

Written Testimony SB 146 (TOD Deed) (1).pdf

Uploaded by: Allison Harris

Position: FAV

SB 146

**MARYLAND REAL PROPERTY TRANSFER-ON-DEATH (TOD) ACT
HEARING BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE
FEBRUARY 1, 2023
POSITION: SUPPORT**

The Pro Bono Resource Center of Maryland (“PBRC”), an independent 501(c)(3) non-profit organization, is the statewide thought leader and clearinghouse for volunteer civil legal services in Maryland. As the designated pro bono arm of the Maryland State Bar Association, PBRC provides training, mentorship, and pro bono service opportunities to members of the private bar and offers direct legal services through free legal clinics. **PBRC supports SB 146 because it will facilitate the smooth transfer of homeownership among families who may otherwise be at risk of losing the family home due to the expense and complexity of the estate administration process.**

Over the past eight years, PBRC has assisted nearly 800 homeowners at risk of losing their homes to tax sale. For homeowners, ending up on the tax sale list is usually the result of the inability to pay one’s property taxes, not an unwillingness. The clients served by our tax sale prevention clinics held in Baltimore in 2022 represented some of our state’s most vulnerable citizens: 74% were seniors, 39% were disabled, 76% identify as Black, and 76% reported annual household incomes of less than \$30,000. Through the advocacy of volunteer attorneys, many of these clients can access programs and credits that reduce their property tax burden allowing them to stay in their homes. However, most Maryland homeowners are unrepresented.

On average, our 2022 Baltimore clients encountered in our clinics had owned their homes for 32 years, and over 70% of them owned their homes free of a mortgage. As lower-income homeowners, the predominant form of accumulated wealth that they have, and that they can pass on to their families, is the equity in their homes. When homeowners pass away, the heirs to their home must open an estate and complete a lengthy and sometimes complicated process to obtain proper title to the home; the requirements to transfer a deed may force an unexpected and large expense on the family, and it is not an accessible process for many low-income surviving families. As a result, many families remain unable to transfer the deed in their names for a long time, if they ever do. This “tangled title” problem frequently lands families in tax sale. **By allowing the home to pass automatically to a designated beneficiary, these heir homeowners will be better positioned to obtain title, avoid tax sale foreclosure, and keep their homes and the equity their families have worked so hard to build.**

PBRC supports SB 146, which may protect certain Marylanders from the loss of their family home, thereby preserving homeownership and the transfer of intergenerational wealth. Thank you for the opportunity to testify.

For the above reasons,

PBRC urges a FAVORABLE report on SB 146.

Please contact Allison Harris, Director of PBRC’s Home Preservation Project, with any questions.
aharris@probonomd.org • 443-703-3050

MSPB Support SB146_2023.pdf

Uploaded by: Meredith Lathbury Girard

Position: FAV



Connecting Individuals and Families who need Civil Legal Services with Volunteer Attorneys and Community Resources

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WWW.MIDSHOREPROBONO.ORG

SB146 - Maryland Real Property Transfer on Death Deed Act HEARING BEFORE THE SENATE JUDICIARY COMMITTEE January 31, 2023

Mid-Shore Pro Bono (MSPB) recommends a favorable report for SB146. The Transfer on Death Deed Act is a cost-effective solution for people with limited financial means to make sure that their loved ones can maintain housing stability. Allowing people to transfer property outside of probate in limited circumstances will prevent families from losing their homes prevent future tangled title issues.

Mid-Shore Pro Bono, Inc. is a Maryland nonprofit that connects people on the Eastern Shore with limited financial means to legal representation and essential community resources. Each year, MSPB helps over 3,000 people in our community access the legal system in times of need. Our network of volunteer lawyers provides free legal services for elder law, family law, landlord/tenant, mortgage foreclosure, and consumer debt. These services help families gain financial and housing stability and create safe, secure homes for children.

