

FAVORABLE SB 651 - Transfer on Death Deed - Alan B

Uploaded by: Alan Bowser

Position: FAV

FAVORABLE SB 651

Testimony of Alan S. Bowser, Esq.
in Support of Senate Bill 651

Real Property – Transfer-on-Death Deed – Establishment
Senate Judicial Proceedings Committee
Maryland Senate
Annapolis, Maryland

Dear Chair and Members of the Committee:

My name is Alan Bowser, and I am an attorney who has practiced for approximately thirty years in Montgomery County, Maryland and Washington, D.C. I write in strong support of Senate Bill 651, which would authorize transfer-on-death (TOD) deeds for real property in Maryland.

Over the course of my practice, I have represented many clients of modest and lower income. For a significant number of them, their home is their primary – and sometimes only – substantial asset. At the same time, these clients often face routine financial pressures: mortgage payments, medical expenses, insurance, utilities, and everyday living costs. The additional legal fees, court costs, and administrative expenses associated with probate can be daunting. Even when probate is relatively straightforward, the delay and cost can impose real hardship on surviving family members.

SB 651 offers a sensible and carefully structured alternative. The legislation permits a property owner to designate a beneficiary to receive real property upon death through a recorded, revocable deed. Critically, the owner retains full control of the property during life and may revoke the designation at any time. The beneficiary acquires no present ownership interest while the owner is alive. In this way, the measure preserves the owner's autonomy and flexibility while creating a streamlined path for post-death transfer.

From a practitioner's perspective, the absence of a statutory TOD option in Maryland sometimes forces clients into less optimal planning strategies. For clients with limited resources, establishing and maintaining a revocable trust may be cost-prohibitive. Relying solely on a will, in turn, guarantees probate, even in uncomplicated estates. The availability of a TOD deed would give attorneys and clients an additional tool – one that

is straightforward, transparent, and well understood in the majority of states that have adopted similar legislation.

I am also mindful that probate serves important functions, including protection of creditors and orderly administration. This bill does not dismantle those safeguards. Rather, it provides a narrowly tailored mechanism for transferring real property outside probate while remaining subject to existing legal protections and recording requirements. It is a balanced approach that expands choice without undermining the integrity of Maryland's property system.

In my experience, many families are less concerned with sophisticated estate planning than with ensuring that a home passes efficiently and without conflict. Providing a clear statutory form and defined process reduces the risk of informal arrangements or unintended consequences. It promotes predictability and can prevent disputes among heirs.

For these reasons – grounded both in professional experience and in the practical realities faced by many Maryland families – I respectfully urge the Committee to issue a Favorable Report on SB 651. The legislation represents a prudent modernization of Maryland law and will provide meaningful, tangible benefits to constituents who can least afford unnecessary expense and delay.

Thank you for your consideration.

Respectfully submitted,

Alan Bowser
Silver Spring, Maryland

Written Testimony HB 738-SB 651 -TOD Deed (1).pdf

Uploaded by: Allison Harris

Position: FAV



HB 738/SB 651
REAL PROPERTY - TRANSFER-ON-DEATH DEED - ESTABLISHMENT
HEARING BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE
February 26, 2026
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 HB 738/SB 651 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 ten years, PBRC has assisted nearly 1,000 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 represent some of our state’s most vulnerable citizens: a majority are seniors, over a third identify as disabled, at least three-quarters identify as Black, and most 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 clients encountered in our tax sale clinics have owned their homes for over 25 years, and generally over 70% own 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.**

HB 738/SB 651 may protect certain Marylanders from the loss of their family home, thereby preserving homeownership and the transfer of intergenerational wealth.

For the above reasons,

PBRC urges a FAVORABLE report on HB 738/SB 651.

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

SB651_Favorable_Testimony Dr Cashenna Cross.pdf

Uploaded by: Dr Cashenna A Cross

Position: FAV

Testimony in Support of Senate Bill 651 Real Property Transfer on Death Deed Establishment

Judicial Proceedings Committee

Chair, Vice Chair, and Members of the Committee:

My name is The Honorable Dr. Cashenna A. Cross. I serve as Councilwoman At Large for the City of Glenarden and have spent more than three decades in public service, including military service, municipal leadership, and community advocacy focused on stability, transparency, and generational opportunity for Maryland families.

I respectfully offer favorable testimony in support of Senate Bill 651.

This legislation provides Maryland residents with a clear and practical estate planning tool through the establishment of a Transfer on Death Deed for real property. For many working families, seniors, veterans, and longtime homeowners, the greatest asset they possess is their home. Yet too often, that asset becomes entangled in costly probate proceedings that delay transfers, create uncertainty for heirs, and place families at risk of financial hardship during moments of grief.

Senate Bill 651 creates a structured and revocable mechanism that allows property owners to designate beneficiaries while maintaining full ownership rights during their lifetime. The bill appropriately preserves creditor protections, ensures revocability, and requires proper recordation before death, all of which balance flexibility with accountability. These safeguards are essential to maintaining confidence in property transfers while preventing unintended consequences.

From a municipal perspective, this policy promotes housing stability and continuity of ownership. When families are able to transition property efficiently, communities experience fewer abandoned homes, reduced administrative burdens, and stronger neighborhood continuity. As a local government leader serving residents navigating inheritance challenges, I have seen firsthand how delays in probate can destabilize families and neighborhoods alike.

Importantly, the bill does not eliminate existing legal protections. Properties transferred remain subject to liens, mortgages, and lawful claims, ensuring fairness while still providing families a streamlined pathway to preserve generational wealth. This balance reflects responsible governance and thoughtful policy design.

Maryland has long worked to expand access to tools that promote financial security and intergenerational stability. Senate Bill 651 advances that goal by empowering residents with a

transparent, predictable option that reduces unnecessary legal barriers while maintaining oversight.

For these reasons, I respectfully urge a favorable report on Senate Bill 651.

Thank you for your consideration and for your continued commitment to policies that strengthen Maryland families and communities.

Respectfully submitted,

The Honorable Dr. Cashenna A. Cross
Councilwoman At Large
City of Glenarden, Maryland

SB 651 Real Property – Transfer–on–Death Deed – Es

Uploaded by: James Campbell

Position: FAV



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SB 651 - Real Property – Transfer–on–Death Deed – Establishment
Senate Judicial Proceedings Committee
February 26, 2026
FAVORABLE

Good afternoon, Chair Smith, Vice Chair Waldstreicher, and members of the Committee. Thank you for the opportunity to testify in support of Senate Bill 651, which would establish the use of a Transfer–on–Death Deed. We thank Senator Henson for sponsoring this important legislation.

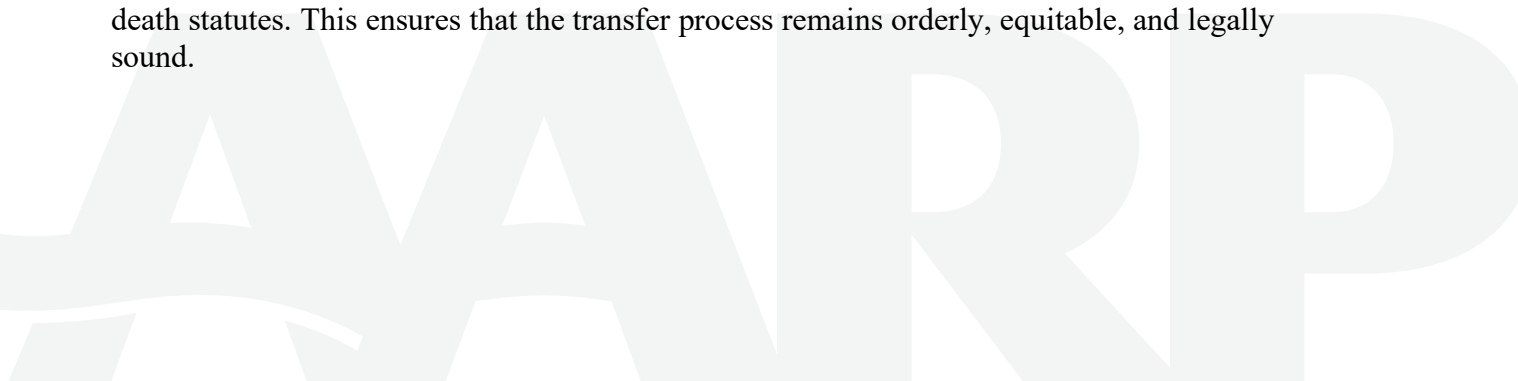
I am Jim Campbell, president emeritus of AARP Maryland and a former state delegate from Baltimore City. AARP Maryland represents approximately 850,000 members in the state. One of the organization’s guiding policy positions is to advocate for simplified laws and probate policies, and that is what SB 651 does.

This bill would establish a Transfer-on-Death (TOD) deed option in Maryland. This represents a meaningful and overdue step toward simplifying estate planning for Maryland residents and reducing unnecessary barriers faced by families after the loss of a loved one.

For many Maryland homeowners, navigating the traditional probate process can be overwhelming, costly, and time-consuming. This is particularly true for older adults, individuals with modest estates, and those without access to legal counsel. SB 651 offers a practical solution by allowing property owners to record a TOD deed that automatically transfers real property upon their death, outside of probate. This approach has already been widely adopted across the country, helping families avoid administrative burdens while still protecting creditor rights, preserving revocability, and ensuring owners maintain full control of their property during their lifetimes.

Simplified estate tools like TOD deeds are essential because they promote accessibility and fairness. Not all Marylanders have the financial resources to hire an attorney or develop complex estate plans. A legally recognized, easy-to-use form, paired with clear statutory protections, helps ensure that individuals of all income levels can make their wishes known and pass property to loved ones without unnecessary legal hurdles.

Additionally, the bill includes thoughtful safeguards. TOD deeds remain fully revocable, do not impact eligibility for benefits, and provide no legal interest to beneficiaries until death. The bill also includes critical protections for spousal elective shares, creditor rights, and simultaneous death statutes. This ensures that the transfer process remains orderly, equitable, and legally sound.



Importantly, SB 651 will help families by reducing probate costs, preventing forced sales to cover administrative fees, and allowing homes to remain within families. For many Marylanders, their home is their most valuable asset. This bill ensures they have a simple, secure mechanism to determine its future.

By modernizing Maryland's estate-planning tools and aligning with standards already working across the country, we can make a meaningful impact on the lives of families throughout our state.

For these reasons, we respectfully urge the Committee to give a favorable report to SB 651.

If you have any questions, please contact Sara Westrick, AARP Maryland Advocacy Director, at swestrick@aarp.org or by calling 410-310-0374.

2026-02-26 Maryland URPTODA Written Testimony Sena

Uploaded by: Jane Sternecky

Position: FAV

Katharine owns a house in Maryland worth \$350,000, and she has only one child, David, to whom she would like to leave the house with as little bother and expense as possible. She has very few other assets to deal with, and no creditors. Under present law, Katharine has these options:

1. Leave the house to David in a Last Will and Testament. This will require a full probate proceeding to transfer the title.
2. Leave the house to David by means of a living trust. This would avoid probate, but requires drafting a trust, and transferring the title of the house to the trust. This is a flexible and effective solution, but it is a relatively complex and expensive method of transferring the property.
3. Deed the house now to David and herself as joint owners with survivorship rights. David will inherit title at Katharine's death, but there are other potential problems. For example, if Katharine needs to sell the house to pay for an assisted living facility, David now must agree to the terms of the sale. The house is also exposed to David's creditors, one of whom could try to obtain payment by forcing a partition sale.

If you enact this legislation, Katharine has a fourth, and much better option. She can execute a TOD deed naming David as the beneficiary. The deed must be recorded in public land records before Katharine's death to be valid. While she is alive, Katharine retains 100% ownership of her house, with full power to sell or mortgage the property, to name a new beneficiary, or to cancel the TOD deed. If Katharine dies and the deed is still in effect, the property is automatically transferred to her beneficiary, David, without a probate hearing.

URPTODA was developed with the assistance of the estate planning, real property, title insurance, banking, and senior legal communities. The act has strong support nationally from the American Bar Association's Real Property Trust and Estate Section, the ABA Commission on Law and Aging, the American College of Real Estate Lawyers, and AARP. In the states that have enacted URPTODA, the questions we hear most often are "what took you so long" and "why didn't we have this available earlier?" Those are good questions.

In summary, SB 651 provides a simple and effective method to transfer real property at death – the TOD deed. This bill would not prevent estate planners from using any of the other methods now available when appropriate, but it would provide a new, affordable, and highly flexible tool, and thus potentially save Marylanders hundreds of thousands of dollars, if not millions, in legal fees and probate expenses.

We urge you to advance this bill to enact the Uniform Real Property Transfer of Death Act, and we thank you for your consideration.

Key Provisions of SB 651 The Uniform Real Property Transfer on Death Act
<u>Non-probate transfer:</u> The TOD deed is not subject to the statute of wills and instead passes title to real property directly to the named beneficiary without probate.
<u>A familiar recording procedure:</u> The TOD deed must contain all the essential elements and formalities of a properly recordable deed, including a legally sufficient description of the property to be transferred. The TOD deed must state that the transfer to the beneficiary occurs on the transferor’s death and must be properly recorded during the transferor’s lifetime in the office of the recorder of deeds where the property is located.
<u>Almost anyone can have a TOD deed:</u> The capacity required to execute a TOD deed is the same as the capacity to make a will.
<u>The transferor can change his or her mind:</u> A TOD deed does not operate until the transferor’s death and remains revocable until then. The transferor may revoke the deed by recording a new instrument such as a direct revocation of the TOD deed, or a subsequent TOD deed that names a different beneficiary. If the transferor sells the property while alive, the TOD deed is ineffective.
<u>No effect on property rights until the transferor dies:</u> Until the transferor’s death, a recorded TOD deed has no effect — it does not affect any right or interest of the transferor or any other person in the property. The transferor retains full power to sell or mortgage the property or to revoke the deed. The beneficiary has no legal or equitable interest that could be subject to creditor’s claims. The deed does not affect either the transferor’s or the beneficiary’s eligibility for public assistance and it does not trigger mortgage acceleration clauses or property tax reassessments.
<u>No obligation for the beneficiary:</u> A designated beneficiary may disclaim all or part of the transferred interest in the same manner as any other inherited property.

About the Uniform Law Commission

The ULC is a 134-year-old state-supported organization. We are a group of volunteer attorneys that provide states with non-partisan, well-conceived, and well-drafted legislation that brings clarity and stability to critical areas of state statutory law. The study and drafting process is open and inclusive. It encourages participation by persons with a wide variety of perspectives and subject matter expertise, with the goal of creating the highest quality draft legislation possible.

