

HOUSE BILL 1270

N2, N1

2lr0779
CF SB 853

By: **Delegates Hill and Carr**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the Maryland Uniform Disclaimer of Property Interests Act to
4 provide for the disclaimer of nonprobate transfers at death; providing for the
5 creation, revocation, recordation, and effects of a transfer-on-death deed for real
6 property; requiring the Administrative Office of the Courts to develop an
7 informational sheet regarding transfer-on-death deeds for use at courthouses and
8 on the website for the Maryland courts; providing example forms for the creation and
9 revocation of a transfer-on-death deed; altering certain recording requirements for
10 the clerks of the circuit court; exempting a transfer-on-death deed from certain
11 property transfer taxes; providing for the interpretation of this Act; providing for the
12 retroactive application of this Act to transfer-on-death deeds executed prior to the
13 effective date of this Act; and generally relating to transfer-on-death deeds.

14 BY repealing and reenacting, with amendments,
15 Article – Estates and Trusts
16 Section 9–209 and 9–212
17 Annotated Code of Maryland
18 (2017 Replacement Volume and 2021 Supplement)

19 BY adding to
20 Article – Estates and Trusts
21 Section 16.5–101 through 16.5–601 to be under the new title “Title 16.5. Maryland
22 Real Property Transfer-on-Death (TOD) Act”
23 Annotated Code of Maryland
24 (2017 Replacement Volume and 2021 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Real Property
27 Section 3–104
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2015 Replacement Volume and 2021 Supplement)

2 BY adding to

3 Article – Tax – Property

4 Section 12–108(ii), 13–207(a)(27), and 13–414

5 Annotated Code of Maryland

6 (2019 Replacement Volume and 2021 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Tax – Property

9 Section 13–207(a)(25) and (26)

10 Annotated Code of Maryland

11 (2019 Replacement Volume and 2021 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Estates and Trusts**

15 9–209.

16 (a) IN THIS SECTION, “BENEFICIARY DESIGNATION” MEANS AN
17 INSTRUMENT, OTHER THAN AN INSTRUMENT CREATING A TRUST, NAMING THE
18 BENEFICIARY OF:

19 (1) AN ANNUITY OR INSURANCE POLICY;

20 (2) AN ACCOUNT WITH A DESIGNATION FOR PAYMENT ON DEATH;

21 (3) A SECURITY REGISTERED IN BENEFICIARY FORM;

22 (4) A PENSION, PROFIT-SHARING, RETIREMENT, OR OTHER
23 EMPLOYMENT-RELATED BENEFIT PLAN; OR

24 (5) ANY OTHER NONPROBATE TRANSFER AT DEATH.

25 (B) Subject to subsections [(b)] (C) through [(k)] (L) of this section, delivery of a
26 disclaimer may be effected by personal delivery, first-class mail, or any other method likely
27 to result in its receipt.

28 [(b)] (C) In the case of an interest created under the law of intestate succession
29 or an interest created by will, other than an interest in a testamentary trust:

30 (1) A disclaimer shall be delivered to the personal representative for the
31 decedent’s estate; or

1 (2) If there is no personal representative, it shall be filed with a court
2 having jurisdiction to appoint the personal representative.

3 **[(c)] (D)** In the case of an interest in a testamentary trust:

4 (1) A disclaimer shall be delivered to the trustee, or if no trustee is then
5 serving, to the personal representative of the decedent's estate; or

6 (2) If there is no personal representative, it shall be filed with a court
7 having jurisdiction to enforce the trust.

8 **[(d)] (E)** (1) In the case of an interest in an inter vivos trust, a disclaimer
9 shall be delivered to the trustee.

10 (2) If there is no trustee, it shall be filed with a court having jurisdiction to
11 enforce the trust.

12 (3) If the disclaimer is made before the time the instrument creating the
13 trust becomes irrevocable, it shall be delivered to the settlor of a revocable trust or the
14 transferor of the interest.

15 **[(e)] (F)** In the case of an interest created by a beneficiary designation **[made]**
16 **THAT IS DISCLAIMED** before **[the time]** the designation becomes irrevocable, **[a] THE**
17 disclaimer shall be delivered to the person making the beneficiary designation.

18 **[(f)] (G)** In the case of an interest created by a beneficiary designation **[made]**
19 **THAT IS DISCLAIMED** after **[the time]** the designation becomes irrevocable, **[a]:**

20 **(1) THE** disclaimer shall be delivered to the person obligated to distribute
21 the interest; **AND**

22 **(2) THE DISCLAIMER OF AN INTEREST IN REAL PROPERTY MUST BE**
23 **RECORDED IN THE PUBLIC LAND RECORDS OF THE COUNTY WHERE THE REAL**
24 **PROPERTY THAT IS THE SUBJECT OF THE DISCLAIMER IS LOCATED.**

25 **[(g)] (H)** In the case of a disclaimer by a surviving holder of jointly held property,
26 the disclaimer shall be delivered to the person to whom the disclaimed interest passes.

27 **[(h)] (I)** In the case of a disclaimer by an object or taker in default of exercise of
28 a power of appointment at any time after the power was created:

29 (1) The disclaimer shall be delivered to the holder of the power or to the
30 fiduciary acting under the instrument that created the power; or

31 (2) If there is no fiduciary, it shall be filed with a court having authority to
32 appoint the fiduciary.

