

GEORGIA TRANSFER ON DEATH DEED GUIDE

1. Return Address: Provide the name and address of the person to receive the document after recording.

2. Prepared by: Provide the name and address of the person who prepared the document.

3. Owner/Grantor information:

The grantor currently holds title to the real estate being transferred to the grantee. For each grantor, enter the **name, marital status, and mailing address**. If the grantor's name has since changed, include the former name in a comment. For example: "Jane Doe, formerly known as Jane Smith."

4a. Beneficiary/ Grantee Information: The grantee is the person receiving the rights to the property being transferred by the grantor. For each grantee, provide the **full name, marital status, vesting information, and mailing address**. **4b. Grantee vesting:** Vesting describes how the grantee holds title to the property. This choice may have significant legal and tax consequences, so carefully consider the overall plans for the property and intentions in the event of the owner's death. **Consult a lawyer with questions.**

Grantee vesting examples:

Generally, real property is owned in either sole ownership or in co-ownership.

- **Sole ownership.** There are three options for holding property as a sole owner:
 - "John Doe, a single man": A man or woman who has never been married.
 - "Jane Doe, an unmarried woman": A man or woman who was married in the past, but is now legally divorced or widowed.
 - "John Doe, a married man, as his sole and separate property": A married man or woman who wishes to acquire title in his or her name alone.
- **Co-Ownership.** For Georgia residential property, the primary methods for holding title in co-ownership are tenancy in common and joint tenancy. A grant of ownership of real estate to two or more persons creates a tenancy in common, unless a joint tenancy is specifically elected (OCGA § 44-6-190).
 - **Tenancy in Common:** "John Doe (25%), Jane Doe (25%), and Ronald Doe (50%) as tenants in common."
 - Under tenancy in common, co-owners hold undivided interests, but these interests are not necessarily equal. Shares are presumed equal unless otherwise stated.
 - Each co-owner can sell, convey, or mortgage his or her interest without the consent of the co-owners. The new owner becomes a tenant in common with the other owners.
 - When property is held as tenants in common, there is no right of survivorship, so the owners can specify the disposition of the property in their wills.
 - **Joint Tenancy:** "John Doe and Jane Doe as joint tenants with a right of survivorship."
 - In a joint tenancy with a right of survivorship, two or more tenants own equal interests. When one joint tenant dies, his/her interest in the property is equally distributed to the remaining joint tenants. The property does not become part of the individual's estate, so it avoids probate. This means that the transfer of property is easy, but also that the individual cannot include the interest in the property in his/her will.
 - A joint tenant may convey his or her interest in the property, but it breaks the joint tenancy. The new party becomes a tenant in common with the remaining owner(s).
 - Using the example of a property purchased by a married couple for \$100,000 that is worth \$300,000 when the first spouse dies, the adjusted basis for the surviving spouse would be

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Table of Contents Death A Users Guide

1. Understanding the eBook Death A Users Guide
 - The Rise of Digital Reading Death A Users Guide
 - Advantages of eBooks Over Traditional Books
2. Identifying Death A Users Guide
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Death A Users Guide
 - User-Friendly Interface
4. Exploring eBook Recommendations from Death A Users Guide
 - Personalized Recommendations
 - Death A Users Guide User Reviews and Ratings
 - Death A Users Guide and Bestseller Lists
5. Accessing Death A Users Guide Free and Paid eBooks

- Death A Users Guide Public Domain eBooks
 - Death A Users Guide eBook Subscription Services
 - Death A Users Guide Budget-Friendly Options
6. Navigating Death A Users Guide eBook Formats
 - ePub, PDF, MOBI, and More
 - Death A Users Guide Compatibility with Devices
 - Death A Users Guide Enhanced eBook Features
 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Death A Users Guide
 - Highlighting and Note-Taking Death A Users Guide
 - Interactive Elements Death A Users Guide
 8. Staying Engaged with Death A Users Guide
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Death A Users Guide
 9. Balancing eBooks and Physical Books Death A Users Guide
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Death A Users Guide
 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
 11. Cultivating a Reading Routine Death A Users Guide
 - Setting Reading Goals Death A Users Guide
 - Carving Out Dedicated Reading Time
 12. Sourcing Reliable Information of Death A Users Guide
 - Fact-Checking eBook Content of Death A Users Guide
 - Distinguishing Credible Sources
 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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