MSPB assists about 500 clients a year with elder law issues, including life planning documents (will, power of attorney, and advance medical directive) and deeds. Many of our clients are seeking solutions to make sure that their homes, frequently shared with children and other family members, are passed on to their loved ones. Too often, people intend to leave their house to their family, but their heirs face insurmountable barriers, especially lack of resources or capacity to open an estate or hire an attorney to administer the estate. When people have tools available to help them take care of transferring assets in advance -tools that people can use without having to hire an attorney --families are more likely to take advantage of those tools and are better off in the long run. For example, adding an adult child or a trusted family member to a bank account can be a low-cost way to make sure an heir will have access to those funds. Establishing beneficiaries for insurance policies is as easy as filling out a form and doesn't require hiring an attorney. Even MVA has a simple form people can fill out to designate a beneficiary for their titled vehicle.

Reducing barriers to life planning supports intergenerational transfer of homeownership, increases financial stability for families, and plays a role in closing wealth gaps across race and ethnicity. The Transfer on Death Deed (TODD) creates an uncomplicated, financially accessible way for people with limited financial means to ensure that their home will transfer to family members when they pass away.

For these reasons, Mid-Shore Pro Bono urges the Committee's support for SB146. If you have any questions regarding our position on this bill, please contact Meredith Lathbury Girard, Esq., executive director, at 410-690-8128 or mgirard@midshoreprobono.org.

SB0146-MdRealPropTransfer-on-Death-Fav.pdf

Uploaded by: Nelda Fink

Position: FAV

Favorable – SB0146 Maryland Real Property Transfer–on–
Death (TOD) Act

Nelda Fink
MD District 32

Very much in favor of this transfer on death act as it will help reduce the number of probate transfers which typically hold up the transfer of property leading to property deterioration and possible financial distress awaiting a probate decision. It also provides a reasonable alternative to setting up a trust.

What can I do to help get the House of Delegates to cross-file?

Thank you!

I urge the Senate members to move forward **favorably** on this bill.

Nelda Fink

SB146 TOD Testimony.pdf

Uploaded by: Pamela Beidle

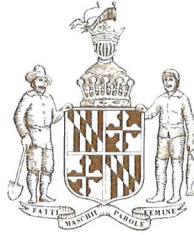
Position: FAV

PAMELA G. BEIDLE
Legislative District 32
Anne Arundel County

Finance Committee

Vice Chair

Executive Nominations Committee



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Pamela.Beidle@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 1, 2023

SB 146

Maryland Real Property Transfer-on-Death (TOD) Act

Good Afternoon Chair Smith, Vice Chair Waldstreicher and Members of Judicial Proceedings,

Thank you for the opportunity to discuss Senate Bill 146, Maryland Real Property Transfer-on-Death (TOD) Act. The Transfer on Death Act, will make it easier for property owners to transfer "real property" to their chosen beneficiaries. This has been done very successfully in other states.

Currently in Maryland, this process can be done with a Life Estate Deed, however it is cumbersome, expensive and requires an attorney.

There are some concerns from the Clerks of Court that the House is attempting to address. The House sponsor has worked closely with stakeholders over the interim. There are some amendments that will be proposed by the House sponsor.

I believe you will hear from the Clerks that they are concerned about where the TOD being recorded. According to SDAT, this document will be recorded with SDAT just like the life estate document is now and when the death of the owner does occur, the beneficiary will present a death certificate to SDAT.

TOD is used to transfer stocks, mutual funds and bank accounts, SB 146 simply adds one more property that can be transferred using a TOD.

I respectfully request a favorable report on SB 146.

sb0146_testimony.pdf

Uploaded by: Timothy Chance

Position: FAV

MARYLAND SENATE JUDICIAL PROCEEDINGS COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB0146: MARYLAND REAL PROPERTY TRANSFER-ON-DEATH (TOD)
ACT
WEDNESDAY, FEBRUARY 1, 2023

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Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 0146.

My name is Timothy Chance, and I am the Tangled Title Attorney at the Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. MVLS was founded in 1981 by a group of concerned Maryland lawyers, legal services providers and leadership of the Maryland State Bar Association. Since then, our statewide panel of over 1,700 volunteers has provided free legal services to over 100,000 Marylanders in a wide range of civil legal matters. In FY22, MVLS volunteers and staff lawyers provided legal services to 3,458 people across the state. As part of our Advance Planning Project and My Home, My Deed, My Legacy Project, we encounter numerous clients facing economic barriers, such as probate fees, which make it difficult to transfer property. For the reasons explained below, we respectfully request a favorable report on Senate Bill 0146.

