225.00 reached    <input type="checkbox"/> Not related to real property</p>
<p><b>IMPORTANT NOTICE: THIS DEED MUST BE RECORDED ON OR BEFORE 60 DAYS AFTER THE DATE IT IS SIGNED AND NOTARIZED</b></p> <p>Use this deed to transfer the residential property described below directly to your named beneficiaries when you die. <b>YOU SHOULD CAREFULLY READ ALL OF THE INFORMATION ON THE OTHER PAGES OF THIS FORM.</b> You may wish to consult an attorney before using this deed. It may have results that you do not want. Provide only the information asked for in the form. <b>DO NOT INSERT ANY OTHER INFORMATION.</b> This form <b>MUST</b> be RECORDED on or before 60 days after the date of recording or it will not be effective.</p>	
<p><b>PROPERTY DESCRIPTION</b></p> <p>Print the legal description of the residential property affected by this deed:</p> <p><u>Lot 14 of Blackacre Addition to the City of Sacramento, as delineated on a map of said addition, recorded January 30, 1965, in Book 625, page 01301965.</u></p> <p>OR: attach a copy of the legal description marked "Exhibit A" and type or write "See Exhibit A" here.</p>	
<p><b>BENEFICIARY(IES)</b></p> <p>Name the person(s) or entity(ies) who will receive the described property on your death.</p> <p>IF YOU ARE NAMING A PERSON, state the person's FULL NAME (DO NOT use general terms like "my children"). You may also wish to state the RELATIONSHIP that the person has to you (spouse, son, daughter, friend, etc.), but this is not required.</p> <p>IF YOU ARE NAMING A TRUST, state the full name of the trust, the name of the trustee(s), and the date shown on the signature page of the trust.</p> <p>IF YOU ARE NAMING A PRIVATE OR PUBLIC ENTITY, state the name of the entity as precisely as you can.</p> <p><u>Dora Sample, my daughter, and Saul Sample, my son.</u></p>	



**TRANSFER ON DEATH**

I transfer all of my interest in the described property to the named beneficiary(ies) on my death. I may revoke this deed. When recorded, this deed revokes any TOD deed that I made before signing this deed.

Sign and print your name below (your name should exactly match the name shown on your title documents):

Date: March 12, 2022

**Sign in front of notary**

\_\_\_\_\_  
(Signature of declarant)

Sara Sample

\_\_\_\_\_  
(Typed or written name of declarant)

NOTE: This deed only transfers MY ownership share of the property. The deed does NOT transfer the share of any co-owner of the property. Any co-owner who wants to name a TOD beneficiary must execute and RECORD a SEPARATE deed.

**WITNESSES**

To be valid, this deed must be signed by two persons, both present at the same time, who witness your signing of the deed or your acknowledgment that it is your deed. The signatures of the witnesses do not need to be acknowledged by a notary public.

**Witness #1**

Print and sign your name:

**Witness #2**

Print and sign your name:

\_\_\_\_\_  
Wilma Witness

\_\_\_\_\_  
Walter Witness

**Two witnesses must sign.**

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL DOCUMENT AND  
TAX STATEMENT TO:

NAME

STREET  
ADDRESS

CITY, STATE &  
ZIP CODE

TITLE ORDER NO.

ESCROW NO.

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**REVOCABLE TRANSFER ON DEATH (TOD) DEED**  
(California Probate Code Section 5642)

**ASSESSOR'S PARCEL NUMBER:**

This document is exempt from documentary transfer tax under Revenue & Taxation Code 11930.

This document is exempt from preliminary change of ownership report under Revenue & Taxation Code 480.3.

**IMPORTANT NOTICE:** THIS DEED MUST BE RECORDED ON OR BEFORE 60 DAYS AFTER THE DATE IT IS NOTARIZED.

Use this deed to transfer the residential property described below directly to your named beneficiaries when you die. YOU SHOULD CAREFULLY READ ALL OF THE INFORMATION ON THE OTHER PAGES OF THIS FORM. You may wish to consult an attorney before using this deed. It may have results that you do not want. Provide only the information asked for in the form. DO NOT INSERT ANY OTHER INFORMATION OR INSTRUCTIONS. This form MUST be RECORDED on or before 60 days after the date it is notarized or it will not be effective.

