

SENATE BILL 853

N2, N1
SB 698/21 – JPR

2lr0781
CF 2lr0779

By: Senator Eckardt

Introduced and read first time: February 7, 2022

Assigned to: Judicial Proceedings

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

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

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

(2) If there is no personal representative, it shall be filed with a court 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.

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]:

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:

1 [(i)] (J) In the case of a disclaimer by an appointee of a nonfiduciary power of
2 appointment:

[j] (k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer shall be delivered as provided in subsection [(b), (c), or (d)] (C), (D), OR (E) of this section as if the power disclaimed were an interest in property.

11 **[(k)] (L)** In the case of a disclaimer of a power by an agent, the disclaimer shall
12 be delivered to the principal or the principal's representative.

13 9-212.

14 (a) If an instrument transferring an interest in or power over property subject to
15 a disclaimer is required or permitted by law to be filed, recorded, or registered, the
16 disclaimer may be filed, recorded, or registered.

17 (b) [Failure] EXCEPT AS PROVIDED UNDER § 9-209(G)(2) OF THIS
18 SUBTITLE, FAILURE to file, record, or register the disclaimer does not affect its validity.

19 **TITLE 16.5 MARYLAND REAL PROPERTY TRANSFER-ON-DEATH (TOD) ACT.**

SUBTITLE 1. GENERAL PROVISIONS.

21 16.5-101.

22 (A) IN THIS TITLE THE FOLLOWING TERMS HAVE THE MEANINGS
23 INDICATED

24 **(B) "BENEFICIARY"** MEANS AN INDIVIDUAL WHO RECEIVES REAL
25 PROPERTY UNDER A TRANSFER-ON-DEATH DEED.

(C) "DESIGNATED BENEFICIARY" MEANS AN INDIVIDUAL DESIGNATED TO
RECEIVE REAL PROPERTY IN A TRANSFER ON DEATH DEED.

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 **SUBTITLE 2. ELEMENTS, RECORDATION, AND EFFECT DURING LIFE OF**
2 **TRANSFEROR.**

3 **16.5–201.**

4 **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A**
5 **TRANSFER-ON-DEATH DEED SHALL COMPLY WITH § 4–101 OF THE REAL PROPERTY**
6 **ARTICLE.**

7 **(B) A TRANSFER-ON-DEATH DEED SHALL STATE THAT THE TRANSFER TO**
8 **THE DESIGNATED BENEFICIARY IS TO OCCUR AT THE TRANSFEROR'S DEATH.**

9 **16.5–202.**

10 **(A) A TRANSFER-ON-DEATH DEED IS EFFECTIVE IF, PRIOR TO THE DEATH**
11 **OF THE TRANSFEROR, IT IS RECORDED IN THE PUBLIC LAND RECORDS OF THE**
12 **COUNTY WHERE THE PROPERTY IS LOCATED IN ACCORDANCE WITH § 3–104 OF THE**
13 **REAL PROPERTY ARTICLE.**

14 **(B) A TRANSFER-ON-DEATH DEED IS EFFECTIVE WITHOUT:**

15 **(1) NOTICE OR DELIVERY TO OR ACCEPTANCE BY THE DESIGNATED**
16 **BENEFICIARY DURING THE TRANSFEROR'S LIFE; OR**

17 **(2) CONSIDERATION.**

18 **16.5–203.**

19 **DURING A TRANSFEROR'S LIFE, A TRANSFER-ON-DEATH DEED DOES NOT:**

20 **(1) AFFECT AN INTEREST OR RIGHT OF THE TRANSFEROR OR ANY**
21 **OTHER OWNER, INCLUDING THE RIGHT TO TRANSFER OR ENCUMBER THE**
22 **PROPERTY;**

23 **(2) AFFECT AN INTEREST OR RIGHT OF A TRANSFeree, EVEN IF THE**
24 **TRANSFeree HAS ACTUAL OR CONSTRUCTIVE NOTICE OF THE**
25 **TRANSFER-ON-DEATH DEED;**

26 **(3) AFFECT AN INTEREST OR A RIGHT OF A SECURED OR UNSECURED**
27 **CREDITOR OR FUTURE CREDITOR OF THE TRANSFEROR, EVEN IF THE CREDITOR HAS**
28 **ACTUAL OR CONSTRUCTIVE NOTICE OF THE TRANSFER-ON-DEATH DEED;**

5 (6) SUBJECT THE PROPERTY TO CLAIMS OR PROCESS OF A CREDITOR
6 OF THE DESIGNATED BENEFICIARY.

