

AN ACT

---

*Codification  
District of  
Columbia  
Code  
2002 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

---

To amend Title 18 of the District of Columbia Code to enact the Uniform International Wills Act of 2000; to amend Title 19 of the District of Columbia Code to enact the Uniform Simultaneous Death Act Revision Act of 2000, the Uniform Nonprobate Transfers on Death Act of 2000, and the Uniform Statutory Rule Against Perpetuities Act of 2000; to amend Title 28 of the District of Columbia Code to enact the Uniform Principal and Income Act of 2000; to amend Chapter 3 of Title 21 of the District of Columbia Code, the uniform law governing the transfer of property to minors, to give a transferor of property to minors the option of delaying the transfer until the transferee attains the age of 21 years; to amend Section 15-501 of the District of Columbia Code to revise the list of bankruptcy exemptions; to amend Chapter 1 of Title 19 of the District of Columbia Code to abolish the estate of dower, and to increase the amounts of the homestead exemption, exempt property, and family allowance in a decedent's estate; to amend Chapter 3 of Title 19 to increase the surviving spouse's share of an intestate's estate; to amend Title 20 to provide that the estate of a decedent with a property value of \$40,000 or less may be administered as a small estate and to provide for the order of payment for claims against a decedent's estate; and to amend An Act To establish a code of law for the District of Columbia to make a technical correction.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Omnibus Trusts and Estates Amendment Act of 2000".

TITLE 1. UNIFORM INTERNATIONAL WILLS ACT.

Sec. 101. This title may be cited as the "Uniform International Wills Act of 2000".

Sec. 102. Title 18 of the District of Columbia Code is amended as follows:

(a) The table of contents for the title is amended by adding at the end the phrase "7. International Wills; Uniform Law . . . §§ 18-701 to 18-710."

(b) A new Chapter 7 is added to read as follows:

"CHAPTER 7. INTERNATIONAL WILL; INFORMATION REGISTRATION.

"Sec.

"18-701. Definitions.

"18-702. International will: validity.

"18-703. International will: requirements.

"18-704. International will: other points of form.

"18-705. International will: certificate.

"18-706. International will: effect of certificate.

"18-707. International will: revocation.

"18-708. Source and construction.

"18-709. Persons authorized to act in relation to international will; eligibility; recognition by authorizing agency.

"18-710. International will information registration.

"CHAPTER 7. INTERNATIONAL WILL; INFORMATION REGISTRATION.

"§ 18-701. Definitions.

"For the purposes of this chapter, the term:

"(1) "Authorized person" or "person authorized to act in connection with international wills" means a person who by section 18-709, or by the laws of the United States, including members of the diplomatic and consular service of the United States designated by Foreign Service Regulations, is empowered to supervise the execution of international wills.

"(2) "International will" means a will executed in conformity with sections 18-702 through 18-705.

"§ 18-702. International will; validity.

"(a) A will shall be valid as regards form, irrespective particularly of the place where it is made, of the location of the assets, and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this chapter.

"(b) The invalidity of the will as an international will shall not affect its formal validity as a will of another kind.

"(c) This chapter shall not apply to the form of testamentary dispositions made by 2 or more persons in one instrument.

"§ 18-703. International will; requirements.

"(a) The will shall be made in writing. It need not be written by the testator himself or herself. It may be written in any language, by hand, or by any other means.

"(b) The testator shall declare in the presence of 2 witnesses and of a person authorized to act in connection with international wills that the document is his or her will and that he or she knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.

"(c) In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he or she has previously signed it, shall acknowledge his or her signature.

**ENROLLED ORIGINAL**

"(d) When the testator is unable to sign, the absence of his or her signature does not affect the validity of the international will if the testator indicates the reason for his or her inability to sign and the authorized person makes note thereof on the will. In these cases, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for him or her, if the authorized person makes note of this also on the will, but it is not required that any person sign the testator's name for him or her.

"(e) The witnesses and the authorized person shall then and there attest the will by signing in the presence of the testator.

"§ 18-704. International will; other points of form.

"(a) The signatures shall be placed at the end of the will. If the will consists of several sheets, each sheet shall be signed by the testator or, if he or she is unable to sign, by the person signing on his or her behalf or, if there is no such person, by the authorized person. In addition, each sheet shall be numbered.