**PROPERTY DESCRIPTION** Print the legal description of the residential property affected by this deed:

**BENEFICIARY(IES)** Name the person(s) or entity(ies) who will receive the described property on your death. IF YOU ARE NAMING A PERSON, state the person's FULL NAME (DO NOT use general terms like "my children"). You may also wish to state the RELATIONSHIP that the person has to you (spouse, son, daughter, friend, etc.), but this is not required. IF YOU ARE NAMING A TRUST, state the full name of the trust, the name of the trustee(s), and the date shown on the signature page of the trust. IF YOU ARE NAMING A PRIVATE OR PUBLIC ENTITY, state the name of the entity as precisely as you can.

**TRANSFER ON DEATH**

I transfer all of my interest in the described property to the named beneficiary(ies) on my death. I may revoke this deed. When recorded, this deed revokes any TOD deed that I made before signing this deed. Sign and print your name below (your name should exactly match the name shown on your title documents) NOTE: This deed only transfers MY ownership share of the property. The deed does NOT transfer the share of any co-owner of the property. Any co-owner who wants to name a TOD beneficiary must execute and RECORD a SEPARATE deed.

Date

Typed or Printed Name of Grantor

Signature of Grantor

**WITNESSES** To be valid, this deed must be signed by two persons, both present at the same time, who witness your signing of the deed or your acknowledgment that is your deed. The signatures of the witnesses do not need to be acknowledged by a notary public.

Printed Name Witness #1 \_\_\_\_\_ Signature Witness #1 \_\_\_\_\_

Printed Name Witness #2 \_\_\_\_\_ Signature Witness #2 \_\_\_\_\_

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_,  
(Date) (Name and title of the officer)

personally appeared \_\_\_\_\_, who proved to me on the basis of  
(Name of person signing)

satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

<b>COMMON QUESTIONS ABOUT THE USE OF THIS FORM</b>
<b>WHAT DOES THE TOD DEED DO?</b> When you die, the identified property will transfer to your named beneficiary without probate. The TOD deed has no effect until you die. You can revoke it at any time.
<p><b>CAN I USE THIS DEED TO TRANSFER NONRESIDENTIAL PROPERTY?</b> No. This deed can only be used to transfer residential property. Also, the deed cannot be used to transfer a unit in a stock cooperative or a parcel of agricultural land that is over 40 acres in size.</p> <p><b>CAN I USE THIS DEED TO TRANSFER A MOBILEHOME?</b> The deed can only be used to transfer a mobilehome if it is a “fixture” or improvement under Section 18551 of the Health and Safety Code. If you are unsure whether your mobilehome is a fixture, you may wish to consult an attorney. An error on this point could cause the transfer of your mobilehome to fail.</p>
<p><b>HOW DO I USE THE TOD DEED?</b> Complete this form. Have it signed by two persons who are both present at the same time and who witness you either signing the form or acknowledging the form. Then NOTARIZE your signature (witness signatures do not need to be notarized). RECORD the form in the county where the property is located. The form MUST be recorded on or before 60 days after the date you notarize it or the deed has no effect.</p> <p><b>IF I AM UNABLE TO SIGN THE DEED, MAY I ASK SOMEONE ELSE TO SIGN MY NAME FOR ME?</b> Yes. However, if the person who signs for you would benefit from the transfer of your property, there is a chance that the transfer under this deed will fail. You may wish to consult an attorney before taking that step.</p> <p><b>CAN A PERSON WHO SIGNS THE DEED AS A WITNESS ALSO BE A BENEFICIARY?</b> Yes, but this can cause serious legal problems, including the possible invalidation of the deed. You should avoid using a beneficiary as a witness.</p>
<b>IS THE “LEGAL DESCRIPTION” OF THE PROPERTY NECESSARY?</b> Yes.
<b>HOW DO I FIND THE “LEGAL DESCRIPTION” OF THE PROPERTY?</b> This information may be on the deed you received when you became an owner of the property. This information may also be available in the office of the county recorder for the county where the property is located. If you are not absolutely sure, consult an attorney.
<b>HOW DO I “RECORD” THE FORM?</b> Take the completed and notarized form to the county recorder for the county in which the property is located. Follow the instructions given by the county recorder to make the form part of the official property records.
<b>WHAT IF I SHARE OWNERSHIP OF THE PROPERTY?</b> This form only transfers YOUR share of the property. If a co-owner also wants to name a TOD beneficiary, that co-owner must complete and RECORD a separate form.
<b>CAN I REVOKE THE TOD DEED IF I CHANGE MY MIND?</b> Yes. You may revoke the TOD deed at any time. No one, including your beneficiary, can prevent you from revoking the deed.
<b>HOW DO I REVOKE THE TOD DEED?</b> There are three ways to revoke a recorded TOD deed: (1) Complete, have witnessed and notarized, and RECORD a revocation form. (2) Create, have witnessed and 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.