1 **(2) “FIDUCIARY” INCLUDES AN ATTORNEY IN FACT.**

2 **(E) “PROPERTY” MEANS AN INTEREST IN REAL PROPERTY LOCATED IN THE**
3 **STATE THAT IS TRANSFERABLE ON THE DEATH OF THE OWNER.**

4 **(F) “TRANSFER-ON-DEATH DEED” MEANS A DEED AUTHORIZED UNDER**
5 **THIS TITLE.**

6 **(G) “TRANSFEROR” MEANS AN INDIVIDUAL WHO MAKES A**
7 **TRANSFER-ON-DEATH DEED.**

8 **16.5-102.**

9 **THIS TITLE DOES NOT:**

10 **(1) AFFECT ANY METHOD OF TRANSFERRING PROPERTY OTHERWISE**
11 **ALLOWED UNDER THE LAWS OF THE STATE;**

12 **(2) LIMIT THE RIGHT OF ANY PERSON TO MAINTAIN A CIVIL ACTION**
13 **FOR DAMAGES OR OTHER REMEDIES OTHERWISE AVAILABLE UNDER ANY OTHER**
14 **PROVISION OF LAW; OR**

15 **(3) APPLY TO PROPERTY THAT IS HELD AS JOINT TENANTS, TENANTS**
16 **IN COMMON, OR TENANTS BY THE ENTIRETY.**

17 **16.5-103.**

18 **AN INDIVIDUAL SOLE OWNER OF PROPERTY MAY TRANSFER THE PROPERTY**
19 **TO ONE OR MORE BENEFICIARIES EFFECTIVE AT THE TRANSFEROR’S DEATH BY A**
20 **PROPERTY TRANSFER-ON-DEATH DEED.**

21 **16.5-104.**

22 **(A) A TRANSFER-ON-DEATH DEED IS NONTESTAMENTARY.**

23 **(B) A TRANSFER-ON-DEATH DEED IS REVOCABLE BY A TRANSFEROR EVEN**
24 **IF THE DEED OR OTHER INSTRUMENT CONTAINS A CONTRARY PROVISION.**

25 **(C) THE CAPACITY REQUIRED TO MAKE OR REVOKE A**
26 **TRANSFER-ON-DEATH DEED IS THE SAME AS THE CAPACITY REQUIRED TO MAKE A**
27 **WILL.**

1 (C) THIS SECTION DOES NOT LIMIT THE EFFECT OF AN INTER VIVOS
2 TRANSFER OF THE PROPERTY.

3 SUBTITLE 4. TRANSFEROR'S DEATH.

4 16.5-401.

5 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN THE TRANSFER-ON-DEATH
6 DEED OR IN THIS SECTION, THIS SECTION APPLIES ON THE DEATH OF A TRANSFEROR
7 TO PROPERTY THAT IS THE SUBJECT OF A TRANSFER-ON-DEATH DEED OWNED BY
8 THE TRANSFEROR AT DEATH, SUBJECT TO THE LIMITATIONS UNDER:

9 (I) TITLE 3, SUBTITLE 1 OF THIS ARTICLE (INTESTATE
10 SUCCESSION);

11 (II) TITLE 3, SUBTITLE 3 OF THIS ARTICLE (STATUTORY SHARE
12 OF PRETERMITTED CHILD AND ISSUE);

13 (III) TITLE 3, SUBTITLE 4 OF THIS ARTICLE (ELECTIVE SHARE
14 OF SURVIVING SPOUSE);

15 (IV) § 4-105(B)(3) AND (4) OF THIS ARTICLE (REVOCATION BY
16 DIVORCE);

17 (V) § 4-403 OF THIS ARTICLE (LAPSE);

18 (VI) § 11-112 OF THIS ARTICLE (DISQUALIFICATION FROM
19 INHERITING PROPERTY OR AN INTEREST IN PROPERTY FOR FELONIOUSLY AND
20 INTENTIONALLY KILLING, CONSPIRING TO KILL, OR PROCURING THE KILLING OF A
21 DECEDENT); AND

22 (VII) TITLE 10, SUBTITLE 8 OF THE COURTS ARTICLE
23 (SIMULTANEOUS DEATH).

24 (2) (I) THE INTEREST IN THE PROPERTY IS TRANSFERRED TO THE
25 DESIGNATED BENEFICIARY IN ACCORDANCE WITH THE TRANSFER-ON-DEATH DEED
26 IF THE BENEFICIARY SURVIVES THE TRANSFEROR.

27 (II) THE INTEREST OF A DESIGNATED BENEFICIARY WHO FAILS
28 TO SURVIVE THE TRANSFEROR LAPSES.

29 (3) (I) IF THE TRANSFEROR HAS IDENTIFIED TWO OR MORE
30 DESIGNATED BENEFICIARIES TO RECEIVE CONCURRENT INTERESTS IN THE

1 PROPERTY, THE CONCURRENT INTERESTS ARE TRANSFERRED TO THE DESIGNATED
2 BENEFICIARIES IN EQUAL AND UNDIVIDED SHARES WITH NO RIGHT OF
3 SURVIVORSHIP.

4 (II) IF THE INTEREST OF A DESIGNATED BENEFICIARY LAPSES
5 OR FAILS FOR ANY REASON, THAT DESIGNATED BENEFICIARY'S SHARE IS
6 TRANSFERRED TO THE OTHER DESIGNATED BENEFICIARIES IN PROPORTION TO THE
7 INTEREST OF EACH IN THE REMAINING PART OF THE PROPERTY HELD
8 CONCURRENTLY.

9 (B) (1) SUBJECT TO TITLE 3, SUBTITLE 2 OF THE REAL PROPERTY
10 ARTICLE, A BENEFICIARY TAKES THE PROPERTY TRANSFERRED BY THE
11 TRANSFER-ON-DEATH DEED SUBJECT TO ALL CONVEYANCES, ENCUMBRANCES,
12 ASSIGNMENTS, CONTRACTS, MORTGAGES, LIENS, AND OTHER INTERESTS TO WHICH
13 THE PROPERTY IS SUBJECT AT THE TRANSFEROR'S DEATH.

