

AN ACT

*Codification  
District of  
Columbia  
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 19 of the District of Columbia Official Code by enacting the revised Uniform Disclaimer of Property Interests Act, to maximize the ability of individuals to disclaim interests in property, and to enable individuals to take full advantage of tax exclusions recently recognized by the United States Department of the Treasury for joint owners of property; to amend Chapter 20 of Title 21 of the District of Columbia Official Code by repealing the previous version of the Uniform Disclaimer of Property Interests Act; and to amend section 47-4221 of the District of Columbia Official Code to clarify that disclaimers of property interest would not invalidate a District lien on taxpayer property.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Uniform Disclaimers of Property Interests Revision Act of 2006".

Sec. 2. Title 19 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by inserting the following at the end:

"15. Uniform Disclaimer of Property Interests . . . . . 19-1501".

(b) A new Chapter 15 is added to read as follows:

“Chapter 15

“Uniform Disclaimer of Property Interests.

“Section

“19-1501. Short title.

“19-1502. Definitions.

“19-1503. Scope.

“19-1504. Chapter supplemented by other law.

“19-1505. Power to disclaim; general requirements; when irrevocable.

“19-1506. Disclaimer of interest in property.

“19-1507. Disclaimer of rights of survivorship in jointly held property.

“19-1508. Disclaimer of interest by trustee.

“19-1509. Disclaimer of power of appointment or other power not held in fiduciary capacity.

“19-1510. Disclaimer by appointee, object, or taker in default of exercise of power of appointment.

“19-1511. Disclaimer of power held in fiduciary capacity.

“19-1512. Delivery or filing.

“19-1513. When disclaimer barred or limited.

“19-1514. Tax qualified disclaimer.

“19-1515. Recording of disclaimer.

“19-1516. Application to existing relationships.

“19-1517. Relation to Electronic Signatures in Global and National Commerce Act.

“19-1518. Uniformity of application and construction.

“§ 19-1501. Short title.

“This chapter may be cited as the “Uniform Disclaimer of Property Interests Act”.

New  
§ 19-1501

“§ 19-1502. Definitions.

New  
§ 19-1502

“For the purposes of this chapter, the term:

“(1) “Disclaimant” means the person to whom a disclaimed interest or power would have passed had the disclaimer not been made.

“(2) “Disclaimed interest” means the interest that would have passed to the disclaimant had the disclaimer not been made.

“(3) “Disclaimer” means the refusal to accept an interest in or power over property.

“(4) “Fiduciary” means a personal representative, trustee, agent acting under a power of attorney, or other person authorized to act as a fiduciary with respect to the property of another person.

“(5) “Jointly held property” means property held in the name of 2 or more persons under an arrangement in which all holders have concurrent interests and under which the last surviving holder is entitled to the whole of the property.

“(6) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

“(7) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term “state” includes an Indian tribe or band, or Alaskan native village, recognized by federal law or formally acknowledged by a state.

“(8) “Trust” means:

“(A) An express trust, charitable or noncharitable, with additions thereto, whenever and however created; or

“(B) A trust created pursuant to a statute, judgment, or decree which requires the trust to be administered in the manner of an express trust.

“§ 19-1503. Scope.

New  
§ 19-1503

This chapter applies to disclaimers of any interest in or power over property, whenever created.

“§ 19-1504. Chapter supplemented by other law.

New  
§ 19-1504

“(a) Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

“(b) This chapter does not limit any right of a person to waive, release, disclaim, or renounce an interest in or power over property under a law other than this chapter.

“§ 19-1505. Power to disclaim; general requirements; when irrevocable.

New  
§ 19-1505

“(a) A person may disclaim, in whole or part, any interest in or power over property, including a power of appointment. A person may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim.

