

MARYLAND HOUSE JUDICIARY COMMITTEE
TESTIMONY OF MARYLAND VOLUNTEER LAWYERS SERVICE

**IN SUPPORT OF HB 738 – REAL PROPERTY – TRANSFER-ON-DEATH
DEED – ESTABLISHMENT**

WEDNESDAY, FEBRUARY 25, 2026

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Chair Bartlett and distinguished members of the Committee, thank you for the opportunity to testify in **Support of House Bill 738**, including support for the amendments to be offered by Sponsor Delegate Phillips.

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 House Bill 738 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 being 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 these amendments, and we ask for your strong **Support of HB 738**.

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.