

Texas Land & Property Transfer Checklist

Your step-by-step guide to transferring real estate to your heirs — and what to do if you've inherited property

Haystack Land Company — haystackland.com

Who this is for: Texas landowners who want to make property transfer easier for their family, and heirs who've recently inherited land and need to figure out next steps. This checklist covers the six legal methods available in Texas and helps you pick the right one.

Part 1: Planning Ahead — Transfer Your Land to Heirs

Step 1: Gather Your Property Information

- ☐ Locate your **deed** (check county clerk records if you can't find it)
- ☐ Confirm how title is currently held (sole ownership, community property, joint tenancy)
- ☐ Get the full **legal description** from your deed (lot/block or metes & bounds — NOT just the street address)
- ☐ Note the **county** where the property is recorded
- ☐ Check for any **liens, mortgages, or unpaid property taxes**
- ☐ If married, determine whether the property is **community or separate property**

Step 2: Choose Your Transfer Method

Use this table to find the best fit for your situation:

Method	Avoids Probate?	Typical Cost	Best For
Transfer on Death Deed	Yes	\$350–\$1,100	Single property, simple situation, one beneficiary
Lady Bird Deed	Yes	\$350–\$900	Medicaid estate recovery (MERP) protection, want full control retained
Revocable Living Trust	Yes	\$1,500–\$6,000+	Multiple properties, complex estates, incapacity planning
Community Property Survivorship	Yes	\$350–\$1,100	Married couples, want spouse to inherit automatically
Joint Tenancy (JTWROS)	Yes	\$350–\$900	Co-ownership with one specific person
Will + Probate	No — requires court	\$1,800–\$15,500+	Safety net, complex distributions, no other planning done

Pro Tip: Most estate attorneys recommend combining methods — use a TODD or Lady Bird Deed for your real estate, beneficiary designations for bank and retirement accounts, and a will as a safety net for everything else. No single tool covers every asset.

Step 3: Execute Your Chosen Method

- ☐ Consult a Texas estate planning or real estate attorney (fees typically \$300–\$1,000 for deed-based methods)
- ☐ Ensure the document includes the **complete legal description** (errors invalidate the deed)
- ☐ Name an **alternate beneficiary** in case your primary beneficiary predeceases you
- ☐ Sign and **notarize** the document
- ☐ **Record the document** with your county clerk (required for TODDs; recommended for all methods)

- ☐ Store the original in a safe, accessible place and tell your heirs where to find it
- ☐ Keep a copy with your other estate planning documents

Critical Deadlines: A Transfer on Death Deed **MUST** be recorded before the owner's death or it is void. A will should be filed for probate within 4 years of death (Tex. Estates Code § 256.003). After 4 years, it may still be admitted if the applicant was not "in default," but only as a muniment of title — full administration is no longer available.

Step 4: Tell Your Family

- ☐ Inform your heirs/beneficiaries about the property and your transfer plan
- ☐ Share the location of your deed, will, trust documents, and any recorded instruments
- ☐ Provide your attorney's contact information
- ☐ If using a trust, confirm the property has been **funded** (deeded into the trust) — an unfunded trust provides no protection

What Happens Without a Plan?

If a Texas property owner dies without any of the above in place, state intestate succession law controls who inherits — and the results often surprise families:

- ☐ **Married, all children from current marriage:** Surviving spouse inherits *all* community property
- ☐ **Married, children from a prior relationship:** Surviving spouse keeps only their half of community property; deceased's half passes to those children
- ☐ **Separate real property:** Surviving spouse gets a life estate in one-third only; remainder goes to children
- ☐ **Multiple heirs = "heir property":** Each heir gets an undivided fractional interest. A voluntary sale requires agreement from all co-owners — but any single heir can file a **partition lawsuit** to force a court-ordered sale (Tex. Prop. Code Ch. 23 for general partition; Ch. 23A UHPA provides special protections for qualifying heirs' property)

Why this matters: Heir property with fractional ownership is the #1 reason inherited land gets tangled. Getting ahead of this with a deed or trust avoids years of potential family conflict and legal expense.

