

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **Senate Bill 193**

By Senator Weld

[Introduced January 14, 2026; 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 to  
2 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~~ Shall state that the transfer to the designated beneficiary is to occur at the  
5 transferor's death; and  
6 (3) Shall be executed by the transferor with requisite capacity as specified in §36-12-8 of  
7 this code which provides that the capacity of the transferor on death is the same capacity required  
8 to make a will; and  
9 (4) ~~Must~~ Shall be recorded before the transferor's death in the office of the clerk of the  
10 county commission in the county where the property is located: *Provided*, That, notwithstanding  
11 §11-22-1 of this code, a transfer on death deed is exempt from the payment of excise tax on the  
12 privilege of transferring real estate for the reason that no interest in the property is at the time of  
13 recording being passed to the beneficiary and the deed remains revocable until the death of the  
14 transferor.

NOTE: The purpose of this bill is to set forth the requisite capacity requirements for a transfer on death deed.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.