



Friday Fast Facts

Heirs Property Protection and Deed Theft Prevention Act of 2024 (TODD) (Effective July 19, 2024)

November 15, 2024

The New York State legislature has recently enacted the Heirs Property Protection and Deed Theft Prevention Act of 2024 (“Act”). This Act took effect on July 19, 2024, and allows real property owners to create a transfer on death deed (“TODD”). Below are the requirements for a TODD and requirements to revoke it.

Requirements:

1. The Transferor executing and delivering the TODD must have the capacity to make a will. “Capacity” is defined in EPTL Section 3-1.1 as follows: Every person eighteen years of age or over, of sound mind and memory, may by will dispose of real and personal property and exercise a power to appoint such property.
2. The TODD must have all the essential elements and formalities of a properly recorded inter vivos deed, EXCEPT the delivery, acceptance and exchange of consideration are not required.
3. The TODD must state that the transfer is to take place at the Transferor’s death.
4. The TODD must be signed by two (2) witnesses who were present at the same time and who witnessed the signing of the TODD by the Transferor.
5. The TODD must be acknowledged before a notary public.
6. The TODD must be recorded in the county where the property is located before the Transferor’s death.

Revocation of an existing TODD:

The effective revocation of an existing TODD, or any part thereof, must only be by one of the following instruments:

1. A TODD that revokes an existing TODD or part of an existing TODD expressly or by inconsistency;
2. An instrument of revocation that expressly revokes the existing TODD or part of the existing TODD; or
3. An inter vivos deed that expressly revokes the existing TODD or part of the existing TODD.

The Transferor executing any such instrument revoking an existing TODD must have the capacity to make a will.

Any such instrument revoking an existing TODD must:

1. Be acknowledged by the Transferor AFTER the acknowledgement of the existing TODD being revoked; and
2. Must be recorded in the county where the property is located before the transferor’s death.

Definitions (see RPL Section 424):

Designated Beneficiary means a person designated to receive Property in a TODD. Person includes a natural person, an association, board, any corporation, whether municipal stock or non-stock, court, governmental agency, authority or subdivision, partnership or other firm and the state.
Property means an interest in real property located in the State of New York which is transferable upon the death of the owner.
Transferor means an individual who makes a TODD.

Please contact us with any further comments or questions at (516) 683-1000 [Link to Transfer on Death Deed](#) click below:

[Transfer of Death Deed.docx](#)



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