"(b) The date of the will shall be the date of its signature by the authorized person. That date shall be noted at the end of the will by the authorized person.

"(c) The authorized person shall ask the testator whether he or she wishes to make a declaration concerning the safekeeping of his or her will. If so, and at the express request of the testator, the place where he or she intends to have his or her will kept shall be mentioned in the certificate provided for in section 18-705.

"(d) A will executed in compliance with section 18-703 shall not be invalid merely because it does not comply with this section.

"§ 18-705. International will; certificate.

"The authorized person shall attach to the will a certificate, to be signed by him or her, establishing that the requirements of this chapter for valid execution of an international will have been complied with. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate shall be substantially in the following form:

**"CERTIFICATE**

**"(Convention of October 26, 1973)**

"1. I, \_\_\_\_\_ (name, address and capacity), a person authorized to act in connection with international wills

"2. Certify that on \_\_\_\_\_ (date) at \_\_\_\_\_ (place)

"3. (testator) \_\_\_\_\_

"(name, address, date and place of birth) in my presence and that of the witnesses

"4. (a) \_\_\_\_\_ (name, address, date and place of birth)

"(b) \_\_\_\_\_ (name, address, date and place of birth)

"has declared that the attached document is his or her will and that he knows the contents thereof.

"5. I furthermore certify that:

**ENROLLED ORIGINAL**

"6. (a) in my presence and in that of the witnesses

"(1) the testator has signed the will or has acknowledged his signature previously affixed.

"(2) [to be completed if appropriate] following a declaration of the testator stating that he or she was unable to sign his will for the following reason \_\_\_\_\_, I have mentioned this declaration on the will and the signature has been affixed by \_\_\_\_\_ (name and address)

"7. (b) the witnesses and I have signed the will;

"8. (c) [to be completed if appropriate] each page of the will has been signed by \_\_\_\_\_ and numbered;

"9. (d) I have satisfied myself as to the identity of the testator and of the witnesses as designated above;

"10. (e) the witnesses met the conditions requisite to act as such according to the law under which I am acting;

"11. (f) [to be completed if appropriate] the testator has requested me to include the following statement concerning the safekeeping of his will:

"12. PLACE OF EXECUTION

"13. DATE

"14. SIGNATURE and, if necessary, SEAL

"§ 18-706. International will; effect of certificate.

"In the absence of evidence to the contrary, the certificate of the authorized person shall be conclusive of the formal validity of the instrument as a will under this chapter. The absence or irregularity of a certificate shall not affect the formal validity of a will under this chapter.

"§ 18-707. International will; revocation.

"The international will shall be subject to the ordinary rules of revocation of wills.

"§ 18-708. Source and construction.

"Sections 18-701 through 18-707 derive from Annex to Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. In interpreting and applying this chapter, regard shall be had to its international origin and to the need for uniformity in its interpretation.

"§ 18-709. Persons authorized to act in relation to international will; eligibility; recognition by authorizing agency.

"Individuals who have been admitted to practice law before the courts of the District of Columbia and who are in good standing as active law practitioners in the District, are hereby declared to be authorized persons in relation to international wills.

"§ 18-710. International will information registration.

"The Mayor of the District of Columbia shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who

presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or any other individual-identifying number established by law, address, and date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The Mayor, at the request of the authorized person, may cause the information the Mayor receives about execution of any international will to be transmitted to the registry system of another jurisdiction, as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in the District of Columbia."

TITLE 2. REVISED UNIFORM SIMULTANEOUS DEATH ACT.

Sec. 201. This title may be cited as the "Uniform Simultaneous Death Act Revision Act of 2000".

Sec. 202. Chapter 5 of Title 19 of the District of Columbia Code is amended to read as follows:

"CHAPTER 5. SIMULTANEOUS DEATHS; UNIFORM LAW.

"Sec.

"19-501. Definitions.

"19-502. Requirement of survival by 120 hours under probate laws.

"19-503. Requirement of survival by 120 hours under governing instruments.

"19-504. Co-owners with right of survivorship; requirement of survival by 120 hours.

