

**Testimony Concerning House Bill 738
Real Property-Transfer-on-Death Deed-Establishment
Position-Favorable**

To: Delegate Sandy J. Bartlett, Chair
Delegate Debra Davis, Vice Chair
Members of the Judiciary 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 23, 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 House Bill 738 (HB 738), 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 HB 738 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, HB 738 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.

HB 738 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 HB 738 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>.

HB 738 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 HB 738 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 HB 738.

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).