Statement of Tina Smith Nelson, Esquire in Support of HB 738, Establishing Real Property Transfer-on-Death Deeds

To Chair Bartlett and Members of the Committee:

Thank you for the opportunity to submit this written testimony in support of HB 738. As a resident of the State of Maryland, I am fully in favor of establishing a Transfer on Death (TOD) Deed statute in Maryland. I have had the opportunity to guide family members and friends in making decisions about creating essential estate planning documents, including powers of attorney and wills. Many of them have asked whether there is a mechanism in Maryland to transfer ownership of their home to their loved ones without adding them to their deed (which could open the door to a myriad of problems down the road) or having them go through the enormous time and expense of probate to obtain ownership. As the law currently exists, the transfer of real property to their beneficiaries can only be accomplished through a trust or a will. Having the ability to transfer real property to beneficiaries after death through a transfer on death deed would be a cost-efficient and easy way to affect the wishes of homeowners. It will be of great benefit to many residents in Maryland.

As I indicated, I am submitting this testimony personally as a resident of the State of Maryland. However, I note that I am a practicing attorney, licensed in Maryland and the District of Columbia. As a Sr. Managing Attorney with AARP Legal Counsel for the Elderly in Washington, DC, an affiliate of AARP, my primary area of practice is probate and estate planning. In that capacity, I assist hundreds of low-income seniors in the District of Columbia, prepare estate planning documents, including transfer on death deeds.

Legal Counsel for the Elderly (LCE) supported the passage of the District's Transfer on Death Deed (TODD) statute in 2013. Since its passage, we have not encountered or seen any negative ramifications from clients utilizing this mechanism to transfer title of their home. In fact, beneficiaries have come to LCE with TODDs that we have executed, for assistance with filing the required conforming deeds to effectuate the transfer of title when the homeowner, our prior client, has died. So, we have seen this playout full circle. The addition of TODDs has been a crucial added estate planning tool for our clients, most of whom' s primary or only asset is their home. Being able to pass down their home, along with the equity in it to their heirs, has been essential to families, particularly those of color, in maintaining homeownership, sustaining generational wealth, and stabilizing communities.

As stated previously, LCE is an affiliate of AARP. The AARP MD State office is actively supporting the Transfer on Death Deed bill as well. Their President Emeritus and former delegate Jim Campbell is testifying in support of this bill. Additionally, AARP MD is working to place an op-ed to raise awareness about the bill, which is a priority for the Maryland Legislative Black Caucus.

It is very common for Maryland residents to transfer personal property at death outside of the probate process. Examples of these non-probate assets include jointly owned property, beneficiary designations on insurance and retirement accounts, and payable on death (POD) bank accounts. HB 738 would allow residents the same opportunity and ability to transfer real property using a simple TOD deed, just like neighboring District of Columbia. Through the District's TODD statute, my senior clients at LCE are able to retain full control and ownership of their property up until the time of their death and then be assured that their designated beneficiaries are able to obtain possession of the family home

without having to maneuver the complex probate process. A TODD is revocable at any time, meaning a senior homeowner can easily change his or her mind in response to changing circumstances. No permission from the beneficiary is required to sell the property or to name a different beneficiary. Additionally, TODDs help prevent fraud because, unlike other types of deeds, they must be recorded in public records before the death of the property owner to be effective. The District's TODD statute contains these requirements, providing protections to our clients, and such provisions should likewise be enacted in Maryland.

The Transfer on Death Deed has worked very well in the District, and I am certain it will have the same positive impact on the residents of Maryland. TOD deeds are a simple and effective method to transfer real property at death. HB 738 would not replace the preparation of wills and trusts but would be yet another tool available to Maryland residents and may encourage residents to engage in essential estate planning, diminishing potential costlier issues that arise with foreclosures and heirs property. The TOD deed could potentially save Marylanders hundreds of thousands of dollars, if not millions, in legal fees and probate expenses, and provide homeowners with an immeasurable peace of mind knowing that when they pass, their home will be going to their designated loved ones with ease and without complication.

Thank you for your consideration of this testimony.