

**Effective 5/14/2019**

**Part 4**  
**Uniform Real Property Transfer on Death Act**

**75-6-401 Title.**

This part is known as the "Uniform Real Property Transfer on Death Act."

Amended by Chapter 136, 2019 General Session

**75-6-402 Definitions.**

As used in this part:

- (1) "Beneficiary" means a person who receives property under a transfer on death deed.
- (2) "Class gift" means a transfer to a group of persons who are classified by their relationship to one another or the transferor, and who are not individually named in the transferring document.
- (3) "Designated beneficiary" means a person designated to receive property in a transfer on death deed.
- (4) "Individual" means a natural person.
- (5)
  - (a) "Joint owner" means an individual who owns property concurrently with one or more other individuals with a right of survivorship.
  - (b) "Joint owner" includes a joint tenant, owner of community property with a right of survivorship, and tenant by the entirety.
  - (c) "Joint owner" does not include a tenant in common or owner of community property without a right of survivorship.
- (6) "Natural person" means a human being.
- (7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.
- (8) "Property" means an interest in real property located in this state that is transferable on the death of the owner.
- (9) "Transfer on death deed" means a deed authorized under this part.
- (10) "Transferor" means an individual, in their individual capacity, who makes a transfer on death deed.

Amended by Chapter 136, 2019 General Session

**75-6-403 Applicability.**

This part applies to a transfer on death deed made before, on, or after May 8, 2018, by a transferor dying on or after May 8, 2018.

Amended by Chapter 136, 2019 General Session

**75-6-404 Nonexclusivity.**

This part does not affect any method of transferring property otherwise permitted under the law of this state.

Amended by Chapter 136, 2019 General Session

**75-6-405 Transfer on death deed authorized.**

- (1) An individual may transfer property to one or more named beneficiaries effective at the transferor's death by a transfer on death deed.
- (2) A class gift may not be made by a transfer on death deed.

Enacted by Chapter 26, 2018 General Session

**75-6-406 Transfer on death deed revocable.**

A transfer on death deed is revocable even if the deed or another instrument contains a contrary provision.

Enacted by Chapter 26, 2018 General Session

**75-6-407 Transfer on death deed nontestamentary.**

A transfer on death deed is nontestamentary.

Enacted by Chapter 26, 2018 General Session

**75-6-408 Capacity of transferor.**

The capacity required to make or revoke a transfer on death deed is the same as that required to make a will.

Enacted by Chapter 26, 2018 General Session

**75-6-409 Requirements.**

A transfer on death deed shall:

- (1) contain the essential elements and formalities of a properly recordable inter vivos deed;
- (2) state that the transfer to the designated beneficiary is to occur at the transferor's death; and
- (3) be recorded before the transferor's death in the public records in the county recorder's office of the county where the property is located.

Enacted by Chapter 26, 2018 General Session

**75-6-410 Notice, delivery, acceptance, consideration not required.**

A transfer on death deed is effective without:

- (1) notice or delivery to or acceptance by the designated beneficiary during the transferor's life; or
- (2) consideration.

Enacted by Chapter 26, 2018 General Session

**75-6-411 Revocation by instrument authorized -- Revocation by act not permitted.**

- (1) Subject to Subsection (2), an instrument is effective to revoke a recorded transfer on death deed, or any part of it, only if the instrument:
  - (a) is one of the following:
    - (i) a transfer on death deed that revokes the deed or part of the deed expressly or by inconsistency;
    - (ii) an instrument of revocation that expressly revokes the deed or part of the deed; or

- (iii) an inter vivos deed that revokes the transfer on death deed or part of the deed expressly or by inconsistency; and
  - (b) is acknowledged by the transferor after the acknowledgment of the deed being revoked and recorded in the public records in the office of the county recorder where the deed is recorded before the transferor's death.
- (2) If a transfer on death deed is made by more than one transferor:
- (a) revocation by a transferor does not affect the deed as to the interest of another transferor; and
  - (b) a deed of joint owners is revoked only if it is revoked by all of the living joint owners.
- (3) After a transfer on death deed is recorded, it may not be revoked by a revocatory act on the deed.
- (4) This section does not limit the effect of an inter vivos transfer of the property.
- (5) Property subject to a revocation of a transfer on death deed shall adeem and nonademption statutes shall be inapplicable to the deed.