ULC commissioners are practicing lawyers, judges, legislators and legislative staff, and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands. ULC commissioners donate thousands of hours of legal work, without compensation, to research, draft, and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

Respectfully,

Steven N. Leites, Chair
Maryland Commission on Uniform State Laws

Jane Sternecky
Legislative Counsel
Uniform Law Commission

Eugenia Thornton Testimony Senate Jud.pdf

Uploaded by: Jane Sternecky

Position: FAV

EUGENIA THORNTON
RECORDER OF DEEDS

DARIN J. DELL
DEPUTY RECORDER
OF DEEDS



OFFICE OF

Recorder of Deeds

KENT COUNTY
ADMINISTRATIVE COMPLEX
555 BAY ROAD
DOVER, DE 19901
(HANDICAPPED ACCESSIBLE)

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Statement by Honorable Eugenia Thornton, Kent County (Delaware) Recorder of Deeds to the Maryland Senate Judicial Proceedings Committee in Support of SB 651, Establishing Real Property Transfer-on-Death Deeds

Dear Chair William Smith; Vice Chair Jeff Waldstreicher, and Members of the Senate Judicial Proceedings Committee,

Thank you for the opportunity to provide information in favor of SB 651 on February 26, 2026.

We enacted a very similar Uniform Real Property Transfer on Death Deed Act in Delaware with an effective date of December 4, 2025. Since then, my office has already recorded 179 Transfer on Death Deeds (TODDs) as of February 15, 2026. The other two counties in Delaware are also recording a lot of these deeds. **People love this law!**

We have two types of people who record Transfer on Death Deeds (TODDs):

- People who have a Will, but do not want heirs to wait for the Probate process. These individuals also appreciate that the TODD is recorded in public records, so it cannot be lost or altered; it remains in the property's chain of custody forever.
- People who cannot afford an attorney, do not trust attorneys, or have jobs that pay hourly and cannot get off work to see an attorney. For these people, the TODD is a Godsend. They can leave their property as they please for very low cost (\$88 in my office for the first 5 pages). Their heirs can begin to create generational wealth. The TODD also will help with affordable housing, since it helps to eliminate "Heirs Properties" and "Tangled Titles," that can cause houses to sit vacant, or occupied by people whose names are not on the deed, falling down because there is no clear owner to get a loan to fix the property or qualify for government support to fix the property. The property cannot be sold with a cloudy title. TODDs have been shown in Cook County, IL, to help prevent these problems.

For TODDs recorded in our office, we want Grantors to explain why the name(s) on the TODD do not match the name(s) on the last recorded deed. This is often due to marriage, divorce, or, more commonly, the death of the joint owner (spouse). We quickly discovered that surviving spouses do not always report deaths to our Register of Wills.

If they have not already done so, we require Grantors to report the death, placing the county tax records solely in their name, and obtain a "folio number" from the Register of Wills, which updates the County's Tax Database. We write that reference number on our TODD form for quick reference. We think this will help prevent "Heirs Properties" in the future.

Because our law only took effect a few months ago, we have not processed a TODD after death. However, we are acutely aware that "pre-proofing" the TODD at the front end will facilitate post-death processing.

We ask Lawyers, if they retype our form, which many of them do, to include a 'Being Clause' which explains any name changes.

We receive many compliments on the TODD. People thank us. Before enactment, TODDs had the support of AARP and many non-profits. When this law was passed in our State House in June, it did so with zero "nay" votes.

I have extensive information about Heir's Property, Tangled Titles, how TODDs can be used in Estate Planning, how TODDs can create generational wealth in places like Chicago and the Mississippi Delta--and much more on my website: www.kentcountyde.gov/My-Government/Departments/Deeds-Office/Transfer-on-Death-Deeds

I was born in the Union Hospital in Elkton and lived in Cecil County until I was 16. My grandfather, John W. McCool, built the section of Route 40 between Elkton and Havre de Grace. He was appointed as the State Librarian. As a member of the MD National Guard, my father guarded the Susquehanna Bridge during World War II. My mother and I are both graduates of Washington College in Chestertown.

I have deep Maryland roots and would be happy to work with your Recorders once your bill is enacted.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Eugenia Thornton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Hon. Eugenia Thornton
Recorder of Deeds

Statement Mark Cutrona for DCUSL on URPTODA - Sena

Uploaded by: Jane Sternecky

Position: FAV



STATE OF DELAWARE
COMMISSION ON UNIFORM STATE LAWS
LEGISLATIVE HALL
DOVER, DELAWARE 19901

Office: 302-744-4114

Fax: 302-739-3895

February 24, 2026

SENT VIA E-MAIL

Senate Judicial Proceedings Committee
c/o The Honorable William C. Smith, Jr.
Senator & Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, MD 21401

RE: SB 651, Real Property – Transfer-on-Death Deed - Establishment

Dear Senate Judicial Proceedings Committee,

I am the Legislative Liaison for the Delaware Commission on Uniform State Laws and worked with Representative Kerri Evelyn Harris, former Representative Paul Baumbach, and the New Castle County and Kent County Recorder of Deeds over the course of multiple years to enact the Uniform Real Property Transfer on Death Act (“URPTODA”) and bring transfer-on-death deeds (“TOD deed”) to Delaware as another tool in the toolbox for passing on property to the next generation. URPTODA was enacted in Delaware last year with the passage of [House Substitute No. 1 for House Bill No. 147](#) with unanimous support of legislators in both chambers.

Our road to enactment of URPTODA began with an email from Ms. Natalie Buzzard to Delaware legislators and the New Castle County Recorder of Deeds seeking their support for the adoption of a law in Delaware to allow her to transfer the deed to her home on her death to help ease the process of settling her estate for her son who serves in the military. With initial leadership by the New Castle County Recorder of Deeds, we worked to review URPTODA with the relevant Sections of the Delaware State Bar Association (the Estates and Trusts Section and the Real and Personal Property Section), answering their questions and making needed modifications to enable URPTODA to function properly within Delaware law.

Our Registers of Wills opposed our initial efforts at passage during the 2023 to 2024 legislative session, arguing that TOD deeds put the elderly at risk for fraud. We were able to counter these concerns in three key ways::

- (1) The Kent County, Delaware Recorder of Deeds interviewed her counterparts in other states that had adopted URPTODA. These interviews overwhelmingly demonstrated that URPTODA had not resulted in an increase in fraud, and had provided their constituencies with a significant benefit.

- (2) The bill received the support of the Delaware branch of the AARP, which supported the enactment of URPTODA in Delaware and echoed our efforts to counter these concerns about fraud.
- (3) We had the support of everyday Delawareans who contacted their legislators urging the adoption of URPTODA. That support from Delawareans has also been seen in the first few months since URPTODA became law in Delaware, with numerous TOD deeds being filed.

In closing, while our post-enactment experience with URPTODA has been short, we are confident in the value of URPTODA as another tool in the toolbox for those who are planning their estate. And, our confidence is high based on our analysis of URPTODA and the experience of 19 other states, the District of Columbia, and the U.S. Virgin Islands who have adopted URPTODA. Add in the 10 states with substantially similar laws and there are 32 states that have adopted and implemented TOD deeds over the course of 3 decades. This level of acceptance would not occur unless the law presented a safe, effective way to transfer property. Therefore, we hope that Maryland will soon join Delaware and its other neighboring states in the enactment of URPTODA.

Sincerely,

A handwritten signature in blue ink that reads "Mark J. Cutrona". The signature is written in a cursive, flowing style.

Mark J. Cutrona
Legislative Liaison
Delaware Commission on Uniform State Laws

Gibson Banks Center Written Testimony on SB 651 -

Uploaded by: Kezia McDonald-McNeal

Position: FAV

**Testimony Concerning Senate Bill 651
Real Property-Transfer-on-Death Deed-Establishment
Position-Favorable**

To: Senator William C. Smith, Jr., Chair
Senator Jeff Waldstreicher, Vice Chair
Members of the Judicial Proceedings Committee

From: Kezia McDonald-McNeal, Student Fellow, Monique L. Dixon, Executive
Director and Michael Pinard, Faculty Director, Gibson-Banks Center for Race and
the Law

Date: February 24, 2026

On behalf of the Gibson-Banks Center for Race and the Law (“Gibson-Banks Center”) at the University of Maryland Francis King Carey School of Law,¹ we appreciate the opportunity to submit testimony in support of Senate Bill 651 (SB 651), which establishes a framework for the creation, revocation, and recordation of a Transfer-on-Death Deed (TODD), which is an estate planning tool that real property owners can use to transfer their property to one or more designated beneficiaries at the owner’s death. We respectfully urge you to issue a favorable vote on SB 651 for two reasons. First, it creates a cost-effective estate planning tool that will allow real property owners, particularly those from racially marginalized and low-income communities, to transfer their most valuable asset – their homes – to the next generation as an alternative to more costly estate planning, such as will preparation. Second, SB 651 would align Maryland with states that have enacted TODD laws.

The Gibson-Banks Center works collaboratively to re-imagine and transform institutions and systems of racial inequality, marginalization, and oppression. Through education and engagement, advocacy, and research, the Center examines and addresses racial inequality, including the intersection of race with sex, gender, or disability, and advances racial justice in a variety of issue areas, including housing and economic justice.

SB 651 addresses Maryland’s history of racial discrimination and disparities in homeownership by creating a new estate planning tool that would prevent loss of family property.

Homeownership is one way to attain and transfer wealth from generation to generation. Historically, however, Black families nationwide had to overcome significant barriers to become

¹ This written testimony is submitted on behalf of the Gibson-Banks Center and not on behalf of the University of Maryland Francis King Carey School of Law, the University of Maryland, Baltimore, or the University System of Maryland.

homeowners. Prior to Emancipation, enslaved Blacks were prohibited from owning real property. After the Civil War ended in 1865, some formerly enslaved Black Americans were able to scrape together enough in pooled earnings to purchase agricultural land and other properties.² However, this time of prosperity was short lived. In Baltimore, as in many other places around the nation, from the late 1890s through 1920, white segregationists forced newly freed Black people out of their homes through horrific acts of violence and racial terrorism, and through the passage of racially discriminatory public laws,³ or private racially restrictive housing covenants.⁴ While the passage of the Fair Housing Act of 1968,⁵ which prohibits housing discrimination based on race, color, national origin, sex, disability, religion, and family status, offers theoretical protection from discriminatory housing practices, racially marginalized communities continue to struggle to acquire and maintain homeownership.⁶ Heirs' property is a prime example.

National research shows a high percentage of individuals die without wills, with low-income and Black and Latinx property owners showing high rates of intestacy.⁷ Heirs' property ownership typically occurs when a real property owner dies without a will and state intestate laws require the transfer of the property to all identifiable descendants of the decedent, i.e., the heirs. Family members who inherit the home often do not know that they must complete the probate court process to remove the deceased family member's name from the deed and add the names of the heirs' who inherited the property. Without a registered deed, heirs' property ownership (or title) is considered "tangled," leaving heirs unable to appropriately manage their homes.

For example, Baltimore City housing advocates estimate that thousands of homeowners, primarily in Black neighborhoods, have homes with tangled title, which prevents them from applying for and benefiting from property tax relief programs and makes them vulnerable to losing their homes through property tax sale foreclosure.⁸ SB 651 would allow real property owners to transfer their home to designated beneficiaries of their choice upon their death without going through the costly and lengthy probate process. These beneficiaries would have clear title to the property and would be able to maintain and keep the home.

² See, Thomas W. Mitchell, *Historic Partition Law Reform: A Game Changer for Heirs' Property Owners*, 65-66 (2019), <https://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=2313&context=facscholar>, [Hereinafter Mitchell].

³ See, DENNIS PATRICK HALPIN, *A BROTHERHOOD OF LIBERTY – BLACK RECONSTRUCTION AND ITS LEGACIES IN BALTIMORE 1865-1920*, 144-176 (2019).

⁴ *Id.*

⁵ 42 U.S.C. § 3601 *et seq.*

⁶ University of Maryland National Center for Smart Growth, *et al.*, *Examining Racial Disparities in Maryland's Housing Market: An analysis of racial disparities in appraisals, lending, and community investments in Maryland*, 2 (2022) (noting that "[t]he analysis of available data indicates that Maryland's housing markets continue to exhibit the legacy of discrimination, segregation, and redlining."), <https://dhcd.maryland.gov/Documents/ExaminingRacialDisparitiesMarylandsHousingMarket.pdf>.

⁷ Mitchell, *supra* note 2 at 67. See also, John Walsh, *et al.*, *Prospective Heirs' Property among Older Homeowners: Four Facts on Heirs' Property Conditions by Race and Ethnicity*, 2, Urban Institute (Oct. 2024) (finding that Hispanic and Black homeowners age 50 or older are more likely to not have a will or trust when compared to white homeowners in the same age group), https://www.urban.org/sites/default/files/2024-10/Final_Prospective_Heirs_Property_among_Older_Homeowners.pdf.

⁸ Emily Sullivan, *Tangled Titles Obstruct Generational Wealth for Thousands of City Families*, WYPR (Dec. 6, 2021), <https://www.wypr.org/wypr-news/2021-12-06/tangled-titles-obstruct-generational-wealth-for-thousands-of-city-families>.

SB 651 aligns Maryland with other states that have considered and passed TODDs.

The Uniform Law Commission (ULC) provides states with model laws on various topics.⁹ In 2009, the ULC released the Uniform Real Property Transfer on Death Act (URPTDA),¹⁰ recognizing TODDs as a straightforward non-probate method to transfer real property at death. URPTDA has been enacted in 20 states, the District of Columbia, and the U.S. Virgin Islands.¹¹ Indeed, Maryland is surrounded by several states that have passed TODD laws. Delaware recently enacted its version of the URPTDA, in 2025.¹² Virginia adopted the URPTDA in 2013,¹³ and West Virginia in 2014.¹⁴ SB 651 would align Maryland with its neighboring states that provide a cost-effective estate planning tool for real property owners.

For the above reasons, we respectfully urge the Committee to issue a favorable vote for SB 651.

⁹ Uniform Law Commission, *About Us*, <https://www.uniformlaws.org/aboutulc/overview> (last visited Feb. 22, 2026).

¹⁰ Uniform Law Commission, *Real Property Transfer on Death Act Bill List*, <https://www.uniformlaws.org/committees/community-home?CommunityKey=a4be2b9b-5129-448a-a761-a5503b37d884> (last visited Feb. 22, 2026).

¹¹ *Id.* (listing the following states and year of enactment of TODD laws: Delaware HB 147 (2025); New Hampshire HB 68 (2024); New York S 8306/A 8806 (2024); Mississippi SB 2851(2020); Montana SB 225 (2019); U.S. Virgin Islands 32-0327 (2019); Maine LD 123 (2018); Utah HB 94 (2018); Texas SB 462 (2015); Alaska HB 60 (2014); South Dakota HB 1077 (2014); Washington HB 1117 (2014); West Virginia SB 3 (2014); District of Columbia 19-743 (2013); New Mexico SB 107 (2013); Virginia SB 1093 (2013); Nebraska LB 536 (2012); Hawaii SB 105 (2011); Illinois HB 1153 (2011); Nevada SB 88 (2011); North Dakota HB 1138 (2011); and Oregon SB 815 (2011).

¹² 25 Del. C. §201 *et seq.* (2025)

¹³ Va. Code Ann. §§ 64.2-621 to -633 (2022).

¹⁴ W. Va. Code §§ 36-12-1 to -13 (2014).

