Drafting for Transfer on Death Instruments

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Basic Requirements of the Act

Nature of Transfer on Death Instruments

- A Transfer on Death Instrument (TODI), properly drafted, properly executed, properly recorded, and properly accepted will transfer title to residential real estate, as defined, to one or more beneficiaries, concurrently or successively, and upon any contingency, effective at the owner's death without the need for probate.
Effective Date of Transfer

- Section 75
  - The transfer is effective as of the owner’s date of death, but not complete until the beneficiary files a Notice of Death Affidavit and Acceptance in the office of the Recorder of Deeds.

Applicability

- Residential Real Estate
  - Real property improved with one but not more than four dwelling units.
  - Units in residential cooperatives.
  - Condominium units, together with appurtenant limited common elements.
  - Single tract of agricultural land consisting of 40 acres or less, which is improved with a single family residence.

Eligibility

- An owner must be a natural person, age 18 or older, with a mental capacity the same as that required to execute a will.
- A beneficiary may be any individual or legal entity capable of owning real estate, such as a trust, corporation, partnership, limited liability company, or charitable/governmental entity.
Beneficiary

- **Beneficiary**
  - Any person who receives residential real estate under a TODI.

- **Designated Beneficiary**
  - The person specifically designated in the TODI to receive the residential real estate under a TODI.

TODI Form and Filing Requirements

- **Section 40**
  - TODI must contain the essential elements and formalities of a recordable deed.
  - TODI must be executed, witnessed, and acknowledged in compliance with Section 45.

- TODI must state that the transfer to the designated beneficiary is to occur at the owner’s death.
- TODI must be recorded before the owner’s death in the office of the Recorder of Deeds for the county in which the property is located.
**TODI Execution Formalities**

- **Section 45**
  - TODI must be signed by the owner or by someone in owner’s presence and at the owner’s direction.
  - TODI must be attested to by two (2) credible witnesses who attest in writing that on the date of the instrument the owner signed in their presence as the owner’s free and voluntary act, and that they believe the owner to be of sound mind and memory.
  - Signatures of witnesses and owner must be acknowledged by a notary public.

**Effect of TODI During Owner’s Lifetime**

- **Section 60**
  - TODI does not affect the right of the owner to sell or encumber the property.
  - TODI does not affect any transferee, mortgagee, or lienholder, regardless of any notice of the TODI, actual or constructive.

- **Section 60**
  - Beneficiaries have no legal or equitable interest in the property during owner’s lifetime.
  - Creditors of the beneficiaries cannot reach the property while owner is alive.
  - All persons dealing with the property during the owner’s lifetime can disregard any TODI on file.
Effect of TODI at the Time of Owner’s Death

Provided the owner still owned the property at the time of his death and TODI was recorded prior to death, the following rules will apply:

– Notice of Death Affidavit and Acceptance – Section 75
  • Transfer to designated beneficiary is effective at owner’s death, but not complete until the beneficiary files a Notice of Death Affidavit and Acceptance.

Effect of TODI at the Time of Owner’s Death

Provided the owner still owned the property at the time of his death and TODI was recorded prior to death, the following rules will apply:

– Effect of Acceptance on Beneficiary’s Title – Section 65
  • If accepted, beneficiary takes title subject to all liens and encumbrances affecting title at the time of the owner’s death.

Effect of Beneficiary’s Death, Disclaimer, or Non-Acceptance

Unless the TODI States Otherwise:

– Predeceased Beneficiary
  • If the designated beneficiary predeceases the owner or is not in existence at the time of the owner’s death, then the property will pass to the owner’s estate with one exception.

– Anti Lapse Exception
  • If the designated beneficiary either alone or as a member of a class of designated beneficiaries was a descendant of the owner, and dies leaving descendants surviving at the time of the owner’s death, then the property will pass to the designated beneficiary’s descendants on a per stirpital basis. Section 65(a) (3).

– Simultaneous Death
  • If beneficiary and owner die simultaneously without sufficient medical evidence of the order of their deaths, beneficiary is deemed to have predeceased the owner. Section 65 (d).

