

THE ALERT

THE ALERT is the newsletter of
The Older Persons Law Office of The Legal Aid Society of Cleveland
1223 West Sixth Street, Cleveland, OH 44113
Phone: 216-687-1900, Extension 479—Fax: 216-687-0779
Web Site: www.lasclev.org

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Transfer on Death Deed Is a Great Idea for Some; But Sometimes It May Not Be the Best Choice

A few issues ago, we told you about the new Transfer on Death Deed (TOD Deed) law enacted by the Ohio Legislature.

We have had many calls since that article appeared—some from seniors for whom the TOD Deed is not advisable.

First we will review what the TOD Deed is and then we'll tell you of some situations when it may not be the wisest choice.

The TOD Deed allows you to keep title to your home during your lifetime and to name the person or persons you want to get it after your death. You name your beneficiary or beneficiaries in the deed itself.

The transfer of the property becomes effective only after you die.

With the new deed, the person or persons named to get the property after your death need only file an affidavit with the county recorder and produce a death certificate to have the property put in their name or names.

If you change your mind about who should get the property, you can simply have another deed written to name another person to get it.

If you name two people and one dies, the property goes to the one still living. Or, if you like, you can name a

IN THIS ISSUE

Transfer on Death Deed Is a Great Idea for Some; But Sometimes It May Not Be the Best Choice	1
Don't Forget to Apply for Reduction in Your Real Estate Taxes	2
Spring Brings out Fly-by-Night Lenders; Here's How to Avoid Doing Business with Them	3
Legal Aid Opens Low Income Taxpayer Clinic to Help Resolve Disputes with Internal Revenue Service	4
You Can Get Help with Home Heating Bills	4
Uncle Sam May Be Writing to You	4
Senior Citizen Centers and Legal Aid Offices.....	5

contingent beneficiary who gets the property if the original beneficiary dies.

The TOD Deed is an easy way to get property transferred after death and to avoid probate.

However, it may NOT be advisable in some situations.

For instance, if you already have a deed with your spouse that says “deed by the entireties” or “joint and survivorship deed,” it may be best to do nothing. Generally, we believe the best way for a couple to hold property is with a “joint and survivorship” deed.

After one spouse dies, the survivor may want to consider whether to do a TOD deed.

A situation in which we would recommend **against** the new type deed, for example, is if you are a widow with four children who are named as your TOD beneficiaries. If one child dies before you do and you have not changed your TOD Deed, the result may not be what you intend. The property will go to the three living children, but the children of your deceased child will get no share of the property if you did not name them as contingent beneficiaries.

Of course, you can name all of your grandchildren as contingent beneficiaries, but you would have to do a new deed each time a grandchild is born.

We generally do not recommend a TOD Deed if you have more than two children unless there are NO grandchildren and there won't be any—a difficult thing to predict. The more names you add to the TOD Deed, the more complicated the situation could become.

Unless a TOD Deed is carefully prepared, it could end up not reflecting your wishes. **It may be best to handle some matters in your Will.**

There are many ways to transfer property and many considerations. Each way has its good points and drawbacks. You need to clearly understand your options and determine your goals before you make such an important decision.

You should consult an attorney if you are considering a deed change.

If you can't afford an attorney or for more information about TOD Deeds or other deeds, phone The Legal Aid Society's Senior Helpline at 216-687-1900, Extension 479, between the hours of 1 and 4:30 p.m. on Tuesdays, Wednesdays or Thursdays.

Don't Forget to Apply for Real Estate Tax Reduction

You have until June 4, 2001 to apply for a homestead exemption to get a reduction in your real estate taxes.

To qualify you must be at least 65 years of age or totally and permanently disabled. You must have owned and occupied your home as of January 1, 1001. The combined income of you and your spouse must be \$23,700 or less.

If you have qualified in the past, you should have received a renewal form by mail. For renewals, you don't include Social Security cost of living increases in your income. For information, phone the county auditor's office at 216-443-7050.