"19-505. Evidence of death or status.

"19-506. Exceptions.

"19-507. Protection of payors, bona fide purchasers, and other third parties; personal liability of recipient.

"19-508. Uniformity of application and construction.

"19-509. Application to existing relationships.

"§ 19-501. Definitions.

"For the purposes of the chapter, the term:

"(1) "Co-owners with right of survivorship" includes joint tenants, tenants by the entireties, and other co-owners of property or accounts held under circumstances that entitles one or more to the whole of the property or account on the death of the other or others.

"(2) "Governing instrument" means a deed, will, trust, insurance or annuity policy, account with POD designation, pension, profit-sharing, retirement, or similar benefit plan, instrument creating or exercising a power of appointment or a power of attorney, or a dispositive, appointive, or nominative instrument of any similar type.

"(3) "Payor" means a trustee, insurer, business entity, employer, government, governmental agency, subdivision, or instrumentality, or any other person authorized or

obligated by law or a governing instrument to make payments.

"§ 19-502. Requirement of survival by 120 hours under probate laws.

"(a) Except as provided in section 19-506, if the title to property, the devolution of property, the right to elect an interest in property, or the right to exempt property, homestead or family allowance depends upon an individual's survivorship of the death of another individual, an individual who is not established by clear and convincing evidence to have survived the other individual by 120 hours is deemed to have predeceased the other individual.

"(b) This section does not apply if its application would result in a taking of intestate estate by the District of Columbia.

"§ 19-503. Requirement of survival by 120 hours under governing instruments.

"Except as provided in section 19-506, for purposes of a provision of a governing instrument that relates to an individual surviving an event, including the death of another individual, an individual who is not established by clear and convincing evidence to have survived the event by 120 hours is deemed to have predeceased the event.

"§ 19-504. Co-owners with right of survivorship; requirement of survival by 120 hours.

"Except as provided in section 19-506:

(1) If it is not established by clear and convincing evidence that one of 2 co-owners with right of survivorship survived the other co-owner by 120 hours, one-half of the property passes as if one had survived by 120 hours and one-half as if the other had survived by 120 hours; and

(2) If there are more than 2 co-owners and it is not established by clear and convincing evidence that at least one of them survived the others by 120 hours, the property passes in the proportion that one bears to the whole number of co-owners.

"§ 19-505. Evidence of death or status.

"In addition to the rules of evidence, the following rules relating to a determination of death and status apply:

"(1) Death occurs when an individual is determined to be dead under section 6-2401.

"(2) A certified or authenticated copy of a death certificate purporting to be issued by an official or agency of the place where the death purportedly occurred is prima facie evidence of the fact, place, date, and time of death and the identity of the decedent.

"(3) A certified or authenticated copy of any record or report of a governmental agency, domestic or foreign, that an individual is missing, detained, dead, or alive is prima facie evidence of the status and of the dates, circumstances, and places disclosed by the record or report.

"(4) In the absence of prima facie evidence of death under paragraph (2) or (3) of this subsection, the fact of death may be established by clear and convincing evidence, including circumstantial evidence.

"(5) If an individual is presumed to be dead under section 14-701, the individual's

death is presumed to have occurred at the end of the period unless there is sufficient evidence for determining that death occurred earlier.

"(6) In the absence of evidence disputing the time of death stipulated on a document described in paragraph (2) or (3) of this subsection, a document described in paragraph (2) or (3) that stipulates a time of death 120 hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by 120 hours.

"§ 19-506. Exceptions.

"Survival by 120 hours is not required if:

"(1) The governing instrument contains language dealing explicitly with simultaneous deaths or deaths in a common disaster and that language is operable under the facts of the case;

"(2) The governing instrument expressly indicates that an individual is not required to survive an event, including the death of another individual, by any specified period or expressly requires the individual to survive the event for a specified period, but survival of the event or the specified period must be established by clear and convincing evidence;

"(3) The imposition of a 120-hour requirement of survival would cause a nonvested property interest or a power of appointment to fail to qualify for validity under section 19-901(a)(1), (b)(1), or (c)(1) or to become invalid under section 19-901(a)(2), (b)(2), or (c)(2), but survival must be established by clear and convincing evidence; or

"(4) The application of a 120-hour requirement of survival to multiple governing instruments would result in an unintended failure or duplication of a disposition, but survival must be established by clear and convincing evidence.