– Disclaimers
  • Beneficiary may disclaim all or part of the beneficiary’s interest as provided in the Disclaimer Under Nontestamentary Instrument Disclaimer Act.
Effect of Beneficiary’s Death, Disclaimer, or Non-Acceptance

- **Non-Acceptance:**
  - Failure to accept is not the same as a disclaimer. If the beneficiaries fail to accept within two years of the owner’s death the TODI is void and ineffective, and property passes to the owner’s estate.
  - If some beneficiaries, but not all, fail to accept within two (2) years of the owner’s death, the statute is not clear as to what happens to the interest of the beneficiaries who do not accept.
  - As to those who do accept, their proportionate interest vests in the property as of the owner’s date of death.
  - If the TODI is silent as to what happens, then an action to quiet title may be required.

Effect of Beneficiary’s Death, Disclaimer, or Non-Acceptance

- **Non-Acceptance by Any Beneficiary within 30 Days:**
  - If no beneficiary steps forward within 30 days and files an acceptance, personal representative of owner’s estate, if any, may take possession of property under Section 20-1 of the Probate Act. If a beneficiary later files an acceptance, PR is entitled to a lien on the real estate for the reasonable costs and expenses incurred while managing and caring for the property, provided PR made a reasonable attempt to notify the beneficiaries of the owner’s death.

Revocations

- **Section 55**
  - TODI is revocable at any time prior to owner’s death, even if it or another instrument contains a contrary provision. Section 25.
  - TODI can be revoked in only one of the following ways:
    - a recorded instrument that specifically revokes a prior TODI; or
    - a subsequent TODI, which expressly or by inconsistency revokes all or a part of a prior TODI.
Revocations

- Section 55
  - TODI cannot be revoked by tearing, burning, destroying, or by a provision in a will, or by an unrecorded instrument.
  - Instrument revoking TODI must be executed, attested, and acknowledged in the same manner as a TODI and must be recorded before the owner’s death.
  - Ademptions and Executory Contracts.

Special Rules – Joint Tenant

- Section 70 – Joint Tenants with Right of Survivorship and Tenants by the Entirety
  - If all joint tenants make TODI, it requires all joint tenants then living to revoke.
  - If less than all joint tenants make a TODI, the TODI of the last surviving joint tenant to die controls.

Special Rules – Joint Tenant

- Section 70 – Joint Tenants with Right of Survivorship and Tenants by the Entirety
  - If last surviving joint tenant to die did not make a TODI, the fact that a prior deceased joint tenant did make a TODI is immaterial.
  - If all joint tenants make different TODIs, the TODI of the last joint tenant to die controls.
  - A TODI by one joint tenant will not sever the joint tenancy or tenancy by the entirety.
Statute of Limitations

- **Section 90**
  - Any action to set aside or contest the validity of the TODI must be filed within the earlier of:
    - two years after the date of the owner’s death; or
    - six months after the date letters of office are issued.

Creditor Claims and Statutory Claimants

- **Section 85**
  - Statute gives creditors and statutory claimants the same rights against TODI as any nontestamentary disposition.
  - Generally, non-probate assets are not subject to the claims of probate creditors and statutory claimants.

Illinois Frauds Act

- **740 ILCS 80/10-14 et seq.**
  - Old statute makes the transfer of real estate at death by "wills, limitations, dispositions, or appointments of, or concerning any lands and tenements" fraudulent as to the owner’s creditors if the decedent’s personal estate is insufficient to satisfy the claims of creditors.
  - The burden is on creditor to prove decedent’s personal estate is insufficient.
Illinois Frauds Act

- 740 ILCS 80/10-14 *et seq.*
  - Action must be brought within two years or six months after notice of claims published in accord with Probate Act.
  - A *bona fide* purchaser for value takes title free and clear of a creditor's claim.

Document Preparation

Drafting TODI

First

- Is this the best vehicle to transfer the real estate at the owner's death, considering minors or disabled beneficiaries, beneficiary discord, potential creditors or liens, and funeral and burial expense coverage?
  - Revocable Trust
  - Illinois Land Trust
First

- Common Estate Planning Scenarios where TODI is Appropriate:
  - Widow or Widower with Modest Estate Consisting of Beneficiary Designated Assets
  - Same Sex and Unmarried Couples
  - Married Couples with House Held as Tenants by Entirety

Second

- Ascertain current status of title.
  - How is title held and who holds it?
  - Prior TODIs

Third: Sample Basic Form

TRANSFER ON DEATH INSTRUMENT

OWNER(S) NAME AND ADDRESS AND TAXES TO:
  •
  •
  •

BENEFICIARY(IES) NAME & ADDRESS
  •
  •
  •
Third: Sample Basic Form

THIS TRANSFER ON DEATH INSTRUMENT made this ___ day of __________ 20__, by [Name of Owner/Owners], [husband and wife], of the City of ______________, County of ______________, and State of Illinois, (herein "Owner/Owners") being the sole Owner[s] of the following legally described residential real estate located in ______________ County, Illinois.