SUBTITLE 3. REVOCATION.

8 16.5-301.

14 (I) TRANSFER-ON-DEATH DEED THAT REVOKES THE DEED OR
15 PART OF THE DEED EXPRESSLY OR BY INCONSISTENCY;

16 (II) REVOCATION DOCUMENT THAT EXPRESSLY REVOKES THE
17 DEED OR PART OF THE DEED; OR

18 (III) INTER VIVOS DEED THAT EXPRESSLY OR BY
19 INCONSISTENCY REVOKES A TRANSFER-ON-DEATH DEED OR PART OF THE
20 TRANSFER-ON-DEATH DEED.

24 (B) AFTER A TRANSFER-ON-DEATH DEED IS RECORDED, IT MAY NOT BE
25 REVOKED BY:

26 (1) A REVOCATORY ACT ON THE DEED: OR

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 SHALL:

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

8 (2) ADVISE THAT A TRANSFER-ON-DEATH DEED MAY BE USED ONLY
9 FOR THE TRANSFER OF PROPERTY ON THE DEATH OF THE TRANSFEROR AND IS
10 VALID ONLY IF PROPERLY EXECUTED AND RECORDED DURING THE LIFE OF THE
11 TRANSFEROR;

12 (3) DESCRIBE THE PURPOSE, LIMITATIONS, BENEFITS, AND
13 DISADVANTAGES OF USING A TRANSFER-ON-DEATH DEED FOR THE TRANSFER OF
14 PROPERTY ON THE DEATH OF A TRANSFEROR;

15 (4) PROVIDE INFORMATION ON THE EXECUTION OF A
16 TRANSFER-ON-DEATH DEED AS WELL AS THE PROCESS FOR THE RECORDATION OF
17 THE DEED IN LOCAL LAND RECORDS;

18 (5) EXPLAIN THAT THE RECORDATION OF A VALID
19 TRANSFER-ON-DEATH DEED SUPERSEDES TESTAMENTARY DOCUMENTS,
20 INCLUDING THOSE THAT ARE EXECUTED AFTER THE RECORDATION OF THE
21 TRANSFER-ON-DEATH DEED, AND THAT A TRANSFER-ON-DEATH DEED MUST BE
22 REVOKED PRIOR TO THE DEATH OF THE TRANSFEROR IN ORDER FOR THE PROPERTY
23 SUBJECT TO A TRANSFER-ON-DEATH DEED TO TRANSFER IN ACCORDANCE WITH A
24 TESTAMENTARY DOCUMENT;

25 (6) PROVIDE INFORMATION ON HOW AN INDIVIDUAL MAY ALTER OR
26 REPLACE DESIGNATED BENEFICIARIES;

27 (7) PROVIDE INFORMATION ON THE METHODS AND PROCESS FOR
28 THE REVOCATION OF A TRANSFER-ON-DEATH DEED;

29 (8) INFORM INDIVIDUALS THAT THE EXECUTION, RECORDATION, OR
30 REVOCATION OF A TRANSFER-ON-DEATH DEED DOES NOT REQUIRE NOTICE TO OR
31 ACCEPTANCE BY A DESIGNATED BENEFICIARY;

4 (10) INCLUDE ANY OTHER INFORMATION THAT THE ADMINISTRATIVE
5 OFFICE OF THE COURTS CONSIDERS PRUDENT.

6 16.5-502.

