WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 728

By Senator Weld

[Introduced March 10, 2025; referred  
to the Committee on the Judiciary]

A BILL to amend and reenact §36-12-9 of the Code of West Virginia, 1931, as amended, relating to the Uniform Real Property Transfer on Death Act; and setting forth the requisite capacity requirements for a transfer on death deed.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. UNIFORM REAL PROPERTY TRANSFER ON DEATH ACT.

§36-12-9. Requirements.

A transfer on death deed:

(1) Except as otherwise provided in subdivision (2) of this section, must contain the essential elements and formalities of a properly recordable inter vivosdeed;

(2) Must state that the transfer to the designated beneficiary is to occur at the transferors death; ~~and~~

(3) Must be executed by the transferor with requisite capacity as specified in §36-12-8 of this code; and

~~(3)~~ (4) Must be recorded before the transferors death in the office of the clerk of the county commission in the county where the property is located: *Provided,* That, notwithstanding §11-22-2 of this code, a transfer on death deed is exempt from the payment of excise tax on the privilege of transferring real estate for the reason that no interest in the property is at the time of recording being passed to the beneficiary and the deed remains revocable until the death of the transferor.