"§ 19-507. Protection of payors, bona fide purchasers, and other third parties; personal liability of recipient.

"(a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a person designated in a governing instrument who, under this chapter, is not entitled to the payment or item of property, or for having taken any other action in good faith reliance on the person's apparent entitlement under the terms of the governing instrument, before the payor or other third party received written notice of a claimed lack of entitlement under this chapter. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed lack of entitlement under this chapter.

"(b) Written notice of a claimed lack of entitlement under subsection (a) of this section must be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed lack of entitlement under this chapter, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings

relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this chapter, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

"(c) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this chapter to return the payment, item of property, or benefit nor liable under this chapter for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this chapter is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this chapter.

"(d) If this chapter or any part of this chapter is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this chapter, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this chapter is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this chapter or part of this chapter not preempted.

"§ 19-508. Uniformity of application and construction.

"This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among the states enacting it.

"§ 19-509. Application to existing relationships.

"On the effective date of this chapter:

"(1) An act done before the effective date in any proceeding and any accrued right is not impaired by this chapter. If a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time that has commenced to run by the provisions of any statute before the effective date, the provisions remain in force with respect to that right; and

"(2) Any rule of construction or presumption provided in this chapter applies to instruments executed and multiple-party accounts opened before the effective date unless there is a clear indication of a contrary intent."

### **TITLE 3. UNIFORM NONPROBATE TRANSFERS ON DEATH.**

Sec. 301. This title may be cited as the "Uniform Nonprobate Transfers on Death Act of 2000".

Sec. 302. Title 19 of the District of Columbia Code is amended as follows:

(a) The table of contents for the title is amended by adding the phrase "6. Nonprobate Transfers on Death; Uniform Law . . . §§ 19-601.1 to 19.603.11." after the phrase "5. Simultaneous Deaths; Uniform Law . . . §§ 19-501 to 19-506."

(b) A new Chapter 6 is added to read as follows:

"CHAPTER 6. NONPROBATE TRANSFERS ON DEATH; UNIFORM LAW.

"SUBCHAPTER 1. PROVISIONS RELATING TO EFFECT OF DEATH.

"Sec.

"19-601.1. Nonprobate transfers on death.

"SUBCHAPTER 2. MULTIPLE-PERSON ACCOUNTS.

"SUBPART A. DEFINITIONS AND GENERAL PROVISIONS.

"19-602.1. Definitions.

"19-602.2. Limitation on scope of chapter.

"19-602.3. Types of account; existing accounts.

"19-602.4. Forms.

"19-602.5. Designation of agent.

"19-602.6. Applicability of chapter.

"SUBPART B. OWNERSHIP AS BETWEEN PARTIES AND OTHERS.

"19-602.11. Ownership during lifetime.

"19-602.12. Rights at death.

"19-602.13. Alteration of rights.

"19-602.14. Accounts and transfers nontestamentary.

"19-602.15. Community property and tenancy by the entireties.

"SUBPART C. PROTECTION OF FINANCIAL INSTITUTIONS.

"19-602.21. Authority of financial institution.

"19-602.22. Payment on multiple-party account.

"19-602.23. Payment on pod designation.

"19-602.24. Payment to designated agent.

"19-602.25. Payment to minor.

"19-602.26. Discharge.

"19-602.27. Set-off.

"SUBCHAPTER 3. UNIFORM TRANSFERS ON DEATH SECURITY REGISTRATION.

"19-603.1. Definitions.

"19-603.2. Registration in beneficiary form; sole or joint tenancy ownership.

"19-603.3. Registration in beneficiary form; applicable law.

"19-603.4. Origination of registration in beneficiary form.

"19-603.5. Form of registration in beneficiary form.

"19-603.6. Effect of registration in beneficiary form.

"19-603.7. Ownership on death of owner.

"19-603.8. Protection of registering entity.

"19-603.9. Nontestamentary transfer on death.

"19-603.10. Terms, conditions, and forms for registration.

