

MN STATE BAR ASSOCIATION

SF3846: Transfer on Death Deed modifications

Background: A Transfer On Death Deed (TODD) is a property-transferring tool that functions like a “payable on death” designation on a bank account. TODDs enable beneficiaries to take ownership of a property when the current owner dies, and potentially avoid probate.

Overview: This bill (1) clarifies confusing and complicated statutory language; (2) addresses situations where non-represented parties make technical errors; and (3) protects beneficiaries from insurance-related risks caused by a recent court case.

- Specifies that when multiple grantees are named as joint tenants but one of them dies before the grantor dies, the other named grantees will assume the decedent-grantee’s interest, rather than the decedent-grantee’s next-of-kin. This outcome aligns with people’s common expectations and avoids a probate proceeding to determine descendants.
- Validates recording when a person makes a technical mistake with respect to recording or revoking a TODD for registered land if there was clear attempt to follow proper procedures in the correct county.
- Clarifies that affidavits of survivorship and identify will not clear title when a beneficiary dies before an owner, and requires a court order to determine beneficiaries. (Attempts are often made to file such affidavits despite being contrary to current law.)
- Allows the revocation of a single parcel in a multi-property TODD without invalidating the TODD with respect to the other properties.
- Cleans up confusing language regarding medical assistance issues and clarifies that *all* TODD-related issues must be dealt with in district court.
- Addresses an 8th Circuit decision that cuts off the grantor’s homeowners insurance coverage the moment title is transferred to a TODD beneficiary. This has created risks for unwary beneficiaries of grantors who record self-drafted TODDs, so the bill includes a provision that extends the grantor's insurance for 30 days after the grantor’s death.