


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 Powers of Appointment Act of 2024

REFERENCE: Bill 25-219, 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.

The bill would adopt uniform language governing trusts and estates to permit a nonfiduciary appointee to carry out the distribution of the trust. This uniform language is presently enacted in 13 states. Under existing District law, there are powers of appointment for fiduciary parties (such as guardians, conservators or trustees). This would create a parallel regime for nonfiduciary parties.

A nonfiduciary party could, for example, be designated at the time that the trust is developed but make decisions regarding distributing assets in the future based on the beneficiaries' needs consistent with the intent of the individual that sets up the trust. These nonfiduciary parties would,

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FIS: "Uniform Powers of Appointment Act of 2024", Bill 25-219, Draft committee print as provided to the Office of Revenue Analysis on September 26, 2024

in other words, consider the circumstances at the time and use their judgment about how to allocate the estate.

This power of appointment is established at the time that the trusts would be set up and lapses with the death of the appointee. It is not transferrable. The bill outlines the circumstances under which an appointment power is valid and defines the limits of the appointment power. This proposed statute would replace the common law that governs this area of estate and trust planning.

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 private trusts and estates so does not have an impact on any District agencies.