14 (2) FOR PURPOSES OF THIS SUBSECTION, THE DELIVERY OF THE
15 TRANSFER-ON-DEATH DEED IS DEEMED TO HAVE OCCURRED AT THE
16 TRANSFEROR'S DEATH.

17 (C) A TRANSFER-ON-DEATH DEED TRANSFERS PROPERTY WITHOUT
18 COVENANT OR WARRANTY OF TITLE EVEN IF THE TRANSFER-ON-DEATH DEED
19 CONTAINS A CONTRARY PROVISION.

20 **16.5-402.**

21 A BENEFICIARY MAY DISCLAIM ALL OR PART OF THE BENEFICIARY'S
22 INTEREST AS PROVIDED UNDER THE MARYLAND UNIFORM DISCLAIMER OF
23 PROPERTY INTERESTS ACT, TITLE 9, SUBTITLE 2 OF THIS ARTICLE.

24 **16.5-403.**

25 A PRIVATE LIENHOLDER OR GOVERNMENT JURISDICTION WITH AN INTEREST
26 IN PROPERTY TRANSFERRED BY A TRANSFER-ON-DEATH DEED MAY NOT IMPOSE OR
27 ASSESS ANY PENALTY, FEE, OR INTEREST RELATING TO THE PROPERTY DURING ANY
28 PERIOD OF TIME FOLLOWING THE DEATH OF THE TRANSFEROR AND PRIOR TO A
29 BENEFICIARY EXERCISING OWNERSHIP OVER THE PROPERTY.

30 **SUBTITLE 5. COURT INFORMATIONAL DOCUMENT AND FORMS.**

31 **16.5-501.**

1 **(A) THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL DEVELOP AND**
2 **MAKE AVAILABLE TO THE PUBLIC AT COURTHOUSES AND ON THE WEBSITE FOR THE**
3 **MARYLAND COURTS AN INFORMATIONAL DOCUMENT EXPLAINING THE FUNCTION**
4 **AND USE OF TRANSFER-ON-DEATH DEEDS.**

5 **(B) THE DOCUMENT UNDER SUBSECTION (A) OF THIS SECTION:**

6 **(1) SHALL BE REASONABLY CALCULATED TO BE UNDERSTOOD BY A**
7 **LAY PERSON; AND**

8 **(2) MAY:**

9 **(I) INFORM INDIVIDUALS THAT A TRANSFER-ON-DEATH DEED**
10 **MAY BE USED ONLY FOR THE TRANSFER OF PROPERTY ON THE DEATH OF THE**
11 **TRANSFEROR AND IS VALID ONLY IF PROPERLY EXECUTED AND RECORDED DURING**
12 **THE LIFE OF THE TRANSFEROR;**

13 **(II) PROVIDE INFORMATION ON THE PROCESS FOR THE**
14 **RECORDATION OF THE DEED IN LOCAL LAND RECORDS;**

15 **(III) EXPLAIN THAT A TRANSFER-ON-DEATH DEED MUST BE**
16 **REVOKED PRIOR TO THE DEATH OF THE TRANSFEROR IN ORDER FOR THE PROPERTY**
17 **SUBJECT TO A TRANSFER-ON-DEATH DEED TO TRANSFER IN ACCORDANCE WITH A**
18 **TESTAMENTARY DOCUMENT;**

19 **(IV) PROVIDE INFORMATION ON HOW AN INDIVIDUAL MAY**
20 **ALTER OR REPLACE DESIGNATED BENEFICIARIES;**

21 **(V) PROVIDE INFORMATION ON THE METHODS AND PROCESS**
22 **FOR THE REVOCATION OF A TRANSFER-ON-DEATH DEED;**

23 **(VI) INFORM INDIVIDUALS THAT THE EXECUTION,**
24 **RECORDATION, OR REVOCATION OF A TRANSFER-ON-DEATH DEED DOES NOT**
25 **REQUIRE NOTICE TO OR ACCEPTANCE BY A DESIGNATED BENEFICIARY;**

26 **(VII) INFORM INDIVIDUALS THAT THE EXECUTION AND**
27 **RECORDATION OF A TRANSFER-ON-DEATH DEED DOES NOT REQUIRE THE SERVICES**
28 **OF AN ATTORNEY BUT THAT CONSULTING AN ATTORNEY MAY BE HELPFUL; AND**

29 **(VIII) INCLUDE ANY OTHER INFORMATION THAT THE**
30 **ADMINISTRATIVE OFFICE OF THE COURTS CONSIDERS PRUDENT.**

31 **16.5-502.**

1 (A) THIS TITLE GOVERNS THE EFFECT OF THE FORM DEED PROVIDED IN
2 THIS SECTION OR ANY OTHER INSTRUMENT USED TO CREATE A
3 TRANSFER-ON-DEATH DEED.