“(b) Except to the extent a fiduciary's right to disclaim is expressly restricted or limited by another statute of the District of Columbia or by the instrument creating the fiduciary relationship, a fiduciary may disclaim, in whole or part, any interest in or power over property, including a power of appointment, whether acting in a personal or representative capacity. A fiduciary may disclaim the interest or power even if its creator imposed a spendthrift provision or similar restriction on transfer or a restriction or limitation on the right to disclaim, or an instrument other than the instrument that created the fiduciary relationship imposed a restriction or limitation on the right to disclaim.

“(c)(1) To be effective, a disclaimer must:

“(A) Be in a writing or other record;

“(B) Declare the disclaimer;

“(C) Describe the interest or power disclaimed;

“(D) Be signed by the person making the disclaimer; and

“(E) Be delivered or filed in the manner provided in § 19-1512.

“(2) For the purposes of this subsection, the term:

“(A) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“(B) "Signed" means, with present intent to authenticate or adopt a record, to:

“(i) Execute or adopt a tangible symbol; or

“(ii) Attach to or logically associate with the record an electronic sound, symbol, or process.

“(d) A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property.

“(e) A disclaimer becomes irrevocable when it is delivered or filed pursuant to § 19-1512 or when it becomes effective as provided in §§ 19-1506 through 19-1511, whichever occurs later.

“(f) A disclaimer made under this chapter is not a transfer, assignment, or release.  
“§ 19-1506. Disclaimer of interest in property.

“(a) For the purposes of this section, the term:

“(1) “Future interest” means an interest that takes effect in possession or enjoyment, if at all, later than the time of its creation.

“(2) “Time of distribution” means the time when a disclaimed interest would have taken effect in possession or enjoyment.

“(b) Except for a disclaimer governed by § 19-1507 or 19-1508, the following rules apply to a disclaimer of an interest in property:

“(1) The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable, or, if the interest arose under the law of intestate succession, as of the time of the intestate's death.

“(2) The disclaimed interest passes according to any provision in the instrument creating the interest providing for the disposition of the interest, should it be disclaimed, or of disclaimed interests in general.

“(3) If the instrument does not contain a provision described in paragraph (2) of this subsection, the following rules apply:

“(A) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

“(B) If the disclaimant is an individual, except as otherwise provided in subparagraphs (C) and (D) of this paragraph, the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

“(C) If by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution.

“(D) If the disclaimed interest would pass to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest instead passes by representation to the descendants of the disclaimant who survive the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest passes to those persons, including the state but excluding the disclaimant, and in such shares as would succeed to the transferor's intestate estate under the intestate succession law of the transferor's domicile had the transferor died at the time of distribution. However, if the transferor's surviving spouse is living but is remarried at the time of distribution, the transferor is deemed to have died unmarried at the time of distribution.

New  
§ 19-1506

“(4) Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

“§ 19-1507. Disclaimer of rights of survivorship in jointly held property.

New  
§ 19-1507

“(a) Upon the death of a holder of jointly held property, a surviving holder may disclaim, in whole or part, the greater of:

“(1) A fractional share of the property determined by dividing the number one by the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; or

“(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.

“(b) A disclaimer under subsection (a) of this section takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

“(c) An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

“§ 19-1508. Disclaimer of interest by trustee.

New  
§ 19-1508

“If a trustee disclaims an interest in property that otherwise would have become trust property, the interest does not become trust property.

“§ 19-1509. Disclaimer of power of appointment or other power not held in fiduciary capacity.

New  
§ 19-1509

“If a holder disclaims a power of appointment or other power not held in a fiduciary capacity, the following rules apply:

“(1) If the holder has not exercised the power, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

“(2) If the holder has exercised the power and the disclaimer is of a power other than a presently exercisable general power of appointment, the disclaimer takes effect immediately after the last exercise of the power.

“(3) The instrument creating the power is construed as if the power expired when the disclaimer became effective.

“§ 19-1510. Disclaimer by appointee, object, or taker in default of exercise of power of appointment.

New  
§ 19-1510

“(a) A disclaimer of an interest in property by an appointee of a power of appointment takes effect as of the time the instrument by which the holder exercises the power becomes irrevocable.

