

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 an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background

Sometimes persons jointly own real estate, with rights of survivorship.¹ Moreover, a person may arrange to have his or her real estate transferred 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.

Process for Real Estate Owned with Rights of Survivorship. The surviving co-owner(s) 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

¹ A typical survivorship deed is 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."

- c. Make a separate copy of the legal description
- d. Arrange for payment of filing fees

2. DOCUMENT PREPARATION

- a. Prepare the "Affidavit of Surviving Spouse or Joint Survivorship," which is on the County Auditor's Website
 - i. Attach copy of legal description
 - ii. Sign that affidavit before a notary public
- b. Prepare the "Statement of Reason for Exemption From Real Estate Conveyance Fee (form DTE 100EX).

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 and give it back to you for delivery to the County Recorder) – (a copy is attached)
- ii. Statement of Reason For Exemption From Real Property Conveyance Tax (Auditor will keep it) – (a copy is attached)

1. Typically the appropriate exemption to be checked is 5(n).

- 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 if a named beneficiary has predeceased.
- 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 - (a copy is attached)
 - 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
 - iv. Affidavit of Confirmation (Auditor will stamp it and give it back to you for delivery to the County Recorder) – (a copy is attached)
 - v. Statement of Reason For Exemption From Real Property Conveyance Tax (Auditor will keep it) – (a copy is attached)
 1. Typically the appropriate exemption to be checked is 5(n).
 - ii. Certified Copy of the Death Certificate
 - iii. Copy of the Transfer on Death Designation Affidavit
 - iv. Pay Filing Fee

⁴ Carefully review R.C. 5302.222.

- b. Then - County Recorder's Office
 - i. Stamped copy of the Affidavit of Confirmation
 - ii. Certified Copy of the Death Certificate of Owner
 - 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 GAUGA 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.

STATE OF OHIO
COUNTY OF GEAUGA

**AFFIDAVIT OF SURVIVING SPOUSE
OR JOINT SURVIVORSHIP
O.R.C. 5302.17**

_____, being first duly sworn, deposes and says:

1) That she/he _____ and _____ are joint owners of property under a duly recorded survivorship or tenancy by entireties deed.

2) Said property is known as _____,
Street Address
_____, Geauga County, State of Ohio, and is further
Township/Village
described as Permanent Parcel # _____ on the records of the Geauga County Auditor. A full legal description of said property is stated in the survivorship or entireties deed which is recorded in the records of the Geauga County Recorder in Volume _____, Page _____, and a copy of the legal description which is attached hereto.*

3) That _____ died on or about _____, 2____, at _____, _____, and said certificate of death is attached hereto.

4) That by virtue of the death of the party listed in Item #3 above, she/he is the fee simple owner of the above described property.

*Excepting:

Sworn to and subscribed before me this _____ day of _____, _____.

Notary Public

Prepared by: _____

Address: _____

Statement of Reason for Exemption From Manufactured and Mobile Home Conveyance Fee

DTE
100M(EX)
Rev. 2/14

Ohio Revised Code section 319.202 and 319.54(G)(3)

Type or print all information.

FOR COUNTY AUDITOR'S USE ONLY

Tax list year _____	County number _____	Tax district number _____	Date _____
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Home located in _____ taxing district

Name on tax duplicate _____ Tax duplicate year _____

Description of home: Year mfg. _____ Certificate of title number _____

Make _____ Serial number _____ Registration number _____

Number
Neigh. Code
Value

Following Must Be Completed By Grantee or Grantee's Representative

1. Grantor's (seller's) name _____ Phone _____
2. Grantee's (buyer's) name _____ Phone _____
Grantee's address _____
3. Address of home before transfer _____
4. Address of home after transfer _____
5. Tax billing address _____
6. No conveyance fees shall be charged because the house is transferred:
 - _____ a) to or from the United States, this state or any instrumentality, agency or political subdivision of the United States or this state.
 - _____ b) solely in order to provide or release security for a debt or obligation.
 - _____ c) to evidence a gift, in any form, between husband and wife, or parent and child, or the spouse of either.
 - _____ d) on sale for delinquent taxes or assessments.
 - _____ e) pursuant to court order, to the extent that such transfer is not the result of a sale effected or completed pursuant to such order.
 - _____ f) pursuant to a reorganization of corporations or unincorporated associations or pursuant to the dissolution of a corporation, to the extent that the corporation conveys the property to a stockholder as a distribution in kind of the corporation's assets in exchange for the stockholder's shares in the dissolved corporation.
 - _____ g) by a subsidiary corporation to its parent corporation for no consideration, nominal consideration or in sole consideration of the cancellation or surrender of the subsidiary's stock.
 - _____ h) by lease, unless the lease is for a term of years renewable forever.
 - _____ i) when the value of the home or interest in home conveyed does not exceed \$100.
 - _____ j) of an occupied home being transferred to the dealer of a new home when the former home is traded as part of the consideration for the new home.
 - _____ k) to a grantee other than a manufactured or mobile home dealer, solely for the purpose of and as a step in, its prompt sale to others.
 - _____ l) to or from a person when no money or other valuable and tangible consideration readily convertible into money is paid or to be paid for the home and the transaction is not a gift.
 - _____ m) to a trustee acting on behalf of minor children of the deceased.
 - _____ n) of property sold to a surviving spouse pursuant to Ohio Revised Code section (R.C.) 2106.16.
 - _____ o) to or from an organization exempt from federal income under Internal Revenue Code section 501(c)(3), provided such transfer is without consideration and is in furtherance of the charitable or public purpose of such organization.
 - _____ p) among the heirs at law or devisees, including a surviving spouse of a common decedent, when no consideration in money is paid or to be paid for the home.
 - _____ q) to a trustee of a trust, when the grantor of the trust has reserved an unlimited power to revoke the trust.
 - _____ r) to the grantor of a trust by a trustee of the trust, when the transfer is made to the grantor pursuant to the exercise of the grantor's power to revoke the trust or to withdraw trust assets.
 - _____ s) to the beneficiaries of a trust if the fee was paid on the transfer from the grantor of the trust to the trustee or pursuant to trust provisions that became irrevocable at the death of the grantor.
 - _____ t) to a corporation for incorporation into a sports facility constructed pursuant to R.C. section 307.696.
7. Has the grantor indicated that this property is entitled to receive the senior citizen, disabled person or surviving spouse homestead exemption for the preceding or current year? Yes No If yes, complete DTE 101.
8. Application for owner-occupancy (2.5% on qualified levies) reduction. (**Notice:** Failure to complete this application prohibits the owner from receiving this reduction until another proper and timely application is filed.) Will this property be grantee's (buyer's) principal residence by Jan. 1 of next year?
 Yes No