The Advanced Planning Project is an outreach effort designed to stabilize neighborhoods, preserve family assets and reduce the number of Baltimore City properties with deed and title entanglements that prevent homes from being in productive use. In conjunction with community partners across the city, MVLS is raising awareness about the importance of estate planning, especially in the context of community stabilization. As part of the My Home, My Deed, My Legacy Project, MVLS provides homeowner clinics to help Baltimore City residents stabilize their homes, through estate planning discussions, and secure critically important resources, including the Homeowners' Property Tax Credit. One of the main focuses of these discussions is avoiding probate, through payable on death accounts, vehicle beneficiaries, and life estate deeds. Although the clinics are focused in Baltimore City, MVLS' community outreach and provision of legal services on these issues are statewide as the challenges with deeds and estate administration is a statewide problem. Additionally, the My Home, My Deed, My Legacy Project provides continuing direct representation, both by volunteer attorneys and staff attorneys, to clients navigating the probate process. Probate is a costly and time-consuming process. In addition to the fees associated with probate, it can cost several hundred dollars and take a minimum of nine months to open, administer, and close an estate. Our clients are homeowners who are facing financial hardship and they often don't have the resources to cover these expenses. It is imperative that they pass as many assets outside of probate as possible.

MVLS provides a comprehensive estate planning approach that includes life estate deeds to protect home occupancy and ownership. Life estate deeds are an alternative to the client adding their children to the deed, which would open the client up to potential exploitation or unintended collections actions. Life estate deeds are a great tool to addressing the barriers that probate raises but they have their own challenges which include deed recording requirements and cost. Transfer-on-death deeds offer another alternative to the probate barrier for many of Maryland's most vulnerable residents. Transfer-on-death deeds provide a statutory form that will allow Maryland homeowners a more accessible vehicle to keep their homes in their families. Transfer-on-death deeds are an important additional option because of the aforementioned challenges. MVLS is committed to removing all barriers so that all Marylanders can participate in the judicial system and transfer-on-death deeds would be another tool to make the system more equitable. Below is an example that MVLS has seen of how a transfer on death deed could have prevented the potential loss of a client's family home.

Thomas lives in Baltimore City in his home that is currently titled in his deceased mother's name. Thomas, along with his sister, was named as personal representative for his mother's estate in 2019. The estate has been closed since December 2019 and Thomas has been trying to record the new deed since that time. Prior to the passage of House Bill 610, Thomas was ineligible for the Homeowners' Property Tax Credit and could not afford the annual property taxes. After consecutive donations from his community in 2020 and 2021, Thomas was able to pay the property's back taxes and keep the home out of tax sale. After his first attempt to record the deed in 2020 ended with the city losing the deed while it was being processed, Thomas has now succeeded in recording a new deed. Since his mother's passing, Thomas had constantly been faced with the very real possibility of losing the home through tax sale. Every hurdle that Thomas overcame in his journey to get the property was immediately followed by another potentially destabilizing challenge. The availability of an accessible transfer-on-death deed would have allowed Thomas's mother to record that deed during her lifetime and automatically pass the property to Thomas upon her death.

MVLS supports Senate Bill 0146 because it would remove a huge barrier standing in the way of Maryland families' ability to sustain homeownership thereby making investment in Maryland more favorable.

Chair Smith and members of the Committee, thank you again for the opportunity to testify.

TODDSB146.pdf

Uploaded by: Dawne Lindsey

Position: UNF

Heather DeWees – President-Elect
Carroll County

Mahasin ElAmin – Secretary
Prince George’s County



Maryland Circuit Court Clerks’ Association

24 Summit Avenue
Hagerstown, MD 21740

Karen Bushell – Vice-President
Montgomery County

Diana Liebno – Treasurer
Howard County

Kevin Tucker
President
Washington County

“Where there is unity, there is strength”

SB146 Maryland Real Property Transfer-on-Death (TOD) Act **Judiciary Committee – February 1, 2023**

Sponsor: Senator Beidle
Position: Unfavorable

Written Testimony of Dawne Lindsey, member of Maryland Circuit Court Clerk’s Association

Thank you, Chairman Smith, and members of the committee for this opportunity to submit written testimony opposing Senate Bill 146. My name is Dawne Lindsey, the Clerk of Court for Allegany County. I’m providing this on behalf of the Maryland Circuit Court Clerk’s Association, which represents the elected Clerks of the Circuit Court in Maryland. This written testimony is on behalf of our Association.