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

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

REVOCABLE TRANSFER-ON-DEATH (TOD) DEED

13 NOTICE TO OWNER

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

15 **THIS FORM MUST BE RECORDED BEFORE YOUR DEATH, OR IT WILL NOT**
16 **BE EFFECTIVE.**

17 **A TRANSFER-ON-DEATH DEED MAY ONLY BE EXECUTED BY THE SOLE**
18 **OWNER OF REAL PROPERTY.**

19 IDENTIFYING INFORMATION

20 OWNER MAKING THIS DEED:

21 _____
22 **PRINTED NAME** _____ **MAILING ADDRESS** _____

23 **LEGAL DESCRIPTION OF THE PROPERTY:**

25 PRIMARY BENEFICIARY

26 I DESIGNATE THE FOLLOWING BENEFICIARY IF THE BENEFICIARY
27 SURVIVES ME.

1 _____
2 PRINTED NAME _____
3 MAILING ADDRESS, IF AVAILABLE _____

3 **ALTERNATE BENEFICIARY – OPTIONAL**

4 **IF MY PRIMARY BENEFICIARY DOES NOT SURVIVE ME, I DESIGNATE THE**
5 **FOLLOWING ALTERNATE BENEFICIARY IF THAT BENEFICIARY SURVIVES ME.**

6 _____
7 PRINTED NAME _____
8 MAILING ADDRESS, IF AVAILABLE _____

8 **TRANSFER ON DEATH**

9 **AT MY DEATH, I TRANSFER MY INTEREST IN THE DESCRIBED PROPERTY**
10 **TO THE BENEFICIARIES AS DESIGNATED ABOVE.**

11 **BEFORE MY DEATH, I HAVE THE RIGHT TO REVOKE THIS DEED.**

12 **SIGNATURE OF OWNER OR OWNERS MAKING THIS DEED**

13 _____ [(SEAL)] _____
14 SIGNATURE _____ DATE _____

15 **ACKNOWLEDGMENT**

16 **(INSERT ACKNOWLEDGMENT FOR DEED HERE)**

17 **I HEREBY CERTIFY THAT THIS REVOCABLE TRANSFER-ON-DEATH DEED WAS**
18 **PREPARED BY _____, (OWNER/PRIMARY BENEFICIARY/ALTERNATE**
19 **BENEFICIARY), A PARTY TO THIS INSTRUMENT.**

20 SIGNATURE _____
21 PRINTED NAME: _____

22 **(C) THE FOLLOWING INFORMATIONAL SHEET MAY BE USED TO EXPLAIN**
23 **THE FORM TRANSFER-ON-DEATH DEED:**

24 **COMMON QUESTIONS ABOUT THE USE OF THIS FORM**

25 **THIS INFORMATIONAL SHEET SHOULD NOT BE RECORDED WITH**
26 **A TRANSFER-ON-DEATH DEED AT THE OFFICE OF LAND RECORDS.**

1 **WHAT DOES THE TRANSFER-ON-DEATH (TOD) DEED DO? WHEN YOU
2 DIE, THIS DEED TRANSFERS THE DESCRIBED PROPERTY, SUBJECT TO ANY LIENS OR
3 MORTGAGES (OR OTHER ENCUMBRANCES) ON THE PROPERTY AT YOUR DEATH.
4 PROBATE IS NOT REQUIRED. THE TOD DEED HAS NO EFFECT UNTIL YOU DIE. YOU
5 CAN REVOKE IT AT ANY TIME. YOU ARE ALSO FREE TO TRANSFER THE PROPERTY TO
6 SOMEONE ELSE DURING YOUR LIFETIME. IF YOU DO NOT OWN ANY INTEREST IN THE
7 PROPERTY WHEN YOU DIE, THIS DEED WILL HAVE NO EFFECT.**

