

# **Estate Planning and TODDs: Is It a Good Idea? Going Beyond TODD Basics to Explore Some Unintended Consequences**

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# Estate Planning and TODDs: Is it a Good Idea? Going Beyond TODD Basics to Explore Some Unintended Consequences

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## **I. Transfer on Death Deed (TODD) in Minn. Stat. § 507.071**

- A. Introduction. The Minnesota TODD is a fairly new option for those owning Minnesota real property. The TODD was codified in Minnesota Statute § 507.071 in 2008. The TODD is often used as an estate planning tool. The TODD evolves from the concept of “pay on death” or “transfer on death.” The TODD is often used to avoid probate and simplify estate planning, given the only way to transfer or sell a decedent’s real estate, if no other planning is done, is through a probate proceeding. There are at least 27 states that have a TODD and even more that have a very similar option. A TODD can be a very useful tool to avoid probate, however, this is not a good option for all people and attorneys must advise their clients thoroughly on all the nuances before utilizing the same. A TODD allows the owner of real property to execute a deed that designates a beneficiary that will take ownership of said real estate at the owner’s death (or the surviving owner’s death, if held in joint tenancy).

Reminder:

- The TODD is subject to a 120-hour survivor requirement in Minn. Stat. § 524.2-702.

### **TODDs and Medical Assistance**

This statute is not a Medical Assistance (MA) avoidance tool. In order to effectuate a TODD, one must file an Affidavit of Identity and Survivorship for Transfer on Death Deed, a certificate of death, and a clearance certificate to prove there were no claims for MA tied to the grantor owner’s interest in the real property (Minn. Stat. § 507.071 Subd. 20). The DHS example form contains the Application for Clearance Certificate and the proposed Clearance Certificate and is included in your materials.

***PRACTICE POINT:*** If you record them all as one document (Affidavit of Identity and Survivorship for Transfer on Death Deed, Death Certificate, and Clearance Certificate) you only pay one recording fee!

In addition, a transfer on death deed will have no effect on a person’s eligibility for MA.

### **Multiple Grantee Beneficiaries** (Minn. Stat. § 507.071 Subd. 4)

A transfer on death deed may designate multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any other form of ownership or tenancy that is valid under the laws of this state.

***PRACTICE POINT:*** The default is tenants in common, meaning if you do not specify that you want the grantee beneficiaries to take title as “joint tenants” the grantee beneficiaries will take title as tenants in common.

**Successor Grantee Beneficiaries** (Minn. Stat. § 507.071 Subd. 5)

A transfer on death deed may designate one or more successor grantee beneficiaries or a class of successor grantee beneficiaries, or both. If the transfer on death deed designates successor grantee beneficiaries or a class of successor grantee beneficiaries, the deed shall state the condition under which the interest of the successor grantee beneficiaries would vest.

**EXAMPLE:**

Jane T. Smith, an unmarried person (“Grantor Owner”), hereby conveys and quitclaims to Tim A. Johnson, a single person (“Grantee Beneficiary”), effective on the death of the Grantor Owner, real property in Scott County, Minnesota, legally described as follows: [INSERT LEGAL]

If Tim A. Johnson fails to survive me and leaves no living issue, I, Jane T. Smith, an unmarried person, Grantor Owner, hereby conveys and quitclaims the above described real estate to my son, Gary J. Peterson, if he survives me, and to my daughter, Lynn M. Nelson, if she survives me, as joint tenants (“Grantee Beneficiaries”), effective on the death of the Grantor Owner, Jane T. Smith.

**PRACTICE POINT:** Name all the individuals you want to include as grantee beneficiaries. While it is allowed under this statute to transfer title to “my surviving nieces,” if you do not specifically name every niece, a probate proceeding will be necessary to determine the class of nieces.

**Joint Tenancy Property** (Minn. Stat. § 507.071 Subd. 6)

**PRACTICE POINT:** With joint tenancy property all or at least the surviving joint tenant must execute the TODD.

**Execution of TODD by Attorney-in-Fact (AIF)** (Minn. Stat. § 507.071 Subd. 7)

**PRACTICE POINT:** A transfer on death deed may be executed by a duly appointed attorney-in-fact pursuant to a power of attorney which grants the attorney-in-fact the authority to execute deeds. When a TODD is executed by an attorney-in-fact, an original or certified copy of the power of attorney document must be recorded with the TODD. If the power of attorney document has been previously recorded, then you must reference the power of attorney document within the TODD. If the power of attorney document is dated the same day as the TODD, you do not need an Affidavit, however, if you have an attorney-in-fact later execute a TODD, even if it is one day after being appointed, you will need an Affidavit by Attorney-in-Fact of Nonrevocation and Nontermination, which is included in your materials.

