

## **Good Deeds - Frequently Asked Questions**

### **Franklin County Probate Court**

#### **What is a Payable on Death (POD) designation?**

Single or married people who have bank accounts can add Payable on Death (POD) beneficiaries to the bank account at NO COST. All you need are the names, addresses, dates of birth, and social security numbers of the beneficiaries. The bank that holds the account can then add the POD beneficiaries. The beneficiaries cannot access the bank account until the original account holder dies.

Upon death, the money in the POD account is paid directly to the POD beneficiaries upon presentation of the death certificate of the original account holder. Without a POD designation, any heirs must wait until the original account holder's estate is administered in probate court before they can receive the money.

#### **Can I declare my wishes for my remains after I die?**

Yes. You may do so by completing the [State of Ohio's Declaration for Funeral Arrangements \(Disposition of Bodily Remains\)](#).

#### **If I designate someone as my beneficiary, can I later change it to someone else?**

Yes. A person with legal capacity may change their designated beneficiary or beneficiaries at any time.

#### **What happens if my beneficiary passes away before me?**

If a designated beneficiary passes away before you, the asset in question will become a probate asset upon your death. Therefore, to avoid probate, you will need to designate another beneficiary.

#### **What can I do about accounts, stocks, and other financial assets?**

Most financial accounts can be held jointly with rights of survivorship. Accounts held jointly can be accessed by either named owner. Upon the death of one owner, the account automatically becomes the sole property of the other named owner. Each financial institution will have their own rules for making accounts joint.

Most financial institutions will have their own internal rules for designating a “Payable on Death” beneficiary to an account. Bank accounts with a Payable on Death designation are not probate assets.

Owners of stocks held in mutual funds, individually owned stocks, bonds, and CDs can have a “Transfer on Death” destination placed on the asset by reaching out to the issuer and following the internal procedure of the issuer.

Most long-term investment accounts and insurance policies allow the owner to name a beneficiary upon their death. Failure to name a beneficiary, or naming a beneficiary who dies before the owner means that the account/policy default to being payable to the owner’s estate upon their death. Any asset which is part of the owner’s estate must go through probate court to be distributed.

### **What is the difference between a Living Will and a Last Will and Testament?**

Both are important tools to ensure your wishes are carried out.

A Last Will and Testament is a legal document that states what a person wishes to have happen to their property after their death. A Last Will and Testament does not have any power until it is probated after death.

A Living Will is a legal document that states a person’s wishes about end-of-life care if they are unable to make these decisions due to certain medical conditions. Living Wills are often presented alongside Healthcare Power of Attorney forms in Living Will Packets.

A Healthcare Power of Attorney (HCPOA) allows a person to appoint an agent to make all medical decisions for them if they are not able to make decisions for themselves. Living Wills and HCPOAs stop having any power once you die.

[Living Will packets are available for download at the Franklin County Recorder’s Office website](#) and can be recorded at our office for \$40 to ensure easy access and safekeeping. The Living Will Packet contains three legal forms: the Living Will form (as described above), a Health Care Power of Attorney (HCPOA) form, and an Organ Donation Registry form.

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## **Franklin County Clerk of Courts**

### **My spouse is deceased; how do I transfer the title into my name?**

Submit the Certificate of Title, a certified copy of the death certificate, surviving spouse affidavit (BMV 3773), and an acceptable form of identification to any Clerk of Courts Title Office. There is no limit to the number of automobiles you can transfer; however, the combined value of these automobiles cannot exceed \$65,000. In addition, you may transfer a watercraft and motor by surviving spouse.

### **What happens if my automobile value exceeds \$65,000?**

If your automobile(s) value exceeds \$65,000, additional vehicles must be considered part of the estate and probated.

### **Can I dispute the value of my automobiles?**

The vehicle amount is based on the current market value and is provided by the surviving spouse. The Clerk of Courts does not determine the automobile values. The surviving spouse attests to the vehicle value when completing the surviving spouse affidavit.

### **What is not considered an automobile?**

Vehicles not considered as automobiles include recreational vehicles (RV) or any motor vehicle not used for daily conveyance (i.e., a bus (BU) or commercial truck).

### **How can I add a beneficiary to my Certificate of Title?**

An individual as sole owner, or joint ownership with right of survivorship, may elect to designate a beneficiary or beneficiaries to an Ohio title. The beneficiary may be an individual, a corporation, an organization, a trust, or other legal entity.

A Transfer on Death Beneficiary Designation/Removal Affidavit (BMV 3811) must be completed with the beneficiary's full name, address, social security number and date of birth. The form must be signed by the owner(s) and notarized. The original Ohio title (unless previously electronic), the affidavit designating the beneficiary, and an application for title are then submitted to the title office and a replacement title is issued.