4 (B) THE FOLLOWING FORM MAY BE USED TO CREATE A
5 TRANSFER-ON-DEATH DEED:

6 REVOCABLE TRANSFER-ON-DEATH (TOD) DEED

7 NOTICE TO OWNER

8 YOU MAY WANT TO CONSULT A LAWYER BEFORE USING THIS FORM.

9 THIS FORM MUST BE RECORDED BEFORE YOUR DEATH, OR IT WILL NOT
10 BE EFFECTIVE.

11 A TRANSFER-ON-DEATH DEED MAY ONLY BE EXECUTED BY THE SOLE
12 OWNER OF REAL PROPERTY.

13 IDENTIFYING INFORMATION

14 OWNER MAKING THIS DEED:

15 _____
16 PRINTED NAME

_____ MAILING ADDRESS

17 LEGAL DESCRIPTION OF THE PROPERTY:

18 _____

19 PRIMARY BENEFICIARY

20 I DESIGNATE THE FOLLOWING BENEFICIARY IF THE BENEFICIARY
21 SURVIVES ME.

22 _____
23 PRINTED NAME

_____ MAILING ADDRESS, IF AVAILABLE

24 ALTERNATE BENEFICIARY – OPTIONAL

25 IF MY PRIMARY BENEFICIARY DOES NOT SURVIVE ME, I DESIGNATE THE
26 FOLLOWING ALTERNATE BENEFICIARY IF THAT BENEFICIARY SURVIVES ME.

1 **HOW DO I MAKE A TOD DEED? COMPLETE THIS FORM. HAVE IT**
2 **ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR OTHER INDIVIDUAL AUTHORIZED**
3 **UNDER LAW TO TAKE ACKNOWLEDGMENTS. RECORD THE FORM IN EACH [COUNTY]**
4 **WHERE ANY PART OF THE PROPERTY IS LOCATED. THE FORM HAS NO EFFECT**
5 **UNLESS IT IS ACKNOWLEDGED AND RECORDED BEFORE YOUR DEATH.**

6 **IS THE “LEGAL DESCRIPTION” OF THE PROPERTY NECESSARY? YES.**

7 **HOW DO I FIND THE “LEGAL DESCRIPTION” OF THE PROPERTY? THIS**
8 **INFORMATION MAY BE ON THE DEED YOU RECEIVED WHEN YOU BECAME AN OWNER**
9 **OF THE PROPERTY. THIS INFORMATION MAY ALSO BE AVAILABLE IN THE OFFICE OF**
10 **THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY WHERE THE PROPERTY IS**
11 **LOCATED. IF YOU ARE NOT ABSOLUTELY SURE, CONSULT A LAWYER.**

12 **CAN I CHANGE MY MIND BEFORE I RECORD THE TOD DEED? YES. IF**
13 **YOU HAVE NOT YET RECORDED THE DEED AND WANT TO CHANGE YOUR MIND,**
14 **SIMPLY TEAR UP OR OTHERWISE DESTROY THE DEED.**

15 **HOW DO I “RECORD” THE TOD DEED? TAKE THE COMPLETED AND**
16 **ACKNOWLEDGED FORM TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY**
17 **WHERE THE PROPERTY IS LOCATED. FOLLOW THE INSTRUCTIONS GIVEN BY THE**
18 **CLERK’S OFFICE TO MAKE THE FORM PART OF THE OFFICIAL PROPERTY RECORDS.**
19 **IF THE PROPERTY IS IN MORE THAN ONE COUNTY, YOU SHOULD RECORD THE DEED**
20 **IN EACH COUNTY.**

21 **CAN I LATER REVOKE THE TOD DEED IF I CHANGE MY MIND? YES. YOU**
22 **CAN REVOKE THE TOD DEED. NO ONE, INCLUDING THE BENEFICIARIES, CAN**
23 **PREVENT YOU FROM REVOKING THE DEED.**

24 **HOW DO I REVOKE THE TOD DEED AFTER IT IS RECORDED? THERE ARE**
25 **THREE WAYS TO REVOKE A RECORDED TOD DEED: (1) COMPLETE AND**
26 **ACKNOWLEDGE A REVOCATION FORM, AND RECORD IT IN EACH COUNTY WHERE THE**
27 **PROPERTY IS LOCATED. (2) COMPLETE AND ACKNOWLEDGE A NEW TOD DEED THAT**
28 **DISPOSES OF THE SAME PROPERTY, AND RECORD IT IN EACH COUNTY WHERE THE**
29 **PROPERTY IS LOCATED. (3) TRANSFER THE PROPERTY TO SOMEONE ELSE DURING**
30 **YOUR LIFETIME BY A RECORDED DEED THAT EXPRESSLY REVOKES THE TOD DEED.**
31 **YOU MAY NOT REVOKE THE TOD DEED BY WILL.**

32 **I AM BEING PRESSURED TO COMPLETE THIS FORM. WHAT SHOULD I DO?**
33 **DO NOT COMPLETE THIS FORM UNDER PRESSURE. SEEK HELP FROM A TRUSTED**
34 **FAMILY MEMBER, FRIEND, OR LAWYER.**

1 _____ [(SEAL)] _____
 2 SIGNATURE DATE

3 **ACKNOWLEDGMENT**

4 (INSERT ACKNOWLEDGMENT HERE)

5 **I HEREBY CERTIFY THAT THIS REVOCATION OF TRANSFER-ON-DEATH DEED WAS**
 6 **PREPARED BY _____, (OWNER/PRIMARY BENEFICIARY/ALTERNATE**
 7 **BENEFICIARY), A PARTY TO THIS INSTRUMENT.**

8 SIGNATURE _____
 9 PRINTED NAME: _____

10 (C) THE FOLLOWING MAY BE USED AS AN INFORMATIONAL SHEET TO
 11 EXPLAIN THE REVOCATION FORM FOR TRANSFER-ON-DEATH DEED:

12 **COMMON QUESTIONS ABOUT REVOKING A TRANSFER-ON-DEATH**
 13 **DEED**

14 **THIS INFORMATIONAL SHEET SHOULD NOT BE RECORDED WITH A**
 15 **REVOCATION OF A TRANSFER-ON-DEATH DEED AT THE OFFICE OF**
 16 **LAND RECORDS.**