"19-603.11. Application of subchapter.

"SUBCHAPTER 1. PROVISIONS RELATING TO EFFECT OF DEATH.

"§ 19-601.1. Nonprobate transfers on death.

"(a) A provision for a nonprobate transfer on death in an insurance policy, contract of employment, bond, mortgage, promissory note, certificated or uncertificated security, account agreement, custodial agreement, deposit agreement, compensation plan, pension plan, individual retirement plan, employee benefit plan, trust, conveyance, deed of gift, marital property agreement, or other written instrument of a similar nature is nontestamentary. This section includes a written provision that:

"(1) Money or other benefits due to, controlled by, or owned by a decedent before death must be paid after the decedent's death to a person whom the decedent designates, either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later;

"(2) Money due or to become due under the instrument ceases to be payable in the event of death of the promisee or the promisor before payment or demand; or

"(3) Any property controlled by or owned by the decedent before death which is the subject of the instrument passes to a person the decedent designates, either in the instrument or in a separate writing, including a will, executed either before or at the same time as the instrument, or later.

"(b) This section does not limit rights of creditors under other laws of the District.

"(c) This section does not determine the validity of, or priority among, any inconsistent provisions in documents specified in subsection (a) of this section.

"SUBCHAPTER 2. MULTIPLE-PERSON ACCOUNTS.

"SUBPART A. DEFINITIONS AND GENERAL PROVISIONS.

"§ 19-602.1. Definitions.

"For the purposes of this subchapter, the term:

"(1) "Account" means a contract of deposit between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, and share account.

"(2) "Agent" means a person authorized to make account transactions for a party.

"(3) "Beneficiary" means a person named as one to whom sums on deposit in an account are payable on request after death of all parties or for whom a party is named as trustee.

"(4) "Financial institution" means an organization authorized to do business under state, District, or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association,

and credit union.

"(5) "Multiple-party account" means an account payable on request to one or more of 2 or more parties, whether or not a right of survivorship is mentioned.

"(6) "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

"(7) "Payment" of sums on deposit includes withdrawal, payment to a party or third person pursuant to check or other request, and a pledge of sums on deposit by a party, or a set-off, reduction, or other disposition of all or part of an account pursuant to a pledge.

"(8) "POD designation" means the designation of:

"(A) A beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries; or

"(B) A beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

"(9) "Receive," as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a particular place, in the place required.

"(10) "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but, for purposes of this subchapter, if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

"(11) "Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of death of a party.

"(12) "Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.

"§ 19-602.2. Limitation on scope of subchapter.

"This subchapter does not apply to:

"(1) An account established for a partnership, joint venture, or other organization for a business purpose;

"(2) An account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association, or charitable or civic organization; or

"(3) A fiduciary or trust account in which the relationship is established other than by the terms of the account.

"§ 19-602.3. Types of account; existing accounts.

"(a) An account may be for a single party or multiple parties. A multiple-party account

may be with or without a right of survivorship between the parties. Subject to section 19-602.12(c), either a single-party account or a multiple-party account may have a POD designation, an agency designation, or both.

"(b) An account established before, on, or after the effective date of this chapter, whether in the form prescribed in section 19-602.4 or in any other form, is either a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, within the meaning of this subchapter, and is governed by this subchapter.

"§ 19-602.4. Forms.

"(a) A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this subchapter applicable to an account of that type:

"UNIFORM SINGLE-OR MULTIPLE-PARTY ACCOUNT FORM

"PARTIES [Name one or more parties]: \_\_\_\_\_

"OWNERSHIP [Select one and initial]:

" \_\_\_\_\_ SINGLE-PARTY ACCOUNT

" \_\_\_\_\_ MULTIPLE-PARTY ACCOUNT

"Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.

"RIGHTS AT DEATH [Select one and initial]:

" \_\_\_\_\_ SINGLE-PARTY ACCOUNT

"At death of party, ownership passes as part of party's estate.

" \_\_\_\_\_ SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

"[Name one or more beneficiaries]:

"At death of party, ownership passes to POD beneficiaries and is not part of party's estate.

" \_\_\_\_\_ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP

"At death of party, ownership passes to surviving parties.