Legal Description - (Schedule of Real Estate Attached)

Property Address: __________________________________________
Parcel Identification Number: __________________________________

Third: Sample Basic Form

The Owner[s], being of sound mind[s] and memory, hereby revoke[s] all prior transfer on death instruments for the above described residential real estate, and convey[s] and transfers[s], effective on the [death of the Owner][death of the Owner last to die], free of any claim of homestead exemption under the laws of the State of Illinois, the above described residential real estate to the following Designated Beneficiary[ies]:

Beneficiary Designation- (See Attached Designation)

Third: Sample Basic Form

IN WITNESS WHEREOF, the said Owner[s] has/have executed this Transfer on Death Instrument on date first above written.

_____________________ (Seal)
[Owner’s Name] (print/type)

_____________________ (Seal)
[Owner’s Name] (print/type)
Third: Sample Basic Form

STATE OF ILLINOIS
county of _________________

We, the undersigned witnesses, hereby certify that the above Transfer on Death Instrument was on the date thereof signed and declared by the Owner[s] as his/her/their Transfer on Death Instrument in our presence and that we, at his/her/their request and in his/her/their presence and in the presence of each other, have signed our names as witnesses thereto, believing to best of our knowledge that the owner executed the Transfer on Death Instrument as his/her/their own free and voluntary act, and that at the time of the execution we believed the Owner[s] to be of sound mind and memory.

___________________________________
WITNESS [Printed Name]
[Address]

__________________________________
WITNESS [Printed Name]
[Address]

Third: Sample Basic Form

STATE OF ILLINOIS
county of _________________

I, the undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY THAT Owner(s) and witnesses personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

GIVEN UNDER my hand and notarial seal the _____ day of _____________, A.D. 20__.

____________________________________
Notary Public

My commission expires ____________________________

PREPARED BY and RETURN TO:

Fourth: Best Practices

- Avoid general or casual references for the designated beneficiaries.
- Anticipate the possibility that designated beneficiary will predecease the owner.
- Anticipate the possibility that designated beneficiary may fail to file Notice of Death Affidavit and Acceptance.
Fourth: Best Practices

- Anticipate a beneficiary’s minority.
- Consider naming one of the designated beneficiaries as trustee for all.
- Avoid conflicts between terms of TODI and Will.
- Anticipate homestead waiver.
- Record the TODI.

Potential Legislative Changes

Current Issues That May Require Legislative Attention

- Definition of Residential Real Estate
- Definition of Beneficiary Representative
- *Bona Fide* Purchaser
- Failure of Designated Beneficiary to Accept
Estate Planning Perspective

Effectively Implementing Transfer on Death Instruments in Your Estate Planning Practice

Small Estates

- **Simple Plan**
  - Use combined with a Will and Powers of Attorney for Healthcare and Property to assist clients in a simplified estate plan.

- **Complicated Plan**
  - Use to create a life estate for a second spouse with remainder interest to pass to children of a first marriage.

Small Estates

- **Power of Attorney**
  - A statutory short form power of attorney must specifically address the power to modify or revoke a Transfer on Death Instrument if the client actually wants to grant this power to the agent.
Large Estates

- Coordinate with Other Estate Planning Documents.
  - If one beneficiary will receive the home, this may be an easy way to segregate this asset for that beneficiary.

Large Estates

- Coordinate with Other Estate Planning Documents.
  - The estate plan should also consider:
    - Real estate tax issues.
      - Does the trust or estate reimburse the beneficiary for real estate taxes accrued prior to death?
    - Tangible personal property issues.
      - Who receives all of the personal property in the home?
    - TODIs/PODs/IRAs/401(k)s/Life Insurance/Annuities.
      - As with all the other beneficiary designated accounts or contracts, the attorney must coordinate the beneficiary designations correctly for the client’s estate and income tax planning.

Large Estates

- Address Tax Apportionment.
  - Be careful to address the issue of where the estate tax will be paid from in the client’s estate plan.
    - This may be one of your client’s largest assets.
  - Also, if Congress does not act prior to the end of 2012, the current estate tax exemption of $5,120,000 will revert back to $1,000,000 in 2013.
Large Estates

- **Creditor Protection**
  - Use for tenancy by the entirety property and also avoid Probate after the survivor’s demise.
    - This may be a better alternative than separate trusts owning tenancy by the entirety property since the Illinois statute does not address what happens to the tenancy by the entirety interest after the first death if both interests are held in separate living trusts.
    - Does the interest pass under the terms of the living trust or does the interest pass to the surviving spouse?