17 **HOW DO I USE THIS FORM TO REVOKE A TRANSFER-ON-DEATH (TOD) DEED?**
 18 **COMPLETE THIS FORM. HAVE IT ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR**
 19 **OTHER INDIVIDUAL AUTHORIZED UNDER LAW TO TAKE ACKNOWLEDGMENTS.**
 20 **RECORD THE FORM IN THE PUBLIC LAND RECORDS OF EACH COUNTY WHERE THE**
 21 **PROPERTY IS LOCATED. THE FORM MUST BE ACKNOWLEDGED AND RECORDED**
 22 **BEFORE YOUR DEATH OR IT HAS NO EFFECT.**

23 **HOW DO I FIND THE “LEGAL DESCRIPTION” OF THE PROPERTY? THIS**
 24 **INFORMATION MAY BE ON THE TOD DEED. IT MAY ALSO BE AVAILABLE IN THE**
 25 **PUBLIC LAND RECORDS FOR THE COUNTY WHERE THE PROPERTY IS LOCATED. IF**
 26 **YOU ARE NOT ABSOLUTELY SURE, CONSULT A LAWYER.**

27 **HOW DO I “RECORD” THE FORM? TAKE THE COMPLETED AND**
 28 **ACKNOWLEDGED FORM TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY**
 29 **WHERE THE PROPERTY IS LOCATED. FOLLOW THE INSTRUCTIONS GIVEN BY THE**
 30 **CLERK’S OFFICE TO MAKE THE FORM PART OF THE OFFICIAL PROPERTY RECORDS.**
 31 **IF THE PROPERTY IS LOCATED IN MORE THAN ONE COUNTY, YOU SHOULD RECORD**
 32 **THE FORM IN EACH OF THOSE COUNTIES.**

1 I AM BEING PRESSURED TO COMPLETE THIS FORM. WHAT SHOULD I DO? DO
 2 NOT COMPLETE THIS FORM UNDER PRESSURE. SEEK HELP FROM A TRUSTED
 3 FAMILY MEMBER, FRIEND, OR LAWYER.

4 I HAVE OTHER QUESTIONS ABOUT THIS FORM. WHAT SHOULD I DO? THIS
 5 FORM IS DESIGNED TO FIT SOME BUT NOT ALL SITUATIONS. IF YOU HAVE OTHER
 6 QUESTIONS, CONSULT A LAWYER.

7 SUBTITLE 6. EFFECT ON FEDERAL LAW.

8 16.5–601.

9 THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL
 10 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C.
 11 SECTION 7001, ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION
 12 101(C) OF THAT ACT, 15 U.S.C. SECTION 7001(C), OR AUTHORIZE ELECTRONIC
 13 DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15
 14 U.S.C. SECTION 7003(B).

15 Article – Real Property

16 3–104.

17 (a) (1) (I) [The] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
 18 PARAGRAPH, THE Clerk of the Circuit Court may record an instrument that effects a
 19 change of ownership if the instrument is:

20 [(i)] 1. Endorsed with the certificate of the collector of taxes of the
 21 county in which the property is assessed, required under subsection (b) of this section;

22 [(ii)] 2. [1.] A. Accompanied by a complete intake sheet; or

23 [2.] B. Endorsed by the assessment office for the county as
 24 provided in subsection (g)(8) of this section; and

25 [(iii)] 3. Accompanied by a copy of the instrument, and any survey,
 26 for submission to the Department of Assessments and Taxation.

27 (II) 1. THE REQUIREMENTS OF SUBPARAGRAPH (I)1 AND 2B
 28 OF THIS PARAGRAPH DO NOT APPLY TO THE RECORDATION OF A
 29 TRANSFER-ON-DEATH DEED OR A REVOCATION OF A TRANSFER-ON-DEATH DEED
 30 EXECUTED IN ACCORDANCE WITH TITLE 16.5 OF THE ESTATES AND TRUSTS
 31 ARTICLE.

1 **2. THE CLERK OF THE CIRCUIT COURT SHALL SUBMIT**
2 **TO THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION A COPY OF ANY**
3 **TRANSFER-ON-DEATH DEED OR A REVOCATION OF A TRANSFER-ON-DEATH DEED**
4 **THAT IT RECORDS:**

5 **A. WITH ANY SURVEY; AND**

6 **B. WITHOUT A CERTIFICATE OF THE COLLECTOR OF**
7 **TAXES OF THE COUNTY.**

8 (2) (i) [The] **EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II) OF**
9 **THIS PARAGRAPH, THE** Supervisor of Assessments shall transfer ownership of property
10 in the assessment records, effective as of the date of recordation, upon receipt from the
11 Clerk of the Circuit Court of a copy of the instrument, the completed intake sheet, and any
12 survey submitted under paragraph (1) of this subsection.

13 **(II) 1. FOR A TRANSFER-ON-DEATH DEED OR THE**
14 **REVOCATION OF A TRANSFER-ON-DEATH DEED EXECUTED IN ACCORDANCE WITH**
15 **TITLE 16.5 OF THE ESTATES AND TRUSTS ARTICLE, ON RECEIPT FROM THE CLERK**
16 **OF THE CIRCUIT COURT OF A COPY OF THE INSTRUMENT, THE SUPERVISOR OF**
17 **ASSESSMENTS SHALL RECORD THE TRANSFER-ON-DEATH DEED OR THE**
18 **REVOCATION OF THE TRANSFER-ON-DEATH DEED IN THE REGISTRY ESTABLISHED**
19 **BY THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION.**