**Where and When to Record** (Minn. Stat. § 507.071 Subd. 8)

**PRACTICE POINT:** For a revocation to be effective, it must be recorded prior to the death of the Grantor Owner.

**PRACTICE POINT:** The TODD should be recorded in each of the counties where any part of the real property is located, in order to provide record notice against other recorded instruments,

although the requirement is only one of the counties in which the real property is located. A TODD is different than most other deeds, in that it **must** be recorded for it to be effective.

### **Using a TODD with Trusts**

A transfer on death deed may transfer an interest in real property to the trustee of an *intervivos* trust even if the trust is revocable, to the trustee of a testamentary trust, or to any other entity legally qualified to hold title to real property under the laws of this state.

**PRACTICE POINT:** It is possible to use a testamentary trust with a TODD under the new trust code (501C.0401) but the TODD language must reference the testamentary trust, not the will because Minn. Stat. § 524.3-102 requires that a will be probated in order to transfer assets of a decedent. However, there could be problems if a title examiner requested probate documents to transfer the assets to a testamentary trust. Regardless, you will need a certificate of trust and an affidavit of trustee and you should obtain those documents at the same time the TODD is executed.

**PRACTICE POINT:** Sometimes estate planning attorneys use a combination of TODDs and quit claim deeds (QCD) to fund a trust. For example, when a client wants to engage in revocable trust planning, the trust could be funded at death by utilizing a TODD. However, to provide additional flexibility to move the real estate to trust during the grantor's lifetime, you could have the client sign a QCD, not for recording, but for use later. This avoids having to redo the homestead classification and avoids the problem when parties cannot refinance without the real property in their individual name and not in the trust.

### **Contract for Deed:**

Sometimes TODDs are used to transfer fee title. Certainly, you can use an assignment to transfer buyer or seller's interest in the contract, but a TODD is an effective way to transfer fee title.

**PRACTICE POINT:** Grantors convey to Grantees...the following described real property in \_\_\_\_\_ County, Minnesota, all of Grantors' interest in [INSERT LEGAL] including Grantors' interest in a certain contract for deed dated \_\_\_\_\_, recorded on \_\_\_\_\_, as document number \_\_\_\_\_ in \_\_\_\_\_ County, Minnesota.

### **TODD and Spouses/Divorce:**

**Spouses:** (Minn. Stat. § 507.071 Subd. 6, Subd. 3, Subd. 2). All spouses of a Grantor Owner must join in on the TODD to release their marital interests. Once Grantee Beneficiaries take title (after Affidavit, Medical Assistance Clearance, etc.), if Grantee Beneficiaries are married, spouses will need to sign off on sale or transfer documents.

**PRACTICE POINT:** Like other estate planning laws, Minn. Stat. § 524.2-804 provides that if a spouse once recorded a TODD and was later divorced, the TODD would be revoked upon dissolution and the effect of the revocation would be that former spouse would be treated as having died immediately before the dissolution. Also, if a grantee beneficiary holds on to the real estate, all current and former grantee beneficiary spouses will have to consent to later sale.

**Predeceased or Minor Beneficiary:** (Minn. Stat. § 507.071 Subd. 11 and Subd. 12)

**PRACTICE POINT:** In the event the grantee beneficiary was not a lineal descendant, the real property does not pass down to the grantee beneficiary's issue, and the title would remain in the name of the Grantor Owner as though no TODD had ever been recorded. One must consider the possibility of minor beneficiaries, and if the grantee beneficiary is only one person, you should consider listing an alternate disposition.

**EXAMPLE:** If clients do a TODD to their children, as tenants in common, and one child predeceases them, the interest would pass to the deceased grantee beneficiary's children, in equal shares. Again, confirm whether this could end up with a grantee beneficiary being minor children and the necessity for a conservatorship.

While certainly a custodian could manage the real estate for a minor until the minor reaches a certain age, before using a TODD to transfer to a minor, consider a living trust as a better solution. The minor or custodian likely could face difficulty paying the expenses of maintaining the property and a trust could provide liquidity for the same.

**EXAMPLE:** Mom and Dad execute TODD transferring home to Annie, Betsy, Charlie and Dave. Mom dies and then Dad dies a year later. Annie dies after mom but before dad. Annie had no children. Betsy dies after mom but before Dad as well. Betsy has two adult children, Sarah and Jenny. Charlie and Dave are still alive.

