

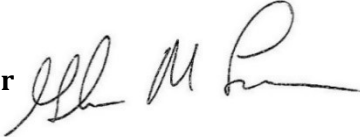
Government of the District of Columbia
Office of the Chief Financial Officer



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 Trust Decanting Act of 2024

REFERENCE: Bill 25-224, 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.

Irrevocable trusts are trusts where the individual depositing funds into the trust then revokes all control over the funds, and the trustee maintains full control over how the funds are allocated or disbursed according to the rules of the trust. In other words, the creator of the trust relinquishes control over the trust after it is established and funded. Although irrevocable trusts cannot be changed by the trust settlor, in certain circumstances a trustee may "decant" funds from the trust by transferring assets to another irrevocable trust or merging assets in two irrevocable trusts into one.

The Honorable Phil Mendelson

FIS: Bill 25-224, "Uniform Trust Decanting Act of 2024", Draft Committee Print as provided to the Office of Revenue Analysis on September 26, 2024

For example, a trustee may determine that some of the assets in an irrevocable trust should be decanted into a certain type of trust so that the funds can be used for a specific purpose that may receive tax benefits or fit into an existing regulatory regime. For instance, funds could be decanted into a special needs trust that complies with the requirement for Medicaid's asset rules, or state tax law.

The bill adopts a uniform law that governs how irrevocable trusts can be "decanted" into different types of trusts depending on the circumstances at hand. It would replace District common law (case law) that currently governs trust decanting with one uniform set of rules. It defines decanting and sets limits on the trustee's ability to decant to ensure that it is consistent with the original trust's intent. It also establishes a process for notifying trustees of the decanting and an appeals process. The bill also provides for protections for the trustees' interests and maintaining charitable interests, if established in the original trust. It also provides for protection from upstream decanting by a previous trustee when the trust is assumed by a new trustee. The bill streamlines the process for decanting in circumstances when there is only a minimal administrative change to the trust. The uniform law has been adopted by 18 states.

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 irrevocable trusts established by private parties and does not affect any District agencies.