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Large Estates

- **Creditor Protection**
  - 735 ILCS 5/12-112 provides that:
    - Any real property, any beneficial interest in a land trust, or any interest in real property held in a revocable inter vivos trust or revocable inter vivos trusts created for estate planning purposes, held in tenancy by the entirety shall not be liable to be sold upon judgment entered on or after October 1, 1990 against only one of the tenants, except if the property was transferred into tenancy by the entirety with the sole intent to avoid the payment of debts existing at the time of the transfer …

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Large Estates

- **Creditor Protection**
  - 765 ILCS 1005/1c further provides that:
    - Where the homestead is held in the name or names of a trustee or trustees of a revocable inter vivos trust or of revocable inter vivos trusts made by the settlers of such trust or trusts who are husband and wife, and the husband and wife are the primary beneficiaries of one or both of the trusts so created, and the deed or deeds conveying title to the homestead to the trustee or trustees of the trust or trusts specifically state that the interests of the husband and wife to the homestead property are to be held as tenants by the entirety, the estate created shall be deemed to be a tenancy by the entirety.
Large Estates

- **Creditor Protection**
  - 765 ILCS 1005/1c further provides that:
    - Subject to the provisions of paragraph (d) of Section 2 and unless otherwise assented to in writing by both tenants by the entirety, the estate in tenancy by the entirety so created shall exist only if, and as long as, the tenants are and remain married to each other, and upon the death of either such tenant the survivor shall retain the entire estate …

- **Caution:**
  - A surviving joint owner can alter the disposition of the real estate under the Transfer on Death Instrument Act.

- **Gift Tax**
  - When persons other than spouses transfer separately-owned real property into joint ownership or buy property jointly, there is usually a gift from one to the other if they make unequal contributions. The surviving joint tenant must then provide his or her contribution to avoid gross estate inclusion solely in the estate of the decedent.
TRANSFER ON DEATH INSTRUMENT
Statutory (Illinois)

I, [OWNER] (“Owner(s)”), of [ADDRESS], [COUNTY] County, Illinois, being of sound mind and disposing memory, do hereby make, declare and publish this Transfer on Death Instrument stating as follows:

That I am the sole owner of residential real estate under a duly recorded Warranty Deed dated [DATE OF PRIOR DEED] and recorded [DATE OF RECORDING], as document number [PRIOR DOCUMENT NUMBER], in the County of [COUNTY], State of Illinois. The residential real estate is legally described as:

[LEGAL DESCRIPTION]

Property Index Number: [PIN]
Property Address: [ADDRESS]

That under 755 ILCS 27/1 et. seq., the owner of a property may transfer residential real estate by a transfer on death instrument; as such, this transfer does not become effective until and at the time of my death. I hereby waive and release all rights under the homestead exemption laws of the State of Illinois.

That upon my death, I hereby convey and transfer the residential real estate listed above equally to my children who survive me, including any afterborn children. I now have three children whose names and addresses are as follows:

[CHILD 1] [CHILD 1 ADDRESS]
[CHILD 2] [CHILD 2 ADDRESS]; and
[CHILD 3] [CHILD 3 ADDRESS]

Signed this the _____ day of __________, 2012.

[OWNER]
WITNESSES

We, the undersigned witnesses, hereby certify that the above Transfer on Death Instrument was on the date hereof signed and declared by the Owner(s) as his/her/their Transfer on Death Instrument in our presence on the date it bears. Immediately thereafter, at the Owner’s request and in the Owner’s presence and in the presence of each other, we signed our names as witnesses. We certify that we believed the Owner(s) to be of sound mind and memory at the time of signing.

Witnesses

_____________________________   residing at _______________________________
_______________________________
_____________________________   residing at _______________________________
_______________________________

STATE OF ILLINOIS  )
) SS.
COUNTY OF _____________ )

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that [OWNER] and the above named witnesses, each of whom was either personally known to me or presented satisfactory evidence of identification in the form of _Driver’s License _ State of Illinois picture identification document or _____________________________ to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _______________, 2012.

_______________________________________
Notary Public

My commission expires on ____________, 201_.