Chambers Written Testimony in Support of TODD.pdf

Uploaded by: Kirethia chambers

Position: FAV

WRITTEN TESTIMONY IN SUPPORT OF
REAL PROPERTY – TRANSFER–ON–DEATH DEED – ESTABLISHMENT

Maryland General Assembly
Kirethia Chambers, Student Attorney

I submit this written testimony in support of the bill to establish the Maryland Transfer–on–Death Deed Act. I am a student attorney in the Estate Planning and Heirs’ Property Clinic at Howard University School of Law. The families I represent are the direct beneficiaries of this legislation, elderly homeowners, many of modest means, who want to ensure their homes pass to their children and grandchildren without the cost and complexity the law currently needs from them.

Maryland already allows transfer–on–death designations for motor vehicles, bank accounts, and investment accounts. In each case, the owner retains full control during their lifetime, and the asset passes automatically at death without probate. The family home, typically the most valuable asset a Maryland family will ever own, is the only major asset class without this option. This bill closes that gap.

The only comparable planning tool currently available in Maryland is the life estate deed with powers of alienation. It has the same goal, transferring real property at death outside of probate, but it requires an attorney to work correctly. Under Maryland law, the powers to sell, mortgage, and encumber the property must be explicitly and precisely stated in the deed, or the owner permanently loses control of the property. *See Burke v. Burke*, 204 Md. 637, 642 (1954). Because the consequences of drafting error are so severe, attorney involvement is not optional in practice, it is a necessity. *See Md. Code, Real Property § 3-104(f)(1)(i)*. For families who cannot afford that cost, the life estate deed is not a realistic option.

This bill changes that. The statutory form provided in the Act allows any Maryland homeowner to execute, acknowledge, and record a transfer–on–death deed on their own. The legal protections that no present interest passes to the beneficiary during the owner’s lifetime, that the deed does not affect the owner’s Medicaid eligibility, and that the property is not reachable by the beneficiary’s creditors flow from the statute itself, not from whether the deed was drafted correctly. A family should not need to hire an attorney to access the same planning tool that Maryland already provides for their car and their bank account.

Delegate Phillips’ constituents and Maryland homeowners across the State deserve a straightforward, affordable path to protect their most valuable asset and provide for the people they love. Thirty states have already enacted this protection. Maryland should be next. I respectfully urge the committee to vote in favor of this bill.



Maya Buchanan Written Testimony in Support of SB 6

Uploaded by: Maya Buchanan

Position: FAV

February 24, 2026

Senator William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
11 Bladen Street
Annapolis, MD 21401

RE: Senate Bill 651
Real Property – Transfer on Death Deed – Establishment

Dear Chair Smith, Vice-Chair Waldstreicher, and Members of the Judicial Proceedings Committee:

Thank you for the opportunity to submit written testimony in support of SB 651. My name is Maya Buchanan, and I am a third-year law student at Howard University School of Law. For the past 18 months, I have served as a research assistant for Professor Keeva Terry, focusing on Transfer on Death Deeds. This role has also allowed me to observe and conduct research related to the drafting of this bill.

At its core, SB 651 is about individual property rights and whether families can keep and pass down the homes they worked their entire lives to secure without facing unnecessary legal barriers.

In many communities, especially communities of color, access to estate planning resources has been, and continues to be, very limited. As a result, property is often transferred informally, leading to unclear ownership, property disputes, loss of the home, or increased vulnerability to displacement. Transfer on Death Deeds offer a simple and accessible solution. They allow a homeowner to designate a beneficiary on a standardized form; they take effect only at the death of the homeowner; they are publicly recorded; and they remain revocable during the homeowner's lifetime. These features make Transfer on Death Deeds both transparent and safe.

This legislation is particularly significant for Black and Brown families, for whom housing wealth is frequently the primary asset transferred across generations. When title becomes tangled, that wealth can be lost, exposing families to predatory acquisition and displacement.

SB 651 also aligns with Maryland's broader commitment to reparative justice, including the goals of the Maryland Reparations Commission. Supporting families to preserve existing homeownership is one meaningful and concrete way to prevent the continued erosion of generational wealth. Transfer on Death Deeds do not create wealth; rather, they help prevent its



loss by enabling the legal transfer of property outside the probate process, thereby avoiding the substantial expenses and delays often associated with probate proceedings.

Importantly, this bill does not replace traditional estate planning. Instead, it serves individuals who might otherwise have no plan at all. For many families, the choice is not between a Transfer on Death Deed and a comprehensive lawyer-drafted estate plan, but between a Transfer on Death Deed and no estate planning whatsoever.

SB 651 is an access-to-justice measure. Providing a simple, accessible, and publicly recorded option helps close estate planning gaps and protect families across generations.

For these reasons, I respectfully urge the Committee to support SB 651.

Thank you for your time and consideration.

Sincerely,

Maya Buchanan

Maya Buchanan



MVLS_FAV_SB 651_Written Testimony.pdf

Uploaded by: Megan Good

Position: FAV

MARYLAND SENATE JUDICIARY COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE

**IN SUPPORT OF SB 651 – REAL PROPERTY – TRANSFER-ON-DEATH
DEED – ESTABLISHMENT**

THURSDAY, FEBRUARY 26, 2026

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Chair Smith and distinguished members of the Committee, thank you for the opportunity to testify in **Support of Senate Bill 651**, including support for the amendments to be offered by the Bill Sponsors.

My name is Megan Good, and I am a Staff Attorney at Maryland Volunteer Lawyers Service (MVLS). MVLS is the oldest and largest provider of pro bono civil legal services to low-income Marylanders. Since MVLS' founding in 1981, our statewide panel of over 700 volunteers has provided free legal services to over 115,000 Marylanders in a wide range of civil legal matters. In FY25, MVLS volunteers and staff lawyers provided legal services to 3,233 people across the state.

Our Tangled Title team is committed to helping low-income families preserve and pass on their family home. Clouded or tangled titles prove to be a significant barrier for homeowners.

I am asking for your Support of Senate Bill 651 because the Transfer-on-Death Deed (TODD) is an important tool for homeowners to be able to successfully plan for and pass legal title to their home.

As I describe below, the TODD (1) is responsive to the Access to Justice gap,ⁱ (2) addresses recording discrepancies across the state, and (3) protects vulnerable homeowners better than tools currently available to them.

Right now, thousands of families across Maryland are at a heightened risk of losing their family home because the current homeowner's name is not on the deed. In other words, they have a "tangled title." Tangled titles heighten the risk of housing loss & deterioration because many resources designed to support homeowners – such as the Homestead tax credit or home repair loans – are only accessible to individuals when their name is on the deed to the home.

The Transfer-on-Death Deed adds unique value to the set of tools already available to homeowners. Though it serves nearly the same legal function as the Life Estate Deed with Powers, a homeowner cannot

adequately create a life estate deed without an attorney, so for generations, this existing tool has been inaccessible to hundreds of thousands of homeowners. Tangled titles are preventable, and experience has shown us that our current tools to combat them are insufficient. The TODD fills a critical gap, and **the TODD Form is designed to reduce errors that commonly arise** when homeowners draft and execute deeds on their own. For example, some deeds passing property to more than one person do not address the recipients' form of co-ownership. This occurs with deeds prepared by attorneys as well, but it is more common when done by a lay person. This oversight increases the likelihood of a tangled title forming because the number of potential owners can grow exponentially over time, as we frequently see in our clients' cases, rather than shrink. In this transfer-on-death deed, the default form of co-ownership written on its face is joint tenancy, passing one co-owner's share to the other when they pass away.

In my role at MVLS, I engage in a lot of community outreach, and I regularly speak with homeowners who do not have attorneys assisting them. They are often relying on legal advice they see online, or from a friend, and the variety of misconceptions they hold about what they can and cannot do with their home are voluminous. **This experience has informed the additional guidance added to the Uniform version of the Form deed.** All of us want this Form to not only be simple and easy to use, but for it to be *effective*. We want it to reduce issues down the road, not to create new ones.

This Transfer on Death Deed accomplishes both simplicity with practicality. By passing this legislation, we are making a reliable tool available to our neighbors who need it, but also providing stronger signaling for when this tool is *not* appropriate for them to use, and when they really *do* need to seek the help of a lawyer.

The need for estate planning and assistance with probate far exceeds the capacity of our legal services community. In many counties throughout Maryland, the Maryland Volunteer Lawyers Service is the only organization who offers free legal assistance to prevent or clean up a tangled title, and we largely rely on volunteer attorneys to meet our clients' needs. New tangled titles arise just as, if not more, quickly than they can be cleaned up. We must get a reliable tool into the hands of homeowners so they can protect their most important family asset. It safeguards the housing stability of our neighbors, as well as preserving a family's ability to build intergenerational wealth.

The second major challenge this bill addresses is barriers to recording a deed. Currently in Maryland, counties have inconsistent recording practices for deeds that provide for a future transfer in property.ⁱⁱ Some counties require the person making the deed to address all liens on their property prior to being able to record the deed, even though the property is not yet being transferred. This poses a major barrier for low-income homeowners struggling to keep up with their bills. **This legislation clarifies and standardizes appropriate recording procedures for Transfer-on-Death Deeds.** It provides that all transfer-on-death deeds may be recorded without needing to address liens. This does *not* result in any lost revenues for localities, as the liens stay

with the property. Additionally, this recording process already exists in several counties across the state, so it is clear that it will not conflict with SDAT's current processes for maintaining assessment records.

In prior years, opponents to the TODD have raised concerns about fraud, but **the TODD actually protects vulnerable homeowners better than existing options**. First, the TODD is not an immediate transfer of ownership. For this reason alone, it is highly unlikely that someone trying to defraud a homeowner would try to use this tool instead of one of the deed types that already exist. Second, the TODD must be recorded prior to the owner's death to be effective. This is not required of other deed types, and in the event of deed fraud, it allows for the owner to learn about the deed and take corrective action. In contrast, other types of deeds do not *need* to be recorded prior to death. Third, the TODD is revocable. If someone is pressured into signing one, and they later change their mind or seek assistance, it can be revoked. The owner has not given up their ability to control their property as they might have done under a different type of deed. Finally, the deed must be notarized. This is standard for all deeds, but in combination with the fact that it must be recorded and it is revocable, it makes the tool a highly unlikely avenue for fraud. Giving this option to homeowners offers a more accessible deed that protects the interests of the current homeowner.

This bill offers a better tool for homeowners than versions introduced previously.

This legislation leverages the wisdom and experience of the Uniform Real Property Transfer on Death Act, and also includes modifications that strengthen its implementation in Maryland. The Form deed includes additional warning language, more strongly advising potential users to seek the help of a lawyer if certain common scenarios apply to them. There are additional FAQs that address questions Maryland residents often have about their deeds, such as the potential impact on inheritance taxes. And, the bill specifically addresses how the TODD will function for properties with multiple owners and creates a presumption of joint tenancy with rights of survivorship if multiple beneficiaries are named, which will help to reduce the volume of tangled titles over time.

The importance of this reliable Form is heightened in the age of Artificial Intelligence, when homeowners are more likely to feel empowered to act on their own. Even before AI, Maryland residents were relying on forms they found online to prepare their own deeds, or advice they saw on Instagram and TikTok. Among do-it-yourself homeowners, Quitclaim deeds have been particularly common. These are dangerous because the person signing them gives their rights away immediately. While we have *not* historically seen homeowners prepare their own life estate deeds, it is possible this could occur more often with the use of AI. Because Maryland has two different types of life estate deeds, one immediately limiting the power of the homeowner to act on their own, the potential for a lay person to be given an AI-generated form that operates in a way they do not understand is very strong. **We have the opportunity to provide a clear Form and clear guidance to Maryland residents**

on how they can accomplish their goals, and we act responsibly by providing them with this resource.

This past month alone, I had to deliver bad news to two prospective clients who thought they had inherited their home based on notarized documents left by their family members, but in fact, they did not:

Ms. M's mother was in the midst of a divorce when she signed and notarized a letter, indicating that she wanted her home to go to her children, not her estranged spouse. She then passed away before her divorce was finalized, and her letter did not qualify as a deed or a will, and was therefore ineffective. Ms. M had been working hard to pay all of the bills to maintain the home, thinking it was hers to inherit. She had no idea that, under Maryland law, the house was likely to fully pass to her mother's ex.

Ms. A and her sister inherited their Baltimore home from their mother. The sister could not afford to contribute to expenses and lived in Pennsylvania, so she agreed to sign her portion over to Ms. A. Based on informal advice they received, the sister signed a notarized letter indicating she wanted her name to be removed from the deed. Thinking that the receipt of this letter was sufficient, Ms. A did not take additional action, and her sister passed away without a will before any change was made to the deed. Now, Ms. A must go through the probate process in both Pennsylvania and Maryland to address her sister's portion of the property, which the laws of intestacy split across multiple family members.

If the Transfer on Death Deed had been available to these clients' families, their situations may be drastically different today. Each family did their best to act without an attorney, but they did not have access to the right tool to accomplish their goals. Please act to help change this narrative.

Sponsor amendments are likely to be offered along with this bill because we have been working in coalition with key stakeholders to strengthen this legislation, addressing concerns with versions presented in prior years. MVLS supports any such amendments, and we ask for your strong **Support of SB 651**.

ⁱ See the Maryland Access to Justice Commission reports at <https://www.mdaccesstojustice.org/a2j-thought-leadership>, documenting the significant and pervasive gap between legal needs experienced by Marylanders and their ability to access legal counsel.

ⁱⁱ A survey conducted by Howard University law students in Fall 2025 revealed that 7 counties did not require liens to be addressed to record a Life Estate Deed with Powers, while 17 counties did require liens to all be paid off to record the deed.

SB0651TODsponsor testimonyFeb26.pdf

Uploaded by: Senator Shaneka Henson

Position: FAV

SHANEKA HENSON
Legislative District 30
Anne Arundel County

Judicial Proceedings Committee

Joint Committee on Children,
Youth, and Families



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SPONSOR TESTIMONY

Senate Bill 651

Real Property – Transfer on Death Deed – Establishment

Chairman Smith, Vice Chair Waldstreicher, and Members of the Committee:

For the record, I am Shaneka Henson, representing District 30 in Anne Arundel County and a member of the JPR Committee. I am here today to urge a favorable report on Senate Bill 651 – *Real Property – Transfer on Death Deed – Establishment*.

The intent of this legislation is to establish a “Transfer on Death Deed” in Maryland law so that real estate transfers occur automatically upon a property owner's death—without the hassles of probate and without some transfer taxes. It allows a homeowner to name a beneficiary who automatically receives the property upon death, thereby bypassing the probate process. I would like to share why this bill is so important to Marylanders and to all our constituents.

Estate planning is especially underutilized in Black communities. A major barrier to smooth property transfer across generations is the lack of understanding and awareness about basic estate planning tools.

A Consumer Reports survey found that about 77 percent of Black adults lacked any will or estate plan—far higher than national averages. A 2021 Gallup poll similarly showed that roughly 70 percent of non-white adults do not have a will. Without formal planning, property often passes through intestacy and probate, which can be unnecessarily costly and complex.

Wealth is transferred down generations largely through two channels:

- **Home equity transfers** – where real property forms the backbone of middle-class wealth passed to children, helping with down payments, education, and long-term financial stability.

- **Estate and transfer planning** – without clear tools like wills, trusts, or TOD deeds, property can be lost in probate or result in fractured ownership that reduces value or liquidity.