Our Clerk’s Association last year submitted an unfavorable report when this same bill was submitted, as HB1270 because we had major concerns. We had asked that the legislation be tabled to allow time for the House and Senate sponsors to fully discuss the implications with affected groups including the Real Estate Bar, the State Department of Assessment and Taxation and others. SB 146 has only had minor changes from last year and the major concerns for the clerks are still exist.

This legislation could have far reaching effects on what is usually the largest asset in a person's estate – their house and other real property. The bill as written still leaves many questions regarding notification to beneficiaries, creditors, and tax authorities, which could generate unintended consequences for those whom the bill is trying to help. For instance, the bill allows anyone to be named as a beneficiary, not just family members, so this could negatively impact the generational transfer of family assets and potentially open an avenue for increased theft from the elderly. Also, the bill appears to allow transfer of the property immediately upon the death of the transferor regardless of whether there are liens or property taxes/municipal bills on the property. In addition, there has been a comparison that a TOD Deed would be like the way the MVA transfers a car title. However, car titles are not public record and are not transferred to the beneficiary without a release of lien and the death certificate.

Specific sections in the bill that we have concerns are:

Section 3-104, Page 4, Line 21 - why are we allowing individual to transfer their property without a certification that they are current on their property taxes/municipal bills?

Section 14-806, Page 13, line 6: No notice to beneficiary is required.

Section 14-806, Page 13, line 8: No consideration, lost revenue for counties and the state.

Section 14-809, Page 15, line 25: Beneficiary subject to all encumbrances, liens, mortgages, etc. Debt may go unpaid due to beneficiary not knowing they now own the property. Financial institutions will not have clue there is new owner to bill.

Section 14-809, Page 15, line 30: Delivery of Deed occurs at transferors' death. How will anyone know the death occurred to transfer ownership?

Section 14-812 Page 16, Line 20 - the proposed options to "revoke" a TOD should be the same as the formalities of a deed. A simple letter in the land records should not be sufficient to revoke a conveyance. It should be done through another deed.

Section 14-811, Page 16, Line 10: requires the Administrative Office of the Courts to provide information about TOD which could lead the Judiciary to providing legal advice on a process that can have several advantages and disadvantages depending on someone's circumstances which could raise ethical issues for the Judiciary

Section 14-811, page 17, Line 8: Mailing address say if available. How will anyone be able to contact beneficiary with no contact information?

Section 14-811, page 18, Line 26: It says before Notary Public or other individual authorized by under the law. Who is going to know who is authorized under the law? Parties will contact the clerk's office for advice on this.

Section 14-811, page 19, Line 30: on the instruction form it says, *"you don't have to tell anyone you're making them the beneficiary, but secrecy can cause later complications and might make it easier for others to commit fraud."* This is the main problem with the bill that the clerks are concerned about. No one including the beneficiary, State Department of Assessment and Taxation offices will know they is a new owner. The opportunity for fraud is very high with this bill.

In closing we can see the good intention Senator Beidle has with this bill; however, we have experienced firsthand how a poorly executed deed can not only cause a financial burden but be extremely stressful for parties to clear up. We suggest that the Register of Wills would be a much better location to record a Transfer of Death Deed than the clerk's office.

MLTA SB 0146 written testimony seeking unfavorable

Uploaded by: Jeffrey Thompson

Position: UNF



1783 Forest Drive, Suite 305, Annapolis, MD 21401 | (443) 620-4408 ph. | (443) 458-9437 fax

To: Members of the Judicial Proceedings Committee
From: MLTA Legislative Committee
Date: January 30, 2023 [Hearing date: February 1, 2023]
Subject: **SB 0146** – Maryland Real Property Transfer-on-Death (TOD) Act
Position: **Unfavorable**

The Maryland Land Title Association (MLTA) asks that you find **unfavorable Senate Bill 0146** – Maryland Real Property Transfer-on-Death (TOD) Act. The bill seeks to provide for the creation, revocation, recordation, and effects of a transfer-on-death deed for real property.