Exempt under provisions of Paragraph E, Section 4, Real Estate Transfer Tax Act.

Date ________________________________________________________________________
Representative _________________________________________________________________________

DISCLAIMER

Patrick D. Owens and DiMonte & Lizak, LLC provide forms as a courtesy to other counsel, relying on the recipient to exercise independent legal judgment in crafting a final product for the use of his or her client. Providing a form, and discussing its use, does not create a lawyer-client relationship between us. The law changes frequently and we do not guarantee that this form is accurate and up-to-date. This form may not be appropriate in your case.
We, [OWNER 1] and [OWNER 2], husband and wife, (“Owner(s)”), of [ADDRESS], [COUNTY] County, Illinois, being of sound mind and disposing memory, do hereby make, declare and publish this Transfer on Death Instrument stating as follows:

That we are the Owners of residential real estate under a duly recorded Warranty Deed dated [DATE OF PRIOR DEED] and recorded [DATE OF RECORDING], as document number [PRIOR DOCUMENT NUMBER], in the County of [COUNTY], State of Illinois whereby we acquired title to the property as Tenants by the Entirety. The residential real estate is legally described as:

[LEGAL DESCRIPTION]

Property Index Number: [PIN]
Property Address: [ADDRESS]

That under 755 ILCS 27/1 et. seq., the owner of a property may transfer residential real estate by a transfer on death instrument; as such, this transfer does not become effective until and at the time of death of the survivor of the Owners. We hereby waive and release all rights under the homestead exemption laws of the State of Illinois.

Upon the death of both [OWNER 1] AND [OWNER 2], then if [OWNER 1] shall have survived [OWNER 2], to the then acting trustee of the [OWNER 1] TRUST dated [DATE], to be added to the trust property and held and distributed in accordance with the terms of that agreement and any amendments made prior to the death of [OWNER 1], or in the event [OWNER 2] shall have survived [OWNER 1], to the then acting trustee of the [OWNER 2] TRUST dated [DATE], to be added to the trust property and held and distributed in accordance with the terms of that agreement and any amendments made prior to the death of [OWNER 2]. In the event of a simultaneous death, the survivorship provision of the living trusts of the Owners shall control survivorship.

Signed this the _____ day of __________, 2012.

_________________________________    ________________________________
[OWNER 1]       [OWNER 2]
WITNESSES

We, the undersigned witnesses, hereby certify that the above Transfer on Death Instrument was on the date hereof signed and declared by the Owners as their Transfer on Death Instrument in our presence on the date it bears. Immediately thereafter, at the Owners’ request and in the Owners’ presence and in the presence of each other, we signed our names as witnesses. We certify that we believed the Owners to be of sound mind and memory at the time of signing.

Witnesses

_____________________________ residing at _______________________________

_____________________________ residing at _______________________________

_____________________________

Addresses

_____________________________ residing at _______________________________

_____________________________

STATE OF ILLINOIS )
COUNTY OF _____________ ) SS.

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that [OWNER 1] and [OWNER 2] and the above named witnesses, each of whom was either personally known to me or presented satisfactory evidence of identification in the form of Driver’s License State of Illinois picture identification document or _____________________________ to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of _______________, 2012.

_______________________________________ Notary Public

My commission expires on ______________, 201_.

Exempt under provisions of Paragraph E, Section 4, Real Estate Transfer Tax Act.

Date Representative

DISCLAIMER

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TRANSFER ON DEATH INSTRUMENT
REVOCATION
Statutory (Illinois)

I, [OWNER] (“Owner(s)”), of [ADDRESS], [COUNTY] County, Illinois, being of sound mind and disposing memory, do hereby make, declare and publish this Transfer on Death Instrument Revocation stating as follows:

That I am the sole owner of residential real estate under a duly recorded Warranty Deed dated [DATE OF PRIOR DEED] and recorded [DATE OF RECORDING], as document number [PRIOR DOCUMENT NUMBER], in the County of [COUNTY], State of Illinois. The residential real estate is legally described as:

[LEGAL DESCRIPTION]

<table>
<thead>
<tr>
<th>Property Index Number</th>
<th>[PIN]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Address</td>
<td>[ADDRESS]</td>
</tr>
</tbody>
</table>

That under 755 ILCS 27/55(a)(1)(B), the owner of residential real estate who executed a transfer on death instrument may revoke that transfer on death instrument by an instrument of revocation that expressly revokes the instrument or part of the instrument. In exercise of that right and power, I hereby revoke the transfer on death instrument dated [DATE OF PRIOR TODI] and recorded [DATE OF RECORDING TODI], as document number [PRIOR DOCUMENT NUMBER TODI], in the County of [COUNTY], State of Illinois.