According to a 2024 Office of Legislative Oversight report, the typical Maryland white household has approximately **8.4 times more wealth** than the typical Black household (\$413K vs. \$49K). Put differently, the median Black household in Maryland holds about **12 cents for every \$1** of wealth held by the median white household.

Research into racial, ethnic, and income disparities in homeownership and wealth transfer shows systemic patterns: Black families and other families of color are more likely to experience complications in passing on property. Older Black, Brown, and multi-ethnic homeowners are less likely than white homeowners to have wills or trusts and more likely to have multiple heirs, increasing the risk of **tangled titles**—unclear ownership documentation that prevents heirs from selling, refinancing, or even maintaining family property.

Loss of housing wealth is also linked to a cycle in which unpaid property taxes of prior owners leave family heirs vulnerable to pressure to sell at low prices—often contributing to neighborhood instability.

Homeownership is a core vehicle for building family wealth. Yet the barriers facing Black homeowners and others—compared with the smoother intergenerational transfers experienced by many white homeowners—continue to widen the racial wealth gap.

“Transfer on Death Deeds” are widely recognized as cost-effective, accessible estate-planning tools that reduce probate costs and complexity, particularly for modest-value properties.

TOD deeds are authorized in nearly 34 states—including the District of Columbia, California, Texas, Florida, Illinois, Michigan, Arizona, Arkansas, Virginia, and West Virginia—and that number continues to grow.

Our expert witnesses today include:

- **Jane Sterneck**, Uniform Law Commission
- **Megan Good**, Maryland Volunteer Lawyers Service

I especially welcome **Vanessa Brooks**, Chief of Staff to Delegate Scott Phillips, who will share her personal story. After hearing from our experts today, I urge the committee to issue a **favorable report** for this legislation.

Shaneka Henson

Statement of Support SB651.pdf

Uploaded by: Tina Nelson

Position: FAV

Statement of Tina Smith Nelson, Esquire in Support of SB 651, Establishing Real Property Transfer-on-Death Deeds

To Chair Henson and Members of the Committee:

Thank you for the opportunity to submit this written testimony in support of SB 651. As a resident of the State of Maryland, I am fully in favor of establishing a Transfer on Death (TOD) Deed statute in Maryland. I have had the opportunity to guide family members and friends in making decisions about creating essential estate planning documents, including powers of attorney and wills. Many of them have asked whether there is a mechanism in Maryland to transfer ownership of their home to their loved ones without adding them to their deed (which could open the door to a myriad of problems down the road) or having them go through the enormous time and expense of probate to obtain ownership. As the law currently exists, the transfer of real property to their beneficiaries can only be accomplished through a trust or a will. Having the ability to transfer real property to beneficiaries after death through a transfer on death deed would be a cost-efficient and easy way to affect the wishes of homeowners. It will be of great benefit to many residents in Maryland.

As I indicated, I am submitting this testimony personally as a resident of the State of Maryland. However, I note that I am a practicing attorney, licensed in Maryland and the District of Columbia. As a Sr. Managing Attorney with AARP Legal Counsel for the Elderly in Washington, DC, an affiliate of AARP, my primary area of practice is probate and estate planning. In that capacity, I assist hundreds of low-income seniors in the District of Columbia, prepare estate planning documents, including transfer on death deeds.

Legal Counsel for the Elderly (LCE) supported the passage of the District's Transfer on Death Deed (TODD) statute in 2013. Since its passage, we have not encountered or seen any negative ramifications from clients utilizing this mechanism to transfer title of their home. In fact, beneficiaries have come to LCE with TODDs that we have executed, for assistance with filing the required conforming deeds to effectuate the transfer of title when the homeowner, our prior client, has died. So, we have seen this payout full circle. The addition of TODDs has been a crucial added estate planning tool for our clients, most of whom's primary or only asset is their home. Being able to pass down their home, along with the equity in it to their heirs, has been essential to families, particularly those of color, in maintaining homeownership, sustaining generational wealth, and stabilizing communities.

As stated previously, LCE is an affiliate of AARP. The AARP MD State office is actively supporting the Transfer on Death Deed bill as well. Their President Emeritus and former delegate Jim Campbell is testifying in support of this bill. Additionally, AARP MD is working to place an op-ed to raise awareness about the bill, which is a priority for the Maryland Legislative Black Caucus.

It is very common for Maryland residents to transfer personal property at death outside of the probate process. Examples of these non-probate assets include jointly owned property, beneficiary designations on insurance and retirement accounts, and payable on death (POD) bank accounts. SB 651 would allow residents the same opportunity and ability to transfer real property using a simple TOD deed, just like neighboring District of Columbia. Through the District's TODD statute, my senior clients at LCE are able to retain full control and ownership of their property up until the time of their death and then be assured that their designated beneficiaries are able to obtain possession of the family home

without having to maneuver the complex probate process. A TODD is revocable at any time, meaning a senior homeowner can easily change his or her mind in response to changing circumstances. No permission from the beneficiary is required to sell the property or to name a different beneficiary. Additionally, TODDs help prevent fraud because, unlike other types of deeds, they must be recorded in public records before the death of the property owner to be effective. The District's TODD statute contains these requirements, providing protections to our clients, and such provisions should likewise be enacted in Maryland.

The Transfer on Death Deed has worked very well in the District, and I am certain it will have the same positive impact on the residents of Maryland. TOD deeds are a simple and effective method to transfer real property at death. SB 651 would not replace the preparation of wills and trusts but would be yet another tool available to Maryland residents and may encourage residents to engage in essential estate planning, diminishing potential costlier issues that arise with foreclosures and heirs property. The TOD deed could potentially save Marylanders hundreds of thousands of dollars, if not millions, in legal fees and probate expenses, and provide homeowners with an immeasurable peace of mind knowing that when they pass, their home will be going to their designated loved ones with ease and without complication.

Thank you for your consideration of this testimony.

SB651- LBCMD 2026 Priority Support Letter.pdf

Uploaded by: Ufuoma Agarin

Position: FAV



LEGISLATIVE BLACK CAUCUS OF MARYLAND, INC.

The Maryland House of Delegates, 6 Bladen Street, Room 300, Annapolis, Maryland 21401
410-841-3185 • 800-492-7122 Ext. 3185 • Black.Caucus@house.state.md.us

February 26, 2026

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Chair William C. Smith, Jr.
Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

Dear Chair Smith and Members of the Committee,

The Legislative Black Caucus of Maryland offers its strong and favorable support for Senate Bill 651-Real Property - Transfer-on-Death Deed - Establishment. The bill allows Maryland property owners to pass their homes and other real estate to their loved ones or beneficiaries without a will, exempts certain transfer-on-death deeds from some property transfer taxes, and applies new rules to some existing life estate deeds if the owner dies after the law takes effect. **This bill is a 2026 legislative priority for the Black Caucus.**

The Legislative Black Caucus of Maryland believes that SB 651 will help preserve intergenerational wealth, as homeownership is a critical means of building wealth across generations. A majority of family wealth comes from homes, and if the property is part of an estate with multiple heirs, it may take years to gain a clear title. Without a clear deed, families cannot sell the home, refinance the property or create an effective estate plan due to tangled titles being resolved. Senate Bill 651 prevents loss due to tax liens, as they are a common reason on how families lose their property.

Additionally, SB 651 helps thousands of families across Maryland who are at heightened risk of losing their family homes due to the current homeowner's name not on the deed. Tangled titles increase the risk of housing loss due to many programs designed to support low income homeworks, such as property tax credit and major home repair assistance programs, are only available to individuals when their name is on the deed of the home. Senate Bill 651 allows simple and cost-effective methods for inheriting their homes. SB 651 benefits individuals and families with simple estates and secures their beneficiaries without unnecessary legal cost, and promotes housing stability while protecting generational wealth across Maryland communities.

For these reasons, the Legislative Black Caucus of Maryland strongly supports Senate Bill 651.

Legislative Black Caucus of Maryland

Testimony TODD SB 651.pdf

Uploaded by: VAnessa Clark-Brooks

Position: FAV

Vanessa Brooks
14104 Woodens Ln
Reisterstown, MD 21136
410-949-6046

TESTIMONY on TRANSFER ON DEATH DEEDS

Madame Chair, Madame Vice-Chair and Members of the Judiciary Committee.

My name is Vanessa Clark Brooks. I am a Maryland resident and a former resident of Cecil County. Thank you for the opportunity to testify before the Judiciary Committee on Transfer on Death Deed (TODD) legislation. I am requesting your support of HB 738 based on my personal family experience.

The TODD can prevent tangled titles resulting from homeowners dying without a will and specific heirs. In my family this happened and over several generations, property passed through Maryland intestate laws to tenants in common that allowed the property to go to a forcible sale.

My great-grandfather, George Hindman, was able to purchase two adjacent lots, 115 and 117 Milburn Street, Elkton, Maryland in Cecil County in 1935. My great grandparents built a duplex with a fireplace in 117 and another three-bedroom house at 115. My great-grandparents and two of their four daughters resided in the property. When my great-grandfather died he left no will and when my great grandmother, Annie Congo Hindman subsequently died she left no will. The property passed to their four surviving daughters; two lived in the property until they died. Several of the grandchildren of George and Annie lived in the properties with their families until the last grandchild that live in the property died. For several years it remained uninhabited; ownership of the property was unclear, and the title would remain clouded regardless of who paid the back taxes of several years on the property. My mother and her first cousin were the remaining tenants in common, neither of whom wanted liability without clear title so the property was forcibly sold by one of them. The property was sold for less than \$3000 and was purchased by investors. In short, we lost the family home because there was no clear title.

This legislation would clearly help Maryland families like mine preserve their families' wealth and legacies in the form of real property to designate beneficiaries. The sale of the properties on Milburn Street in Elkton led to a loss of ownership for all potential heirs and resulted in the loss of intergenerational wealth. The property was not sold at the fair market value. Several investors have since purchased what are now two adjacent lots valued at \$45,000 each. To reacquire the former family property, it would cost over \$90,000.

This is a true story of what happens when tangled and clouded titles leave a family home to no one person and that asset is lost to future generations. Please vote in favor of HB 738.

FAVORABLE
Testimony in Support of Senate Bill 0651

Vanessa Brooks
14104 Woodens Ln
Reisterstown, MD 21136
410-949-6046
Respectfully submitted.

Vanessa Clark Brooks

Testimony SB 0651 - 2025.pdf

Uploaded by: Aisha Snead

Position: FWA



Maryland House Judicial Proceedings Committee
Testimony Of The SOS Fund
In Support of SB 0651: Real Property Transfer–on–Death Deed Establishment
Thursday, February 26, 2026

Position: SUPPORT WITH AMENDMENTS

The SOS Fund is an independent 501(c)(3) non-profit organization, addressing the systemic housing instability experienced by historically red-lined communities in Baltimore City. This instability has led to generations of residents losing their homes, thereby denying them the wealth-building capacity of homeownership. The SOS Fund supports this bill with the suggested amendments. SB 0651 is a critical piece of legislation that will empower Maryland homeowners with a simple and accessible estate planning tool, the Transfer-on-Death Deed (TODD). This bill will:

1. **Provide Clarity and Accessibility:** By creating a statutory form, homeowners will have access to a clear and standardized method for planning the disposition of their real property.
2. **Expand Estate Planning Access:** TODDs offer a cost-effective alternative to other Estate Planning mechanisms, which can be prohibitively expensive for many families. By lowering the financial barriers to estate planning, SB 0651 will enable more Maryland families to preserve and transfer their home, often the most valuable tangible asset, to the next generation.
3. **Combat Blight and Preserve Communities:** By facilitating the seamless transfer of property ownership upon the homeowner's death, this bill will reduce the likelihood of properties becoming vacant, falling into disrepair, or being subject to tax sale or ground rent foreclosure, which are key vectors for blight and housing loss. This legislation represents a meaningful step toward reducing the number of heirs properties in the state, which are particularly vulnerable to these issues.

We encounter numerous families facing economic barriers, such as probate fees, which make it difficult to transfer property. One of the best approaches to avoiding these barriers is through estate planning tools like the Transfer on Death Deed. Many low-income Marylanders live in a

For the above reasons,
The SOS FUND urges a favorable report.

Please contact Aisha Snead, ADR Heirs Property Coordinator, with any questions at
aishas@thesosfund.com; 410-622-7140

family-owned home, which has often been passed down for generations without a lawful deed transfer because of a lack of access to legal apparatuses; this often creates barriers that make it impossible to resolve property issues. A Transfer On Death Deed is a proactive tool that will ensure 100k's of Maryland's homeowners can protect their property and their families. By enabling homeowners to plan for the disposition of their property using a simple statutory form, SB 0651 will help preserve generational wealth, stabilize communities, and reduce systemic inequities that disproportionately impact historically disinvested neighborhoods. It is a commonsense measure that will bring tangible benefits to families across Maryland.

We respectfully urge the committee to adopt the following amendments to strengthen SB 0651:

- Require that homeowners receive notification of TODD filings via mail, including information about the process for revocation.
- Prohibit individuals with fiduciary powers of attorney from filing or changing TODDs.
- Require listing "TODD" next to the owner's name on property records, similar to "LIFE" for life estate deeds.

With these amendments, SB 0651 will become an even more powerful tool for advancing equity, preserving wealth, and mitigating the root causes of blight in Maryland.

Thank you for your time and consideration. We urge a favorable report on SB 0651 with the proposed amendments.

For the above reasons,

The SOS FUND urges a favorable report.

Please contact Alsha Snead, ADR Heirs Property Coordinator, with any questions at aishas@thesosfund.com; 410-622-7140

MLTA SB 0651 written testimony seeking favorable w

Uploaded by: Jeffrey Thompson

Position: FWA



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

To: Honorable Chair and Members of the Judicial Proceedings Committee
From: MLTA Legislative Committee
Date: February 23, 2026 [Hearing date: February 26, 2026]
Subject: **SB 0651** – Real Property - Transfer-on-Death Deed - Establishment
Position: **Favorable With Amendments**

The Maryland Land Title Association (MLTA) asks that you return a recommendation of **favorable with amendments** for **Senate Bill 0651** – Real Property - Transfer-on-Death Deed - Establishment.

The MLTA, while having opposed past versions of this bill, has worked diligently with Delegate Phillips office and the stakeholders in favor of the legislation in an effort to find common ground that not only provides another option for constituents seeking to preserve ownership of real property, but does so in a manner that provides an insurable title in Maryland once the beneficiaries of a transfer on death deed (TODD) seek to refinance or sell the property.

Given the short time period between the February 6, 2026, first reading of SB 0651 and the Judicial Proceedings Committee hearing on February 26, 2026, most of MLTA's concerns have been addressed in a revised version of the bill before this Committee. Below, however, are the MLTA's remaining concerns with the legislation presently before you that time may not have allowed the drafters to address.

A major concern brought out in past testimony at previous hearings on SB 0651's predecessor bills has been the loss of heirship property due to tax sales. SB 0651, however, makes no provision for a revision to the ownership information used in generating tax bills. In Maryland, Baltimore City and the counties get their tax information from the State Department of Assessments and Taxation (SDAT). A change in SDAT's records is triggered by the submittal of a State of Maryland Land Instrument Intake Sheet that accompanies deeds and other instruments of transfer and is provided to SDAT by the Land Records offices of each circuit court.