Can you proceed via Affidavit of Identity and Survivorship or will probate need to be involved?

There is no survivorship language included in the TODD. Minn. Stat. § 507.071 (subd. 11 and 12) anti-lapse will apply. Charlie and Dave are entitled to a ¼ interest each, but probate will need to be involved to determine where Annie and Betsy's shares will pass.

**EXAMPLE:** A executes a TODD to B. B has \$100,000 in outstanding judgments and wants to disclaim. Can B disclaim?

- Uniform Disclaimer of Property Interests Act applies (Minn. Stat. § 524.2-1101 to 524.2-1116).
- Minn. Stat. § 524.2-1102 provides that beneficiary cannot disclaim if beneficiary is insolvent and insolvency "means that the sum of a person's debts is greater than all of the person's assets at fair valuation. A person is presumed to be "insolvent" if the person is generally not paying debts as they become due. Assets do not include property that has been transferred, concealed, or removed, with intent to hinder, delay, or defraud creditors, or has been transferred in a manner making the transfer voidable. Debts do not include an obligation to the extent it is secured by a valid lien or property of the debtor not included as an asset."

To whom would the disclaimed interest pass? It depends on the relationship between the parties, and any survivorship language included in the TODD. The antilapse provision may be triggered as well.

**EXAMPLE:** An unrecorded quit claim deed duly executed and delivered during the lifetime of the Grantor but unrecorded until after the death of the Grantor will not trump a TODD recorded before the death of the owner because it was not recorded. Minn. Stat. § 507.34 provides that every conveyance of real estate shall be recorded in the office of the county recorder of the county where the real estate is situated; and every such conveyance not so recorded shall be void as against any subsequent purchaser in good faith and for valuable consideration of the same real estate, or any part thereof, whose conveyance is first duly recorded, and as against any attachment levied thereon or any judgment lawfully obtained at the suit of any part against the person in whose name the title to such land appears of record prior to the recording of such conveyance. The fact that such first recorded conveyance is in the form, or contains the terms of a deed of quitclaim and release shall not affect the question of good faith of such subsequent purchaser or be of itself notice to the subsequent purchaser of any unrecorded conveyance of the same real estate or any part thereof.

**PRACTICE POINT:** See example TODD with the check the box option to include all interest the grantor owner may have at the time of death.

**Creditor Issues:** (Minn. Stat. § 507.071 Subd. 3)

**PRACTICE POINT:** Creditors cannot attach to a grantee beneficiary's interest in the real property until after the Grantor Owner dies.

### **Rejection of Transfer on Death Deed**

What if the Recorder's Office Rejects? In abstract, so long as document is notarized, legal is correct, all documents should be accepted. What happens if you believe document was wrongfully rejected?

**Enforcement of Transfer on Death Deed** (Minn. Stat. § 507.071 Subd. 26)

Any matter raised in connection with enforcement of a transfer on death deed shall be determined in the probate division.

## **II. The Story: A Transfer on Death Deed Gone Bad.**

So often, clients want to avoid probate and they think a TODD is the best way to go about it. However, all clients need an estate planning attorney to talk to them about the advantages and disadvantages to the same. Here are some questions to ask the client while discussing whether a TODD should be included in their estate plan:

If there is more than one grantee beneficiary, how do the grantee beneficiaries currently get along? Remind the clients that unlike a probate proceeding in which a personal representative has the final say, the grantee beneficiaries will all have the same say as to what happens with the property.

Do the clients want to pass title to the grantee beneficiaries as joint tenants or tenants in common? Sometimes clients have grantee beneficiaries being their adult children but they want to make sure the real estate essentially passes "per stirpes" to the next generation. If

there are minor beneficiaries, this should be avoided due to the necessity of the appointment of a conservator.

Do the clients plan on moving anytime in the near future?

So what if you forget to advise the client(s) or a problem arises in the future and multiple grantee beneficiaries take title and they cannot agree as to what to do with the real property.....HELLO PARTITION ACTION. What is a partition action?

A. The partition statutes in Minnesota are rather archaic and limited. A statute cannot be construed in isolation of well-established principles of common law or equity, and statutory enactments and must be read in harmony with existing body of law, including existing equitable principles, unless intention to change or repeal is apparent. *Swogger* at 379. Once the district court has taken jurisdiction of the case, it may exercise its general equitable powers to resolve the matter. *Id.* The courts equitable determinations are not restricted to the specific situations enumerated in the partition act. *Id.* The court may exercise its equitable powers based on the nature of each case. *Id.* The court may make a division in kind, by sale or by practical combination of both methods. The court can refuse a physical division or sale interest in the property. See *Peterson v. Borgman* (*unpublished*) 2006 WL 1891139 (a very unique fact pattern).