Signed this the _____ day of __________, 2012.

[OWNER]
WITNESSES

We, the undersigned witnesses, hereby certify that the above Transfer on Death Instrument was on the date hereof signed and declared by the Owner(s) as his/her/their Transfer on Death Instrument in our presence on the date it bears. Immediately thereafter, at the Owner’s request and in the Owner’s presence and in the presence of each other, we signed our names as witnesses. We certify that we believed the Owner(s) to be of sound mind and memory at the time of signing.

<table>
<thead>
<tr>
<th>Witnesses</th>
<th>Addresses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>residing at</td>
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</tr>
<tr>
<td></td>
<td>residing at</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

STATE OF ILLINOIS )
 ) SS.
COUNTY OF __________ )

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY that [OWNER] and the above named witnesses, each of whom was either personally known to me or presented satisfactory evidence of identification in the form of _Driver’s License _State of Illinois picture identification document or _________________ to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and notarial seal this _____ day of ______________, 2012.

_______________________________________
Notary Public

My commission expires on ____________, 201_.

Exempt under provisions of Paragraph E, Section 4, Real Estate Transfer Tax Act.

________________  _________________________________
Date             Representative

DISCLAIMER

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NOTICE OF DEATH AFFIDAVIT AND ACCEPTANCE
OF TRANSFER ON DEATH INSTRUMENT
Statutory (Illinois)

[NOTICE: This Notice of Death Affidavit and Acceptance form or equivalent form must be recorded by the
beneficiary after the death of the owner to make the transfer on death instrument effective. You should consult a
lawyer before using this form.]

The undersigned beneficiaries, being duly sworn on oath, state as follows:

That [OWNER] died on [DATE OF DEATH] as a resident of [COUNTY] County, Illinois owning residential real
estate legally described as:

[LEGAL DESCRIPTION]

<table>
<thead>
<tr>
<th>Property Index Number:</th>
<th>[PIN]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Address:</td>
<td>[ADDRESS]</td>
</tr>
</tbody>
</table>

That the transfer on death instrument is dated [DATE OF TODI] and recorded [DATE OF RECORDING TODI], as
document number [DOCUMENT NUMBER TODI], in the County of [COUNTY], State of Illinois.

That the undersigned whose names and addresses appear below are all beneficiaries entitled to receive under the
Transfer on Death Instrument:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>[CHILD 1]</td>
<td>[CHILD 1 ADDRESS]</td>
<td>[%]</td>
</tr>
<tr>
<td>[CHILD 2]</td>
<td>[CHILD 2 ADDRESS]</td>
<td>[%]</td>
</tr>
<tr>
<td>[CHILD 3]</td>
<td>[CHILD 3 ADDRESS]</td>
<td>[%]</td>
</tr>
</tbody>
</table>

In witness whereof, the undersigned beneficiaries hereby accept the transfer of residential real estate under the
transfer on death instrument this _____ day of ______________, 201_.

_________________________________(Seal)  _________________________________(Seal)
[CHILD 1]      [ CHILD 2]
_________________________________(Seal)
[CHILD 3]
STATE OF ILLINOIS   )
COUNTY OF _______________   ) SS.

I, the undersigned, a Notary Public in and for said County, in the state aforesaid, DO HEREBY CERTIFY THAT [CHILD 1, CHILD 2 AND CHILD 3], each of whom was either _ personally known to me or _ presented satisfactory evidence of identification in the form of _ Driver’s License _ State of Illinois issued picture identification document or ____________________________ to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person, and swore on oath to the above foregoing affidavit.

Signed and sworn to before me this _____ day of _______________, 201_.

_______________________________________
Notary Public

My commission expires on ______________, 201_.

Exempt under provisions of Paragraph E, Section 4, Real Estate Transfer Tax Act.

________________________________________  __________________________________
Date                                      Representative

DISCLAIMER
Patrick D. Owens and DiMonte & Lizak, LLC provide forms as a courtesy to other counsel, relying on the recipient to exercise independent legal judgment in crafting a final product for the use of his or her client. Providing a form, and discussing its use, does not create a lawyer-client relationship between us. The law changes frequently and we do not guarantee that this form is accurate and up-to-date. This form may not be appropriate in your case.