The designation of a beneficiary on a certificate of title has no effect on the ownership until the death of the owner(s). Upon the death of the owner(s), the beneficiary submits the title (unless electronic), a certified copy of the death certificate, and proper identification to apply for a title in their name.

### **Do I have to be related to the beneficiary I am noting on my title?**

No, you do not have to be related to the beneficiary you are noting on your title.

### **How to Add “With Rights of Survivorship” to a Certificate of Title?**

A vehicle can be titled to two owners jointly With Rights of Survivorship (WROS). For example, the title can be issued to: John Doe and Mary Smith (WROS). While both parties are living, both signatures are required. When one of the parties passes away, the survivor may bring the title, a copy of the death certificate, and proper identification to transfer the title to the survivor.

### **How do I update my title?**

You can update your vehicle title by visiting [one of four Auto Title locations in Franklin County](#) or by mailing your documents with payment to:

*Franklin County Clerk of Courts  
Auto Title Division  
45 Great Southern Boulevard  
Columbus, OH 43207*

*\*Please include a stamped and self-addressed envelope*

*\*\* Please call the Clerk of Courts Auto Title help line (614.525.3090) to determine fees*

*\*\*\*Only checks and money orders are accepted via mail. Make checks payable to “Franklin County Clerk of Courts.”*

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## **Franklin County Recorder's Office**

### **What is the difference between a Joint/Survivorship Deed and a Transfer on Death designation Affidavit?**

A Joint/Survivorship Deed automatically transfers ownership of the property to the next owner listed (or is split amongst the remaining owners) once one of the owners die.

A Transfer on Death (TOD) Affidavit is a legal document that transfers property directly to the designated beneficiary (or beneficiaries). Beneficiaries do **not** have ownership until after the original owners die.

### **If I create a Transfer on Death (TOD) designation Affidavit, do the beneficiaries have ownership over my property?**

No. TOD Affidavits do not transfer ownership to beneficiaries until after the original owners die.

### **What is the difference between real property and personal property?**

Real property refers to land – including all the structures, fixtures, and rights associated with the land itself<sup>1</sup>. Personal property refers to any type of moveable object or intangible asset of value<sup>2</sup>. Survivorship Deeds only apply to real property.

*Source:*

*1 [https://www.law.cornell.edu/wex/real\\_property](https://www.law.cornell.edu/wex/real_property)*

*2 [https://www.law.cornell.edu/wex/personal\\_property](https://www.law.cornell.edu/wex/personal_property)*

### **How do I prepare a document to be recorded?**

*\*County employees cannot offer legal advice, so it is best practice to consult an attorney and/or a licensed title agency before preparing a document to be recorded.*

For more information on the *process* of recording a document with the office, please visit the "[Recording Your Real Estate Documents](https://recorder.franklincountyohio.gov/Services/Real-Estate)" page on the Franklin County Recorder's website (<https://recorder.franklincountyohio.gov/Services/Real-Estate>).

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### **Does the Recorder's Office supply blank forms if I want to prepare my own documents?**

No, the Franklin County Recorder's Office does not supply blank legal forms. You may visit the [Franklin County Law Library](#) to find blank legal forms regarding Joint/Survivorship Deeds and Transfer on Death (TOD) designation Affidavits.

### **What is the difference between a General Warranty Deed and a Limited Warranty Deed**

General Warranty Deeds offer a higher level of protection for the property's title against liens - including liens that existed before the seller's ownership. They are often used in traditional (residential) real estate transactions.

Limited Warranty Deeds offer more limited protections against liens. The seller is only responsible for title issues that occurred when they were the owner, not the full chain of title. Limited Warranty Deeds are often used in commercial real estate transactions.

### **What is a Quitclaim Deed?**

Quitclaim Deeds offer NO guarantees or warranties regarding title quality. They are often used to quickly transfer properties among sellers who know each other (i.e., among family members, in divorce settlements, or to clear up property ownership questions).

### **What is a Fiduciary Deed?**

A Fiduciary Deed is used when real property is being transferred by a fiduciary, such as an executor of an estate or a trustee. The fiduciary is relieved of liability for title defects.

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If you have additional questions, please feel free to contact the appropriate office:

**Franklin County Probate Court**

(614)-525-3894

[Probate@franklincountyohio.gov](mailto:Probate@franklincountyohio.gov)

**Franklin County Clerk of Courts Office**

(614)-525-3090

[Email via Contact Form](#)

**Franklin County Recorder's Office**

(614)-525-3930

[Recorder@FranklinCountyOhio.gov](mailto:Recorder@FranklinCountyOhio.gov)