# INSTRUCTIONS FOR COMPLETING WISCONSIN'S TERMINATION OF DECEDENT'S INTEREST FORM

Wisconsin Reg. of Deeds Association form HT-110 and TOD-110. Approved 10.5.17

**PURPOSE OF THE FORM:**

Pursuant to Sections 867.045 and 867.046 of the Wisconsin Statutes, this form is to be used to provide public notice that a person having one of the following interests in property died and the decedent's interest in the property is terminated:

- joint tenant
- life tenant
- vendor's interest in a land contract
- mortgagee's interest in a mortgage
- interest passing under 705.10 (1)
- survivorship marital property
- interest passing under 705.15
- interest passing under a marital property agreement

**WHO MAY SIGN THE FORM:**

If the decedent had one of the following interests in real property which terminated on the decedent's death, then any person interested in the property may sign the form (see 867.045):

- joint tenant
- life tenant
- vendor's interest in a land contract
- mortgagee's interest in a mortgage

If the decedent had one of the following interests in property (real and non-real) which terminated on the decedent's death, then only the person(s) identified below may sign the form (see 867.046):

- interest passing under 705.10(1) - must be signed by the beneficiary of the transfer under 705.10(1)
- survivorship marital property - must be signed by the decedent's spouse
- interest passing under 705.15 - must be signed by a person designated as a transfer on death beneficiary under 705.15
- interest passing under a marital property agreement - must be signed by a beneficiary of a marital property agreement

Notwithstanding the foregoing, for a termination under 867.046 any interested person may sign the form *if* the personal representative, the decedent's spouse, a beneficiary of a marital property agreement or TOD beneficiary does not commence proceedings to confirm an interest under 867.046 or 865.201 within 90 days after the decedent's death (see 867.046(2m)).

**COMPLETING THE FORM:**

Complete the form accurately and legibly. Check appropriate boxes. Identify who owned the property immediately following the decedent's death and include address(es) for such owner(s). Attach the applicable documents and information. Signature(s) must be notarized.

If the transfer is pursuant to a Marital Property Agreement ("MPA") signed by the decedent, at a minimum attach the 1st page of the MPA, page(s) of the MPA identifying to whom the property transferred on the decedent's death, and the signature page(s) of the MPA.

If the transfer is pursuant to a unrecorded document other than a Marital Property Agreement (which may include a Trust signed by the decedent), at a minimum attach the 1st page of unrecorded document, page(s) of the unrecorded document identifying how the decedent intended the property to be transferred, and the signature page(s).

**WHAT PROPERTY MAY BE TRANSFERRED AND DESCRIBING THE PROPERTY:**

*For real property*, include the complete and accurate legal description of each parcel of real property. EXCLUDE from the legal description any portion of the real property conveyed prior to the decedent's death. If your county requires a parcel identification number, that number is found on the property tax bill. Check with your county Register of Deeds to see if a parcel identification number is required.

*For non-real property*, include adequate identifying information for such non-real property. The identifying information should provide the name of company/holder, the last 3 digits of account or certificate numbers, applicable addresses, the ownership interests being transferred (such as number of shares of stock, percentage interest in an LLC or partnership), and any other appropriate identifying information.

Examples of non-real property which may be transferred using this form include, but are not limited to, interests in the following: savings or checking account, a security, a mortgagee's interest in a mortgage, insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, online tool, as defined in s. 711.03 (18) (digital property), deed of gift, and marital property agreement (see 705.10 and 867.046).

**WHERE TO RECORD THE FORM:**

*For real property*, record the form with the Register of Deeds of the county in which the real property is located. If the decedent had an interest in more than one parcel of real property, and the relevant real property is located in different counties, a separate form must be recorded with the Register of Deeds of each county in which the relevant real property is located.

*For non-real property only,* record the form with the Register of Deeds of the county where the decedent last resided.

A list of the Registers of Deeds is located on the Wisconsin Register of Deeds Association website: http://www.wrdaonline.org/

**WHAT TO SUBMIT TO THE REGISTER OF DEEDS:**

Include the following when submitting the form to the Register of Deeds:

☐ A copy of the document identifying the decedent's interest terminated and transferred (*e.g. deed, land contract, Transfer on Death Document, Marital Property Agreement, etc.*).

☐ *For real property*, the legal description of the property *if different* than the legal description set forth in the document above.

☐ *For real property*, if required by the county, a copy of the real estate tax bill for each parcel for the year immediately preceding the decedent's death. Check the WRDA website to be certain. https://www.wrdaonline.org/taxbill

☐ *For real property*, a completed Wisconsin Electronic Real Estate Transfer Receipt[1]. See: http://www.revenue.wi.gov/index.html.

☐ *For non-real property*, adequate identifying information

☐ If necessary, name(s) and address(es) of additional owner(s) of the property immediately after the decedent's death

☐ Recording fee in the amount of $30 made payable to "Register of Deeds" (amount as of 10.5.17 see http://www.wrdaonline.org/ ).

**MORE QUESTIONS?**

Contact your Register of Deeds for information on recording requirements (http://www.wrdaonline.org/). Please ask your attorney for help with legal questions. The Register of Deeds cannot provide you legal advice.

[1] The Wisconsin Electronic Real Estate Transfer Receipt is not required if the decedent's interest is a vendor's interest in land contract or a mortgagee's interest in a mortgage. Further qualifying transfers may be exempt from the transfer fee. By way of example, if the transfer is by will, descent or survivorship, the transfer is exempt per Section 77.25(11), Wis. Stats, or if the transfer is by nonprobate transfer on death under s. 705.15, the transfer is exempt per Section 77.25(11m), Wis. Stats. See Section 77.25, Wis. Stats. for a full list of transactions that qualify for exemptions from the transfer fee. Revised 3/5/2020 passing of ACT 127.