V. DEED FROM BENEFICIARY OF TRANSFER ON DEATH DEED ("TODD")

1. GENERAL COMMENTS.

- a. The TODD is effective only on the death of all of the Grantor Owners whose deaths are designated in the TODD as conditions of the transfer. Minn. Stat. § 507.071, Subd. 2 and 6.
- b. The grantee beneficiary must survive the designated Grantor Owners by at least 120 hours. See Minn. Stat. § 507.071, Subd. 2 and Minn. Stat. § 524.2-702.
- c. All spouses of the Grantor Owners and owners should join in the TODD to release their interest. See Minn. Stat. § 507.071, Subd. 2 and 3 and Minn. Stat. § 507.02.
- d. If the interest in the real property was owned in joint tenancy, the last surviving joint tenant must execute the TODD. Minn. Stat. § 507.071, Subd. 6.
- e. The TODD must be recorded on or after August 1, 2008 and prior to the death of the Grantor Owner upon whose death the conveyance or transfer is effective in a county in which at least a part of the real property described in the TODD is located. Minn. Stat. § 507.071, Subd. 8.
- f. The Grantor Owner must not have conveyed the property to a third party nor filed a revocation of the TODD prior to the Grantor Owner's death. Minn. Stat. § 507.071, Subd. 10(a) and (b). *See below.*

2. REVOCATION.

- a. For a revocation of a TODD by the Grantor Owner or any one of the Grantor Owners to be effective, it must be (i) recorded in a county in which at least part of the real property is located; (ii) recorded prior to the death of the Grantor Owner who executes the revocation; and (iii) executed by all of the joint tenants or at least by the last surviving joint tenant Grantor Owner if the Grantor Owners are joint tenants. Minn. Stat. § 507.071, Subd. 10(a).
- b. If a Grantor Owner conveys all or part of the real property to a third-party other than by a TODD the conveyance nullifies the previously filed TODD for all interests conveyed to the third-party. Minn. Stat. § 507.071, Subd. 10(b).
- c. If a Grantor Owner executes more than one TODD for the same interest in real property, the TODD which has the latest acknowledgment date and which is recorded before the death of the Grantor Owner will prevail. Any TODDs with earlier acknowledgment dates are ineffective to transfer real property and are void. Minn. Stat. § 507.071, Subd. 13.

- d. If a TODD names the Grantor Owner's spouse as a grantee beneficiary and the marriage is subsequently ended by dissolution or annulment, the dissolution or annulment will revoke the TODD, unless the TODD specifically provides otherwise. Minn. Stat. §§ 507.071, Subd. 10(c) and 524.2-804. NOTE: Re-marriage can revive the TODD under the same statutes.

3. CONVEYANCE FROM BENEFICIARY, IF TODD IS EFFECTIVE, REQUIRES (Minn. Stat. §507.071, Subd. 20):

NOTE: A probate proceeding will be required to determine the beneficiaries of a class gift made in a TODD or resulting from a disclaimer, as well as when a beneficiary dies or disclaims and the anti-lapse provisions of Minn. Stat. § 507.071, Subd. 11 apply.

- a. Affidavit of Identity and Survivorship showing that the beneficiary survived the Grantor Owner by at least 120 hours;
- b. A certified copy of a death certificate for each Grantor Owner whose death was a condition to the transfer of the real property;
- c. A Clearance Certificate for the real property must be obtained for each Grantor Owner from the county medical assistance agency of each county in which the real property is located; the Clearance Certificate must contain the legal description of the real property and indicate the release or continuation of any public assistance lien or claim. Minn. Stat. § 507.071, Subd. 23. If the Certificate indicates the lien continues, a release of the lien or release of the property from the lien must be obtained and recorded; and
- d. Deed from beneficiary and spouse, if any.

NOTE: The documents mentioned in paragraphs a, b and c may be combined and recorded as one document or separately in each county where the real property is located.





