



General Assembly

February Session, 2020

Raised Bill No. 5209

LCO No. 1334



Referred to Committee on AGING

Introduced by:
(AGE)

**AN ACT CONCERNING THE 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, 2020*) The provisions of this
2 section and sections 2 to 19, inclusive, of this act may be cited as the
3 Uniform Real Property Transfer on Death Act.

4 Sec. 2. (NEW) (*Effective October 1, 2020*) 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. The term does not
13 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 sections
21 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, 2020*) The provisions of sections 1
25 to 19, inclusive, of this act apply to a transfer on death deed made before,
26 on or after October 1, 2020, by a transferor dying on or after October 1,
27 2020.

28 Sec. 4. (NEW) (*Effective October 1, 2020*) 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, 2020*) 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, 2020*) 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, 2020*) A transfer on death deed is
38 nontestamentary.

39 Sec. 8. (NEW) (*Effective October 1, 2020*) The capacity required to make
40 or revoke a transfer on death deed is the same as the capacity required
41 to make a will.

42 Sec. 9. (NEW) (*Effective October 1, 2020*) A transfer on death deed shall:
43 (1) Contain the essential elements and formalities of a properly
44 recordable inter vivos deed, except that the transfer on death deed shall
45 state that the transfer to the designated beneficiary is to occur at the
46 transferor's death; and (2) be recorded before the transferor's death in
47 the public records in the office of the town clerk of the town where the
48 property is located.

49 Sec. 10. (NEW) (*Effective October 1, 2020*) 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, 2020*) (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 instrument
55 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 the
62 deed being revoked and recorded before the transferor's death in the
63 public records in the office of the town clerk of the town where the deed
64 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 it
68 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, 2020*) 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 has
78 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, 2020*) (a) Except as provided in the
89 transfer on death deed, this section, or section 45a-257c, 45a-436, 45a-
90 440, 45a-440a, 45a-441 or 45a-447 of the general statutes, as amended by
91 this act, on the death of the transferor, the following rules apply to
92 property that is the subject of a transfer on death deed and owned by
93 the transferor at death:

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

97 (2) The interest of a designated beneficiary is contingent on the
98 designated beneficiary surviving the transferor. The interest of a
99 designated beneficiary that fails to survive the transferor lapses.

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

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

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

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

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

122 Sec. 14. (NEW) (*Effective October 1, 2020*) A beneficiary may disclaim
123 all or part of the beneficiary's interest as provided in sections 45a-578 to
124 45a-585, inclusive, of the general statutes.

125 Sec. 15. (NEW) (*Effective October 1, 2020*) (a) After the transferor's
126 death, the property that is the subject of an effective transfer on death
127 deed is subject to claims of the transferor's creditors, costs of
128 administration of the transferor's estate, the expenses of the transferor's
129 funeral and disposal of remains, and statutory allowances to a surviving
130 spouse and children to the extent the transferor's probate estate is

131 inadequate to satisfy those claims, costs, expenses and allowances.

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

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

139 Sec. 16. (NEW) (Effective October 1, 2020) The following form may be
140 used to create a transfer on death deed. Sections 1 to 19, inclusive, of this
141 act govern the effect of this or any other instrument used to create a
142 transfer on death deed:

T1 (front of form)

T2 REVOCABLE TRANSFER ON DEATH DEED

T3 NOTICE TO OWNER

T4 You should carefully read all information on the other side of this
T5 form. You May Want to Consult a Lawyer Before Using This Form.

T6 This form must be recorded before your death, or it will not be
T7 effective.

T8 IDENTIFYING INFORMATION

T9 Owner or Owners Making This Deed:

T10
T11	Printed name	Mailing address
T12
T13	Printed name	Mailing address

T14 Legal description of the property:

T15

T16 PRIMARY BENEFICIARY

T17 I designate the following beneficiary if the beneficiary survives me:

T18

T19 Printed name Mailing address, if available

T20 ALTERNATE BENEFICIARY - Optional

T21 If my primary beneficiary does not survive me, I designate the

T22 following alternate beneficiary if that beneficiary survives me:

T23

T24 Printed name Mailing address, if available

T25 TRANSFER ON DEATH

T26 At my death, I transfer my interest in the described property to

T27 the beneficiaries as designated above.

