

WHAT YOU NEED TO KNOW ABOUT TRANSFER ON DEATH DEEDS & NOTARIOS

CONSUMER FACT SHEET

What is a Transfer on Death Deed?	<p>A Transfer on Death Deed (TOD) is a way for California residents to transfer the ownership of a home to named individuals, effective upon the death of the homeowner.</p> <p>For example, Helen, the homeowner, signs a TOD naming her children, Richard and Robert, as the beneficiaries under the TOD. Assuming all the requirements have been satisfied for creating a legally enforceable TOD, when Helen dies, the ownership of the home will automatically transfer to Richard and Robert.</p> <p>There are important details that must be followed if a homeowner is considering using a TOD. There may be some advantages to a TOD, because it is simple and relatively easy to use. However, there are potential disadvantages. For example, a simple drafting mistake can mean the document is void and is not effective.</p> <p>To learn more, consult CANHR's Fact Sheet, Transferring Your Home with a Transfer on Death Deed (TOD)—What You Need to Know.</p>
Is this a new way to transfer property in California?	<p>Yes. On January 1, 2016 a new law went into effect allowing homeowners to use a Transfer on Death Deed, while they are alive, to transfer ownership to another upon death. Since a Transfer on Death Deed is revocable, the homeowner can cancel a TOD at any time.</p>
The concern about financial abuse.	<p>Since a TOD is a simplified method of transferring ownership upon death, elder homeowners should be aware that a TOD can easily be used to defraud someone into signing over their home.</p> <p>Although a TOD is revocable, if someone is defrauded, the crime may go undetected until after the death of the homeowner. In that case, it will be too late for the homeowner to revoke the TOD. It may also be difficult for the homeowner's loved ones to prove that the homeowner was defrauded.</p>
How is a Notary Public involved and why should this matter?	<p>To successfully complete a Transfer on Death Deed, one requirement is that a Notary Public must sign the TOD. The notary's signature acknowledges only the type of document involved and the identity of those who sign. It does not certify that</p>

	<p>the document has met all the requirements to be a legally enforceable TOD.</p> <p>Beware of anyone who contacts you first, saying they are a “notary” and offers to help you with a Transfer on Death Deed. While notaries are essential to the process in California, they should not be soliciting your business to complete a Transfer on Death Deed.</p>
<p>Beware! In the United States, notaries are not attorneys.</p>	<p><i>The words “Notario” and “Notary” are nearly identical, but the similarity ends there.</i></p> <p>There is a big difference between a “notary” in the United States and a “notario” in a Latin American country.</p> <p>It’s important to know that in the United States, a notary is NOT an attorney and cannot provide legal assistance or advice.</p> <p>In some countries, notaries, known as “notarios,” are lawyers and are empowered by law to provide more extensive services, including the transfer of ownership for real property. This is not the case in the U.S. This difference can easily lead to confusion and abuse.</p> <p>In the United States, a “notary” cannot advise you on whether the TOD document is properly completed. Similarly, a “notary” has no duty to protect you from elder abuse if you are being asked to create a TOD against your will.</p>
<p>How can homeowners protect themselves?</p>	<p>If you’re considering a TOD, we recommend that you check with an attorney. One can make sure you complete the TOD properly and that you do all that is required to make it legally enforceable.</p>
<p>How do I complain about a Notary Public?</p>	<p>Contact the California Secretary of State (SOS), the agency that licenses notaries. http://www.sos.ca.gov/notary/file-complaint</p> <p>Link to SOS notary complaint form (English): http://notary.cdn.sos.ca.gov/forms/complaint-form.pdf</p> <p>Report fraud or other criminal acts, such as forgery, embezzlement, or elder abuse to local law enforcement agencies or the district attorney’s office in the county where the act took place.</p> <ul style="list-style-type: none"> • List of law enforcement agencies in California https://www.post.ca.gov/le-agencies.aspx • List of district attorney offices in California https://www.cdaa.org/district-attorney-roster