



General Assembly

February Session, 2016

***Raised Bill No. 117***

LCO No. 1236



\* 0 1 2 3 6 J U D \*

Referred to Committee on JUDICIARY

Introduced by:  
(JUD)

***AN ACT CONCERNING ADOPTION OF THE UNIFORM REAL  
PROPERTY TRANSFER ON DEATH ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2016*) The provisions of  
2 sections 1 to 19, inclusive, of this act may be cited as the Uniform Real  
3 Property Transfer on Death Act.

4 Sec. 2. (NEW) (*Effective October 1, 2016*) As used in sections 1 to 19,  
5 inclusive, of this act:

6 (1) "Beneficiary" means a person that receives property under a  
7 transfer on death deed;

8 (2) "Designated beneficiary" means a person designated to receive  
9 property in a transfer on death deed;

10 (3) "Joint owner" means an individual who owns property  
11 concurrently with one or more other individuals with a right of  
12 survivorship. The term includes a joint tenant and tenant by the  
13 entirety. The term does not include a tenant in common;

14 (4) "Person" means an individual, corporation, business trust, estate,  
15 trust, partnership, limited liability company, association, joint venture,  
16 public corporation, government or governmental subdivision, agency,  
17 or instrumentality or any other legal or commercial entity;

18 (5) "Property" means an interest in real property located in this state  
19 which is transferable on the death of the owner;

20 (6) "Transfer on death deed" means a deed authorized under  
21 sections 1 to 19, inclusive, of this act; and

22 (7) "Transferor" means an individual who makes a transfer on death  
23 deed.

24 Sec. 3. (NEW) (*Effective October 1, 2016*) The provisions of sections 1  
25 to 19, inclusive, of this act apply to a transfer on death deed made  
26 before, on, or after October 1, 2016, by a transferor dying on or after  
27 October 1, 2016.

28 Sec. 4. (NEW) (*Effective October 1, 2016*) The provisions of sections 1  
29 to 19, inclusive, of this act do not affect any method of transferring  
30 property otherwise permitted under the law of this state.

31 Sec. 5. (NEW) (*Effective October 1, 2016*) An individual may transfer  
32 property to one or more beneficiaries effective at the transferor's death  
33 by a transfer on death deed.

34 Sec. 6. (NEW) (*Effective October 1, 2016*) A transfer on death deed is  
35 revocable even if the deed or another instrument contains a contrary  
36 provision.

37 Sec. 7. (NEW) (*Effective October 1, 2016*) A transfer on death deed is  
38 nontestamentary.

39 Sec. 8. (NEW) (*Effective October 1, 2016*) The capacity required to  
40 make or revoke a transfer on death deed is the same as the capacity  
41 required to make a will.

42       Sec. 9. (NEW) (*Effective October 1, 2016*) A transfer on death deed  
43 shall: (1) Contain the essential elements and formalities of a properly  
44 recordable inter vivos deed, except that the transfer on death deed  
45 shall state that the transfer to the designated beneficiary is to occur at  
46 the transferor's death; and (2) be recorded before the transferor's death  
47 in the public records in the office of the town clerk of the town where  
48 the property is located.

49       Sec. 10. (NEW) (*Effective October 1, 2016*) A transfer on death deed  
50 shall be effective without: (1) Notice or delivery to or acceptance by the  
51 designated beneficiary during the transferor's life; or (2) consideration.

52       Sec. 11. (NEW) (*Effective October 1, 2016*) (a) Subject to the provisions  
53 of subsection (b) of this section, an instrument is effective to revoke a  
54 recorded transfer on death deed, or any part of it, only if the  
55 instrument is:

56       (1) One of the following: (A) A transfer on death deed that revokes  
57 the deed or part of the deed expressly or by inconsistency; (B) an  
58 instrument of revocation that expressly revokes the deed or part of the  
59 deed; or (C) an inter vivos deed that expressly revokes the transfer on  
60 death deed or part of the deed; and

61       (2) Acknowledged by the transferor after the acknowledgment of  
62 the deed being revoked and recorded before the transferor's death in  
63 the public records in the office of the town clerk of the town where the  
64 deed is recorded.

