The property owner must have the same capacity to make a Last Will & Testament, that is, he/she must be 18 years of age or older and "of sound mind and memory." It must be signed by the owner before two witnesses, who also must sign; acknowledged by the notary public; and recorded in the applicable county clerk's office.

The deed must state that the transfer is to occur at the owner's death.

If there are more than one property owner, all must sign to grant and (if living) to revoke.

The property owners maintain complete control of their property, and can sell, mortgage, or modify their property at any time.

If an owner predeceases the other, the remaining owner can revoke the TOD and change the distribution to disinherit the deceased owner's choices.

TODs can only leave property to multiple beneficiaries in equal shares, and if any beneficiary predeceases the owner, that beneficiary's share will go to the other beneficiaries, not the owner's estate.

Compare TODs to Life Estates. With the latter, property insurance can cover all interested parties – both the title owner (remainder) and the life tenant (the one who holds the life estate). With TODs, property insurance covers only the property owners since the beneficiaries only have a vested interest once the owners have died and not revoked the TODs. Significantly, with TODs, the transfer of ownership is deemed to happen immediately upon the owner's death, which may leave the beneficiary without insurance coverage for a period of time until they know of the death and obtain coverage.