“(b) A disclaimer of an interest in property by an object or taker in default of an exercise of a power of appointment takes effect as of the time the instrument creating the power becomes irrevocable.

“§ 19-1511. Disclaimer of power held in fiduciary capacity.

New  
§ 19-1511

“(a) If a fiduciary disclaims a power held in a fiduciary capacity which has not been exercised, the disclaimer takes effect as of the time the instrument creating the power becomes irrevocable.

“(b) If a fiduciary disclaims a power held in a fiduciary capacity which has been exercised, the disclaimer takes effect immediately after the last exercise of the power.

“(c) A disclaimer under this section is effective as to another fiduciary if the disclaimer so provides and the fiduciary disclaiming has the authority to bind the estate, trust, or other person for whom the fiduciary is acting.

“§ 19-1512. Delivery or filing.

New  
§ 19-1512

“(a) For the purposes of this section, the term “beneficiary designation” means an instrument, other than an instrument creating a trust, naming the beneficiary of:

“(1) An annuity or insurance policy;

“(2) An account with a designation for payment on death;

“(3) A security registered in beneficiary form;

“(4) A pension, profit-sharing, retirement, or other employment-related benefit plan; or

“(5) Any other nonprobate transfer at death.

“(b) Subject to subsections (c) through (l) of this section, delivery of a disclaimer may be effected by personal delivery, first-class mail, or any other method likely to result in its receipt.

“(c) In the case of an interest created under the law of intestate succession or an interest created by will, other than an interest in a testamentary trust:

“(1) A disclaimer must be delivered to the personal representative of the decedent's estate; or

“(2) If no personal representative is then serving, it must be filed with a court having jurisdiction to appoint the personal representative.

“(d) In the case of an interest in a testamentary trust:

“(1) A disclaimer must be delivered to the trustee then serving, or if no trustee is then serving, to the personal representative of the decedent's estate; or

“(2) If no personal representative is then serving, it must be filed with a court having jurisdiction to enforce the trust.

“(e) In the case of an interest in an inter vivos trust:

“(1) A disclaimer must be delivered to the trustee then serving;

“(2) If no trustee is then serving, it must be filed with a court having jurisdiction to enforce the trust; or

“(3) If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it must be delivered to the settlor of a revocable trust or the transferor of the interest.

“(f) In the case of an interest created by a beneficiary designation made before the time the designation becomes irrevocable, a disclaimer must be delivered to the person making the beneficiary designation.

“(g) In the case of an interest created by a beneficiary designation made after the time the designation becomes irrevocable, a disclaimer must be delivered to the person obligated to distribute the interest.

“(h) In the case of a disclaimer by a surviving holder of jointly held property, the disclaimer must be delivered to the person to whom the disclaimed interest passes.

“(i) In the case of a disclaimer by an object or taker in default of exercise of a power of appointment at any time after the power was created:

“(1) The disclaimer must be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or

“(2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

“(j) In the case of a disclaimer by an appointee of a nonfiduciary power of appointment:

“(1) The disclaimer must be delivered to the holder, the personal representative of the holder's estate, or to the fiduciary under the instrument that created the power; or

“(2) If no fiduciary is then serving, it must be filed with a court having authority to appoint the fiduciary.

“(k) In the case of a disclaimer by a fiduciary of a power over a trust or estate, the disclaimer must be delivered as provided in subsection (c), (d), or (e) of this section, as if the power disclaimed were an interest in property.

“(l) In the case of a disclaimer of a power by an agent, the disclaimer must be delivered to the principal or the principal's representative.

“§ 19-1513. When disclaimer barred or limited.

“(a) A disclaimer is barred by a written waiver of the right to disclaim.

“(b) A disclaimer of an interest in property is barred if any of the following events occur before the disclaimer becomes effective:

“(1) The disclaimant accepts the interest sought to be disclaimed;

“(2) The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or

“(3) A judicial sale of the interest sought to be disclaimed occurs.