65       (b) If a transfer on death deed is made by more than one transferor:  
66 (1) Revocation by a transferor does not affect the deed as to the interest  
67 of another transferor; and (2) a deed of joint owners is revoked only if  
68 it is revoked by all of the living joint owners.

69       (c) After a transfer on death deed is recorded, it may not be revoked  
70 by a revocatory act on the deed.

71 (d) The provisions of this section do not limit the effect of an inter  
72 vivos transfer of the property.

73 Sec. 12. (NEW) (*Effective October 1, 2016*) During a transferor's life, a  
74 transfer on death deed does not:

75 (1) Affect an interest or right of the transferor or any other owner,  
76 including the right to transfer or encumber the property;

77 (2) Affect an interest or right of a transferee, even if the transferee  
78 has actual or constructive notice of the deed;

79 (3) Affect an interest or right of a secured or unsecured creditor or  
80 future creditor of the transferor, even if the creditor has actual or  
81 constructive notice of the deed;

82 (4) Affect the transferor's or designated beneficiary's eligibility for  
83 any form of public assistance;

84 (5) Create a legal or equitable interest in favor of the designated  
85 beneficiary; or

86 (6) Subject the property to claims or process of a creditor of the  
87 designated beneficiary.

88 Sec. 13. (NEW) (*Effective October 1, 2016*) (a) Except as provided in  
89 the transfer on death deed, this section, or in section 45a-257c, 45a-436,  
90 45a-440, 45a-441 or 45a-447 of the general statutes, on the death of the  
91 transferor, the following rules apply to property that is the subject of a  
92 transfer on death deed and owned by the transferor at death:

93 (1) Subject to the provisions of subdivision (2) of this subsection, the  
94 interest in the property is transferred to the designated beneficiary in  
95 accordance with the deed.

96 (2) The interest of a designated beneficiary is contingent on the  
97 designated beneficiary surviving the transferor. The interest of a

98 designated beneficiary that fails to survive the transferor lapses.

99 (3) Subject to the provisions of subdivision (4) of this subsection,  
100 concurrent interests are transferred to the beneficiaries in equal and  
101 undivided shares with no right of survivorship.

102 (4) If the transferor has identified two or more designated  
103 beneficiaries to receive concurrent interests in the property, the share  
104 of one which lapses or fails for any reason is transferred to the other, or  
105 to the others in proportion to the interest of each in the remaining part  
106 of the property held concurrently.

107 (b) Subject to the provisions of section 47-10 of the general statutes,  
108 a beneficiary takes the property subject to all conveyances,  
109 encumbrances, assignments, contracts, mortgages, liens and other  
110 interests to which the property is subject at the transferor's death. For  
111 purposes of this subsection and section 47-10 of the general statutes,  
112 the recording of the transfer on death deed is deemed to have occurred  
113 at the transferor's death.

114 (c) If a transferor is a joint owner and is: (1) Survived by one or more  
115 other joint owners, the property that is the subject of a transfer on  
116 death deed belongs to the surviving joint owner or owners with right  
117 of survivorship; or (2) the last surviving joint owner, the transfer on  
118 death deed is effective.

119 (d) A transfer on death deed transfers property without covenant or  
120 warranty of title even if the deed contains a contrary provision.

121 Sec. 14. (NEW) (*Effective October 1, 2016*) A beneficiary may disclaim  
122 all or part of the beneficiary's interest as provided by sections 45a-578  
123 to 45a-585, inclusive, of the general statutes.

124 Sec. 15. (NEW) (*Effective October 1, 2016*) (a) To the extent the  
125 transferor's probate estate is insufficient to satisfy an allowed claim  
126 against the estate or a statutory allowance to a surviving spouse or

127 child, the estate may enforce the liability against property transferred  
128 at the transferor's death by a transfer on death deed.

129 (b) If more than one property is transferred by one or more transfer  
130 on death deeds, the liability under subsection (a) of this section is  
131 apportioned among the properties in proportion to their net values at  
132 the transferor's death.

133 (c) A proceeding to enforce the liability under this section shall be  
134 commenced not later than eighteen months after the date of the  
135 transferor's death.