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

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

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

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

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

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

31 **HOW DO I REVOKE THE TOD DEED AFTER IT IS RECORDED? THERE ARE
32 THREE WAYS TO REVOKE A RECORDED TOD DEED: (1) COMPLETE AND
33 ACKNOWLEDGE A REVOCATION FORM, AND RECORD IT IN EACH COUNTY WHERE THE
34 PROPERTY IS LOCATED. (2) COMPLETE AND ACKNOWLEDGE A NEW TOD DEED THAT
35 DISPOSES OF THE SAME PROPERTY, AND RECORD IT IN EACH COUNTY WHERE THE
36 PROPERTY IS LOCATED. (3) TRANSFER THE PROPERTY TO SOMEONE ELSE DURING**

1 YOUR LIFETIME BY A RECORDED DEED THAT EXPRESSLY REVOKE THE TOD DEED.
2 YOU MAY NOT REVOKE THE TOD DEED BY WILL.

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

6 DO I NEED TO TELL THE BENEFICIARIES ABOUT THE TOD DEED? NO,
7 BUT IT IS RECOMMENDED. SECRECY CAN CAUSE LATER COMPLICATIONS AND MIGHT
8 MAKE IT EASIER FOR OTHERS TO COMMIT FRAUD.

9 I HAVE OTHER QUESTIONS ABOUT THIS FORM. WHAT SHOULD I DO?
10 THIS FORM IS DESIGNED TO FIT SOME BUT NOT ALL SITUATIONS. IF YOU HAVE
11 OTHER QUESTIONS, YOU ARE ENCOURAGED TO CONSULT A LAWYER.

12 **16.5-503.**

13 (A) THIS TITLE GOVERNS THE EFFECT OF THE FORM PROVIDED UNDER THIS
14 SECTION, OR ANY OTHER INSTRUMENT USED TO REVOKE A TRANSFER-ON-DEATH
15 DEED.

16 (B) THE FOLLOWING FORM MAY BE USED TO CREATE AN INSTRUMENT OF
17 REVOCATION UNDER THIS SUBTITLE:

18 **REVOCATION OF TRANSFER-ON-DEATH (TOD) DEED**

19 **NOTICE TO OWNER**

20 THIS REVOCATION MUST BE RECORDED BEFORE YOU DIE OR IT WILL NOT BE
21 EFFECTIVE. THIS REVOCATION IS EFFECTIVE ONLY AS TO THE INTERESTS IN THE
22 PROPERTY OF THE OWNER WHO SIGNS THIS REVOCATION.

23 **IDENTIFYING INFORMATION**

24 **OWNER OF PROPERTY MAKING THIS REVOCATION:**

25 _____ **PRINTED NAME** _____ **MAILING ADDRESS**

27 **LEGAL DESCRIPTION OF THE PROPERTY:**
28 _____

1 **REVOCATION**

2 I REVOKE ALL MY PREVIOUS TRANSFERS OF THIS PROPERTY BY
3 TRANSFER-ON-DEATH DEED.

4 **SIGNATURE OF OWNER OR OWNERS MAKING THIS REVOCATION**

5 _____ [(SEAL)] _____
6 SIGNATURE DATE

7 **ACKNOWLEDGMENT**

8 (INSERT ACKNOWLEDGMENT HERE)

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

12 SIGNATURE _____
13 PRINTED NAME: _____

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

16 **COMMON QUESTIONS ABOUT REVOKING A TRANSFER-ON-DEATH
17 DEED**

18 THIS INFORMATIONAL SHEET SHOULD NOT BE RECORDED WITH A
19 REVOCATION OF A TRANSFER-ON-DEATH DEED AT THE OFFICE OF
20 LAND RECORDS.

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

27 HOW DO I FIND THE "LEGAL DESCRIPTION" OF THE PROPERTY? THIS
28 INFORMATION MAY BE ON THE TOD DEED. IT MAY ALSO BE AVAILABLE IN THE
29 PUBLIC LAND RECORDS FOR THE COUNTY WHERE THE PROPERTY IS LOCATED. IF
30 YOU ARE NOT ABSOLUTELY SURE, CONSULT A LAWYER.