“(c) A disclaimer, in whole or part, of the future exercise of a power held in a fiduciary capacity is not barred by its previous exercise.

“(d) A disclaimer, in whole or part, of the future exercise of a power not held in a fiduciary capacity is not barred by its previous exercise unless the power is exercisable in favor of the disclaimant.

“(e) A disclaimer is barred or limited if so provided by law other than this chapter.

New  
§ 19-1513

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“(f) A disclaimer of a power over property which is barred by this section is ineffective. A disclaimer of an interest in property which is barred by this section takes effect as a transfer of the interest disclaimed to the persons who would have taken the interest under this chapter had the disclaimer not been barred.

“§ 19-1514. Tax qualified disclaimer.

New  
§ 19-1514

“Notwithstanding any other provision of this chapter, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the disclaimant, then the disclaimer or transfer is effective as a disclaimer under this chapter.

“§ 19-1515. Recording of disclaimer.

New  
§ 19-1515

“If an instrument transferring an interest in or power over property subject to a disclaimer is required or permitted by law to be filed, recorded, or registered, the disclaimer may be so filed, recorded, or registered. Failure to file, record, or register the disclaimer does not affect its validity as between the disclaimant and persons to whom the property interest or power passes by reason of the disclaimer.

“§ 19-1516. Application to existing relationships.

New  
§ 19-1516

“Except as otherwise provided in § 19-1513, an interest in or power over property existing on the effective date of this chapter as to which the time for delivering or filing a disclaimer under law superseded by this chapter has not expired may be disclaimed after the effective date of this chapter.

“§ 19-1517. Relation to Electronic Signatures in Global and National Commerce Act.

New  
§ 19-1517

“This chapter modifies, limits, and supercedes the federal Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001), but does not modify, limit, or supercede section 101(c) of that act (15 U.S.C. § 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C.

§ 7003(b)).

“§ 19-1518. Uniformity of application and construction.

New  
§ 19-1518

“In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.”.

Sec. 3. Chapter 20 of Title 21 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) Strike the phrase "Subchapter VIII. Uniform Disclaimer of Property Interests." and insert the phrase "Subchapter VIII. Uniform Disclaimer of Property Interests. [Repealed]" in its place.



(2) Strike the phrase "21-2091. Right to disclaim interest in property." and insert the phrase "21-2091. Right to disclaim interest in property. [Repealed]" in its place.

(3) Strike the phrase "21-2092. Time of disclaimer; delivery." and insert the phrase "21-2092. Time of disclaimer; delivery. [Repealed]" in its place.

(4) Strike the phrase "21-2093. Form of disclaimer." and insert the phrase "21-2093. Form of disclaimer. [Repealed]" in its place.

(5) Strike the phrase "21-2094. Effect of disclaimer." and insert the phrase "21-2094. Effect of disclaimer. [Repealed]" in its place.

(6) Strike the phrase "21-2095. Waiver and bar." and insert the phrase "21-2095. Waiver and Bar. [Repealed]" in its place.

(7) Strike the phrase "21-2096. Remedy not exclusive." and insert the phrase "21-2096. Remedy not exclusive. [Repealed]" in its place.

(8) Strike the phrase "21-2097. Application." and insert the phrase "21-2097. Application. [Repealed]" in its place.

(9) Strike the phrase "21-2098. Uniformity of application and construction." and insert the phrase "21-2098. Uniformity of application and construction. [Repealed]" in its place.

(b) Subchapter VIII is repealed.

Repeal  
§§ 21-2091 -  
21-2098  
Amend  
§ 47-4421

Sec. 4. Section 47-4421 of the District of Columbia Official Code is amended as follows:

(a) Designate the existing text as subsection (a).

(b) A new subsection (b) is added to read as follows:

“(b) A disclaimer of a property interest does not invalidate a lien under this section.”.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia