



WHY YOUR STATE SHOULD ADOPT THE UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT

The Uniform Real Property Transfer-on-Death Act (URPTODA) enables an owner of real property to pass the property simply and directly to a beneficiary on the owner's death without probate. The property passes by operation of law according to the terms of a recorded transfer-on-death (TOD) deed.

- ***URPTODA is an alternative to expensive estate planning for simple estates.*** People with a high net worth or a complex estate often use trusts and gifting strategies to transfer wealth outside of probate, but those strategies are prohibitively expensive for smaller estates. Many lower income families can avoid probate for their personal property using simpler means, such as adding an heir's name to a bank account as a "payable on death" (POD) beneficiary. However, in many states there is no such method available for real estate. URPTODA fills the gap by providing a way for families, with the aid of an advisor, to easily transfer title to real property outside of probate.
- ***URPTODA allows owners to retain control of their property.*** Some families attempt to pass real property to a family member by adding the recipient's name to the title as a joint tenant with rights of survivorship. The property will pass to the recipient at the death of the joint owner, but there are also significant consequences during the original owner's life. Joint titling exposes the property to the joint tenant's creditors, and gives the joint tenant the power to approve or disapprove a sale. With a TOD deed, the owner retains all rights in the property, including the right to change his or her mind and revoke the deed or sell the property. The TOD beneficiary has no interest until the owner's death.
- ***URPTODA has been proven effective in other states.*** TOD deeds for real estate is a relatively new concept; Missouri became the first state to allow TOD deeds in 1989. Today, more than half of the states allow transfers by means of a TOD deed. Despite some initial resistance in those states to the new procedure, over time the TOD titling process has been well received by recording officers, real estate attorneys, and the title insurance industry. TOD deeds are no longer novel and the citizens of the remaining states should also benefit from the opportunity to transfer real property outside of probate simply and effectively.

For further information about URPTODA, please contact ULC Chief Counsel Benjamin Orzeske at (312) 450-6621 or borzeske@uniformlaws.org.