20 **2. PROVIDED THAT THERE IS NOT A REVOCATION**
21 **RECORDED SUBSEQUENT TO THE RECORDATION OF A TRANSFER-ON-DEATH DEED,**
22 **OWNERSHIP OF A PROPERTY THAT IS THE SUBJECT OF THE TRANSFER-ON-DEATH**
23 **DEED MAY BE TRANSFERRED IN THE ASSESSMENT RECORDS ONLY FOLLOWING THE**
24 **DEATH OF THE TRANSFEROR NAMED ON THE TRANSFER-ON-DEATH DEED.**

25 (b) (1) (i) Except as provided in subsection (c) of this section, property may
26 not be transferred on the assessment books or records until:

27 1. All public taxes, assessments, and charges currently due
28 and owed on the property have been paid to the treasurer, tax collector, or director of
29 finance of the county in which the property is assessed; and

30 2. All taxes on personal property in the county due by the
31 transferor have been paid when all land owned by the transferor in the county is being
32 transferred.

33 (ii) The certificate of the collecting agent designated by law, showing
34 that all taxes, assessments, and charges have been paid, shall be endorsed on the deed, and
35 the endorsement shall be sufficient authority for transfer on the assessment books.

1 (2) (i) Except as provided in subsection (c) of this section, in Allegany,
2 Cecil, Charles, Dorchester, Harford, Howard, Kent, Queen Anne's, Somerset, and St.
3 Mary's counties no property may be transferred on the assessment books or records until:

4 1. All public taxes, assessments, any charges due a
5 municipal corporation, and charges due on the property have been paid as required by law;
6 and

7 2. All taxes on personal property in the county due by the
8 transferor have been paid when all land owned by the transferor in the county and
9 municipal corporation is being transferred.

10 (ii) The certificate of the collecting agent and municipal corporation
11 designated by law showing that all taxes, assessments, and charges have been paid, shall
12 be endorsed on the deed and the endorsement shall be sufficient authority for transfer on
13 the assessment books.

14 (c) (1) (i) The requirements for prepayment of personal property taxes in
15 subsection (b) of this section do not apply to grants of land made:

16 1. By or on behalf of any mortgagee, lien creditor, trustee of
17 a deed of trust, judgment creditor, trustee in bankruptcy or receiver, and any other
18 court-appointed officer in an insolvency or liquidation proceeding; or

19 2. By a deed in lieu of foreclosure to any holder of a mortgage
20 or deed of trust or to the holder's assignee or designee.

21 (ii) Notwithstanding any other provision of law, and except as
22 provided in subparagraph (iii) of this paragraph, after the recordation of a deed or other
23 instrument that effects a grant of land described in subparagraph (i) of this paragraph, the
24 land shall be free and clear of, and unencumbered by, any lien or claim of lien for any
25 unpaid taxes on personal property.

26 (iii) Subparagraph (ii) of this paragraph does not apply to:

27 1. Any lien for unpaid taxes on personal property that
28 attached to the land by recording and indexing a notice as provided in § 14-804(b) of the
29 Tax – Property Article prior to the recording of the mortgage, lien, deed of trust, or other
30 encumbrance giving rise to the grant of land described in subparagraph (i) of this
31 paragraph; or

32 2. Unpaid taxes on personal property owed by the transferee
33 or subsequent owner of the land after a grant of land described in subparagraph (i) of this
34 paragraph.

1 (iv) This paragraph does not affect the rights of the personal property
2 tax lienholder to make a claim to any surplus proceeds from a judicial sale of land resulting
3 in a grant of land described in subparagraph (i) of this paragraph.

4 (2) Subsection (b) of this section does not apply in Charles, St. Mary's,
5 Dorchester, Harford, Howard, Kent, Prince George's, Worcester, Carroll, Montgomery,
6 Frederick and Washington counties to any deed executed as a mere conduit or for
7 convenience in holding and passing title, known popularly as a straw deed or, as provided
8 in § 4-108 of this article, a deed making a direct grant in lieu of a straw deed, or to a deed
9 which is a supplementary instrument merely confirming, correcting, or modifying a
10 previously recorded deed, if there is no actual consideration paid or to be paid for the
11 execution of the supplementary instrument.

12 (3) Subsection (b) of this section does not apply in Baltimore City and Anne
13 Arundel, Baltimore, Carroll, Frederick, St. Mary's, or Washington counties to any deed
14 transferring property to the county when the controller or treasurer of the county has
15 certified that the conveyance does not impair the security for any public taxes, assessments,
16 and charges due on the remaining property of the grantor.

17 (4) (i) Property may be transferred on the assessment books or records
18 in July, August, or September if instead of paying the taxes required under subsection (b)(1)
19 of this section on a property transfer by assumption, a lender or the attorney handling the
20 transfer of title files with the county treasurer, tax collector, or director of finance of the
21 county in which the property is assessed a statement that certifies that the lender
22 maintains a real estate tax escrow account.

23 (ii) Upon receipt of the statement required in subparagraph (i) of
24 this paragraph, the county treasurer, tax collector, or director of finance shall endorse on
25 the deed an appropriate certification and the endorsement shall be sufficient authority for
26 transfer on the assessment books.

27 (5) At the time of transfer of real property subject to a semiannual payment
28 schedule for the payment of property taxes, only those semiannual payments that are due
29 for the current taxable year under § 10-204.3 of the Tax – Property Article must be paid
30 prior to the transfer of the property.

31 (d) Every deed or other instrument offered for recordation shall have the name of
32 each person typed or printed directly above or below the signature of the person. If a typed
33 or printed name is not provided as required in this subsection, the clerk shall make
34 reasonable efforts to determine the correct name under which the deed or other instrument
35 shall be indexed.

