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SENATE JOINT RESOLUTION NO. 349

Offered January 12, 2011

Prefiled January 11, 2011

*Requesting the Virginia Bar Association to study the merits of legislation authorizing transfer on death deeds. Report.*

Patron—Hanger

Referred to Committee on Rules

WHEREAS, the Uniform Law Commission promulgated the Uniform Real Property Transfer on Death Act (URPTODA) in 2009; and

WHEREAS, the URPTODA "allows an owner of real property to pass the property simply and directly to a beneficiary on the owner's death without probate" by "means of a recorded transfer on a death (TOD) deed"; and

WHEREAS, the URPTODA was introduced in the state legislatures of Hawaii, Nebraska, Oklahoma, South Dakota, and Utah in 2009; and

WHEREAS, the Virginia General Assembly considered Senate Bill 1042 during its 2009 Regular Session; and

WHEREAS, Senate Bill 1042 (2009) creates the Transfer on Death Real Property Act, which permits an owner of real property to execute a transfer on death deed that names a beneficiary who takes ownership of the property upon the death of the owner; a transfer on death deed is nontestamentary and allows the owner of the property to avoid probate; and

WHEREAS, such deeds must be acknowledged before a notary public or other official and recorded in the office of the circuit court where the property is located; and

WHEREAS, such deeds may be revoked only by the owner upon recording a subsequent transfer on death deed or the recording of a written notice of revocation; and

WHEREAS, 13 states (Arizona, Arkansas, Colorado, Indiana, Kansas, Minnesota, Missouri, Montana, Nevada, New Mexico, Ohio, Oklahoma, and Wisconsin) have previously enacted legislation authorizing a transfer on death deed; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Bar Association be requested to study the merits of legislation authorizing transfer on death deeds.

In conducting its study, the Virginia Bar Association is encouraged to examine the Uniform Real Property Transfer on Death Act (URPTODA), Senate Bill 1042 (2009), and other states' legislation that authorizes a TOD deed.

All agencies of the Commonwealth shall provide assistance to the Virginia Bar Association for this study, upon request.

The Virginia Bar Association is further requested to complete its meetings by November 30, 2011, and to submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2012 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

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