



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2005 Wisconsin Act 206**  
[2005 Assembly Bill 650]

**Nonprobate Transfer of Real  
Property on Death of Owner**

Act 206 establishes a new mechanism for the nonprobate transfer of real property at the death of the property owner. Under the Act, an interest in real property that is solely owned, owned by spouses as survivorship marital property, or owned by two or more persons as joint tenants may be transferred without probate to a designated transfer-on-death (TOD) beneficiary on the death of the sole owner or the last to die of the multiple owners. During the life of the property owner, the TOD beneficiary has no current interest in the property; therefore, the owner may change the TOD beneficiary at any time and may sell, mortgage, lease, or otherwise encumber or dispose of the property.

The Act provides for the designation of a TOD beneficiary on a deed and requires the deed to be recorded in order to be effective. The beneficiary designation may be cancelled or changed at any time by executing and recording another deed. The recording of a subsequent deed revokes any designation made in a previously recorded deed.

On the death of the sole owner or the last to die of multiple owners, ownership of the interest in the real property passes, subject to any lien or other encumbrance, to the designated TOD beneficiary or beneficiaries. Rules for the transfer of the property when a beneficiary predeceases the property owner follow current probate law.

A TOD beneficiary may have his or her interest in the property confirmed outside the probate process under procedures that currently allow confirmation of various property interests when a transfer takes place upon the death of a property owner.

***Effective Date:*** April 11, 2006.

***Prepared by:*** Don Dyke, Chief of Legal Services

May 16, 2006

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.