

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 728

BY SENATOR WELD

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

1 A BILL to amend and reenact §36-12-9 of the Code of West Virginia, 1931, as amended, relating
2 to the Uniform Real Property Transfer on Death Act; and setting forth the requisite capacity
3 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.

1 A transfer on death deed:

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

4 (2) Must state that the transfer to the designated beneficiary is to occur at the transferor's
5 death; and

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

8 ~~(3)~~ (4) Must be recorded before the transferor's death in the office of the clerk of the county
9 commission in the county where the property is located: *Provided, That, notwithstanding §11-22-*
10 *2 of this code, a transfer on death deed is exempt from the payment of excise tax on the privilege*
11 *of transferring real estate for the reason that no interest in the property is at the time of recording*
12 *being passed to the beneficiary and the deed remains revocable until the death of the transferor.*