Maryland already has a form of transfer with over a century of judicial interpretation that accomplishes the same type of transfer – the life estate deed with powers of alienation. In a life estate deed, an individual transfers property to others while reserving the right to occupy and use the property during the term of their natural life. The recipients of the transfer are referred to as remaindermen and, in a life estate without powers of alienation, their consent is required in order to convey or mortgage the property.

Powers of alienation allow an individual who reserves a life estate to later unilaterally sever the interests of the remaindermen named in the life estate deed without the need for their consent or involvement. It is this recognition of a right of alienation that sets Maryland apart from other states that have legislatively implemented transfer on death deeds. Often those states do not recognize a power of alienation in life estate deeds. This makes a Transfer on Death Deed unnecessary in Maryland as the bill seeks to address a need already met by an existing, well established form of instrument.

The bill also seeks to create a form deed that will allow an individual to transfer property without the need for assistance from a real estate professional. The proliferation of “self-help” deeds available on the internet has taught the title industry that completion of a form instrument does not always effectively transfer the property. “Self – help” deeds can leave other interested parties contesting the validity of the instrument and /or the capacity of the signer at a later time. Defective or improper entries on blank lines provided on the instrument can cloud the title affecting its insurability. This often leads to additional costs and attorney and/or court involvement to correct an improper conveyance or overturn a conveyance by an incapacitated individual or one obtained through undue influence.

While the intent to create a one-size-fits all form is noble, the form fits only a small percentage of the population it is meant to serve (single individual transfers) and in so doing strips out many statutory safeguards. These safeguards were put in place not as a hurdle to real property transfers, but to preserve for our posterity the integrity of Maryland’s land records system.

Real property represents for many individuals the largest single asset that they own. For that reason alone, the necessary involvement of a real property professional is important to assure that the resulting title is free of questions or concerns and therefore insurable when its owner seeks to sell or mortgage the property. In the life estate deed with powers of alienation, Maryland already has a form of instrument that, with the proper and necessary guidance of a title professional, will accomplish the objective of a transfer on death deed. To paraphrase an old adage, if it is not broken, there is no need to fix it.

For these reasons, the MLTA respectfully requests that you return an unfavorable recommendation for **Senate Bill 0146**.

sb146.pdf

Uploaded by: Matthew Pipkin

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne Pelz, Esq.
410-260-1523
RE: Senate Bill 146
Maryland Real Property Transfer-on-Death (TOD) Act
DATE: January 25, 2023
(2/1)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 146.

This bill raises several issues. First, this bill requires the Administrative Office of the Court (AOC) to provide informational documents about deeds. Providing this information arguably asks the Judiciary to provide legal advice since use of such deeds can have a number of advantages or disadvantages depending on someone's circumstances. Because of this, this requirement raises significant ethical issues for the Judiciary.

In addition, there are several implementation concerns for the clerk's offices. First, it is unclear how the State Department of Assessment and Taxation (SDAT) will be notified that a transfer has commenced given that the TODD has already been recorded at that point. The tax office would not have knowledge of the TODD, nor would any local municipality or financial institution that may have a lien on the property. Properties could potentially end up in foreclosure or in a tax sale. It is also unclear how, without an endorsement regarding taxes, relevant agencies will know when the TODD takes effect to update their records with the information from the TODD registry. Further, there is no notice provision to the beneficiary so the beneficiary may be unaware of any financial obligation linked to the property.

Additionally, forms described in the bill make it optional to include the beneficiary's mailing address. If no address is listed and the beneficiary is unaware of ownership, title searchers will not be able to locate the owner of the property. It is unclear how title searchers will also know if someone is deceased and the TODD has transferred the property.

