

Senator Eckardt - Sponsor Testimony - SB 853 Trans

Uploaded by: Adelaide Eckardt

Position: FAV

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THE SENATE OF MARYLAND
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Testimony for Senate Bill 853
Maryland Real Property Transfer-on-Death (TOD) Act
Judicial Proceeding Committee
March 2, 2022

Chairman Smith and Members of the Committee:

Thank you for the opportunity to present **Senate Bill 853 Maryland Real Property Transfer-on-Death (TOD) Act**.

Many low income Marylanders and families face barriers when trying to transfer property to the next generations, including liens, in cases where there is no will during sudden and unexpected deaths. The challenges that come from a lack of will create unreasonable economic burdens for families and can at many times displace them, leading to increased rates of homelessness. This is especially seen in situations in our rural areas, where multiple generations live and work on farm property. During this pandemic, we have also seen an increase of unexpected deaths across the State of Maryland, many of which are the heads of household who have not yet drafted a will.

Senate Bill 853 would allow real property to transfer to a beneficiary automatically upon death, creating a transfer-on-death (TOD) deed. This act would not apply to real property owned by a corporation, business, government body, or any other legal or commercial entity, and would be **creating an alternate process in the case that there is no will**.

This legislation comes from the Transfer on Death Deed Workgroup, whose purpose was to determine how to best implement a transfer on death deed in the state of Maryland. The workgroup examined what 26 other states and the District of Columbia have put into effect, problems they have run into, and common solutions. This data was taken into account when drafting this act.

Thank you for your consideration and I respectfully ask for a favorable report of Senate Bill 698.

Best regards,

A handwritten signature in cursive script that reads "Addie C. Eckardt".

Senator Addie C. Eckardt

Written Testimony SB 853 HB 1270 (TOD Deed) .pdf

Uploaded by: Allison Harris

Position: FAV

SB 853/HB 1270
MARYLAND REAL PROPERTY TRANSFER-ON-DEATH (TOD) ACT
HEARING BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE
MARCH 2, 2022
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 853/HB 1270 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 seven years, PBRC has assisted nearly 700 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 their property taxes, which is a situation often created by, or compounded by, not having proper title to their home. The clients served by our tax sale prevention clinics held in Baltimore in 2021 represented some of our state’s most vulnerable citizens: 81% were seniors, 26% were disabled, 84% identified as Black, and 81% reported annual household incomes of less than \$30,000.

On average, our 2021 Baltimore clients encountered in our clinics had owned their homes for 28 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 to build.

PBRC supports SB 853/HB 1270, 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 853/HB 1270.

Please contact Allison Harris, Director of PBRC’s Home Preservation Project, with any questions.

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SB853 Maryland Volunteer Lawyers Service - Favorab

Uploaded by: Amy Hennen

Position: FAV



MARYLAND SENATE JUDICIAL PROCEEDINGS
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE
IN SUPPORT OF SB0853: MARYLAND REAL PROPERTY TRANSFER-ON-
DEATH (TOD) ACT
WEDNESDAY, MARCH 2, 2022

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Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in support of Senate Bill 0853.

My name is Amy Hennen, and I am the Director of Advocacy and Financial Stabilization 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 FY21, MVLS volunteers provided legal services to 3,353 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 and large property tax bills, which make it impossible to transfer property. For the reasons explained below, we respectfully request a favorable report on Senate Bill 0853.

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 the home for the client. 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 is now undergoing the process of recording a new deed for the second time. 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 0853 because it would remove a huge barrier standing in the way of Maryland families' ability to sustain homeownership.

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

SB853 _JPR_FAV_Mid-Shore Pro Bono Written Testimon

Uploaded by: Meredith Lathbury Girard

Position: FAV



*Connecting Low-Income
Individuals and Families who
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March 1, 2022

BILL NO: SB853– Maryland Real Property Transfer on Death Deed Act
COMMITTEE: Judicial Proceedings
FROM: Mid-Shore Pro Bono, Inc.
POSITION: SUPPORT

Mid-Shore Pro Bono (MSPB) recommends a favorable report for SB853. 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 home environments for children, which is especially important in times of crisis.

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. Our experience is that 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 the MVA has a simple form people can fill out to designate a beneficiary for their titled vehicle.

Reducing barriers to making plans for the future 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 SB853. 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.

SB0853.docx.pdf

Uploaded by: Director Michael Higgs

Position: INFO

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HEARING DATE: March 2, 2022

BILL: SB0853

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

SDAT POSITION: Letter of Information

The State Department of Assessments and Taxation (SDAT) notes that SB0853 would be challenging to implement and pose major IT costs.

This legislation requires SDAT to develop and implement a registry for the registration of transfer-on-death deeds. The purpose of this bill is to transfer ownership of a property on the assessment records upon the death of the transferor indicated on the transfer-on-death.

SDAT is deeply concerned about the potential impacts of this legislation because the department will not be able to audit any documentation in the registry. This legislation does not address a cure process for disputed documents nor does it address how the transfer would take place from the clerk of the courts to SDAT.

This legislation extends an extremely difficult timeline for the implementation of the proposed major operational changes.

For these reasons, SDAT offers this Letter of Information and strongly urges a reconsideration of SB0853 in its current form.