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HON. RICHARD SANDY  
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## MARYLAND JUDICIAL COUNCIL LEGISLATIVE COMMITTEE

**TO:** House Judiciary Committee  
House Ways and Means Committee

**FROM:** Legislative Committee  
Suzanne Pelz, Esq.  
410-260-1523

**RE:** House Bill 738  
Real Property – Transfer-on-Death Deed - Establishment

**DATE:** February 11, 2026  
(2/25)

### INFORMATIONAL COMMENT PAPER

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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 does, however, raise 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. N. Scott Phillips  
Judicial Council  
Legislative Committee  
Kelley O'Connor