(Top 3 inches reserved for recording data)

**AFFIDAVIT BY ATTORNEY-IN-FACT  
of nontermination or nonrevocation  
Minn. Stat. 523.17, subd. 1**

**Minnesota Uniform Conveyancing Blanks  
Form 100.2.1 (2011)**

State of Minnesota, County of \_\_\_\_\_

\_\_\_\_\_, being first duly sworn,  
on oath says:

1. Affiant is the Attorney-in-Fact (or agent) named in that certain Power of Attorney dated \_\_\_\_\_, and filed for record on \_\_\_\_\_, as Document Number \_\_\_\_\_ (or in Book \_\_\_\_\_ of \_\_\_\_\_  
(month/day/year)  
Page \_\_\_\_\_), in the Office of the  County Recorder  Registrar of Titles of \_\_\_\_\_ County, Minnesota,  
(check the applicable boxes)  
executed by \_\_\_\_\_, as Grantor and Principal,  
relating to real property in \_\_\_\_\_ County, Minnesota, legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

2. Affiant does not have actual knowledge and has not received actual notice of the revocation or termination of the Power of Attorney by Grantor's death, incapacity, incompetence or otherwise, or notice of any facts indicating the same.

3. Affiant has examined the legal description(s), if any, attached to the Power of Attorney and certifies that the description(s) has(have) not been changed, replaced, or amended subsequent to the signing of the Power of Attorney by the Principal.

**Note: Remainder of page left blank, signature page follows.**

Affiant

\_\_\_\_\_  
*(signature)*

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_  
*(month/day/year)*

\_\_\_\_\_  
*(insert name of person making statement)*

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*





(Top 3 inches reserved for recording data)

**AFFIDAVIT OF IDENTITY  
AND SURVIVORSHIP FOR  
TRANSFER ON DEATH DEED  
Minn. Stat. 507.071**

**Minnesota Uniform Conveyancing Blanks  
Form 50.2.3 (2011)**

State of Minnesota, County of \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_ (“Affiant”),  
being first duly sworn on oath, states that to my personal knowledge:

1. \_\_\_\_\_ (“Decedent”)  
is the person named in the certified copy of the Certificate of Death attached hereto.

2. On the date of death, Decedent was an owner of the real property in \_\_\_\_\_  
County, Minnesota, legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

and Decedent was the Grantor Owner in a transfer on death deed (“Deed”) recorded on  
\_\_\_\_\_, as Document Number \_\_\_\_\_  
(month/day/year)

(or in Book \_\_\_\_\_ of \_\_\_\_\_ Page \_\_\_\_\_),

in the Office of the  County Recorder  Registrar of Titles of \_\_\_\_\_  
(check the applicable box)

County, Minnesota. (If recorded with the Registrar of Titles, insert the Certificate of Title number  
\_\_\_\_\_.)

3. The Grantee Beneficiary(ies) named in the Deed who survived the Decedent by 120 hours is(are): \_\_\_\_\_  
*(insert names of the Grantee Beneficiary(ies) who survived the Decedent, and if none, insert "NONE")*

4. The Grantee Beneficiary(ies) named in the Deed who did not survive the Decedent by 120 hours is(are): \_\_\_\_\_

*(insert names of the Grantee Beneficiary(ies) who did not survive the Decedent, and if none, insert "NONE")*

Certified copies of Certificate(s) of Death for any deceased Grantee Beneficiary(ies) is(are) also attached hereto.

5. A Clearance Certificate pursuant to Minn. Stat. 507.071 subd. 23  is or  is not attached to this affidavit.  
*(check only one box)*

Affiant

\_\_\_\_\_  
*(signature)*

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_  
*(month/day/year)*

\_\_\_\_\_  
*(insert name of Affiant)*

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT TO:  
*(insert legal name and residential or business address)*





(Top 3 inches reserved for recording data)

**CLEARANCE CERTIFICATE FOR  
PUBLIC/MEDICAL ASSISTANCE CLAIM  
Transfer on Death Deed  
Minn. Stat. 507.071, subd. 23**

**Minnesota Uniform Conveyancing Blanks  
Form 10.8.9 (2011)**

DATE: \_\_\_\_\_  
*(month/day/year)*

1. The undersigned is authorized by Minn. Stat. 507.071, subd. 23, and other applicable law, to provide this Clearance Certificate on behalf of the county agency (as defined in Minn. Stat. 507.071, subd. 1) of \_\_\_\_\_ County, Minnesota ("County Agency").