The language defining legal description in this bill is also vague. The transfer-on-death deed legal description must include Liber and Folio of the deed that is being transferred and the legal description of the property, which does not mean the physical address.

cc. Hon. Pamela Beidle
Judicial Council
Legislative Committee
Kelley O'Connor

TODDSB146.pdf

Uploaded by: Matthew Pipkin

Position: UNF

Heather DeWees – President-Elect
Carroll County

Mahasin ElAmin – Secretary
Prince George’s County



Maryland Circuit Court Clerks’ Association

24 Summit Avenue
Hagerstown, MD 21740

Karen Bushell – Vice-President
Montgomery County

Diana Liebno – Treasurer
Howard County

Kevin Tucker
President
Washington County

“Where there is unity, there is strength”

SB146 Maryland Real Property Transfer-on-Death (TOD) Act **Judiciary Committee – February 1, 2023**

Sponsor: Senator Beidle
Position: Unfavorable

Written Testimony of Dawne Lindsey, member of Maryland Circuit Court Clerk’s Association

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This legislation could have far reaching effects on what is usually the largest asset in a person's estate – their house and other real property. The bill as written still leaves many questions regarding notification to beneficiaries, creditors, and tax authorities, which could generate unintended consequences for those whom the bill is trying to help. For instance, the bill allows anyone to be named as a beneficiary, not just family members, so this could negatively impact the generational transfer of family assets and potentially open an avenue for increased theft from the elderly. Also, the bill appears to allow transfer of the property immediately upon the death of the transferor regardless of whether there are liens or property taxes/municipal bills on the property. In addition, there has been a comparison that a TOD Deed would be like the way the MVA transfers a car title. However, car titles are not public record and are not transferred to the beneficiary without a release of lien and the death certificate.

Specific sections in the bill that we have concerns are:

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In closing we can see the good intention Senator Beidle has with this bill; however, we have experienced firsthand how a poorly executed deed can not only cause a financial burden but be extremely stressful for parties to clear up. We suggest that the Register of Wills would be a much better location to record a Transfer of Death Deed than the clerk's office.

2023 SB 146 [1.31.23].pdf

Uploaded by: William O'Connell

Position: INFO

To: Judicial Proceedings Committee (Senate)

From: Legislative Committee of the Real Property Section Counsel

Date: January 31, 2023 [Hearing Date February 1, 2023]

Subject: **SB 146 – Maryland Real Property Transfer–on–Death (TOD) Act**

Position: **Technical Comments**

The Real Property Section Counsel of the Maryland State Bar Association (MSBA) offers **technical comments to Senate Bill 146 – Maryland Real Property Transfer–on–Death (TOD) Act.**

We do not believe the proposed legislation is the best approach to creating a method to transfer title to real property upon the death of the vested owner without resorting to probate. The proposed legislation overly complicates matters and, in the end, in order for the “beneficiary” to convey the title, most likely, a title insurer would require all interested persons to consent to the transfer. Instead of creating a complicated statutory scheme for a TOD, we propose creating a statutory form life estate deed with powers that could be used by the title holder. Life estate deeds have been utilized in Maryland as a method to avoid probate for many years as they are a product of the common law, and thus, a well-known, recognized, and effective method of estate planning.

However, should the committee decide to proceed with the legislation, we offer the following comments.

1. Page 2, lines 28 through 33. E&T §1-402(A) and (B) substantially overlap. They should be combined for clarity.
2. It is unclear whether an intake sheet will or will not be required when a TOD deed is presented for recordation. See page 4, line 7 and page 4, lines 12-15. See also page 10, lines 14-16.
3. Page 4, lines 21-27. How would the assessment office know when the transferor (shouldn't this term be “grantor”?) of a TOD deed has died and the transferee (shouldn't this term be “grantee”?) should be noted as the owner of the property?
4. Page 8, lines 7-9. Shouldn't the requirement of a certificate of preparation be applicable to TOD deeds? The law already allows a party to the instrument to sign the certificate.

5. Page 12, lines 13-15. This permits a TOD deed to be transferred to a beneficiary, in the singular. Cannot a property owner leave the property to more than one beneficiary? And this is inconsistent with the portion of the bill that allows for alternative beneficiaries, see page 15, lines 15-20, or multiple beneficiaries (see page 16, line 5).

6. Page 15, line 28. Add “deeds of trust.”

7. Page 18, line 21. After “Probate is not required” add “if this is your only asset.”

The Real Property Section Counsel of the MSBA believes there is a much simpler, and in the end, more effective, method to transfer title to real property upon death and avoid probate and urges to the committee to consider it in its deliberations. If the legislature wants to help people transfer their only real property asset in a way to avoid probate, and it follows our advice that a Transfer on Death Deed is not the best way to do that, we can easily draft and provide a form of life estate deed to make that method of transfer readily accessible. Thank you for your consideration.