Since a TODD effects a transfer upon the death of a TODD grantor, SDAT receives no notice of the change in ownership and the real property tax bill continues to issue to the deceased owner at the deceased owner's address. The MLTA respectfully requests that HB738 be amended to provide TODD beneficiaries with a form instrument that can be recorded in the Land Records following the death of a TODD grantor. If this instrument is filed along with a State of Maryland Land Instrument Intake Sheet and forwarded by the clerks to SDAT, the proper mechanism will be in place to assure that real property tax bills can be sent to the proper individuals.

The MLTA respectfully requests that you return a recommendation of **favorable with amendments** for **Senate Bill 0651**.

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Uploaded by: Karyn Sonu or Kamita Gray

Position: FWA

Environment, Social
Governance

HB 0738

Transfer on Death

LEGISLATION SESSION
JANUARY 2026

JUDICIAL COMMITTEE

2 Bridge
CPX
BBB
Coalition

Transfer on Death
Deed

GENERATIONAL ECONOMIC MOBILITY

Build a Foundation with right of survivorship



Assessment Authors

2Bridge CDCX— SCEDA Equitable Finance eXchange Arm

Brandywine TB Southern Region Neighborhood Coalition Executive Community Citizens Board



Dear Delegate Darrell Odom, Chair and Members of the Judiciary Committee:

The undersigned ombudsman organization—**2Bridge CDCX, Equitable Finance eXchange Arm**—write to you not solely as legal practitioners, but as **economic justice architects and systemic equity designers** who operate upstream of the courtroom. Our work is grounded in closing racial wealth gaps, expanding equitable finance, and protecting intergenerational assets—especially historically within Maryland’s Black American communities.

While licensed attorneys are trained to apply law within procedural frameworks, our role is to **architect the systems that determine who builds and keeps wealth**—through participatory finance models, regulatory accountability, and policies that either advance or obstruct economic justice.

Our founder’s interdisciplinary background in law, policy, and economic systems, combined with our organizational work in equitable finance and community economic development, informs our deep understanding of how **seemingly small legal defaults can have outsized impacts on Black wealth and family financial stability**.

Our work—informed by decades of upstream intervention, and grounded in advanced interdisciplinary study in law, policy, and systemic design—reflects a commitment to **participatory governance, regulatory accountability, and equitable implementation**. Our founder’s two decades of experience and graduate preparation in law and policy, medical science, legal systems, and executive leadership has directly informed our approach to structural intervention. This background underpins our leadership in advancing the **first EPA/DOT Title VI informal resolution tied to regulatory change**, the development of community science models recognized during Black History Month, and the creation of frameworks that transform agency practice.

It is from this **policy architecture vantage point** that we urge you to amend **House Bill 0738, the Maryland Transfer-on-Death Deed Act**, to align it with the **Uniform Real Property Transfer on Death Act** before passage. This bill, in its current form, contains dangerous default provisions that could inadvertently harm Maryland families, increase litigation, and undermine the tool’s intended purpose of providing a simple, reliable probate-avoidance option. We ask that you reject any version of the bill that does not correct these critical flaws.

It is from this **economic justice and wealth equity vantage point** that we urge you to amend **House Bill 0738, the Maryland Transfer-on-Death Deed Act**, to align it with the **Uniform Real Property Transfer on Death Act** before passage. This bill, in its current form, contains dangerous default provisions that could **erode intergenerational wealth, increase family financial insecurity, and undermine economic justice** for communities already underserved by estate planning systems. We ask that you reject any version of the bill that does not correct these critical flaws.

Implementing a safe and uniform TOD deed is essential for Maryland families—especially Black, Brown, and low-wealth households—seeking to **preserve hard-earned assets, transfer property without costly probate**,

and build a foundation for generational economic mobility. However, HB 0738 as drafted departs from the national standard in ways that pose direct threats to family wealth and economic dignity:

1. **It defaults to joint tenancy with right of survivorship**—a provision that can **unintentionally disinherit entire branches of a family.** For Black and multigenerational households, where homeownership often represents the primary source of intergenerational wealth, this default doesn't just confuse—it **jeopardizes economic legacy and widens the racial wealth gap.**
2. **It prohibits revocation by a fiduciary,** blocking families from managing property during periods of incapacity. This restriction **disproportionately burdens seniors, caregivers, and households without ready access to legal counsel,** threatening asset retention and family stability.

Without amendment, these provisions would make Maryland an outlier in estate planning equity, expose vulnerable families to **unnecessary wealth erosion,** and conflict with the state's stated goals of advancing economic justice and closing the racial wealth divide. We urge you to amend HB 0738 to adopt the uniform, sensible defaults already in place in the District of Columbia and more than 25 other states—ensuring this tool **protects wealth, honors intent, and serves all Marylanders equitably.**

If this bill passes in its current form, it will be a legislative atrocity—a systemic failure that will harm Maryland families, strip heirs of their rightful inheritances, and unravel intergenerational wealth for generations to come.

We do not use this language lightly. The flaws in HB 0738 are not mere technical oversights; they are **dangerous deviations** from national standards that will produce outcomes no rational family intends and no just system should allow.

Our work has never been about litigation alone—it's about building economic systems that protect, preserve, and empower. This bill, as currently written, fails that test. We stand ready to support its revision.

Respectfully submitted,


Kamita Gray,

D.L.P. | MMedSci | MLS | EMBA/WMBC

Community Law/Policy Architect & Legislative Consultant

Founder—2Bridge CDCx: Equitable Finance eXchange Arm

BTB Coalition, President

Parliamentarian- Board of Directors: South County Economic Development Association (SCEDA)

ECCB- NLC Administrative Chair

In solidarity, Brandywine/TB Southern Region Neighborhood Coalition; and the
Executive Community Citizen's Board (ECCB) Neighborhood Leadership Council (NCL)

The Undersigned Affiliate Organization in Support



South County Economic Development Association (SCEDA)

Mr. P. Lee Harvey, President

Caroline Wills Anderson, Esq.

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HB0738

REAL PROPERTY – TRANSFER-ON-DEATH DEED – ESTABLISHMENT

JUDICIARY COMMITTEE

25 FEBRUARY 2025

RE: Examination of HB 0738 – Maryland Transfer-on-Death Deed Act

POSITION: SUPPORT WITH CRITICAL AMENDMENTS

Chair and Members of the Committee,

Thank you for the opportunity to submit comments on HB 0738. While we support the goal of providing Marylanders with a simple, probate-avoiding tool for real estate transfer, **HB 0738 in its current form contains several provisions that are deeply flawed, out of step with national standards, and pose serious risks to Maryland families.**

We urge the Committee to amend the bill to align with the **Uniform Real Property Transfer on Death Act (URPTODA)**, which has been adopted in over 25 states, including our neighbor, the District of Columbia.

KEY DEFECTS IN HB 0738 & NEEDED AMENDMENTS

- **1. Change the Default Rule for Multiple Beneficiaries – §14-1009(D)**
 - **Problem:** The bill makes the default form of ownership **joint tenancy with right of survivorship**. This is a radical departure from the Uniform Act and the law in every other state we reviewed. It is a trap for the unwary.
 - **Consequence:** If an owner names two children and one dies before the owner, the surviving child gets **100% of the property**—the deceased child’s family is disinherited. This is likely contrary to the owner’s intent and will lead to family disputes and litigation.
 - **Uniform Act/D.C. Standard (§19-604.13(a)(3)):** Default is **tenancy in common** (equal shares, no survivorship), a fair and predictable standard.
 - **Recommended Amendment:** Strike §14-1009(D) and replace it with the uniform rule: concurrent interests are transferred in **equal and undivided shares with no right of survivorship**.

- **2. Restore the Fiduciary’s Power to Revoke – §14-1008(A)**
 - **Problem:** The bill strips away the ability of a duly appointed **agent under a Power of Attorney** (an attorney-in-fact) to revoke a TOD deed.
 - **Consequence:** This creates an irrational gap in incapacity planning. An agent could sell the property but could not revoke the TOD deed attached to it, complicating transactions and undermining the principal’s broader estate plan.

- **Uniform Act/D.C. Standard:** The Uniform Act expressly permits revocation by “the transferor **or the transferor’s fiduciary.**”
 - **Recommended Amendment:** Amend §14-1008(A) to read: “Prior to the death of the transferor, **the transferor or the transferor’s fiduciary** may revoke...”
- **3. Remove the Restriction on Tenants in Common – §14-1001(D)(3)**
- **Problem:** The bill explicitly states it does not apply to tenants in common. The Uniform Act is designed for an *individual* owner; a tenant in common owning an undivided interest is an individual who should be able to use this tool for their share.
 - **Consequence:** Denies a useful planning tool for co-owners who wish to avoid probate for their specific interest.
 - **Recommended Amendment:** Remove the explicit exclusion of tenants in common from the definitions. Allow the act to be used by any *individual* owner, consistent with the uniform approach.
- **4. Reconsider the Narrow Tax Exemption – §12-108(II)**
- **Problem:** The bill limits the recordation and transfer tax exemption only to **primary or secondary residences.**
 - **Context:** Maryland’s 2023/2025 bills provided a **broader exemption for all real property.** This new restriction reduces the utility of the tool for small businesses, farmers, and owners of investment or rental property.
 - **Recommended Amendment:** Restore the broader exemption to encourage use and simplify estate planning for all property types, as previously passed by this body.

Why These Changes Matter: The D.C. Comparison

Just across the border, **the District of Columbia has a well-functioning TOD law based on the Uniform Act.** D.C.’s law:

- Uses the safe **tenancy-in-common default.**
- Allows for **integrated estate planning** with Powers of Attorney.
- Provides **clarity and predictability** for residents.

Maryland should not adopt a law that is **more restrictive, more dangerous, and less functional** than that of our neighboring jurisdiction. We risk creating a system that requires Marylanders to hire lawyers to avoid the pitfalls of the state’s own forms—defeating the purpose of a simple, self-help tool.

CONCLUSION & REQUEST

Key Points to Emphasize:

- “This isn’t just a technical fix—it’s about preventing family feuds.”
- “The joint tenancy default is a trap. Most people filling out a form won’t understand its drastic effect.”
- “We’re asking Maryland to match the smart, consumer-friendly standard that D.C. and dozens of other states already use.”
- “These amendments are not controversial; they are the consensus best practices of national experts.”

This testimony is firm, evidence-based, and offers clear solutions, making it effective for a judicial committee focused on policy impact and legal soundness.

HB 0738 has merit in its core concept but is critically flawed in execution. We **strongly urge the Committee to adopt the amendments outlined above.**

By aligning Maryland’s law with the **Uniform Real Property Transfer on Death Act**, you will:

- **Protect Maryland families** from unintended disinheritance.
- **Ensure harmony with incapacity planning tools.**
- **Provide a simple, safe, and reliable tool** for all property owners.
- **Bring Maryland into the mainstream** of state estate planning law.

We stand ready to work with the Committee on precise language for these amendments.

FACT SHEET: HB 0738 – MARYLAND TRANSFER-ON-DEATH DEED ACT

The Problem: Maryland’s Bill Creates Unique Risks for Families

HB 0738 contains provisions that deviate from the national **Uniform Real Property Transfer on Death Act (URPTODA)**, adopted by **27 states + D.C.** These deviations create unnecessary risks for Maryland families and make our state an outlier in estate planning.

CRITICAL FLAWS IN HB 0738 VS. THE NATIONAL STANDARD

1. DANGEROUS DEFAULT: Disinherits Families

- **HB 0738:** Defaults to **joint tenancy with right of survivorship** when multiple beneficiaries are named.
- **URPTODA & ALL Other States (e.g., D.C., CO, OH, VA, TX):** Default to **tenancy in common (no survivorship)**.
- **Real-World Impact:** If a parent names two children and Child A dies first, Child B gets **100%**—disinheriting Child A’s family. This contradicts typical intent and invites litigation.

2. RESTRICTS INCAPACITY PLANNING: Blocks Powers of Attorney

- **HB 0738:** Prohibits revocation by a **fiduciary (attorney-in-fact)**.
- **URPTODA & Other States (e.g., D.C., NV, OR, UT):** Explicitly allow **“transferor or transferor’s fiduciary”** to revoke.
- **Consequence:** Creates a legal gap—an agent could sell property but couldn’t revoke the TOD deed, complicating management during incapacity.

3. UNNECESSARILY LIMITS ACCESS

- **HB 0738:** Explicitly **excludes tenants in common** from using TOD deeds.
- **URPTODA & Other States:** Allow individual tenants in common to transfer their share.
- **Impact:** Denies a useful tool for common co-ownership situations.

4. NARROWER TAX BENEFIT THAN BEFORE

- **HB 0738:** Limits tax exemption to **primary/secondary residences only**.
- **Maryland’s 2023/2025 Bills:** Exempted **all real property** (farms, rentals, small business property).
- **Result:** Reduces the bill’s usefulness for intergenerational wealth building.

Maryland vs. Neighboring Jurisdictions: A Stark Contrast

Provision	District of Columbia	Maryland HB 0738
Default for Multiple Beneficiaries	Tenancy in Common	Joint Tenancy
Fiduciary Can Revoke?	Yes	No
Tenant in Common Eligible?	Yes	No
Uniform with Other States?	Yes (URPTODA)	No (Outlier)

The Evidence: Maryland Stands Alone

- **0 states** default to joint tenancy like HB 0738.
- **0 states** explicitly prohibit fiduciary revocation like HB 0738.
- **27 states + D.C.** follow URPTODA’s safer, more flexible approach.

Recommended Amendments

1. **Change Default to Tenancy in Common** (§14-1009(D))
2. **Allow Fiduciary Revocation** (§14-1008(A))
3. **Include Tenants in Common** (§14-1001(D)(3))
4. **Restore Broad Tax Exemption** (§12-108(II))
5. **Add Uniformity Clause** (Section 2)

Why This Matters for Maryland Families

- **Prevents accidental disinheritance** of grandchildren and other heirs
- **Protects intergenerational wealth**, especially for Black, Brown, and low-wealth families
- **Supports incapacity planning** for seniors and people with disabilities
- **Avoids costly family litigation** over unintended outcomes
- **Aligns Maryland with national best practices**

HB 0738 can be fixed. Amend it to match the proven, safe Uniform Act already working in D.C. and across the country.

Prepared for the Maryland House Judiciary Committee • April 2025

INTRODUCTION

Below is a summary of the key benefits lost in HB 0738 compared to earlier bills (particularly the 2023/2025 package and the 2014 Uniform Act):

1. Reduced Eligibility: Exclusion of Tenants in Common

- **Earlier Bills (HB 986/SB 146, 2023 & HB 625, 2025):** Applied to property held by an individual sole owner. Explicitly stated it did **not** apply to property held as joint tenants, tenants in common, or tenants by the entirety.
- **HB 0738 (2026):** Defines "Joint Owner" to **exclude "a tenant in common."** This clarifies that a TOD deed cannot be used by a tenant in common, even as their individual share. This removes a planning tool for co-owners who wish to avoid probate for their specific, undivided interest.