1 HOW DO I "RECORD" THE FORM? TAKE THE COMPLETED AND
2 ACKNOWLEDGED FORM TO THE CLERK OF THE CIRCUIT COURT FOR THE COUNTY
3 WHERE THE PROPERTY IS LOCATED. FOLLOW THE INSTRUCTIONS GIVEN BY THE
4 CLERK'S OFFICE TO MAKE THE FORM PART OF THE OFFICIAL PROPERTY RECORDS.
5 IF THE PROPERTY IS LOCATED IN MORE THAN ONE COUNTY, YOU SHOULD RECORD
6 THE FORM IN EACH OF THOSE COUNTIES.

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

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

SUBTITLE 6. EFFECT ON FEDERAL LAW.

14 16.5-601.

15 THIS SUBTITLE MODIFIES, LIMITS, AND SUPERSEDES THE FEDERAL
16 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, 15 U.S.C.
17 SECTION 7001, ET SEQ., BUT DOES NOT MODIFY, LIMIT, OR SUPERSEDE SECTION
18 101(C) OF THAT ACT, 15 U.S.C. SECTION 7001(C), OR AUTHORIZE ELECTRONIC
19 DELIVERY OF ANY OF THE NOTICES DESCRIBED IN SECTION 103(B) OF THAT ACT, 15
20 U.S.C. SECTION 7003(B).

Article – Real Property

22 3-104.

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

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

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

A. WITH ANY SURVEY; AND

B. WITHOUT A CERTIFICATE OF THE COLLECTOR OF

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

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

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

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

1 encumbrance giving rise to the grant of land described in subparagraph (i) of this
2 paragraph; or

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

36 (d) Every deed or other instrument offered for recordation shall have the name of
37 each person typed or printed directly above or below the signature of the person. If a typed
38 or printed name is not provided as required in this subsection, the clerk shall make

1 reasonable efforts to determine the correct name under which the deed or other instrument
2 shall be indexed.

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

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

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

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

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

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

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

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

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

- (iii) A substitution of trustees on a deed of trust;
- (iv) A power of attorney;
- (v) A financing statement or an amendment, continuation, release, financing statement recorded in land records; or
- (vi) A restrictive covenant modification executed under § 3–112 of

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

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

12 (3) A complete intake sheet shall:

13 (i) Describe the property by at least one of the following property
14 identifiers:

18 2. The street address, if any;

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

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

29 (iii) State the type of instrument;

1 (iv) State the amount of consideration payable, including the amount
2 of any mortgage or deed of trust indebtedness assumed, or the principal amount of debt
3 secured;

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

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

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

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

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

19 (II) A CLERK MAY REFUSE TO RECORD A TRANSFER-ON-DEATH
20 DEED EXECUTED IN ACCORDANCE WITH TITLE 16.5 OF THE ESTATES AND TRUSTS
21 ARTICLE IF IT IS NOT ACCCOMPANIED BY AN INTAKE SHEET.

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

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

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

5 **[(iii)] (IV)** An endorsement under this paragraph is sufficient to
6 authorize the recording of the deed or other instrument by the clerk of the appropriate
7 court.

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

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

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

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

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

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

24 **Article – Tax – Property**

25 12–108.

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

28 13–207.

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

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

3 (26) § 12–108(hh) of this article (Transfer of real property within the Laurel
4 Park racing facility site, Pimlico racing facility site, Pimlico site, or Bowie Race Course
5 Training Center property); OR

6 (27) § 12-108(ii) OF THIS ARTICLE (REAL PROPERTY
7 TRANSFER-ON-DEATH DEED).

8 13-414.

9 AN INSTRUMENT OF WRITING THAT IS EXEMPT FROM RECORDATION TAX
10 UNDER § 12-208(ii) (REAL PROPERTY TRANSFER-ON-DEATH DEED) IS NOT
11 SUBJECT TO COUNTY TRANSFER TAX.

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

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

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