**IF I SELL OR GIVE AWAY THE PROPERTY DESCRIBED IN A TOD DEED, WHAT HAPPENS WHEN I DIE?**

If the deed or other document used to transfer your property is RECORDED within 120 days after the TOD deed would otherwise operate, the TOD deed will have no effect. If the transfer document is not RECORDED within that time period, the TOD deed will take effect.

**I AM BEING PRESSURED TO COMPLETE THIS FORM. WHAT SHOULD I DO?**

Do NOT complete this form unless you freely choose to do so. If you are being pressured to dispose of your property in a way that you do not want, you may want to alert a family member, friend, the district attorney, or a senior service agency.

**DO I NEED TO TELL MY BENEFICIARY ABOUT THE TOD DEED?** No. But secrecy can cause later complications and might make it easier for others to commit fraud.

**WHAT DOES MY BENEFICIARY NEED TO DO WHEN I DIE?**

Your beneficiary must do all of the following: (1) RECORD evidence of your death (Prob. Code § 210). (2) File a change in ownership notice (Rev. & Tax. Code § 480). (3) Provide notice to your heirs that includes a copy of this deed and your death certificate (Prob. Code § 5681). Determining who is an “heir” can be complicated. Your beneficiary should consider seeking professional advice to make that determination. (4) RECORD an affidavit affirming that notice was sent to your heirs (Prob. Code § 5682(c)). (5) If you received Medi-Cal benefits, your beneficiary must notify the State Department of Health Care Services of your death and provide a copy of your death certificate (Prob. Code § 215). Your beneficiary may wish to consult a professional for assistance with these requirements.

**WHAT IF I NAME MORE THAN ONE BENEFICIARY?** Your beneficiaries will become co-owners in equal shares as tenants in common. If you want a different result, you should not use this form.

**HOW DO I NAME BENEFICIARIES?** (1) If the beneficiary is a person, you MUST state the person’s FULL name. You MAY NOT use general terms to describe beneficiaries, such as “my children.” You may also briefly state that person’s relationship to you (for example, my spouse, my son, my daughter, my friend, etc.), but this is not required. (2) If the beneficiary is a trust, you MUST name the trust, name the trustee(s), and state the date shown on the trust’s signature page. (3) If the beneficiary is a public or private entity, name the entity as precisely as you can.

**WHAT IF A BENEFICIARY DIES BEFORE I DO?** If all beneficiaries die before you, the TOD deed has no effect. If a beneficiary dies before you, but other beneficiaries survive you, the share of the deceased beneficiary will be divided equally between the surviving beneficiaries. If that is not the result you want, you should not use the TOD deed.

**WHAT IS THE EFFECT OF A TOD DEED ON PROPERTY THAT I OWN AS JOINT TENANCY OR COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP?**

If you are the first joint tenant or spouse to die, the deed is VOID and has no effect. The property transfers to your joint tenant or surviving spouse and not according to this deed. If you are the last joint tenant or spouse to die, the deed takes effect and controls the ownership of your property when you die. If you do not want these results, do not use this form. The deed does NOT transfer the share of a co-owner of the property. Any co-owner who wants to name a TOD beneficiary must complete and RECORD a SEPARATE deed.

**CAN I ADD OTHER CONDITIONS ON THE FORM?** No. If you do, your beneficiary may need to go to court to clear title.

**IS PROPERTY TRANSFERRED BY THE TOD DEED SUBJECT TO MY DEBTS?** Yes.

<b>DOES THE TOD DEED HELP ME TO AVOID GIFT AND ESTATE TAXES?</b> No.
<b>HOW DOES THE TOD DEED AFFECT PROPERTY TAXES?</b> The TOD deed has no effect on your property taxes until your death. At that time, property tax law applies as it would to any other change of ownership.
<b>DOES THE TOD DEED AFFECT MY ELIGIBILITY FOR MEDI-CAL?</b> No.