


Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: October 16, 2024

SUBJECT: Fiscal Impact Statement - Uniform Directed Trust Act of 2024

REFERENCE: Bill 25-225, Draft Committee Print as provided to the Office of Revenue Analysis on September 26, 2024

Conclusion

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill.

Background

The Uniform Law Commission (ULC) is an organization that studies and reviews the laws of the states and the District, identifies areas of inconsistency that impede interstate activity, and develops uniform laws with the goal of adoption by the states (with minimal changes). The District of Columbia Uniform Law Commission, established in 2010 as an independent government entity¹ consists of the District's commissioners to the ULC. In addition to their responsibilities to the ULC, the DC ULC may provide technical input to the Council and the Mayor on the effect adoption of these uniform laws would have on District law. Appointees to the DC ULC must be attorneys in good standing and meet several other criteria.

Directed trusts are a type of trust where the trust's fiduciary powers and responsibilities are split between multiple parties (including the trustee). A common type of directed trust limits the trustee's powers and allocates specific decisions about trust management and investment to a third party. Currently, directed trusts are not defined in the District code, and are instead governed by common law. As such, there is no uniform or consistent definition of terms emerging in directed trusts such as trust director, trust advisor, or protector, nor is there clarity on the specific fiduciary responsibilities of the trustee and the third party.

The Honorable Phil Mendelson

FIS: Bill 24-225, "Uniform Directed Trust Act of 2024", Draft Committee Print as provided to the Office of Revenue Analysis on September 26, 2024

The bill adopts a uniform law, currently in effect in 16 states, that creates a set of statutory rules governing directed trusts and their operations. The bill defines a directed trust and establishes the position of trust director and their powers and responsibilities. The bill requires that the full complement of fiduciary responsibilities must be accounted for among the trustee and the parties involved in directed trusts. That is, beneficiaries must receive full fiduciary protection, even if it is allocated across trust directors and trustees. The bill provides for a process for assessing fiduciary responsibility in circumstances where there is an allegation of misconduct. In novel circumstances not expressly covered by the bill, the party that has the power to act will have fiduciary responsibility.

The bill provides for liability protections when the fiduciary responsibility is allocated across multiple parties, and it addresses several administrative issues that arise in directed trusts, including information sharing and appointing a trust director. The bill also addresses a complex circumstance in life insurance coverage as it relates to directed trusts and who may have an "insurable interest".

Finally, the bill adds a clause to the uniform law governing trust release. Under current law and practice, trustees may be required to file in court to release themselves from their fiduciary liability or obtain consent from all beneficiaries. This provision would simplify the process of trust release, providing that a trustee may request the release of their fiduciary duties by sending a notice to all beneficiaries. Beneficiaries could raise a protest at this time. After 120 days have elapsed without a protest, the trustee's relinquishment of their duties would be in effect.

Financial Plan Impact

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. The bill affects directed trusts, a type of trust established by private individuals or estates, and so does not have an impact on any District agencies.