

LET'S TALK ESTATES

what you need to know



PROBATE

- Probate is a legal procedure for administering the estate of a deceased person.
- The court appoints a personal representative for the estate.
- The personal representative has authority to sign on behalf of the estate and sell the property.
- Probate does NOT have to be completed to sell the home.
- How to Sign: Jake Jones, personal representative for the estate of Mary Jones, deceased

TRUSTS

- If a property is held in a trust, title will need the trust documents and a death certificate.
- The documents will tell us who the successor trustee is and who can sign on behalf of the sale.
- How to Sign: Sue Lee, Trustee

LACK OF PROBATE

- There is no court process to assign a representative for the estate, so the title company must determine who can sign. This may or may not be the person who is stating they are the executor of the estate.
- Title will need the death certificate, will if there is one, and a lack of probate affidavit. The lack of probate affidavit is a form that will be provided by title and which all heirs need to fill out and sign.
- Title will then evaluate the information provided and let the parties know who needs to be involved. It might be the spouse, or spouse and kids from the first marriage, or parents, siblings, etc.
- Fun Fact: our largest signing group so far was 19 people!
- How to Sign: Ben Wilson, heir (all heirs must sign in this situation)

TRANSFER ON DEATH DEED

- A transfer on death deed allows the vested property owner to transfer their interest in real property upon their death.
- TODDs must be recorded while the owner is still living and at the county auditor's office where the property is located. They are recorded without an excise tax affidavit (REETA) – this is the only type of deed you can record without a REETA.
- Since they are recorded, you'll see them show up on a title report. Typically, title will not know if the grantor has passed unless someone tells them.
- As long as the owner is alive, it has no bearing on the property – the property can be sold with no issues and with no participation from the grantee of the deed.
- To perfect a TODD, the transferor's death certificate and excise tax affidavit must be recorded.
- TODDs offer a cost-effective alternative to traditional estate planning vehicles.