

# Affidavit of Death Form

## Instructions

### Important Notice to Property Owner

Carefully read all instructions for this form. It is best to talk to a lawyer before using this form. For privacy reasons, you do not need to put your social security number or driver's license number on this form. Do not file these instructions.

### When to Use This Form

- When the property owner who created the transfer on death deed dies, this form is used by a named beneficiary to get legal ownership of the property.
- Title to the property does not pass to the beneficiary(ies) until the affidavit of death is filed. Without legal title, you cannot sell the property, or get property tax exemptions, or use the property as collateral on a loan.

### Important Information

- **Primary Beneficiary Takes Before Alternate Beneficiary:** If any primary beneficiary is alive for more than 120 hours after the property owner who created the transfer on death deed dies (now called the “Decedent”), no alternate beneficiary will get the property. An alternate beneficiary can only get the property if all primary beneficiaries have died before the decedent's death or within 120 hours after the decedent's death.
- **Proof of Death:** After the Affidavit of Death is filed, you will need to provide acceptable proof that the Decedent has died, such as a death certificate or an obituary, to the title company before the property can be sold, used as collateral for a loan, or otherwise encumbered.

### Required

- **Must Sign In Front of A Notary:** Do not sign or date the Affidavit of Death until you are in front of a notary.
- **Must Record Affidavit of Death for Property Title to Transfer to Beneficiary:** You must record (file) this Affidavit of Death with the county clerk where the property is located for title to the property to legally transfer to the named beneficiary(ies) listed in the transfer on death deed.

### Completing the Affidavit of Death Form

1. **Information of Person Signing Affidavit:** Enter your first, middle (if any), and last name. You are the affiant (the person filling out and signing the affidavit).
2. **Legal Description of the Property:** Enter the legal description of the property exactly as it appears on the original transfer on death deed. **IT IS IMPORTANT THAT THIS INFORMATION IS CORRECT.** If you are not absolutely sure, talk to a lawyer.
3. **Transfer on Death Deed Filed by Decedent:**
  - Enter the name of the person who signed the transfer on death deed and has now died exactly as it appeared in the transfer on death deed in the chart. This person is now called the “Decedent.”

- Enter the date the transfer on death deed was filed, and the county the deed was filed in the appropriate blanks.
  - Enter the volume and page number where the transfer on death deed was filed. This can be found on a file-stamped copy of the transfer on death deed. Some counties have stopped using volume and page numbers. If the file-stamped copy does not have a volume and page number, use the instrument or document number instead. If you don't have a stamped copy of the transfer on death deed, you can get a copy at the county clerk's office in the county where it was filed.
4. Information of Person Who Signed the Transfer on Death Deed: Enter the date the Decedent died, and the city, county, and state where they died in the chart.
  5. Affiant's Signature: This affidavit must be signed before a notary. Do not sign your name or enter the date until you are standing in front of a notary.
  6. Acknowledgement: You do not need to fill out anything in this box. The notary will fill it out.
  7. "After Recording, Return to" Section: Fill in the name and address of the beneficiary, who is a new owner of the property now that the Decedent has died, here. Once the affidavit is recorded, it will be returned to the beneficiary with a document number or a volume and page number so that it can be located later.
  8. File the Affidavit of Death (NOT These Instructions) in the County Clerk's Office:
    - Bring Original and One Copy: Bring the original and at least one copy of the complete and notarized Affidavit of Death to the County Clerk's office in the county where the property is located.
    - Bring Personal Identification: The county clerk may require you to show personal identification.
    - Bring Money: The County Clerk will charge a fee to file the Affidavit of Death and may not accept a check. You may want to call the County Clerk's office and find out how much the charge will be before you go.
    - Do Not File the Instructions: If you file the instructions, it may cause confusion and will also cost you more money.
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**AFFIDAVIT OF DEATH  
FOR TRANSFERRING TITLE ON PROPERTY LISTED IN A TRANSFER ON DEATH DEED**

THE STATE OF TEXAS  
COUNTY OF \_\_\_\_\_

I swear that the following statements are true:

1. **Information of Person Signing Affidavit (Affiant).** *Print your first, middle (if any), and last name here.*

My name is \_\_\_\_\_. I am at least eighteen (18) years old or older and am competent to make this affidavit. I am familiar with the past ownership and occupancy of the real property described below in this affidavit.

2. **Legal Description of the Property.** *The legal description is not the mailing or physical address of the property. The legal description is listed on the deed to the property, which can be found on the Transfer on Death Deed as well as at the county clerk's office in the county where the property is located.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Print legal description of the property.*

3. **Transfer on Death Deed Filed by Decedent.**

- *Print the first, middle and last name of the deceased person who signed the transfer on death deed for the property exactly as it appeared on the Transfer on Death Deed. This person is now called the "Decedent."*
- *Print the date the transfer on death deed was filed and the county where the transfer on death deed was filed. Print the volume and page number where the Transfer on Death Deed was filed, or if not available, print the transfer on death deed's document or instrument number.*

\_\_\_\_\_ (Decedent) signed a transfer on death  
*First Middle Last*

deed regarding this property on \_\_\_\_\_. The transfer on death deed was  
*Date*

filed with the county clerk in \_\_\_\_\_ County, Texas, on \_\_\_\_\_  
*Date*

and can be found in Volume \_\_\_\_\_, Page \_\_\_\_\_ of the county clerk's records, or if not available

under document or instrument number \_\_\_\_\_.

**AFFIDAVIT OF DEATH  
FOR TRANSFERRING TITLE ON PROPERTY LISTED IN A TRANSFER ON DEATH DEED**

4. Information of Deceased Person Who Signed the Transfer on Death Deed (Decedent).

- *Print the date the person died, and the county and state where they died.*

The information regarding the death of the above named Decedent is as follows:

Date of Death			Date and Place of Death		
Month	Day	Year	City	County	State

5. Affiant's Signature. **Do not sign or date until you are standing in front of a notary.** *Once the Affidavit of Death is signed and notarized, you must file it with the county clerk in the county where the property is located.*

\_\_\_\_\_   
Affiant's Signature

\_\_\_\_\_   
Date

**FOR NOTARY TO COMPLETE  
Acknowledgement and Affidavit**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was acknowledged and sworn to before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_.

By \_\_\_\_\_   
Notary Public, State of \_\_\_\_\_

**After recording, please return to:**

Beneficiary's Name:

\_\_\_\_\_

Beneficiary's Mailing Address:

\_\_\_\_\_   
*Address 1*

\_\_\_\_\_   
*Address 2*

\_\_\_\_\_   
*City*

\_\_\_\_\_   
*State*

\_\_\_\_\_   
*Zip*