36 (e) (1) Any printed deed or other instrument offered for recordation shall be
37 printed in not less than eight-point type and in black letters and be on white paper of
38 sufficient weight and thickness to be clearly readable. If the deed or other instrument is
39 wholly typewritten or typewritten on a printed form, the typewriting shall be in black
40 letters, in not less than elite type and upon white paper of sufficient weight or thickness as

1 to be clearly readable. The foregoing provisions do not apply to manuscript covers or backs
2 customarily used on documents offered for recordation. The recording charge for any
3 instrument not conforming to these requirements shall be treble the normal charge. In any
4 clerk's office where the deeds or other instruments are photostated or microfilmed, no
5 instrument on which a rider has been placed or attached in a manner obscuring, hiding, or
6 covering any other part of the instrument may be offered or received for record. No
7 instrument not otherwise readily subject to photostating or microfilming may be offered or
8 received for record until treble the normal recording charge is paid to the clerk and unless
9 an affidavit, black type on white paper, is attached and made a part of the document stating
10 the kind of instrument, the date, the parties to the transaction, description of the property,
11 and all other pertinent data. After any document has been recorded in one county, a
12 certified copy of the recorded document may be recorded in any other county.

13 (2) A certified copy of any document from a state, commonwealth, territory,
14 or possession of the United States, or the District of Columbia that would otherwise be
15 recordable under Maryland law may be recorded in this State, if the document contains:

16 (i) An original certification made by the clerk or other governmental
17 official having responsibility for the certification or authentication of recorded documents
18 in the jurisdiction where the document is recorded; and

19 (ii) An indication of the recording reference and court or other public
20 registry where the original document is recorded.

21 (f) (1) (i) In this paragraph, "under the attorney's supervision" includes
22 review of an instrument by the certifying attorney.

23 (ii) A deed other than a mortgage, a deed of trust, an assignment of
24 rents, an assignment of a lease for security purposes, or an assignment or a release of a
25 mortgage or a deed of trust may not be recorded unless it bears:

26 1. The certification of an attorney admitted to the Bar of this
27 State that the instrument has been prepared by the attorney or under the attorney's
28 supervision; or

29 2. A certification by a party named in the instrument that
30 the instrument was prepared by that party.

31 (iii) A mortgage, a deed of trust, an assignment of rents, an
32 assignment of a lease for security purposes, or an assignment or a release of a mortgage or
33 a deed of trust prepared by any attorney or one of the parties named in the instrument may
34 be recorded without the certification required under subparagraph (ii) of this paragraph.

35 (2) Every deed recorded in Prince George's County shall contain a reference
36 to the election district in which the property described in the deed is located.

1 (3) Every deed or other instrument recorded in Talbot County shall have
2 written, typed, or printed on its back, to be readily visible when folded for filing in the
3 appropriate drawer or file, the name of every party to the deed or other instrument and the
4 nature or character of the instrument.

5 (4) **(I) THIS PARAGRAPH DOES NOT APPLY TO A**
6 **TRANSFER-ON-DEATH DEED EXECUTED IN ACCORDANCE WITH THE REQUIREMENTS**
7 **OF TITLE 16.5 OF THE ESTATES AND TRUSTS ARTICLE.**

8 **(II)** No deed granting property lying within the boundaries of any
9 sanitary district operated by the County Commissioners of Worcester County may be
10 accepted by the Clerk of the Circuit Court for recording unless the deed is marked by the
11 county to indicate that every assessment or charge currently due and owed to the county
12 with respect to the property described in the deed has been paid.

13 (5) **(I)** In Frederick County, if the property to be transferred is a
14 subdivision, which is being dissected from a larger tract of land, then every public tax,
15 assessment, and charge due on the larger tract shall be paid before the property is
16 transferred on the assessment books or land records.

17 **(II)** Notwithstanding any other provision of this section, in Frederick
18 County the certificate of the Treasurer and the appropriate municipal tax collector, if the
19 property is within an incorporated town or city, showing that every tax has been paid shall
20 be endorsed on the deed. The endorsement is sufficient authority for transfer on the
21 assessment books or land records.

22 (6) Every deed granting a right-of-way or other easement to a public
23 utility, public agency, or a department or agency of the State shall contain an accurate and
24 definite description as well as a reference to the liber and folio where the servient land was
25 granted and a recitation of the grantors, grantees, and the date of the reference deed.

26 (g) (1) This subsection does not apply to:

27 (i) An assignment of a mortgage or if presented for recordation, an
28 assignment of a deed of trust;

29 (ii) A release of a deed of trust or mortgage;

30 (iii) A substitution of trustees on a deed of trust;

31 (iv) A power of attorney;

32 (v) A financing statement or an amendment, continuation, release,
33 or termination of a financing statement recorded in land records; or

1 (vi) A restrictive covenant modification executed under § 3–112 of
2 this subtitle.

3 (2) Except as provided in paragraph (1) of this subsection, each deed or
4 other instrument affecting property and presented for recordation shall be:

5 (i) Accompanied by a complete intake sheet, on the form that the
6 Administrative Office of the Courts provides; or

7 (ii) Endorsed as provided under paragraph (8) of this subsection.