2. Narrower Revocation Authority: Fiduciary's Power Removed

- **Earlier Bills (HB 986/SB 146, 2023 & HB 625, 2025):** Allowed revocation prior to death by "the transferor or the transferor's fiduciary" (e.g., an attorney-in-fact under a Power of Attorney).
- **HB 0738 (2026):** States revocation can be done only by "**the transferor.**" This removes the ability for a trusted agent to manage or update the TOD deed if the transferor becomes incapacitated, creating a potential gap in estate planning.

3. Expansion of Creditor Claims Against the Property

- **Earlier Bills:** A beneficiary took the property subject to all "conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests."
- **HB 0738 (2026):** Adds "**any other security agreements, as defined in § 9-102 of the Commercial Law Article.**" This explicitly broadens the types of debts that can attach to the property upon transfer, potentially exposing the beneficiary to a wider array of the transferor's secured obligations.

4. Mandatory Joint Tenancy with Right of Survivorship for Multiple Beneficiaries

- This is the most significant change with potentially adverse unintended consequences.
- **Uniform Act (HB 0059, 2014) & Earlier Bills (2023/2025):** If multiple beneficiaries were named to receive concurrent interests, the default was transfer "**in equal and undivided shares with no right of survivorship**" (tenancy in common). This is a standard, flexible default.
- **HB 0738 (2026):** The default is now "**as joint tenants with a right of survivorship.**" This means if one beneficiary dies, their share automatically goes to the other named beneficiary(ies), not to the deceased beneficiary's own heirs or estate. This could disrupt an owner's intent and complicate estate plans, especially for blended families or friends. The form even includes a warning about this change.

5. Limited Tax Exemption

- **Earlier Bills (HB 986/SB 146, 2023 & HB 625, 2025):** Exempted TOD deeds from recordation and transfer taxes **without condition.**
- **HB 0738 (2026):** Limits the exemption to situations where "**the property is a primary residence or a secondary residence of the transferor.**" Investment properties, commercial properties, or vacant land would no longer qualify for the tax exemption, increasing the cost of using a TOD deed for those assets.

6. Removal of Mandatory Informational Document Development

- **Earlier Bills (HB 986/SB 146, 2023):** Required the Administrative Office of the Courts to "develop and make available to the public an informational document... that explains TOD deeds."
- **HB 0738 (2026): Omits this requirement.** While it includes an informational sheet with the form, the mandate for a separate, publicly available educational document is removed, potentially reducing public awareness and understanding.

Summary: Net Effect of HB 0738

FEATURE	EARLIER BILLS (2014, 2023, 2025)	HB 0738 (2026)	CHANGE (BENEFIT LOST?)
Tenants in Common	Not applicable (sole owner only).	Explicitly excluded from using TOD.	YES – Removes a potential use case.
Revocation by Fiduciary	Allowed.	Not allowed (transferor only).	YES – Reduces incapacity planning.
Creditor Claims	Subject to listed interests.	Subject to listed interests plus "security agreements."	YES – Broadens liability for beneficiary.
Multiple Beneficiaries Default	Tenants in Common (no survivorship).	Joint Tenants with Right of Survivorship.	YES – Major shift; can disrupt intent.
Tax Exemption	For all real property.	Only for primary/secondary residence.	YES – Increases cost for other properties.
Public Education	AOC required to create explanatory document.	No requirement.	YES – May reduce public access to info.

LOSS OF BENEFITS

Yes, the 2026 HB 0738 loses several benefits found in prior legislation. It trades some prior flexibilities and protections for a system that is more restrictive in terms of who can use it, how it can be revoked, what debts follow the property, and which properties qualify for tax benefits. The most impactful change is the new default of joint tenancy with rights of survivorship for multiple beneficiaries, which could lead to outcomes contrary to a property owner's expectations if they do not seek legal advice.

The bill appears to prioritize administrative simplicity and uniformity with a certain interpretation of the Uniform Act, but at the cost of reduced planning options, consumer safeguards, and financial benefits for certain property types.

National Standard: The Uniform Real Property Transfer on Death Act (URPTODA)

Most states that have adopted TOD deeds have based their laws on URPTODA, drafted by the Uniform Law Commission. The 2014 Maryland bill (HB 0059) was a direct enactment of URPTODA. The 2023/2025 bills were modified but largely consistent. **HB 0738 deviates substantially from this uniform standard.**

Key Areas of Comparison & Analysis

1. Default Form of Ownership for Multiple Beneficiaries

This is the most critical and impactful deviation.

- **Uniform Act (URPTODA) & Vast Majority of States (e.g., CO, OH, TX, VA, WI):** The default is **tenancy in common** if multiple beneficiaries are named and the deed does not specify otherwise. This is the standard, predictable rule across U.S. property law. It presumes each beneficiary's share passes to their own heirs.
- **HB 0738 (2026 MD):** The default is **joint tenancy with right of survivorship**. This is a **highly unusual and disfavored approach**.
 - **Analysis:** Maryland becomes a major outlier. This change creates a significant trap for the unwary. If a parent names two children and one predeceases the parent, the surviving child gets 100% of the property, disinheriting the deceased child's family. This contradicts standard estate planning intent and could lead to litigation. Most states explicitly avoid this default due to its potential for unintended consequences.

2. Eligibility: Use by Tenants in Common

- **Uniform Act & Many States:** The act is designed for an "individual" owner. It does not prohibit a tenant in common from executing a TOD deed for their undivided interest. The official comments to URPTODA support this use as a way to avoid probate for a fractional interest. Many practitioners in adopting states use it this way.
- **HB 0738 (2026 MD):** Explicitly excludes tenants in common from the definition of "joint owner" who can use the act.
 - **Analysis:** This **loses a flexibility** available under the uniform act and in practice elsewhere. It limits the tool's utility for common forms of co-ownership.

3. Revocation by a Fiduciary (Attorney-in-Fact)

- **Uniform Act & Common Practice:** URPTODA §8 allows revocation by "the transferor or the transferor's fiduciary." This is a crucial feature for incapacity planning, allowing an agent under a durable Power of Attorney (POA) to manage the estate plan.
- **HB 0738 (2026 MD):** Removes the fiduciary's authority to revoke.
 - **Analysis:** This **loses a key consumer protection and planning feature** that aligns with the purpose of a durable POA. It creates an inconsistency where an agent can sell the property but cannot revoke the TOD deed attached to it, potentially complicating transactions and asset management during incapacity.

4. Tax Exemptions

- **State Practices Vary:** This is a state-specific policy choice, not governed by the uniform act.
 - **Some States (e.g., OH):** Have a broad exemption similar to Maryland's 2023/2025 bills.
 - **Other States:** May have no exemption or different rules.
- **HB 0738 (2026 MD):** Limits exemption to primary/secondary residences.
 - **Analysis:** While not "non-uniform," this represents a **loss of a financial benefit** that Maryland itself had previously established for all real property, making the tool less attractive for owners of investment or commercial property compared to the prior version.

5. Creditor Claims & "Security Agreements"

- **Uniform Act & Standard Interpretation:** The beneficiary takes subject to "all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests." The term "other interests" is broadly understood to include valid security agreements.
- **HB 0738 (2026 MD):** Explicitly adds "any other security agreements."
 - **Analysis:** This is likely a **clarification, not a substantive loss**, as the uniform act's language was intended to cover these. However, its explicit inclusion in Maryland could be seen as emphasizing the beneficiary's potential liability.

Summary Table: Maryland HB 0738 vs. National Norms

FEATURE	NATIONAL NORM (URPTODA & MOST STATES)	MD HB 0738 (2026)	VERDICT: IS MD LOSING A COMMON BENEFIT?
Default for Multiple Beneficiaries	Tenancy in Common (Standard, flexible)	Joint Tenancy w/ Survivorship (Rigid, high-risk)	YES, SIGNIFICANTLY. This is a major loss of a standard, protective default rule.
Tenant in Common Use	Generally Permitted for individual interest.	Explicitly Prohibited.	YES. Loses a planning flexibility available under the uniform act.
Revocation by Fiduciary	Expressly Allowed (Key for incapacity planning).	Expressly Prohibited (Transferor only).	YES. Loses a standard feature that coordinates with Powers of Attorney.
Tax Exemption Scope	Varies by State (Policy choice).	Limited to Residences (Narrower than MD's old rule).	YES vs. MD's prior law. Neutral vs. other states, but a reduced benefit.
Creditor Claims	Broad "other interests" includes security agreements.	Explicitly lists "security agreements."	NO (Clarification). Likely reflects the existing intent of the law.

CONCLUSION: HOW HB 0738 MEASURES UP NATIONALLY

Compared to the uniform act and the laws of most other states, Maryland's HB 0738 loses several important, well-established benefits and introduces a uniquely problematic provision.

- It Becomes an Outlier:** The mandatory joint tenancy default is a dramatic and unusual choice that places Maryland outside the mainstream, increasing the risk of unintended disinheritance and family conflict.
- It Reduces Flexibility:** By prohibiting use by tenants in common and fiduciaries, it makes the TOD deed a less useful and integrated estate planning tool than it is in most adopting states.
- It Retains Core Mechanics:** The bill correctly keeps the fundamental, non-testamentary, revocable nature of the TOD deed, which is the primary benefit of the tool nationwide.

Final Assessment: From a national comparative perspective, **HB 0738 is a regression.** It sacrifices consumer-friendly defaults and flexibilities—key benefits that have made TOD deeds popular and safe in other states—in favor of a more rigid, restrictive, and risk-prone framework. Stakeholders might argue that the bill's joint tenancy default, in particular, undermines the core purpose of the tool: to provide a simple, low-risk method of non-probate transfer that faithfully carries out an owner's intent.

Based on the analysis of Maryland's 2026 HB 0738 and the District of Columbia's Uniform Real Property Transfer on Death Act, **Maryland's proposed law is significantly more restrictive, less flexible, and carries higher risk for unintended consequences than the law in its neighboring jurisdiction.**

DC's law is a straightforward enactment of the national standard (URPTODA), while MD's 2026 bill represents a major departure from that standard. This creates a stark contrast between the two. Here is a direct comparison of key features:

Comparison Table: MD HB 0738 (2026) vs. DC Uniform Act

FEATURE	DISTRICT OF COLUMBIA (UNIFORM ACT)	MARYLAND HB 0738 (2026)	ANALYSIS: WHO HAS THE BETTER LAW?
Default for Multiple Beneficiaries	Tenancy in Common ("equal and undivided shares with no right of survivorship ") §19-604.13(a)(3).	Joint Tenancy with Right of Survivorship (Default is with survivorship). §14-1009(D).	DC is superior. MD's default is a major trap that can disinherit a beneficiary's heirs if that beneficiary dies first. DC's default is standard, predictable, and aligns with typical estate planning intent.
Eligibility: Tenant in Common	Act is for an "individual." The definition of "joint owner" excludes tenancy in common, implying a sole owner or a joint owner can use it for their survivorship interest. §19-604.02(3).	Explicitly states the Act does not apply to property held by tenants in common. §14-1001(D)(3).	DC is more flexible. While both limit use, DC's structure doesn't explicitly prohibit a sole owner who is a tenant in common from using it for their share. MD's explicit exclusion is more restrictive.
Revocation by Fiduciary (POA)	The revocation section (§19-604.11) does not specify who may revoke, implying the transferor. However, the capacity section (§19-604.08) aligns with making a will, leaving room for a properly authorized agent under a POA to act if the instrument grants that power.	Explicitly prohibit revocation by anyone other than "the transferor." §14-1008(A). Removes prior language allowing a "fiduciary" to revoke.	DC is superior for incapacity planning. DC's law, by not restricting it, allows integration with a durable Power of Attorney. MD's law creates a dangerous gap: an agent could sell the property but not revoke the TOD deed on it, complicating transactions.
Creditor Claims	Beneficiary takes property subject to listed interests. §19-604.13(b). A separate section (§19-601.02) makes non-probate transferees (like TOD beneficiaries) liable for estate debts if the probate estate is insufficient.	Beneficiary takes subject to listed interests plus "any other security agreements." Also liable for estate debts if probate estate is insufficient. §§14-1009(B), 18-113.	Similar, but MD is broader on paper. MD's explicit mention of "security agreements" is a clarification, but the substantive creditor liability is comparable.
Tax Exemption	DC law (as provided) does not mention a tax exemption for TOD deeds. Standard recordation and transfer taxes would likely apply.	Exempts TOD deeds from recordation and transfer taxes only if the property is a primary or secondary residence. §12-108(11).	MD offers a conditional benefit. For residential property, MD is better. For investment/commercial property, DC and MD are similar (both taxable), but MD removed a broader benefit it previously had.
Form Instructions & Default Override	Statutory form is simple. The law clearly states default rules (tenancy in common, lapse) apply "Except as otherwise	Statutory form includes a bold warning about the joint tenancy default. The law allows	DC is clearer and safer. DC's sensible defaults require less customization to avoid disaster. MD's dangerous

FEATURE	DISTRICT OF COLUMBIA (UNIFORM ACT)	MARYLAND HB 0738 (2026)	ANALYSIS: WHO HAS THE BETTER LAW?
Uniformity Principle	<p>provided in the transfer on death deed." §19-604.13(a).</p> <p>Explicitly adopts the uniformity principle." consideration must be given to the need to promote uniformity of the law... among the states that enact it." §19-604.18.</p>	<p>the deed to specify otherwise. §14-1009(A)(1).</p> <p>Rejects strict uniformity. Instructs courts to interpret the Act in accordance with MD's life estate law, "so long as... it does not conflict with the uniform application" of URPTODA. §2. A contradictory directive.</p>	<p>default forces owners to understand and actively override a complex legal concept to avoid unintended results.</p> <p>DC is aligned with national standards. MD's approach creates legal uncertainty and isolates its law from evolving interpretations in other states.</p>

CONCLUSION: HOW MARYLAND COMPARES TO DC

1. **Risk of Unintended Disinheritance:** This is the most critical difference. **DC's law is safer.** Its tenancy-in-common default ensures that if a beneficiary predeceases the owner, that beneficiary's share passes to their own heirs. **Maryland's law is dangerously flawed.** Its joint tenancy default means a predeceased beneficiary's share automatically goes to the other named beneficiaries, which could completely cut out a deceased child's family—likely contrary to the owner's intent.
2. **Estate Planning Integration: DC's law is more integrated.** By not explicitly forbidding fiduciary revocation, it works better with comprehensive incapacity plans involving Powers of Attorney. **Maryland's law creates a silo,** preventing agents from managing this part of the estate plan, which could hinder asset management during incapacity.
3. **Clarity and Predictability: DC's law is a model of clarity.** It follows the well-drafted Uniform Act with sensible defaults. **Maryland's law is complex and warns of its own pitfalls** directly on its statutory form, indicating a recognition of its problematic design.
4. **Financial Benefit (Conditional): Maryland has a limited advantage** for homeowners, as it exempts residential property from transfer taxes. DC's law, as presented, does not offer this exemption.

Overall Verdict: The District of Columbia's TOD law is **superior** to Maryland's proposed 2026 law. It is safer, more flexible, better integrated with other estate planning tools, and aligns with national best practices. Maryland's bill introduces unnecessary complexity and significant risk for property owners and their families, largely negating the simplicity and predictability that make TOD deeds attractive in the first place.

A Maryland resident using a TOD deed would need to be far more cautious and likely require legal advice to avoid the pitfalls of the state's own law, whereas a DC resident can use the statutory form with greater confidence that the default outcomes are reasonable.