Enacted by Chapter 26, 2018 General Session

**75-6-412 Effect of transfer on death deed during transferor's life.**

During a transferor's life, a transfer on death deed does not:

- (1) affect an interest or right of the transferor or any other owner, including the right to transfer or encumber the property;
- (2) affect an interest or right of a transferee, even if the transferee has actual or constructive notice of the deed;
- (3) affect an interest or right of the transferor's secured or unsecured creditors or future creditors, even if they have actual or constructive notice of the deed;
- (4) affect the transferor's or designated beneficiary's eligibility for any form of public assistance;
- (5) create a legal or equitable interest in favor of the designated beneficiary; or
- (6) subject the property to claims or process of the designated beneficiary's creditors.

Enacted by Chapter 26, 2018 General Session

**75-6-413 Effect of transfer on death deed at transferor's death.**

- (1) Except as otherwise provided in the transfer on death deed, Sections 75-2-205, 75-2-702, 75-2-803, 75-2-804, and 75-2-807, on the death of the transferor, the following rules apply to property that is the subject of a transfer on death deed and owned by the transferor at death.
  - (a) Subject to Subsection (1)(b), the interests in the property are transferred to the designated beneficiaries in accordance with the deed.
  - (b) The interest of a designated beneficiary is contingent on the designated beneficiary surviving the transferor. Notwithstanding Section 75-2-706, the interest of a designated beneficiary that fails to survive the transferor lapses.
  - (c) Subject to Subsection (1)(d), concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless otherwise specified in the transfer on death deed.
  - (d) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the share of one that lapses or fails for any reason is transferred to the other, or to the others in proportion to the interest of each in the remaining part of the property held concurrently.

- (2) Subject to Title 57, Chapter 3, Recording of Documents, a beneficiary takes the property subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor's death. For purposes of this Subsection (2) and Title 57, Chapter 3, Recording of Documents, the recording of the transfer on death deed is considered to have occurred at the transferor's death.
- (3) If a transferor is a joint owner and is:
  - (a) survived by one or more other joint owners, the property that is the subject of a transfer on death deed belongs to the surviving joint owner or owners with right of survivorship; or
  - (b) the last surviving joint owner, the transfer on death deed is effective.
- (4) A transfer on death deed transfers property without covenant or warranty of title even if the deed contains a contrary provision.
- (5) Following the death of the transferor, an affidavit in substantially the form found in Section 57-1-5.1 shall be recorded in the office of the recorder of the county in which the affected property is located. Each affidavit shall:
  - (a) contain a legal description of the real property that is affected;
  - (b) reference the entry number and the book and page of the previously recorded transfer on death deed; and
  - (c) have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the transferor's death.

Amended by Chapter 225, 2021 General Session

**75-6-414 Disclaimer.**

A beneficiary may disclaim all or part of the beneficiary's interest.

Enacted by Chapter 26, 2018 General Session

**75-6-415 Liability for creditor claims and statutory allowances.**

- (1) To the extent the transferor's probate estate is insufficient to satisfy an allowed claim against the estate or a statutory allowance to a surviving spouse or child, only the estate may enforce the liability against property transferred at the transferor's death by a transfer on death deed.
- (2) If more than one property is transferred by one or more transfer on death deeds, the liability under Subsection (1) is apportioned among the properties in proportion to their net values at the transferor's death.
- (3) A probate proceeding to enforce the liability under this section shall be commenced not later than 12 months after the transferor's death.
- (4) The estate may expressly waive the estate's claim against the property.

Enacted by Chapter 26, 2018 General Session

**75-6-416 Optional form of transfer on death deed.**

- (1) An individual may use the following form to create a transfer on death deed under this part:

**REVOCABLE TRANSFER ON DEATH DEED**

**NOTICE TO OWNER**

You should carefully read all information on the other side of this form. You may want to consult a lawyer before using this form.

This form must be recorded before your death or it will not be effective. The beneficiary must be a named person.



Printed Name

Mailing Address

Printed Name

Mailing Address

Legal Description of Property (Pursuant to Utah Code Section 57-3-105):

Tax Identification Number for Property:

REVOCACTION

I revoke all my previous transfers of this property by transfer on death deed.

SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

Signature

Date

Printed Name

Signature

Date

Printed Name

ACKNOWLEDGMENT

(Attach an affidavit of acknowledgment pursuant to Utah Code Section 46-1-6.5 to the form.)

- (2) The other sections of this part govern the effect of the form described in Subsection (1) or any other instrument used to revoke a transfer on death deed.

Repealed and Re-enacted by Chapter 390, 2024 General Session

**75-6-418 Uniformity of application and construction.**

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

Enacted by Chapter 26, 2018 General Session

**75-6-419 Relation to Electronic Signatures in Global and National Commerce Act.**

This part modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Amended by Chapter 136, 2019 General Session