I declare under penalties of perjury that this statement has been examined by me and to the best of my knowledge and belief it is a true, correct and complete statement.

Signature of grantee or representative

Date

Instructions to Grantee (Buyer) or Representative for Completing Statement of Reason for Exemption From Manufactured and Mobile Home Conveyance Fee, DTE 100M(EX)

Complete lines 1 through 8.

WARNING: All questions must be completed to the best of your knowledge to comply with Ohio Revised Code section (R.C.) 319.202. Persons willfully failing to comply or falsifying information are guilty of a misdemeanor of the first degree (R.C. section 319.99(B)).

NOTE: This form only applies to the transfer of manufactured or mobile homes where (i) the grantor is not a new manufacturer or mobile home dealer or (ii) the grantor is a new manufacturer or mobile home dealer, but the home was previously titled to an owner who was not a new manufacturer or mobile home dealer.

- Line 1** List grantor's (seller's) name as shown on the title conveying this home.
- Line 2** List grantee's (buyer's) name as shown on the title conveying this home and the grantee's mailing address.
- Line 3** List address of home before this transfer by street number and name.
- Line 4** List address of home after this transfer (address to which buyer will relocate this home if it is relocated).
- Line 5** List complete name and address to which tax bills are to be sent. **CAUTION:** Each property owner is responsible for paying the property taxes on time even if no tax bill is received.
- Line 6** Check one of the exemptions – (a)-(t) – as appropriate. Keep in mind that a county auditor may inspect any and all documents in connection with the submission of a conveyance to determine whether the transfer is entitled to exemption. The auditor may exercise that discretionary power by requiring additional information in the form of affidavits, deeds, trust documents, purchase agreements, closing statements, court orders, resolutions from corporate boards of directors, articles of incorporation, Internal Revenue Service exemption certificates, or in any other form deemed necessary by the auditor that sufficiently substantiates the claim for exemption.
- Line 7** If the grantor (seller) has indicated that the home to be conveyed will receive the senior citizen, disabled person or surviving spouse homestead exemption for the current tax year under R.C. section 4503.065, grantor (seller) must complete DTE form 101 or submit a statement that complies with the provisions of R.C. section 319.202(A)(2), and the grantee (buyer) must submit such form to the county auditor along with this statement.
- Line 8** Complete line 8 (application for owner occupancy – 22% reduction on qualified levies) only if the parcel is used for residential purposes. To receive the owner occupancy tax reduction for next year, you must own and occupy your home as your principal place of residence (domicile) on Jan. 1 of that year. A homeowner and spouse may receive this reduction on only one home in Ohio. Failure to complete this application prohibits the owner from receiving this reduction until another proper and timely application is filed.

STATE OF OHIO
COUNTY OF GEAUGA

AFFIDAVIT OF CONFIRMATION
ORC 5302.222

_____,
Name Address

being first duly sworn deposes and says:

1) That _____ and
(name and address)

(name and address)

is/are surviving designated transfer on death beneficiary(ies) of property under a duly recorded transfer on death beneficiary affidavit.

2) Other designated transfer on death beneficiaries who did not survive the Grantor is/are: _____; a certified copy of his/her/their death certificate(s) are attached hereto;

3) Said property is known as _____

_____, Geauga County, State of Ohio, and is further described as permanent parcel # _____ on the records of the Geauga County Auditor. A full legal description of said property is stated in the transfer on death affidavit which is recorded in the records of the Geauga County Recorder in Volume _____, Page _____, and a copy of the legal description which is attached hereto*. (If beneficiary is a trustee, attach copy of trustee affidavit.)

4) That the Grantor, _____ died on or about _____, 2_____, at _____, _____; and a certified death certificate is attached hereto.

5) That by virtue of the death of the party listed in Item #4 above, those listed in Item #1, above, is/are the fee simple owner(s) of the above described property.

*Excepting

Sworn to and subscribed before me this _____ day of _____, _____

Notary Public