Part 2: Already Inherited Land — Get Title in Your Name

Step 1: Gather Key Documents

- ☐ Obtain **6–10 certified copies** of the death certificate
- ☐ Locate the **original deed** to the property (check county clerk if needed)
- ☐ Find any will, trust, Transfer on Death Deed, Lady Bird Deed, or Community Property Survivorship Agreement
- ☐ Confirm how title was held (sole owner, community property, joint tenancy, trust)
- ☐ Check for **outstanding liens, mortgages, or delinquent property taxes**

Step 2: Determine Your Path to Clear Title

Situation	What to File	Estimated Cost	Timeline
TODD or Lady Bird Deed was recorded	Affidavit of Death + death certificate with county clerk	\$50–\$200	Days

Property was in a living trust	Successor trustee deed per trust terms	\$100–\$500	Days–weeks
Community Property Survivorship or JTWROS	Affidavit of Death + death certificate	\$50–\$200	Days
Will exists, no unpaid debts	Muniment of Title (fastest probate option)	\$1,800–\$4,400	2–4 months
Will exists, debts or complex estate	Independent Administration	\$3,500–\$10,500+	6–12 months
No will, estate under \$75K*	Small Estate Affidavit	\$700–\$2,300	1–2 months
No will, clear heirs, uncontested	Affidavit of Heirship (non-judicial, recorded in deed records)	\$350–\$1,100	Days–weeks
No will, disputed heirs or complex estate	Judicial Determination of Heirship (court proceeding)	\$3,500–\$10,000+	3–6 months

* Excluding homestead and exempt property

Step 3: Clear Title and Record

- ☐ Work with a title company early — they may require additional paperwork even for non-probate transfers
- ☐ Record all required documents with the county clerk where the property is located
- ☐ Pay any outstanding property taxes to avoid tax sale risk
- ☐ If multiple heirs inherited: all co-owners hold **undivided interests**. A voluntary sale requires agreement from all owners — but any co-owner can file a **partition lawsuit** (Tex. Prop. Code Ch. 23; Ch. 23A UPHPA provides additional protections for heirs' property, including appraisal requirements and right of first refusal)
- ☐ Update the property tax records with the county appraisal district
- ☐ If applicable, apply for **homestead exemption** in your name

Step 4: Decide — Keep, Rent, or Sell

- ☐ **Keep the property:** Budget for ongoing property taxes, insurance, and maintenance
- ☐ **Lease the land:** Agricultural, hunting, or grazing leases can generate income while you retain ownership
- ☐ **Sell the property:** You benefit from a **stepped-up tax basis** — your cost basis is the fair market value at the date of death, not what the original owner paid. This can significantly reduce or eliminate capital gains taxes.

Tax Note: Texas has no state inheritance or estate tax. Federal estate tax only applies to estates exceeding **\$15 million per individual** (2026, made permanent by the One Big Beautiful Bill Act). The stepped-up basis means if you sell soon after inheriting, you may owe little or no capital gains tax.

Inherited Texas Land and Considering Selling?

We work with heirs and landowners across Texas who are navigating exactly these situations — multiple heirs, unclear title, delinquent taxes, or just wanting a simple exit. We buy land directly, handle title issues, and can close in as little as 2 weeks.

No realtor fees. No repairs. No hassle.

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IMPORTANT — NOT LEGAL ADVICE: Haystack Land Company is a real estate investment company. **We are not attorneys, and this document is not legal advice.** This checklist is provided for general informational and educational purposes only and should not be relied upon as a substitute for consultation with a qualified, licensed attorney. No attorney-client relationship is created by reading or using this document.

Texas property and estate law is complex and highly fact-specific. The correct approach for your situation depends on many factors including property type, family structure, existing debts, tax considerations, Medicaid eligibility, and county-specific requirements. **You should consult a licensed Texas estate planning or real estate attorney before executing any deed, trust, will, or other legal document.** An error in a deed or transfer document can result in clouded title, unintended tax consequences, or loss of property rights.

Laws, exemption amounts, and cost estimates referenced herein reflect Texas and federal law as of April 2026 and are subject to change without notice. Cost ranges are estimates based on typical attorney and filing fees and may vary significantly by county, attorney, and complexity of your situation.

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