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"Where there is unity, there is strength"

HB 738 Maryland Real Property Transfer-on-Death Deed Establishment (TOD) Act **Judiciary and Ways and Means**

Sponsor: Delegates Hill, Phillips, Addison, Amprey, Bofo, Boyce, Coley, Fennell, Forbes, Holmes, Ivey, A. Johnson, Kaufman, McCaskill, Mireku–North, Pasteur, Ross, Ruff, Smith, Taveras, Toles, Turner, Wells, White Holland, Wilkins, Williams, Wims, and Young
February 25, 2026

No Position, with Recommendations

The Maryland Circuit Court Clerks' Association recognizes the intent behind HB 738 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 affected, 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.