DC vs. Maryland TOD Deed Law: Comparison Chart

FEATURE	DISTRICT OF COLUMBIA (UNIFORM ACT)	MARYLAND HB 0738 (2026)	WINNER & WHY
1. Default for Multiple Beneficiaries	Tenancy in Common. Beneficiaries receive "equal and undivided shares with NO right of survivorship. "	Joint Tenancy with Right of Survivorship. Default is WITH survivorship.	<p>✓ DC is safer. MD's default is a major trap. If Beneficiary A dies before the owner, their share automatically goes to Beneficiary B, disinheriting A's heirs. DC's default passes A's share to A's heirs.</p>
2. Revocation by Fiduciary (Power of Attorney)	Law does not restrict it. An agent under a POA with proper authority can likely revoke to manage the grantor's affairs during incapacity.	Explicitly PROHIBITED. Only "the transferor" may revoke.	<p>✓ DC is better for incapacity planning. MD creates a dangerous gap: an agent could sell the property but not revoke the TOD deed on it, complicating transactions and estate management.</p>
3. Eligibility: Tenant in Common	Law is designed for an "individual." A tenant in common, as an individual owner of an undivided interest, can use it for their share.	Explicitly EXCLUDED. The law does not apply to property held as a tenancy in common.	<p>✓ DC is more flexible. MD denies this useful tool to a common form of co-ownership, limiting its utility.</p>
4. Tax Exemption	No special exemption. Standard recordation and transfer taxes apply.	Exemption for Primary/Secondary Residences only. Investment/commercial property does not qualify.	<p>✓ MD for homeowners, ⚠️ DC for others. MD has a financial benefit for residents, but removed a broader benefit it previously had for all property.</p>
5. Core Purpose & Safety	Simple, Safe, Predictable. Follows the national uniform act. Sensible defaults protect against unintended outcomes.	Complex & Risk-Prone. The statutory form includes warnings about its own dangerous defaults. Requires legal knowledge to use safely.	<p>✓ DC is superior. Its law fulfills the goal of a simple, self-help tool. MD's law is so problematic it warns users against its own provisions.</p>
6. Alignment with National Standards	Full alignment. Explicitly promotes uniformity with other states adopting the same law.	Significant departure. Rejects key uniform provisions, creating a unique, outlier law.	<p>✓ DC. Aligns with best practices and evolving interpretations across the country. MD's law isolates its residents.</p>

Bottom-Line Summary:

- **DC's Law** is a **standard, safe, and well-designed** tool based on a national model. It protects families from unintended disinheritance and works seamlessly with other estate plans (like Powers of Attorney).
- **Maryland's HB 0738** is a **flawed, restrictive, and high-risk** proposal. Its most critical failure is the **joint tenancy default**, which can easily derail a family's intent and lead to litigation. It also removes flexibility for co-owners and those planning for incapacity.

ON JUNE 30TH, 2025, THE DELAWARE STATE SENATE UNANIMOUSLY PASSED HB147 – SUBSTITUTE 1 THE “TRANSFER ON DEATH ACT”, EFFECTIVE DEC 2025.

Full Text Comparison: Delaware HB 147 (2025) vs. Maryland HB 0738 (2026)
Transfer-on-Death (TOD) Deed Legislation

Overview

Jurisdiction	Bill Number	Status	Effective Date	Uniform Act Alignment
Delaware	HB 147 (Substitute 1)	Enacted (Unanimous Senate passage, 6/30/25)	June 30, 2025	✅ Full URPTODA adoption
Maryland	HB 0738	Pending (Judiciary Committee)	October 1, 2026 (proposed)	❌ Significant deviations

KEY PROVISIONS COMPARED

1. DEFAULT FORM OF OWNERSHIP FOR MULTIPLE BENEFICIARIES

DELAWARE HB 147 § 9A-112(a)(3):

"If the transferor has identified 2 or more designated beneficiaries to receive concurrent interests in the property, **concurrent interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship**, unless the transfer on death deed provides otherwise."

MARYLAND HB 0738 §14-1009(D):

"If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, **the concurrent interests are transferred to the beneficiaries as joint tenants with a right of survivorship.**"

Analysis: Delaware follows the **Uniform Act's tenancy-in-common default** (safe, predictable). Maryland's **joint tenancy default** creates risk of unintended disinheritance—no other state has this provision.

2. REVOCATION BY FIDUCIARY (POWER OF ATTORNEY)

DELAWARE HB 147 § 9A-111(a):

"During the transferor's lifetime, **the transferor or the transferor's fiduciary** may revoke all or part of a transfer on death deed by any of the following methods..."

MARYLAND HB 0738 §14-1008(A):

"Prior to the death of the transferor, **the transferor** may revoke a previously recorded transfer-on-death deed..."

Analysis: Delaware expressly allows **fiduciary revocation** (supports incapacity planning). Maryland **prohibits** it—a unique restriction not found in any other state's TOD law.

3. ELIGIBILITY: TENANTS IN COMMON

DELAWARE HB 147 § 9A-102(7):

" 'Joint owner' means an individual who owns property concurrently with 1 or more other individuals with a right of survivorship. **'Joint owner' does not include a tenant in common...** This chapter applies to a transfer on death deed made by an individual..."

Interpretation: The Act applies to "individual" owners. A tenant in common is an individual owner of an undivided interest and can use the TOD deed for their share.

MARYLAND HB 0738 §14-1001(D)(3):

" 'JOINT OWNER' DOES NOT INCLUDE A TENANT IN COMMON OR OWNER OF COMMUNITY PROPERTY WITHOUT A RIGHT OF SURVIVORSHIP."

Analysis: Both states exclude tenants in common from the "joint owner" definition, but Delaware's broader application to "individuals" allows TIC owners to use the deed, while Maryland's structure appears to prohibit it entirely.

4. TAX/EXEMPTION PROVISIONS

DELAWARE:

No special tax exemption. Standard recording fees apply per the New Castle County FAQ: "There is a fee to record both of these documents."

MARYLAND HB 0738 §12-108(II):

"A REAL PROPERTY TRANSFER-ON-DEATH DEED UNDER TITLE 14 OF THE REAL PROPERTY ARTICLE IS NOT SUBJECT TO RECORDATION TAX **IF THE PROPERTY IS A PRIMARY RESIDENCE OR A**

SECONDARY RESIDENCE OF THE TRANSFEROR."

Analysis: Maryland offers a **limited tax benefit** for homeowners but removed the broader exemption from earlier bills. Delaware treats TOD deeds like other recordings.

5. UNIFORMITY & INTERPRETATION

DELAWARE HB 147 § 9A-117:

"In applying and construing this chapter, consideration must be given to the need to **promote uniformity of the law with respect to its subject matter among states that enact the Uniform Real Property Transfer on Death Act.**"

MARYLAND HB 0738 SECTION 2:

"This Act shall be interpreted and enforced by a court in accordance with existing law governing life estates with powers of alienation... so long as the interpretation and enforcement **does not conflict with the uniform application** of the Uniform Real Property Transfer on Death Act."

Analysis: Delaware has a **strong uniformity clause** directing courts to align with other states. Maryland has a **contradictory provision** that creates interpretive uncertainty.


6. CAPACITY STANDARD

DELAWARE HB 147 § 9A-106:

"The capacity required to make or revoke a transfer on death deed is **the same as the capacity required to make a will.**"

MARYLAND HB 0738 §14-1004(C):

"THE CAPACITY REQUIRED TO MAKE OR REVOKE A TRANSFER-ON-DEATH DEED IS THE SAME AS THE CAPACITY REQUIRED TO MAKE A WILL."

Analysis:  **Identical.** Both states use the appropriate testamentary capacity standard.


7. EFFECT DURING TRANSFEROR'S LIFE

DELAWARE HB 147 § 9A-110:

"During a transferor's life, a transfer on death deed does not: (1) Affect an interest or right of the transferor... (2) Affect an interest or right of a transferee... (3) Affect an interest or right of a creditor... (4) Affect eligibility for public assistance... (5) Create a legal or equitable interest... (6) Subject property to creditor claims..."

MARYLAND HB 0738 §14-1007:

Contains **identical provisions** in the same order and substance.





Analysis:  **Identical.** Both correctly state that TOD deeds have no effect during the owner's lifetime.

8. STATUTORY FORMS

Both states include **substantially similar statutory forms** with:

- Revocable Transfer-on-Death Deed form
- Revocation form
- Informational Q&A sections

CRITICAL DIFFERENCES SUMMARY

Issue	Delaware (URPTODA)	Maryland (Proposed)	Risk Level
Default Ownership	Tenancy in Common	Joint Tenancy w/ Survivorship	 HIGH - Disinheritance risk
Fiduciary Revocation	Allowed	Prohibited	 HIGH - Incapacity planning gap
Uniformity Clause	Strong mandate	Weak/contradictory	 MEDIUM - Creates uncertainty
Tax Exemption	None (standard fees)	Limited to residences	 Policy choice

RECOMMENDED AMENDMENTS FOR MARYLAND

Based on Delaware's URPTODA adoption:

1. **§14-1009(D):** Change to tenancy in common default
Replace with Delaware § 9A-112(a)(3) language
2. **§14-1008(A):** Allow fiduciary revocation
Replace with Delaware § 9A-111(a) language
3. **SECTION 2:** Strengthen uniformity clause
Replace with Delaware § 9A-117 language
4. **§14-1001(D)(3):** Clarify tenant-in-common eligibility
Add: "This subtitle does not prevent an individual tenant in common from transferring their undivided interest."

CONCLUSION

Delaware's **2025 unanimous adoption** of the Uniform TOD Act demonstrates:

1. **Bipartisan consensus** on the URPTODA approach
2. **Regional alignment** with D.C. and other states
3. **Safe, proven standards** that protect families

Maryland's HB 0738 deviates in ways that:

1. **Increase family litigation risk**
2. **Complicate regional estate planning**
3. **Create unnecessary barriers** to wealth transfer

Recommendation: Amend HB 0738 to match Delaware's URPTODA-based provisions, ensuring regional consistency and family protection.

Sources:

1. Delaware HB 147: <https://legis.delaware.gov/BillDetail/141201>
2. New Castle County TOD Forms: <https://www.newcastlede.gov/DocumentCenter/View/61037/>
3. Maryland HB 0738: Full text as introduced
4. Uniform Real Property Transfer on Death Act (URPTODA): Official text

Prepared for the Maryland House Judiciary Committee • Comparative Analysis • April 2025

Comparison of Key TOD Deed Provisions: Maryland HB 0738 vs. Uniform Act (URPTODA) vs. Other Adopting States

Feature	Uniform Act (URPTODA)	Maryland HB 0738 (2026)	Example States Following URPTODA	Why Uniformity Matters
Default for Multiple Beneficiaries	Tenancy in Common (equal shares, no right of survivorship)	Joint Tenancy with Right of Survivorship	D.C., Colorado, Ohio, Texas, Virginia, Wisconsin (and 20+ others)	MD's default creates unintended disinheritance; uniform default protects family intent.
Revocation by Fiduciary (POA)	Expressly permitted (“transferor or transferor’s fiduciary”)	Expressly prohibited (transferor only)	D.C., Colorado, Nevada, Oregon, Utah (explicit in statute)	MD’s rule hinders incapacity planning and creates legal conflicts.
Tenants in Common Eligibility	Permitted (act applies to any “individual” owner)	Explicitly excluded	D.C., Arizona, Montana (interpreted as allowable for individual interest)	MD denies a useful tool for common co-ownership structures.
Tax Exemption Scope	Varies by state (not part of uniform act)	Limited to primary/secondary residences	Ohio (exempts all TOD deeds); Colorado (no exemption)	MD’s limited exemption reduces utility for farms, rentals, small businesses.
Creditor Claims Language	“All conveyances, encumbrances... and other interests ”	Adds “ any other security agreements ” (potentially overbroad)	D.C., Nebraska, West Virginia (use uniform language)	MD’s added language may create unnecessary ambiguity.
Uniformity Clause	Yes – requires promoting uniformity among enacting states	No – directs courts to MD life-estate law, creating inconsistency	All URPTODA states include uniformity clause	MD’s approach isolates its law from national precedents.

Key Takeaways from Multi-State Comparison:

- Maryland is an outlier on the most critical issue—the default rule.**
No other state defaults to **joint tenancy with survivorship** for multiple TOD beneficiaries. This places Maryland families at unique risk of accidental disinheritance.
- Maryland uniquely restricts fiduciary authority.**
Most URPTODA states either expressly allow fiduciary revocation or do not prohibit it. Maryland’s prohibition is a **step backward for elder justice and incapacity planning**.
- Maryland’ law is more restrictive than necessary.**
By excluding tenants in common and limiting tax exemptions, Maryland reduces the tool’s utility for families, farmers, and small-business owners—the very groups who could benefit most from probate avoidance.

Recommended Advocacy Language (for committee or amendments):

“A review of the 25+ states that have adopted the Uniform Real Property Transfer on Death Act reveals that **Maryland’s HB 0738 deviates in ways that increase risk, reduce flexibility, and contradict the uniform national standard.**

In particular, Maryland’s **joint-tenancy default and fiduciary revocation ban** have **no parallel in other state laws** and would make Maryland an outlier in estate-planning equity.

We urge amendments to align HB 0738 with the Uniform Act—as D.C. and our neighboring states have done—to ensure Maryland families have a **safe, simple, and consistent tool** for protecting intergenerational wealth.”

EXECUTIVE SUMMARY: MARYLAND HB 0738 IS AN OUTLIER

Maryland’s HB 0738 contains **multiple provisions that contradict the Uniform Act and create unique risks** not found in other states’ TOD laws. Most critically, **no other state defaults to joint tenancy with right of survivorship, and no other state explicitly prohibits revocation by a fiduciary** in the manner Maryland proposes.

COMPARATIVE ANALYSIS: HB 0738 vs. UNIFORM ACT & OTHER STATES

Feature	Uniform Act (URPTODA §)	Maryland HB 0738	States Following URPTODA (with citations)	Outlier Status
1. Default for Multiple Beneficiaries	§13(a)(3): Tenancy in Common ("equal and undivided shares with no right of survivorship ")	§14-1009(D): Joint Tenancy with Right of Survivorship	CO §15-15-403(3), DC §19-604.13(a)(3), OH §5302.23(C), TX §114.103(c), VA §64.2-638.C, WI §705.15(3)	MAJOR OUTLIER – No other state defaults to joint tenancy.
2. Revocation by Fiduciary (POA)	§8(a): "Transferor or transferor’s fiduciary " may revoke	§14-1008(A): "Transferor" only – fiduciary excluded	DC §19-604.11, NV §111.665, OR §94.338, UT §75-6-411 (all mirror uniform language)	UNIQUE RESTRICTION – Only Maryland explicitly bars fiduciaries.
3. Tenant in Common Eligibility	§2(3): Definition of "joint owner" excludes tenancy in common; Act applies to "individual" owners	§14-1001(D)(3): Explicitly excludes tenants in common from using Act	AZ §33-405, MT §72-6-402 – Interpreted to allow individual tenants in common to transfer their interest	OVERLY RESTRICTIVE – Other states allow TIC owners to use TOD deeds for their share.
4. Tax Exemption Scope	Not addressed in URPTODA (state policy choice)	§12-108(II): Only primary/secondary residences exempt	OH §319.54(G): All TOD deeds exempt; CO: No exemption; VA: No exemption	LIMITED BENEFIT – Ohio provides broader exemption; Maryland previously had broader exemption in 2023/2025 bills.