2. The real property covered by this Clearance Certificate is located in \_\_\_\_\_ County, Minnesota, and is legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

3. There  is  is not a claim or lien that is authorized by the statutes listed in Minn. Stat. 507.071, subd. 3, in favor of the  
*(check only one box)*  
State of Minnesota or the County Agency against the following decedent:

Decedent's Full Name

Date of Birth

Date of Death

Amount of Claim

4. There  is  is not a claim or lien that is authorized by the statutes listed in Minn. Stat. 507.071, subd. 3, in favor of the State of Minnesota or the County Agency against the following predeceased spouse(s) of the decedent:  
*(check only one box)*

Predeceased Spouse(s) Name(s)	Date of Birth	Date of Death	Amount of Claim
-------------------------------	---------------	---------------	-----------------

5. This Clearance Certificate *(check only one box)*  
 is not subject to any conditions or restrictions, or  
 is subject to the conditions or restrictions attached hereto.

6. If a claim or lien is noted in paragraphs 3 or 4, contact the following person at the County Agency to arrange for payment and satisfaction of the claim or lien:

Name of contact person:

Telephone number/ email address:

County Agency

By: \_\_\_\_\_  
*(signature of authorized signer)*

\_\_\_\_\_  
*(name of County Agency)*

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by \_\_\_\_\_  
*(month/day/year)*  
\_\_\_\_\_, as authorized signer for \_\_\_\_\_ County, Minnesota.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*







# Application for Certificate of Clearance for Medical Assistance Claims – Transfer on Death Deed

This application is to be completed by the decedent’s beneficiary, authorized representative of the beneficiary, attorney or other agent for a certificate of clearance as provided for under Minnesota Statutes §507.071. The Administrator of the Medical Assistance Estate Recovery Program at the county will respond to a properly completed notice to either release any potential claim it may have or to encumber the property under Minnesota Statutes §256B.15. Incomplete or incorrect applications will delay this process.

## SECTION 1 – Deceased Property Owner Name and Property Address

NAME OF DECEDENT		
PROPERTY ADDRESS		
CITY	STATE	ZIP CODE
LEGAL DESCRIPTION (please attach separate sheet if necessary)		

## SECTION 2 – Information Regarding the Deceased Property Owner

The deceased property owner was a Medical Assistance recipient. <input type="checkbox"/> Yes <input type="checkbox"/> No  If No, the applicant certifies that after a diligent inquiry he/she is not aware of the deceased property owner receiving Medical Assistance.	SOCIAL SECURITY NUMBER
	DATE OF BIRTH

## SECTION 3 – Information Regarding the Deceased Property Owner’s Predeceased Spouse (If more than one spouse, please attach a separate piece of paper)

NAME OF PREDECEASED SPOUSE	SOCIAL SECURITY NUMBER	DATE OF BIRTH
The predeceased spouse was a Medical Assistance recipient. <input type="checkbox"/> Yes <input type="checkbox"/> No  If No, the applicant certifies that after a diligent inquiry he/she is not aware of the predeceased spouse receiving Medical Assistance.		

## SECTION 4 – Certification of Beneficiary or Beneficiary’s Representative

NAME OF BENEFICIARY, AUTHORIZED REPRESENTATIVE, ATTORNEY OR AGENT		<input type="checkbox"/> Beneficiary	<input type="checkbox"/> Attorney
		<input type="checkbox"/> Authorized Representative/Agent	
ADDRESS			
CITY		STATE	ZIP CODE
TELEPHONE NUMBER (     )	FAX NUMBER (     )		

By my signature below, I certify that I am the beneficiary, the beneficiary’s authorized representative, agent or attorney, of the property listed in Section 1 of this application, and as described in the attached transfer on death deed. I further certify that the information provided for in this application is complete and accurate to the best of the beneficiary’s and the beneficiary’s authorized representative’s knowledge.

SIGNATURE	DATE
-----------	------

Attention. If you want free help translating this information, call the number below for your language.

ملاحظة: إذا أردت مساعدة مجانية في ترجمة هذه المعلومات، فاتصل على الرقم 1-800-358-0377.

កំណត់សំគាល់ បើអ្នកចង់បានជំនួយបកប្រែព័ត៌មាននេះដោយមិនគិតថ្លៃ សូមទូរស័ព្ទទៅលេខ 1-888-468-3787 ។

Pažnja. Ako vam je potrebna besplatna pomoć za prevod ove informacije, nazovite 1-888-234-3785.

Ceeb toom. Yog koj xav tau kev pab txhais cov xov no rau koj dawb, hu 1-888-486-8377.

ໂປຼດຊາບ. ຖ້າຫາກທ່ານຕ້ອງການການຊ່ວຍເຫຼືອໃນການແປຂໍ້ຄວາມດັ່ງກ່າວນີ້ພໍລີ, ຈົ່ງໂທຫາຕາມເລກໂທ 1-888-487-8251.

