MSBA
MARYLAND STATE BAR ASSOCIATION

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TO: House of Delegates – Judiciary Committee

FROM: Real Property Section of the MSBA

RE: HB 738 – Real Property - Transfer-on-Death Deed - Establishment

Hearing Date: February 25, 2026

POSITION: Support with Amendments

DATE: February 23, 2026

The Real Property Section of the MSBA **supports with amendments** HB 738 – Real Property - Transfer-on-Death Deed – Establishment.

Various versions of the proposed bill have been making their way through the legislative process for several years. Each year the bill got a little better. Now that the major concerns with the bill have been addressed, a few technical edits are needed for passage detailed below

1. In 14-1003(D)(2) on page 14 lines 10-11: delete "(II) An owner of community property with right of survivorship" as there is no community property in Maryland. Same for page 14, lines 13-14: remove "or owner of community property . . . " for the same reason
2. In 14-1006(B)(1) page 15, line 22, remove "or delivery" to avoid confusion with the legal term of art of "delivery."
3. Correct a typo in section 14-1008(A) on page 16, line 20: it should say located "and executed" instead of "an."
4. We think the following is what 14-1008(C) page 17, lines 3-8 is intending to say:

(C) IF A TRANSFER–ON–DEATH DEED IS MADE BY MORE THAN ONE TRANSFEROR:
(1) REVOCATION BY <u>INTER VIVOS DEED</u> BY A TRANSFEROR DOES NOT AFFECT THE DEED AS TO THE INTEREST OF ANOTHER TRANSFEROR; AND
(2) A DEED BY JOINT OWNERS IS REVOKED <u>BY AN INSTRUMENT OF REVOCATION</u> ONLY IF IT IS REVOKED BY ALL LIVING JOINT OWNERS.

5. 14-1009(E)(2): add language to make it clear that under these circumstances, like all circumstances, the TODD is only effective upon the death of the last surviving joint owner.

We also believe it would be beneficial to allow (but not require) the surviving beneficiary to record an affidavit that alert SDAT that the Transferor has died and to allow it to update the tax rolls.

Thank you for your consideration. Please contact Bill O'Connell at bill.oconnell@fnf.com or 410-992-2324 if you have any questions or need further assistance.