

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Transfer on Death – Non-probate Real Estate

WARNING

This Information Sheet is intended to provide you with a brief overview of the subject matter, effective as of the date noted in the upper left-hand corner. The law may have changed since that date. Additionally, this Information Sheet may not provide you with all information that you require to be fully informed of the law that is applicable to your case. Finally, this Information Sheet may not accurately describe the pertinent sections of the Ohio Revised Code. You should read those sections that are referenced. The Ohio Revised Code has a link on the Court's website. Additionally, you should consider reading those sections that are footnoted using "Page's Ohio Revised Code Annotated," which can be found at the Geauga County Law Library in the basement of the Courthouse at 100 Short Ct. Street, Chardon, Ohio 44024. Page's Ohio Revised Code Annotated also will provide you a summary of applicable court decisions (known as "case law"). While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case. You must decide how to best use the information provided, and whether you should seek legal advice from an attorney of your choosing on any question you have regarding this Information Sheet. In the footnotes you will see a reference such as "R.C. 5302.17." That refers to Ohio Revised Code Section 5302.17, which is found in R.C. Title 53, and in R.C. Chapter 5302.

Background

Sometimes persons jointly own real estate, with rights of survivorship.¹ Typically, such ownership is with a husband and wife regarding the family home. Additionally, a person may arrange to have his or her real estate transfer on death to one or more persons who survive by preparing a Transfer on Death Designation Affidavit and filing that affidavit with the county recorder's office where the real estate is located.² In either case, that real estate is not probate property.³ The purpose of this information sheet is to assist those persons entitled to receive title to such non-probate real estate by filing appropriate documents with the county auditor's office and the county recorder's office. In each case, the documents must be filed in the county where the real estate is located.

¹ A typical survivorship deed is a set forth in R.C. 5302.17. See also R.C. 5302.20

² See R.C. 5302.22 and 5302.23.

³ See the probate information sheet titled "Probate Process Overview."

Process for Real Estate Owned with Rights of Survivorship. The surviving co-owner should consider filing the following documents, although if the co-owner is deceased, then those documents may be filed by the estate representative of the second-to-die co-owner.

1. INITIAL STEPS

- a. Obtain Certified Copy of the Death Certificate
- b. Obtain a copy of the survivorship deed
- c. Make a separate copy of the legal description
- d. Arrange for payment of filing fees

2. DOCUMENT PREPARATION

- a. Prepare Affidavit of Surviving Spouse or Joint Survivorship
 - i. Attach copy of legal description
 - ii. Sign that affidavit before a notary public
- b. Prepare the Auditor's conveyance tax exemption form (DTE 100EX) titled "Statement of Reason For Exemption From Real Property Conveyance Tax"

3. DELIVERY OF DOCUMENTS; PAYMENT OF FILING FEES

- a. First - County Auditor's Office
 - i. Affidavit of Surviving Spouse or Joint Survivorship (Auditor will stamp it)
 - ii. Statement of Reason For Exemption From Real Property Conveyance Tax
 - iii. Certified Copy of the Death Certificate (Auditor needs to see it, but will return it for delivery to the County Recorder)
 - iv. Copy of the survivorship deed
 - v. Pay Filing Fee
- b. Then - County Recorder's Office
 - i. Stamped copy of the Affidavit of Surviving Spouse or Joint Survivorship
 - ii. Certified Copy of the Death Certificate
 - iii. Pay Filing Fee

Process for Real Estate with Transfer on Death Designation Affidavit.⁴ Typically the following documents are filed by a surviving “transfer on death” beneficiary.

1. INITIAL STEPS

- a. Obtain Certified Copy of the Death Certificate of Owner
- b. Obtain Certified Copy of the Death Certificate of any deceased “transfer on death” beneficiary
- c. Obtain a copy of the Transfer on Death Designation Affidavit
- d. Make a separate copy of the legal description
- e. Arrange for payment of filing fees

2. DOCUMENT PREPARATION

- a. Prepare the Affidavit of Confirmation
 - i. Attach copy of legal description
 - ii. Sign that affidavit before a notary public
- b. Prepare the Auditor’s conveyance tax exemption form (DTE 100EX) titled “Statement of Reason For Exemption From Real Property Conveyance Tax”

3. DELIVERY OF DOCUMENTS; PAYMENT OF FILING FEES

- a. First - County Auditor’s Office
 - i. Affidavit of Confirmation (copy of legal description attached)
 - ii. Statement of Reason For Exemption From Real Property Conveyance Tax
 - iii. Certified Copy of the Death Certificate
 - iv. Copy of the Transfer on Death Designation Affidavit
 - v. Pay Filing Fee
- b. Then - County Recorder’s Office
 - i. Stamped copy of the Affidavit of Confirmation
 - ii. Certified Copy of the Death Certificate of Owner

⁴ Carefully review R.C. 5302.222.

- iii. Certified Copy of the Death Certificate of deceased “transfer on death” beneficiary
- iv. Pay Filing Fee

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND THE DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, BE AWARE THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.