136 Sec. 16. (NEW) (*Effective October 1, 2016*) The following form may be  
137 used to create a transfer on death deed. Sections 1 to 19, inclusive, of  
138 this act govern the effect of this or any other instrument used to create  
139 a transfer on death deed:

140 (front of form)

141 REVOCABLE TRANSFER ON DEATH DEED

142 NOTICE TO OWNER

143 You should carefully read all information on the other side of  
144 this form. You May Want to Consult a Lawyer Before Using This Form.

145 This form must be recorded before your death, or it will not be  
146 effective.

T1 IDENTIFYING INFORMATION

T2 Owner or Owners Making This Deed:

T3	....	....
	Printed name	Mailing address

T4	....	....
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T5 Printed name Mailing address

Legal description of the property:

....

T6 PRIMARY BENEFICIARY

T7 I designate the following beneficiary if the beneficiary survives me.

T8 ....  
Printed name Mailing address, if available

T9 ALTERNATE BENEFICIARY - Optional

T10 If my primary beneficiary does not survive me, I designate the following alternate beneficiary if that beneficiary survives me.

T11 ....  
Printed name Mailing address, if available

T12 TRANSFER ON DEATH

T13 At my death, I transfer my interest in the described property to the beneficiaries as designated above.

T14 Before my death, I have the right to revoke this deed.

T15 SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

T16 .... [(SEAL)]....  
Signature Date

T17 .... [(SEAL)]....  
Signature Date

T18 ACKNOWLEDGMENT

T19 (insert acknowledgment for deed here)

147 (back of form)

148 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

149 What does the Transfer on Death (TOD) deed do? When you  
150 die, this deed transfers the described property, subject to any liens or  
151 mortgages (or other encumbrances) on the property at your death.  
152 Probate is not required. The TOD deed has no effect until you die. You  
153 can revoke it at any time. You are also free to transfer the property to  
154 someone else during your lifetime. If you do not own any interest in  
155 the property when you die, this deed will have no effect.

156 How do I make a TOD deed? Complete this form. Have it  
157 acknowledged before a notary public or other individual authorized  
158 by law to take acknowledgments. Record the form in each town where  
159 any part of the property is located. The form has no effect unless it is  
160 acknowledged and recorded before your death.

161 Is the "legal description" of the property necessary? Yes.

162 How do I find the "legal description" of the property? This  
163 information may be on the deed you received when you became an  
164 owner of the property. This information may also be available in the  
165 office of the town clerk for the town where the property is located. If  
166 you are not absolutely sure, consult a lawyer.

167 Can I change my mind before I record the TOD deed? Yes. If  
168 you have not yet recorded the deed and want to change your mind,  
169 simply tear up or otherwise destroy the deed.

170 How do I "record" the TOD deed? Take the completed and  
171 acknowledged form to the office of the town clerk of the town where  
172 the property is located. Follow the instructions given by the town clerk

173 to make the form part of the official property records. If the property is  
174 in more than one town, you should record the deed in each town.

175 Can I later revoke the TOD deed if I change my mind? Yes. You  
176 can revoke the TOD deed. No one, including the beneficiaries, can  
177 prevent you from revoking the deed.

178 How do I revoke the TOD deed after it is recorded? There are  
179 three ways to revoke a recorded TOD deed: (1) Complete and  
180 acknowledge a revocation form, and record it in each town where the  
181 property is located. (2) Complete and acknowledge a new TOD deed  
182 that disposes of the same property, and record it in each town where  
183 the property is located. (3) Transfer the property to someone else  
184 during your lifetime by a recorded deed that expressly revokes the  
185 TOD deed. You may not revoke the TOD deed by will.

186 I am being pressured to complete this form. What should I do?  
187 Do not complete this form under pressure. Seek help from a trusted  
188 family member, friend, or lawyer.

189 Do I need to tell the beneficiaries about the TOD deed? No, but  
190 it is recommended. Secrecy can cause later complications and might  
191 make it easier for others to commit fraud.