Hubaddhu. Yoo akka odeeffannoon kun sii hiikamu gargaarsa tolaa feeta ta’e, lakkoofsa kana bilbili 1-888-234-3798.

Внимание: если вам нужна бесплатная помощь в переводе этой информации, позвоните по следующему телефону 1-888-562-5877.

Ogow. Haddii aad dooneyso in lagaa kaalmeeyo tarjamadda macluumaadkani oo lacag la’aan ah, wac lambarkan 1-888-547-8829.

Atención. Si desea recibir asistencia gratuita para traducir esta información, llame al 1-888-428-3438.

Chú Ý. Nếu quý vị cần dịch thông tin này miễn phí, xin gọi số 1-888-554-8759.

LB3-0001 (10-09)

ADA5 (5-09)

This information is available in alternative formats to individuals with disabilities by calling your county worker. TTY users can call through Minnesota Relay at (800) 627-3529. For Speech-to-Speech, call (877) 627-3848. For additional assistance with legal rights and protections for equal access to human services programs, contact your agency’s ADA coordinator.

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Minnesota Department of Human Services

## Certificate of Clearance for Medical Assistance Claims – Transfer on Death Deed (Minn. Stat. 507.071, Subd. 23)

DATE	COUNTY AGENCY
COUNTY	UNDERSIGNED <input type="checkbox"/> Director <input type="checkbox"/> Director's Authorized Designee

A person claiming an interest in real property conveyed or transferred by a transfer on death deed, or that person's attorney or agent, has applied for a Certificate of Clearance. The real property covered by this Certificate of Clearance is located in \_\_\_\_\_ County, Minnesota, and is legally described as follows:

All or part of the described real property is Registered (Torrens)

There is a claim for recovery of medical assistance arising under Minnesota Statutes §256B.15, as amended, against the following decedent named in the application for this Certificate of Clearance  Yes     No

NAME OF DECEDENT	DATE OF BIRTH	DATE OF DEATH	AMOUNT OF CLAIM

There is a claim for recovery of medical assistance arising under Minnesota Statutes §256B.15, as amended, against the following predeceased spouse(s) of the decedent named in the application for this Certificate of Clearance  Yes     No

NAME OF DECEDENT	DATE OF BIRTH	DATE OF DEATH	AMOUNT OF CLAIM

Certificate of Clearance is subject to the attached condition or restriction (describe condition or restriction or indicate "none").

If a claim appears as indicated above, contact the following person at the County Agency to arrange for payment and satisfaction of the claim:

NAME OF CONTACT PERSON	TELEPHONE NUMBER/EMAIL ADDRESS

DIRECTOR/DIRECTOR'S DESIGNEE		
NAME OF COUNTY AGENCY		
STREET ADDRESS		
CITY	STATE	ZIP CODE

State of Minnesota,  
 County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (MONTH/DAY/YEAR), by  
 \_\_\_\_\_ (NAME OF SIGNER) as  
 \_\_\_\_\_ (INDICATE DIRECTOR OR DESIGNEE) of \_\_\_\_\_ County.

(Seal, if any)

\_\_\_\_\_  
 (SIGNATURE OF NOTARIAL OFFICER)

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
 (MONTH/DAY/YEAR)

THIS INSTRUMENT WAS DRAFTED BY:  
 (INSERT NAME AND ADDRESS)

RECORDER'S OFFICE: If a claim has been identified, the real property remains subject to the claim or lien as identified in Minn. Stat. 507.071, Subd. 23





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**TRANSFER ON DEATH DEED**  
**Statutory form**  
**Minn. Stat. 507.071**

**Minnesota Uniform Conveyancing Blanks**  
**Form 10.8.4 (2011)**

NO DEED TAX DUE  
pursuant to Minn. Stat. 287.22(15)

DATE: \_\_\_\_\_  
*(month/day/year)*

I (we) \_\_\_\_\_  
*(insert name of Grantor Owner or Owners and spouses, if any, with marital status designated)*

\_\_\_\_\_ (“Grantor(s)”),  
hereby convey(s) and quitclaim(s) to \_\_\_\_\_  
*(insert name of Grantee Beneficiary, whether one or more)*

\_\_\_\_\_ (“Grantee Beneficiary”), effective

- (check only one box)*  on the death of the Grantor Owner, if only one grantor is named above, or on the death of the last of the Grantor Owners to die, if more than one Grantor Owner is named above, or
- on the death of \_\_\_\_\_,  
*(insert name of Grantor Owner, must be one of the Grantor Owners named above)*

the following described real property:

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

**NOTE: Pursuant to Minn. Stat. 507.071, subd. 8, this deed must be recorded before the death of the Grantor Owner upon whose death the conveyance or transfer is effective.**

If checked, the following optional statement applies:

- When effective, this instrument conveys any and all interests in the described real property acquired by the Grantor Owner(s) before, on, or after the date of this instrument.