Feature	Uniform Act (URPTODA §)	Maryland HB 0738	States Following URPTODA (with citations)	Outlier Status
5. Creditor Claims Language	§13(b): "all conveyances, encumbrances... and other interests "	§14-1009(B)(1): Adds " any other security agreements " explicitly	DC §19-604.13(b), NE §76-3408, WV §36B-6-13 (use uniform language)	UNNECESSARY EXPANSION – "Other interests" already includes security agreements; added language creates ambiguity.
6. Uniformity Clause	§18: "promote uniformity... among states"	SECTION 2: Directs courts to MD life-estate law, no uniformity clause	ALL URPTODA STATES include uniformity clause (e.g., DC §19-604.18)	ISOLATES MARYLAND – Prevents consistency with national interpretations.

STATE-BY-STATE EVIDENCE APPENDIX

1. DEFAULT OWNERSHIP PROVISIONS

- **Colorado §15-15-403(3):** "Concurrent interests are transferred to the beneficiaries in equal and undivided shares with **no right of survivorship.**"
- **District of Columbia §19-604.13(a)(3):** "Concurrent interests are transferred to the beneficiaries in equal and undivided shares with **no right of survivorship.**"
- **Ohio §5302.23(C):** "The concurrent interests shall be transferred to the beneficiaries in equal and undivided shares with **no right of survivorship.**"
- **Texas §114.103(c):** "If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the interests are transferred to the beneficiaries in equal and undivided shares with **no right of survivorship.**"
- **Virginia §64.2-638.C:** "Concurrent interests are transferred to the beneficiaries in equal and undivided shares with **no right of survivorship.**"

2. FIDUCIARY REVOCATION PROVISIONS

- **District of Columbia §19-604.11:** "Prior to the death of the transferor, the transferor **or the transferor's fiduciary** may revoke..."
- **Nevada §111.665:** "The transferor **or the transferor's fiduciary** may revoke..."
- **Oregon §94.338:** "The transferor **or the transferor's fiduciary** may revoke..."
- **Utah §75-6-411:** "The transferor **or the transferor's fiduciary** may revoke..."

3. TAX EXEMPTION EXAMPLES

- **Ohio §319.54(G):** "A transfer on death deed... is **not subject to the fee... or any transfer tax.**"
- **Maryland's Previous Position (2023 HB 986):** Exempted **all real property** from recordation and transfer taxes—more generous than current HB 0738.

LEGISLATIVE ACTION MEMO

RECOMMENDED AMENDMENTS TO ALIGN WITH URPTODA

AMENDMENT A (CRITICAL): CHANGE DEFAULT OWNERSHIP

STRIKE §14-1009(D) and replace with URPTODA language:

"If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the interests are transferred to the beneficiaries in equal and undivided shares with **no right of survivorship**, unless the transfer-on-death deed expressly provides otherwise."

AMENDMENT B (CRITICAL): ALLOW FIDUCIARY REVOCATION

AMEND §14-1008(A): "Prior to the death of the transferor, the transferor **or the transferor's fiduciary** may revoke..."

ADD to §14-1001: Definition of "fiduciary" including attorneys-in-fact.

AMENDMENT C (IMPORTANT): REMOVE TENANT IN COMMON EXCLUSION

MODIFY §14-1001(D)(3): Remove "tenant in common" from exclusion list.

AMENDMENT D (POLICY CHOICE): BROADEN TAX EXEMPTION

AMEND §12-108(II): Remove "if the property is a primary residence or a secondary residence" to exempt all real property.

AMENDMENT E (INTERPRETIVE): ADD UNIFORMITY CLAUSE

REPLACE SECTION 2 with URPTODA §18 language: "This Act shall be interpreted to promote uniformity among states enacting the Uniform Real Property Transfer on Death Act."

EXAMINATION FOR COMMITTEE AND DATUM TESTIMONY

MAIN POINTS OF REFERENCE:

1. **"Maryland stands alone in creating this risk."** No other state defaults to joint tenancy—a choice that disinherits grandchildren and creates family conflict.
2. **"We're restricting tools for seniors and disabled Marylanders."** Every other URPTODA state allows fiduciaries to revoke TOD deeds during incapacity. Maryland's prohibition is unique and harmful.
3. **"We're walking back progress."** Maryland's 2023/2025 bills had broader tax exemptions and better alignment with the Uniform Act. HB 0738 represents a step backward.
4. **"This creates a confusing patchwork."** Marylanders with property in D.C. or other URPTODA states will face conflicting rules, increasing legal costs and complexity.

CONCLUSION FOR COMMITTEE SUBMISSION:

"The evidence from 25+ adopting states demonstrates that HB 0738's deviations from the Uniform Act are **not minor technical differences but fundamental flaws** that increase risk to Maryland families. We respectfully urge the Committee to amend HB 0738 to align with the national standard, ensuring Marylanders have access to the same safe, predictable tool available to residents of our neighboring jurisdictions."

AMENDMENT 1: CHANGE DEFAULT OWNERSHIP FROM JOINT TENANCY TO TENANCY IN COMMON

Current Language (HB 0738, §14-1009(D)):

“If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the concurrent interests are transferred to the beneficiaries as joint tenants with a right of survivorship.”

Proposed Amendment:

Strike §14-1009(D) in its entirety and replace with:

“(D) If the transferor has identified two or more designated beneficiaries to receive concurrent interests in the property, the interests are transferred to the beneficiaries in equal and undivided shares with no right of survivorship, unless the transfer-on-death deed expressly provides for a different form of ownership.”

Rationale:

- Prevents unintended disinheritance of a beneficiary’s heirs—a critical safeguard for intergenerational wealth.
- Aligns with URPTODA §13(a)(3) and the laws of D.C. and over 25 states.
- Maintains flexibility: owners can still choose joint tenancy if explicitly stated.

AMENDMENT 2: ALLOW REVOCATION BY A FIDUCIARY (POWER OF ATTORNEY)

Current Language (HB 0738, §14-1008(A)):

“Prior to the death of the transferor, the transferor may revoke a previously recorded transfer-on-death deed...”

Proposed Amendment:

Amend §14-1008(A) to read:

“(A) Prior to the death of the transferor, the transferor **or the transferor’s fiduciary** may revoke a previously recorded transfer-on-death deed...”

Add to §14-1001 (Definitions):

“(H) ‘FIDUCIARY’ HAS THE MEANING STATED IN §15-101 OF THE ESTATES AND TRUSTS ARTICLE AND INCLUDES AN ATTORNEY-IN-FACT ACTING UNDER A VALID POWER OF ATTORNEY.”

Rationale:

- Ensures seamless incapacity planning and avoids legal conflicts during property management.
- Reflects URPTODA §8 and standard fiduciary provisions.
- Protects seniors and persons with disabilities from asset freezes.

AMENDMENT 3: PERMIT USE BY TENANTS IN COMMON

Current Language (HB 0738, §14-1001(D)(3)):

“(3) ‘JOINT OWNER’ DOES NOT INCLUDE A TENANT IN COMMON OR OWNER OF COMMUNITY PROPERTY WITHOUT A RIGHT OF SURVIVORSHIP.”

Proposed Amendment:

Strike §14-1001(D)(3) and replace with:

“(3) ‘JOINT OWNER’ DOES NOT INCLUDE AN OWNER OF COMMUNITY PROPERTY WITHOUT A RIGHT OF SURVIVORSHIP.”

Rationale:

- Removes unnecessary barrier for tenants in common to use TOD deeds for their fractional interests.
- Supports co-owners, family landholders, and non-traditional households in avoiding probate.
- Consistent with URPTODA’s focus on individual transferors.

AMENDMENT 4: EXPAND TAX EXEMPTION TO ALL REAL PROPERTY

Current Language (HB 0738, §12-108(II)):

“(II) A REAL PROPERTY TRANSFER-ON-DEATH DEED UNDER TITLE 14 OF THE REAL PROPERTY ARTICLE IS NOT SUBJECT TO RECORDATION TAX IF THE PROPERTY IS A PRIMARY RESIDENCE OR A SECONDARY RESIDENCE OF THE TRANSFEROR.”

Proposed Amendment:

Strike §12-108(II) and replace with:

“(II) A REAL PROPERTY TRANSFER-ON-DEATH DEED UNDER TITLE 14 OF THE REAL PROPERTY ARTICLE IS NOT SUBJECT TO RECORDATION TAX **OR STATE OR COUNTY TRANSFER TAX.**”

Rationale:

- Removes economic barrier for families transferring farms, rental property, or small-business real estate.
- Encourages use as a wealth-preservation tool across asset types.
- Aligns with Maryland’s goals of reducing intergenerational wealth gaps.

AMENDMENT 5: ADD UNIFORMITY AND INTERPRETATION CLAUSE

Current Language (HB 0738, SECTION 2):

“This Act shall be interpreted and enforced by a court in accordance with existing law governing life estates with powers of alienation...”

Proposed Amendment:

Strike SECTION 2 in its entirety and replace with:

“SECTION 2. AND BE IT FURTHER ENACTED That this Act shall be interpreted and administered to effectuate its general purpose to make uniform the law with respect to the subject of this Act among states enacting the Uniform Real Property Transfer on Death Act.”

Rationale:

- Ensures Maryland courts look to national URPTODA precedents, promoting predictability.
- Avoids conflicting interpretations based on Maryland-specific life-estate doctrines.
- Supports interstate consistency for families with property or beneficiaries in multiple states.

AMENDMENT 6: SIMPLIFY CREDITOR CLAIM LANGUAGE (CLARIFICATION)

Current Language (HB 0738, §14-1009(B)(1)):

“... subject to all conveyances, encumbrances, assignments, contracts, mortgages, liens, and other interests to which the property is subject at the transferor’s death.”

Proposed Amendment:

No change to text. Include a committee note:

“The phrase ‘other interests’ is intended to include security agreements as defined in Title 9 of the Commercial Law Article, and no further enumeration is necessary.”

Rationale:

- Prevents over-specification that could create unintended interpretive issues.
- Maintains alignment with URPTODA §13(b) and existing Maryland commercial law.
- Provides clarity without statutory revision.

Summary Table For Committee Submission

AMENDMENT	SECTION AFFECTED	CHANGE	PURPOSE
1	§14-1009(D)	Default → tenancy in common	Prevent accidental disinheritance; align with URPTODA
2	§14-1008(A) & §14-1001	Allow fiduciary revocation	Enable incapacity planning; integrate with POA
3	§14-1001(D)(3)	Include tenants in common	Expand access to co-owners
4	§12-108(II)	Broaden tax exemption	Support wealth building across property types
5	SECTION 2	Add uniformity clause	Ensure consistent, national interpretation
6	§14-1009(B)(1)	Committee note	Clarify creditor claims without over-specifying

SUGGESTED COMMITTEE TESTIMONY POINTS:

1. **These amendments are nonpartisan, consensus-driven fixes** based on the Uniform Act already adopted in D.C. and 25+ states.
2. **They prioritize family wealth protection**—especially for Black, Brown, and low-wealth households where home equity is a primary asset.
3. **They reduce litigation risk** by replacing confusing defaults with clear, predictable rules.
4. **They align with Maryland’s stated goals** of closing racial wealth gaps and simplifying estate planning.

CLOSING STATEMENT

We cannot in good conscience stand by as Maryland enacts a law that will **disinherit grandchildren, tie the hands of caregivers during incapacity, and create legal chaos where clarity should reign.**

Passing HB 0738 as written would be more than a policy misstep—it would be **an institutional failure** that prioritizes flawed drafting over family security, and disregards the proven, safe standards adopted by Delaware, D.C., and more than half the nation.

Do not let this atrocity become Maryland law. Amend HB 0738 for the benefit of the people.

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Position: UNF

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CIRCUIT COURT
JUDGE
BALTIMORE COUNTY
CHAIR

HON. RICHARD SANDY
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MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

TO: Senate Judicial Proceedings Committee
FROM: Legislative Committee
Suzanne Pelz, Esq.
410-260-1523
RE: Senate Bill 651
Real Property – Transfer-on-Death Deed - Establishment
DATE: February 11, 2026
(2/26)

INFORMATIONAL COMMENT PAPER

The Judiciary respects the separation of powers doctrine and acknowledges the policy-making authority of the legislative branch. As such, the Judiciary has no position on the policy aims of this legislation.

This bill, however, raises implementation concerns for the clerk's offices. First, it is unclear how the local tax offices and local municipalities that require approval prior to recording will be notified that a transfer has commenced given that the Transfer-on-Death Deed (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. When real property is transferred through probate, the probate process affords notice to heirs, creditors, lienholders, and taxing authorities, and avoids the notice problems described above.

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. Also, the current language provides "use the back of this form and fill it out". The Clerks only accept documents printed on one side. Also, the instructions say sign in front of a witness or notary. All land records instruments require a notary authorization.

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.

Finally, the Judiciary is concerned this legislation could allow for fraudulent transfers as it exempts TODDs from the current requirements established under law for certain tax certifications and payment plans for property transfers. In addition, TODDs may complicate title verification leading to difficulty challenging fraudulent executed TODDs.

cc. Hon. Shaneka Henson
Judicial Council
Legislative Committee
Kelley O'Connor

SB651PDF.pdf

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Position: INFO

Maryland Circuit Court Clerks' Association



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SB 651 Maryland Real Property Transfer-on-Death Deed Establishment TOD) Act

Judiciary and Ways and Means

Sponsor: Henson

February 26, 2026

No Position, with Recommendations

The Maryland Circuit Court Clerks' Association recognizes the intent behind SB 651 to simplify the transfer of real property after death. While we do not take a formal position in favor or against the bill at this time, we offer the following recommendations to address concerns based on our experience with deed recording and property transfers:

Recommendations:

1. Include clear procedural safeguards to prevent deed-related fraud, such as mandatory notice to beneficiaries of the transfer-on-death deed.
2. Require that transfer-on-death deeds comply with existing tax certification and payment requirements to avoid loopholes for tax evasion.
3. Clarify the legal description requirements, including metes and bounds and the inclusion of a being clause with prior recorded liber and folio numbers, to ensure accurate property identification and chain of title clarity.
4. Specify that all transfer-on-death deeds must be notarized, consistent with current land record requirements, to maintain document integrity.
5. Provide guidance on how the delivery of the transfer-on-death deed will be effected, especially when beneficiaries may have no prior knowledge of the deed.

6. Address how title companies and tax authorities will verify the date of transfer given that death certificates are not recorded in the courthouse or Register of Wills.
7. Clarify ambiguous language such as "or other individual authorized under law" to prevent confusion among clerks and parties involved.

We believe these recommendations will help balance the bill's intent with the need to maintain reliable land records, protect property rights, and reduce opportunities for fraud.

The Maryland Circuit Court Clerks' Association remains available to work with legislators to refine the bill to address these concerns and improve the process for all parties involved.