192 I have other questions about this form. What should I do? This  
193 form is designed to fit some but not all situations. If you have other  
194 questions, you are encouraged to consult a lawyer.

195 Sec. 17. (NEW) (*Effective October 1, 2016*) The following form may be  
196 used to create an instrument of revocation under section 11 of this act.  
197 Sections 1 to 19, inclusive, of this act govern the effect of this or any  
198 other instrument used to revoke a transfer on death deed.

199 (front of form)

200 REVOCATION OF TRANSFER ON DEATH DEED

T20 NOTICE TO OWNER

T21 This revocation must be recorded before you die or it will not be effective. This revocation is effective only as to the interests in the property of owners who sign this revocation.

T22 IDENTIFYING INFORMATION

T23 Owner or Owners of Property Making This Revocation:

T24 .... Mailing address  
Printed name

T25 .... Mailing address  
Printed name

T26 Legal description of the property:

....

T27 REVOCATION

T28 I revoke all my previous transfers of this property by transfer on death deed.

T29 SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION

T30 .... [(SEAL)]....  
Signature Date

T31 .... [(SEAL)]....  
Signature Date

T32 ACKNOWLEDGMENT

T33 (insert acknowledgment here)

201 (back of form)

202 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

203           How do I use this form to revoke a Transfer on Death (TOD)  
204 deed? Complete this form. Have it acknowledged before a notary  
205 public or other individual authorized to take acknowledgments.  
206 Record the form in the public records in the office of the town clerk of  
207 each town where the property is located. The form must be  
208 acknowledged and recorded before your death or it has no effect.

209           How do I find the "legal description" of the property? This  
210 information may be on the TOD deed. It may also be available in the  
211 office of the town clerk for the town where the property is located. If  
212 you are not absolutely sure, consult a lawyer.

213           How do I "record" the form? Take the completed and  
214 acknowledged form to the office of the town clerk of the town where  
215 the property is located. Follow the instructions given by the town clerk  
216 to make the form part of the official property records. If the property is  
217 located in more than one town, you should record the form in each of  
218 those towns.

219           I am being pressured to complete this form. What should I do?  
220 Do not complete this form under pressure. Seek help from a trusted  
221 family member, friend, or lawyer.

222           I have other questions about this form. What should I do? This  
223 form is designed to fit some but not all situations. If you have other  
224 questions, consult a lawyer.

225           Sec. 18. (NEW) (*Effective October 1, 2016*) In applying and construing  
226 the provisions of the Uniform Real Property Transfer on Death Act,  
227 consideration shall be given to the need to promote uniformity of the  
228 law with respect to its subject matter among states that enact said act.

229           Sec. 19. (NEW) (*Effective October 1, 2016*) The provisions of sections 1  
230 to 19, inclusive, of this act modify, limit and supersede the Electronic  
231 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,  
232 but do not modify, limit or supersede Section 101(c) of said act, 15 USC

233 7001(c), or authorize electronic delivery of any of the notices described  
234 in Section 103(b) of said act, 15 USC Section 7003(b).

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	New section
Sec. 3	<i>October 1, 2016</i>	New section
Sec. 4	<i>October 1, 2016</i>	New section
Sec. 5	<i>October 1, 2016</i>	New section
Sec. 6	<i>October 1, 2016</i>	New section
Sec. 7	<i>October 1, 2016</i>	New section
Sec. 8	<i>October 1, 2016</i>	New section
Sec. 9	<i>October 1, 2016</i>	New section
Sec. 10	<i>October 1, 2016</i>	New section
Sec. 11	<i>October 1, 2016</i>	New section
Sec. 12	<i>October 1, 2016</i>	New section
Sec. 13	<i>October 1, 2016</i>	New section
Sec. 14	<i>October 1, 2016</i>	New section
Sec. 15	<i>October 1, 2016</i>	New section
Sec. 16	<i>October 1, 2016</i>	New section
Sec. 17	<i>October 1, 2016</i>	New section
Sec. 18	<i>October 1, 2016</i>	New section
Sec. 19	<i>October 1, 2016</i>	New section

**Statement of Purpose:**

To adopt the Uniform Real Property Transfer on Death Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*