Grantor(s)

\_\_\_\_\_  
*(signature)*

\_\_\_\_\_  
*(signature)*

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
*(month/day/year)*

\_\_\_\_\_  
*(insert name and marital status of each grantor)*

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*







If checked, the following optional statement applies:

When effective, this instrument conveys any and all interests in the described real property acquired by the Grantor Owner before, on, or after the date of this instrument.

\_\_\_\_\_, the Grantor Owner's  
*(insert name of Grantor Owner's spouse)*  
spouse, joins in this transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the described real property to be conveyed or transferred by this transfer on death deed.

Grantor Owner

\_\_\_\_\_  
*(signature)*

Grantor Owner's Spouse

\_\_\_\_\_  
*(signature)*

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
*(month/day/year)*

\_\_\_\_\_  
*(insert names of Grantor Owner and Grantor Owner's spouse)*

\_\_\_\_\_, married to each other.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*





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**TRANSFER ON DEATH DEED**  
**by Married Grantor Owners Owning**  
**Property As Joint Tenants**  
**Minn. Stat. 507.071**

**Minnesota Uniform Conveyancing Blanks**  
**Form 10.8.3 (2011)**

NO DEED TAX DUE  
pursuant to Minn. Stat. 287.22(15)

DATE: \_\_\_\_\_  
*(month/day/year)*

\_\_\_\_\_  
*(insert names of both Grantor Owners)*

married to each other ("**Grantor Owners**"), hereby convey and quitclaim to

\_\_\_\_\_  
*(insert name of each Grantee Beneficiary)*

\_\_\_\_\_  
 ("**Grantee Beneficiary**"), effective  
on the death of the last of the Grantor Owners to die, real property in \_\_\_\_\_  
County, Minnesota, legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

**NOTE: This deed should be used only when the Grantor Owners are married to each other and own the real property as joint tenants. If the Grantor Owners are married to each other and own the real property as tenants in common, see Form 10.8.2.**

**Pursuant to Minn. Stat. 507.071, subd. 8, this deed must be recorded before the death of the Grantor Owner upon whose death the conveyance or transfer is effective.**

If checked, the following optional statement applies:

When effective, this instrument conveys any and all interests in the described real property acquired by the Grantor Owners before, on, or after the date of this instrument.

Grantor Owners

\_\_\_\_\_  
*(signature)*

\_\_\_\_\_  
*(signature)*

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
*(month/day/year)*

\_\_\_\_\_  
*(insert names of Grantor Owners)*

\_\_\_\_\_, married to each other.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*





(Top 3 inches reserved for recording data)

**TRANSFER ON DEATH DEED  
by Unmarried Grantor Owner  
Minn. Stat. 507.071**

**Minnesota Uniform Conveyancing Blanks  
Form 10.8.1 (2011)**

NO DEED TAX DUE  
pursuant to Minn. Stat. 287.22(15)

DATE: \_\_\_\_\_  
(month/day/year)

\_\_\_\_\_  
(insert name of Grantor Owner),  
an unmarried person ("**Grantor Owner**"), hereby conveys and quitclaims to \_\_\_\_\_

\_\_\_\_\_  
(insert name of each Grantee Beneficiary)  
\_\_\_\_\_  
 ("**Grantee Beneficiary**"),  
effective on the death of the Grantor Owner, real property in \_\_\_\_\_ County,  
Minnesota, legally described as follows:

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

**NOTE: This deed should be used only when the Grantor Owner is a single person. Pursuant to  
Minn. Stat. 507.071, subd. 8, this deed must be recorded before the death of the Grantor Owner.**

If checked, the following optional statement applies:

- When effective, this instrument conveys any and all interests in the described real property acquired by the Grantor Owner before, on, or after the date of this instrument.

Grantor Owner

\_\_\_\_\_  
*(signature)*

State of Minnesota, County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, by  
*(month/day/year)*

\_\_\_\_\_  
*(insert name of Grantor Owner)*

\_\_\_\_\_, an unmarried person.

(Stamp)

\_\_\_\_\_  
*(signature of notarial officer)*

Title (and Rank): \_\_\_\_\_

My commission expires: \_\_\_\_\_  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*