T28 Before my death, I have the right to revoke this deed.

T29 SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED

T30 (SEAL)

T31

T32 Signature Date

T33 (SEAL)

T34

T35 Signature Date

T36 ACKNOWLEDGMENT

T37 (insert acknowledgment for deed here)

143 (back of form)

144 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

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

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

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

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

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

166 How do I "record" the TOD deed? Take the completed and
167 acknowledged form to the office of the town clerk of the town where the
168 property is located. Follow the instructions given by the town clerk to
169 make the form part of the official property records. If the property is in
170 more than one town, you should record the deed in each town.

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

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

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

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

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

191 Sec. 17. (NEW) (*Effective October 1, 2020*) The following form may be
192 used to create an instrument of revocation under section 11 of this act.
193 Sections 1 to 19, inclusive, of this act govern the effect of this or any other
194 instrument used to revoke a transfer on death deed.

T38 (front of form)

T39 REVOCATION OF TRANSFER ON DEATH DEED

T40 NOTICE TO OWNER

T41 This revocation must be recorded before you die or it will not be

T42 effective. This revocation is effective only as to the interests in the
T43 property of owners who sign this revocation.

T44 IDENTIFYING INFORMATION

T45 Owner or Owners of Property Making This Revocation:

T46
T47	Printed name	Mailing address
T48
T49	Printed name	Mailing address

T50 Legal description of the property:

T51

T52 REVOCATION

T53 I revoke all my previous transfers of this property by transfer on
T54 death deed.

T55 SIGNATURE OF OWNER OR OWNERS MAKING THIS

T56 REVOCATION

T57 (SEAL)

T58

T59 Signature Date

T60 (SEAL)

T61

T62 Signature Date

ACKNOWLEDGMENT

T63 (insert acknowledgment for deed here)

195 (back of form)

196 COMMON QUESTIONS ABOUT THE USE OF THIS FORM

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

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

207 How do I "record" the form? Take the completed and acknowledged
208 form to the office of the town clerk of the town where the property is
209 located. Follow the instructions given by the town clerk to make the
210 form part of the official property records. If the property is located in
211 more than one town, you should record the form in each of those towns.

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

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

218 Sec. 18. (NEW) (*Effective October 1, 2020*) In applying and construing
219 the provisions of the Uniform Real Property Transfer on Death Act,
220 consideration shall be given to the need to promote uniformity of the
221 law with respect to its subject matter among states that enact said act.

222 Sec. 19. (NEW) (*Effective October 1, 2020*) The provisions of this section
223 and sections 1 to 18, inclusive, of this act modify, limit and supersede
224 the Electronic Signatures in Global and National Commerce Act, 15 USC
225 7001 et seq., but do not modify, limit or supersede Section 101(c) of said

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

228 Sec. 20. Subsection (a) of section 45a-436 of the general statutes is
229 repealed and the following is substituted in lieu thereof (*Effective October*
230 *1, 2020*):

231 (a) On the death of a spouse, the surviving spouse may elect, as
232 provided in subsection (c) of this section, to take a statutory share of the
233 real and personal property passing under the will of the deceased
234 spouse. The "statutory share" means a life estate of one-third in value of
235 all the property passing under the will, real and personal, legally or
236 equitably owned by the deceased spouse at the time of his or her death,
237 after the payment of all debts and charges against the estate. The right
238 to such third shall not be defeated by any disposition of the property by
239 will or by a transfer on death deed as defined in section 2 of this act to
240 other parties.

