

TESTIMONY ON HB 738

Real Property – Transfer-on-Death Deed – Establishment

Before the House Judiciary Committee
Delegate N. Scott Phillips, Esq.

Good afternoon Madam Chair, Madam Vice Chair, and Members of the Committee.

Today I respectfully request a favorable report on HB 738.

This bill establishes the Maryland Transfer-on-Death Deed Act, allowing a homeowner to transfer real property to a designated beneficiary outside of probate, effective upon death. It is modeled on the Uniform Real Property Transfer on Death Act and is already law in 38 jurisdictions, including Virginia, the District of Columbia, and most recently Delaware.

Quite simply — if you can designate a beneficiary on a bank account or a life insurance policy, you should be able to do the same with your home.

Under this legislation, the deed must be notarized and recorded before death to be effective. During the owner's lifetime, nothing changes. The owner retains full control — the right to sell, refinance, encumber, or revoke the deed at any time. The beneficiary has no present interest. This is a non-testamentary instrument and does not operate like a will.

Over the past year, we worked closely with the Uniform Law Commission, members of the local bar, title attorneys, and legislative colleagues in Delaware to address concerns raised last session.

The amendments provide clarity and guardrails:

- Where multiple beneficiaries are named without specifying ownership structure, the bill defaults to joint tenancy with right of survivorship to avoid unintended disputes.
- We removed distinctions between married and non-married joint owners while preserving existing Estates & Trusts protections regarding divorce and revocation.
- We strengthened the form and FAQs to clarify that a Transfer-on-Death Deed controls over contrary provisions in a will and that inheritance taxes may apply.
- We clarified revocation procedures, including revocation by inter vivos deed.
- And we streamlined proof of death by allowing either an affidavit or death certificate.

We also removed any requirement that the Administrative Office of the Courts provide legal advice, responding directly to prior concerns.

Colleagues, this is fundamentally an access-to-justice bill — and it is a Legislative Black Caucus priority.

In too many communities — particularly communities of color and working-class neighborhoods — access to estate planning is limited. Lawyers are less prevalent. Resources are constrained. And when a homeowner passes without a clear mechanism for transfer, title becomes tangled. Properties sit in limbo. Families lose wealth. Neighborhood stability suffers.

This bill does not replace wills. It does not eliminate probate. It does not create shortcuts around creditor protections. What it does is provide a simple, revocable, affordable tool to preserve intergenerational wealth and prevent unnecessary loss.

We often talk about closing the racial wealth gap. We talk about stabilizing communities. We talk about preventing distressed sales and heirs' property complications.

HB 738 is a practical step in that direction.

Maryland should not lag behind 38 other jurisdictions — including our neighbors — in providing this basic estate planning option.

For those reasons, I respectfully ask for a favorable report on House Bill 738.

Thank you.