8 (3) A complete intake sheet shall:

9 (i) Describe the property by at least one of the following property
10 identifiers:

11 1. The property tax account identification number, if any, or
12 in Montgomery County, any parcel identifier required under § 3–501 of this title, if different
13 from the tax account number;

14 2. The street address, if any;

15 3. If the property is a lot within a subdivided tract, the lot
16 and block designation, or in Baltimore City, the current land record block number;

17 4. If the property is part of a tract that has been subdivided
18 informally and there is neither an assigned tax account identification number for the parcel
19 nor a lot and block designation, then the street address, if any, or the amount of acreage;
20 or

21 5. If the property consists of multiple parcels, the
22 designation “various lots of ground” or the abbreviation “VAR. L.O.G.”;

23 (ii) Name each grantor, donor, mortgagor, and assignor and each
24 grantee, donee, mortgagee, and assignee;

25 (iii) State the type of instrument;

26 (iv) State the amount of consideration payable, including the amount
27 of any mortgage or deed of trust indebtedness assumed, or the principal amount of debt
28 secured;

29 (v) State the amount of recording charges due, including the land
30 records surcharge and any transfer and recordation taxes;

31 (vi) Identify, by citation or explanation, each claimed exemption from
32 recording taxes;

1 (vii) For an instrument effecting a change in ownership, state a tax
2 bill mailing address; and

3 (viii) Indicate the person to whom the instrument is to be returned.

4 (4) An intake sheet may request any other information that the
5 Administrative Office of the Courts considers necessary in expediting transfers of property
6 or recording and indexing of instruments.

7 (5) A clerk may not charge any fee for recording an intake sheet.

8 (6) **(I) [A] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
9 **PARAGRAPH, A** clerk may not refuse to record an instrument that does not effect a change
10 of ownership on the assessment books solely because it is not accompanied by an intake
11 sheet.

12 **(II) A CLERK MAY REFUSE TO RECORD A TRANSFER-ON-DEATH**
13 **DEED EXECUTED IN ACCORDANCE WITH TITLE 16.5 OF THE ESTATES AND TRUSTS**
14 **ARTICLE IF IT IS NOT ACCOMPANIED BY AN INTAKE SHEET.**

15 (7) A clerk may refuse to record a deed or instrument that effects a change
16 of ownership on the assessment rolls if the instrument is not accompanied by a complete
17 intake sheet or endorsed as transferred on the assessment books by the assessment office
18 for the county where the property is located.

19 (8) **(i) THIS PARAGRAPH DOES NOT APPLY TO A**
20 **TRANSFER-ON-DEATH DEED EXECUTED IN ACCORDANCE WITH TITLE 16.5 OF THE**
21 **ESTATES AND TRUSTS ARTICLE.**

22 **(II)** If a deed or other instrument that effects a change in ownership
23 is submitted for transfer on the assessment books without an intake sheet, the person
24 offering the deed or other instrument shall mail or deliver to the person having charge of
25 the assessment books the information required on the intake sheet.

26 **[(ii)] (III)** When property is transferred on the assessment books
27 under this paragraph:

28 1. The transfer shall be to the grantee or assignee named in
29 the deed or other instrument; and

30 2. The person recording the transfer shall evidence the fact
31 of the transfer on the deed or other instrument.

1 [(iii)] (IV) An endorsement under this paragraph is sufficient to
 2 authorize the recording of the deed or other instrument by the clerk of the appropriate
 3 court.

4 (9) A clerk may not record an instrument that effects a real property lease
 5 dealing in natural gas and oil unless the instrument is accompanied by a complete intake
 6 sheet.

7 (10) (i) An intake sheet shall be recorded immediately after the
 8 instrument it accompanies.

9 (ii) The intake sheet is not part of the instrument and does not
 10 constitute constructive notice as to the contents of the instrument.

11 (iii) **1. THIS SUBPARAGRAPH DOES NOT APPLY TO A**
 12 **TRANSFER-ON-DEATH DEED.**

13 **2.** The lack of an intake sheet does not affect the validity of
 14 any conveyance, lien, or lien priority based on recordation of an instrument.

15 **(H) THE STATE DEPARTMENT OF ASSESSMENTS AND TAXATION SHALL**
 16 **DEVELOP AND IMPLEMENT A REGISTRY FOR THE REGISTRATION OF**
 17 **TRANSFER-ON-DEATH DEEDS FOR THE PURPOSE OF THE TRANSFERRING OF**
 18 **OWNERSHIP OF A PROPERTY ON THE ASSESSMENT RECORDS ON THE DEATH OF THE**
 19 **TRANSFEROR INDICATED ON THE TRANSFER-ON-DEATH DEED.**

20 Article – Tax – Property

21 12–108.

22 **(II) A REAL PROPERTY TRANSFER-ON-DEATH DEED UNDER TITLE 16.5 OF**
 23 **THE ESTATES AND TRUSTS ARTICLE IS NOT SUBJECT TO RECORDATION TAX.**

24 13–207.

25 (a) An instrument of writing is not subject to transfer tax to the same extent that
 26 it is not subject to recordation tax under:

27 (25) § 12–108(gg) of this article (Transfer of principal residence surrendered
 28 in bankruptcy); [or]

29 (26) § 12–108(hh) of this article (Transfer of real property within the Laurel
 30 Park racing facility site, Pimlico racing facility site, Pimlico site, or Bowie Race Course
 31 Training Center property); **OR**

1 **(27) § 12-108(II) OF THIS ARTICLE (REAL PROPERTY**
2 **TRANSFER-ON-DEATH DEED).**

3 **13-414.**

4 **AN INSTRUMENT OF WRITING THAT IS EXEMPT FROM RECORDATION TAX**
5 **UNDER § 12-208(II) (REAL PROPERTY TRANSFER-ON-DEATH DEED) IS NOT**
6 **SUBJECT TO COUNTY TRANSFER TAX.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act, to the extent
8 practicable, shall be interpreted and enforced by a court in accordance with existing law
9 governing life estates with powers of alienation.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to a
11 transfer-on-death deed that was made before, on, or after the effective date of this Act by
12 a transferor who dies on or after the effective date of this Act.

13 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2022.