



Ohio Revised Code

Section 5302.22 Transfer on death deed form.

Effective: December 28, 2009

Legislation: Senate Bill 124 - 128th General Assembly

(A) As used in sections 5302.22, 5302.222, 5302.23, and 5302.24 of the Revised Code:

(1) "Affidavit of confirmation" means an affidavit executed under division (A) of section 5302.222 of the Revised Code.

(2) "Survivorship tenancy" means an ownership of real property or any interest in real property by two or more persons that is created by executing a deed pursuant to section 5302.17 of the Revised Code.

(3) "Survivorship tenant" means one of the owners of real property or any interest in real property in a survivorship tenancy.

(4) "Tenants by the entireties" mean only those persons who are vested as tenants in an estate by the entireties with survivorship pursuant to any deed recorded between February 9, 1972, and April 3, 1985, under section 5302.17 of the Revised Code as it existed during that period of time. Nothing in sections 5302.22, 5302.222, 5302.23, and 5302.24 of the Revised Code authorizes the creation of a tenancy by the entireties or recognizes a tenancy by the entireties created outside that period of time.

(5) "Transfer on death designation affidavit" means an affidavit executed under this section.

(6) "Transfer on death beneficiary or beneficiaries" means the beneficiary or beneficiaries designated in a transfer on death designation affidavit.

(B) Any individual who, under the Revised Code or the common law of this state, owns real property or any interest in real property as a sole owner, as a tenant in common, or as a survivorship tenant, or together with the individual's spouse owns an indivisible interest in real property as tenants by the entireties, may designate the entire interest, or any specified part that is less than the



entire interest, in that real property as transferable on death to a designated beneficiary or beneficiaries by executing, together with the individual's spouse, if any, a transfer on death designation affidavit as provided in this section.

If the affidavit is executed by an individual together with the individual's spouse, if any, the dower rights of the spouse are subordinate to the vesting of title to the interest in the real property in the transfer on death beneficiary or beneficiaries designated under this section. The affidavit shall be recorded in the office of the county recorder in the county in which the real property is located, and, when so recorded, the affidavit or a certified copy of the affidavit shall be evidence of the transfer on death beneficiary or beneficiaries so designated in the affidavit insofar as the affidavit affects title to the real property.

(C)(1) If an individual who owns real property or an interest in real property as a sole owner or as a tenant in common executes a transfer on death designation affidavit, upon the death of that individual, title to the real property or interest in the real property specified in the affidavit vests in the transfer on death beneficiary or beneficiaries designated in the affidavit.

(2) If an individual who owns real property or an interest in real property as a survivorship tenant executes a transfer on death designation affidavit, upon the death of that individual or of one but not all of the surviving survivorship tenants, title to the real property or interest in the real property specified in the affidavit vests in the surviving survivorship tenant or tenants. Upon the death of the last surviving survivorship tenant, title to the real property or interest in the real property vests in the transfer on death beneficiary or beneficiaries designated in the affidavit, subject to division (B)(7) of section 5302.23 of the Revised Code.

(3) If an individual who together with the individual's spouse owns an indivisible interest in real property as tenants by the entireties executes a transfer on death designation affidavit, upon the death of that individual, title to the real property or interest in the real property vests in the remaining tenant by the entireties. Upon the death of the remaining tenant by the entireties, title to the real property or interest in the real property vests in the transfer on death beneficiary or beneficiaries designated in the affidavit, subject to division (B)(7) of section 5302.23 of the Revised Code.



(D) A transfer on death designation affidavit shall be verified before any person authorized to administer oaths and shall include all of the following:

(1) A description of the real property the title to which is affected by the affidavit and a reference to an instrument of record containing that description;

(2) If less than the entire interest in the real property is to be transferred on death under the affidavit, a statement of the specific interest or part of the interest in the real property that is to be so transferred;

(3) A statement by the individual executing the affidavit that the individual is the person appearing on the record of the real property as the owner of the real property or interest in the real property at the time of the recording of the affidavit and the marital status of that owner. If the owner is married, the affidavit shall include a statement by the owner's spouse stating that the spouse's dower rights are subordinate to the vesting of title to the real property or interest in the real property in the transfer on death beneficiary or beneficiaries designated in the affidavit.

(4) A statement designating one or more persons, identified by name, as transfer on death beneficiary or beneficiaries.

(E) The county recorder of the county in which a transfer on death designation affidavit is offered for recording shall receive the affidavit and cause it to be recorded in the same manner as deeds are recorded. The county recorder shall collect a fee for recording the affidavit in the same amount as the fee for recording deeds. The county recorder shall index the affidavit in the name of the owner of record of the real property or interest in the real property who executed the affidavit.

(F) A transfer on death designation affidavit need not be supported by consideration and need not be delivered to the transfer on death beneficiary or beneficiaries designated in the affidavit to be effective. However, in order to be effective, that affidavit shall be recorded with the county recorder as described in this section prior to the death of the individual who executed the affidavit.

(G) Subject to division (C) of this section, upon the death of any individual who owns real property or an interest in real property that is subject to a transfer on death beneficiary designation made



under a transfer on death designation affidavit as provided in this section, that real property or interest in real property of the deceased owner shall be transferred only to the transfer on death beneficiary or beneficiaries who are identified in the affidavit by name and who survive the deceased owner or that are in existence on the date of death of the deceased owner.

For purposes of this division, if a natural or legal person designated by name in the affidavit as a transfer on death beneficiary or as a contingent transfer on death beneficiary as provided in division (B)(2) of section 5302.23 of the Revised Code solely in that person's capacity as a trustee of a trust has died, has resigned, or otherwise has been replaced by a successor trustee of the trust on the date of death of the deceased owner, the successor trustee of the trust shall be considered the transfer on death beneficiary or contingent transfer on death beneficiary in existence on the date of death of the deceased owner in full compliance with this division, notwithstanding that the successor trustee is not named as a transfer on death beneficiary or contingent transfer on death beneficiary in the affidavit.

(H) Any person who knowingly makes any false statement in a transfer on death designation affidavit is guilty of falsification under division (A)(6) of section 2921.13 of the Revised Code.