241 Sec. 21. Subsection (a) of section 45a-447 of the general statutes is
242 repealed and the following is substituted in lieu thereof (*Effective October*
243 *1, 2020*):

244 (a) (1) A person finally adjudged guilty, either as the principal or
245 accessory, or finally found not guilty by reason of mental disease or
246 defect pursuant to section 53a-13, of any crime under section 53a-54a,
247 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-122, 53a-
248 123 or 53a-321, or in any other jurisdiction, of any crime, the essential
249 elements of which are substantially similar to such crimes, or a person
250 finally adjudged guilty, or found not guilty by reason of mental disease
251 or defect, under any of said sections pursuant to this subdivision, shall
252 not inherit or receive any part of the estate of (A) the deceased victim,
253 whether under the provisions of any act relating to intestate succession,
254 or as devisee or legatee, or otherwise under the will of the deceased
255 victim, or receive any property as beneficiary, including as a beneficiary
256 of a transfer on death deed, as defined in section 2 of this act, or survivor
257 of the deceased victim, or (B) any other person when such homicide or

258 death terminated an intermediate estate, or hastened the time of
259 enjoyment. For the purposes of this subdivision, an interested person
260 may bring an action in the Superior Court for a determination, by a
261 preponderance of the evidence, that an heir, devisee, legatee or
262 beneficiary of the deceased victim who has predeceased the interested
263 person would have been adjudged guilty or found not guilty by reason
264 of mental disease or defect, either as the principal or accessory, under
265 section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-
266 56a, 53a-122, 53a-123 or 53a-321, had the heir, devisee, legatee or
267 beneficiary survived.

268 (2) With respect to inheritance under the will of the deceased victim,
269 or rights to property as heir, devisee, legatee or beneficiary of the
270 deceased victim, the person whose participation in the estate of another
271 or whose right to property as such heir, devisee, legatee or beneficiary
272 is so prevented under the provisions of this section shall be considered
273 to have predeceased the deceased victim.

274 (3) With respect to real property owned in joint tenancy with rights
275 of survivorship with the deceased victim, such final adjudication as
276 guilty or finding of not guilty by reason of mental disease or defect shall
277 be a severance of the joint tenancy and shall convert the joint tenancy
278 into a tenancy in common as to the deceased victim and the person so
279 adjudged or found, but not as to any remaining joint tenant or tenants.
280 Such severance shall be effective as of the time such adjudication or
281 finding becomes final. When such jointly owned property is real
282 property, a certified copy of the final adjudication as guilty or finding of
283 not guilty by reason of mental disease or defect shall be recorded by the
284 fiduciary of the deceased victim's estate, or may be recorded by any
285 other interested party in the land records of the town where such real
286 property is situated.

287 (4) With respect to personal property owned in joint tenancy with rights
288 of survivorship with the deceased victim, such final adjudication as
289 guilty or finding of not guilty by reason of mental disease or defect shall
290 convert the personal property to property owned solely by the deceased

291 victim except to the extent that the adjudged guilty person or person
292 found not guilty by reason of mental disease or defect can prove by a
293 preponderance of the evidence such person's financial contributions to
294 such property.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2020</i>	New section
Sec. 2	<i>October 1, 2020</i>	New section
Sec. 3	<i>October 1, 2020</i>	New section
Sec. 4	<i>October 1, 2020</i>	New section
Sec. 5	<i>October 1, 2020</i>	New section
Sec. 6	<i>October 1, 2020</i>	New section
Sec. 7	<i>October 1, 2020</i>	New section
Sec. 8	<i>October 1, 2020</i>	New section
Sec. 9	<i>October 1, 2020</i>	New section
Sec. 10	<i>October 1, 2020</i>	New section
Sec. 11	<i>October 1, 2020</i>	New section
Sec. 12	<i>October 1, 2020</i>	New section
Sec. 13	<i>October 1, 2020</i>	New section
Sec. 14	<i>October 1, 2020</i>	New section
Sec. 15	<i>October 1, 2020</i>	New section
Sec. 16	<i>October 1, 202</i>	New section
Sec. 17	<i>October 1, 202</i>	New section
Sec. 18	<i>October 1, 2020</i>	New section
Sec. 19	<i>October 1, 2020</i>	New section
Sec. 20	<i>October 1, 2020</i>	45a-436(a)
Sec. 21	<i>October 1, 2020</i>	45a-447(a)

AGE

Joint Favorable C/R

JUD