

THE EASIEST WAY TO UNDERSTAND

Transfer-on-Death Deed vs. Revocable Trust

An informational comparison of two estate-planning tools that may be used to transfer property outside formal probate

At a glance

A transfer-on-death deed gives instructions for transferring a specifically identified piece of real estate at the owner's death. A revocable living trust can hold and provide instructions for multiple types of property during the creator's lifetime, incapacity, and after death.

How a transfer-on-death deed works

A transfer-on-death deed, commonly called a TOD deed or beneficiary deed, identifies who is to receive the owner's interest in specified real estate when the owner dies. Availability, eligible property, signing requirements, recording deadlines, beneficiary rules, and post-death procedures depend on state law.

While the owner is living:

- The beneficiary does not receive a present ownership interest solely because the TOD deed was recorded.
- The owner generally retains the ability to occupy, sell, mortgage, refinance, or otherwise manage the property.
- The owner may revoke or replace the TOD deed by following the applicable state procedure.
- The owner remains responsible for the mortgage, taxes, insurance, liens, and maintenance.

After the owner dies:

- The beneficiary completes the documents required by state law to establish the owner's death and update the title records.
- The beneficiary receives only the ownership interest that the deceased owner held.
- Mortgages, liens, and other valid property interests generally remain attached to the property.
- Creditor claims, heir-notice requirements, tax filings, title procedures, and challenges may still apply even though formal probate is avoided.

How a revocable living trust works

A revocable living trust is a legal arrangement under which a trustee holds and manages property according to written trust instructions. The person creating the trust commonly serves as the initial trustee and retains the power to amend or revoke the trust while living and competent.

- Real estate may be transferred to the trust by recording a deed from the owner to the trustee of the trust.
- Bank accounts, investment accounts, business interests, and personal property may also be connected to the trust through the appropriate title, assignment, or account procedure.
- A successor trustee may be authorized to manage trust property if the creator becomes incapacitated.
- After death, the successor trustee administers properly funded trust property under the trust instructions, generally without formal probate.
- Property left outside the trust remains subject to its own title, beneficiary designation, or probate rules.

Characteristics shared by both arrangements

- Both may be changed or revoked during the owner's lifetime when the applicable requirements are satisfied.
- Both may transfer covered property outside formal probate when the document is valid and the ownership records are properly coordinated.
- Neither generally gives the future beneficiary an immediate right to control the property during the owner's lifetime.
- Neither eliminates mortgages, liens, taxes, valid creditor rights, or post-death administrative requirements.
- Either arrangement may be challenged in court when validity, capacity, undue influence, ownership, or interpretation is disputed.

What neither document does automatically

- Neither replaces financial and healthcare powers of attorney or advance healthcare instructions.
- Neither changes the beneficiary designation on life insurance, retirement accounts, or other contract-based assets.
- Neither controls property that is not legally covered by the deed, title, assignment, or trust funding process.
- Neither guarantees that no court proceeding will ever be required.

TOD deed and revocable trust comparison

Feature	Transfer-on-death deed	Revocable living trust
Primary function	Transfers the owner's interest in specifically identified real estate at death.	Holds and provides instructions for property transferred or assigned to the trust.
Probate treatment	The designated real estate generally transfers outside formal probate if the deed is valid and effective.	Properly funded trust property is generally administered outside formal probate.
Property covered	Only the real estate interest described in the deed and permitted by state law.	May include real estate, financial accounts, business interests, and personal property when properly funded.
Control during life	The owner retains control; the beneficiary ordinarily receives no present interest.	The creator commonly serves as trustee and retains control while living and competent.
Revocability	May be revoked or replaced by following state recording and execution rules.	May generally be amended or revoked while the creator is living and competent.
Incapacity management	Does not itself appoint someone to manage the property during the owner's incapacity.	May authorize a successor trustee to manage trust property during incapacity.
Distribution instructions	Transfers the property interest to the named beneficiary under the deed and applicable law.	May contain detailed instructions for sale, continued ownership, use, management, or staged distributions.
Multiple beneficiaries	State law and the deed determine the permitted shares and form of co-ownership.	The trust may specify shares, alternate beneficiaries, management rules, and conditions.
Minors or protected beneficiaries	An outright transfer to a minor may require a guardianship, custodial arrangement, or other legal procedure.	Property may remain in trust and be managed under the stated terms for a minor or other beneficiary.
Successor beneficiary planning	Options depend on the state's TOD deed statute and the wording permitted in the deed.	The trust may name multiple levels of successor and contingent beneficiaries.
Creditor and lien issues	Liens remain, and state law may impose liability on the beneficiary for certain estate debts.	Trust property remains subject to applicable debts, expenses, creditor rights, and administration rules.
Post-death administration	The beneficiary completes title, notice, tax, and affidavit procedures required by state law.	The successor trustee identifies assets, sends required notices, handles expenses and taxes, accounts, and distributes or continues the trust.
Coordination requirement	Must be coordinated with the current deed, co-ownership, will, trust, and other property instructions.	Must be funded and coordinated with deeds, account titles, beneficiary designations, and the pour-over will.

California transfer-on-death deed information

The following points describe California's revocable transfer-on-death deed law. They should not be applied to property located in another state.

Eligible property

California limits the statutory TOD deed to specified residential property categories, including certain property containing one to four residential dwelling units, condominium units, and certain agricultural property of 40 acres or less containing a single-family residence.

Execution and recording

- The deed must substantially follow California's statutory requirements.
- The transferor must sign and date the deed, acknowledge it before a notary, and satisfy the applicable witness requirements.
- The deed must contain an accurate legal description of the property.
- The deed is ineffective unless recorded within 60 days after the date it was acknowledged before the notary.
- A co-owner who wants to make a TOD designation generally records a separate deed for that co-owner's interest.

Effect during life

The deed does not transfer a present ownership interest to the beneficiary. The transferor may revoke it, record a later effective TOD deed, or transfer the property through another valid recorded instrument, subject to the governing rules.

Post-death steps

- A beneficiary must provide the notices to legal heirs required by California law.
- An affidavit of death, death certificate, and related ownership documents are recorded with the county recorder.
- A Preliminary Change of Ownership Report and any other required assessor or tax documents may be required.
- The beneficiary takes the property subject to existing liens and may have statutory responsibility for certain unsecured debts of the deceased owner.

Title coordination	A TOD deed operates according to the title held at death and the governing statute. Joint tenancy, community property with right of survivorship, later deeds, trust ownership, and other recorded instruments can affect which transfer controls.
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Information to review for either arrangement

- The exact name and legal description shown on the current deed
- How title is presently held, including any joint ownership or survivorship rights
- Mortgages, liens, property-tax rules, and insurance requirements
- The intended beneficiary's age, capacity, and ability to receive or manage property
- Alternate instructions if a beneficiary dies before the owner
- Coordination with the will, trust, powers of attorney, and account beneficiary designations
- The law of the state where the real estate is located

Educational notice

This guide provides general educational information and a California-specific statutory summary. It does not create an attorney-client relationship, interpret a particular deed or trust, or provide legal or tax advice. The validity and effect of any deed or trust depend on the document, title records, property location, family circumstances, and current law.

Public sources

- [California Courts - Wills, estates, and advance care planning](#)
- [California Probate Code - Revocable Transfer on Death Deeds](#)
- [California Probate Code Section 5626 - Recording deadline](#)
- [Sacramento County Public Law Library - Post-death TOD deed steps](#)
- [American Bar Association - Wills and Revocable Trusts](#)