" \_\_\_\_\_ MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH) DESIGNATION

"[Name one or more beneficiaries]: \_\_\_\_\_

"At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

" \_\_\_\_\_ MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP

"At death of party, deceased party's ownership passes as part of deceased party's estate.

AGENCY (POWER OF ATTORNEY) DESIGNATION [Optional]

"Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

"[To add agency designation to account, name one or more agents]:

" \_\_\_\_\_

"[Select one and initial]:

" \_\_\_\_\_ AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES

" \_\_\_\_\_ AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES

"(b) A contract of deposit that does not contain provisions in substantially the form provided in subsection (a) of this section is governed by the provisions of this subchapter applicable to the type of account that most nearly conforms to the depositor's intent.

"§ 19-602.5. Designation of agent.

"(a) By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party.

"(b) Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

"(c) Death of the sole party or last surviving party terminates the authority of an agent.

"§ 19-602.6. Applicability of subchapter.

"The provisions of Subpart B concerning beneficial ownership as between parties or as between parties and beneficiaries apply only to controversies between those persons and their creditors and other successors, and do not apply to the right of those persons to payment as determined by the terms of the account. Subpart C governs the liability and set-off rights of financial institutions that make payments pursuant to it.

"SUBPART B. OWNERSHIP AS BETWEEN PARTIES AND OTHERS.

"§ 19-602.11. Ownership during lifetime.

"(a) For the purposes of this section, the term "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term "net contribution" includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

"(b) During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.

"(c) A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.

"(d) An agent in an account with an agency designation has no beneficial right to sums on deposit.

"§ 19-602.12. Rights at death.

"(a) Except as otherwise provided in this subchapter, on death of a party sums on deposit in a multiple-party account belong to the surviving party or parties. If 2 or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 19-602.11 belongs to the surviving spouse. If 2 or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 19-602.11 belongs to the surviving parties in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 19-602.11, and the right of survivorship continues between the surviving parties.

"(b) In an account with a POD designation:

"(1) On death of one of 2 or more parties, the rights in sums on deposit are governed by subsection (a) of this section.

"(2) On death of the sole party or the last survivor of 2 or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If 2 or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares, and there is no right of survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

"(c) Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 19-602.11 is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For the purposes of this section, designation of an account as a tenancy in common establishes that the account is without right of survivorship.

"(d) The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

"§ 19-602.13. Alteration of rights.

"(a) Rights at death under section 19-602.12 are determined by the type of account at the death of a party. The type of account may be altered by written notice given by a party to the financial institution to change the type of account or to stop or vary payment under the terms of the account. The notice must be signed by a party and received by the financial institution during the party's lifetime.

"(b) A right of survivorship arising from the express terms of the account, section 19-602.12, or a POD designation, may not be altered by will.

"§ 19-602.14. Accounts and transfers nontestamentary.

"A transfer resulting from the application of section 19-602.12 is effective by reason of the terms of the account involved and this subchapter and is not testamentary or subject to estate administration.

§ 19-602.15. Community property and tenancy by the entireties.

"(a) A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 19-602.12 may not be altered by will.

"(b) This subchapter does not affect the law governing tenancy by the entireties.

"SUBPART C. PROTECTION OF FINANCIAL INSTITUTIONS.

"§ 19-602.21. Authority of financial institution.

"A financial institution may enter into a contract of deposit for a multiple-party account to the same extent it may enter into a contract of deposit for a single-party account, and may provide for a POD designation and an agency designation in either a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

"§ 19-602.22. Payment on multiple-party account.

"A financial institution, on request, may pay sums on deposit in a multiple-party account to:

"(1) One or more of the parties, whether or not another party is disabled, incapacitated, or deceased when payment is requested and whether or not the party making the request survives another party; or

"(2) The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account, either as a party or beneficiary, unless the account is without right of survivorship under section 19-602.12.

"§ 19-602.23. Payment on POD designation.

"A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

"(1) One or more of the parties, whether or not another party is disabled, incapacitated, or deceased when the payment is requested and whether or not a party survives another party;

"(2) The beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or

"(3) The personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account, either as a party or beneficiary.

"§ 19-602.24. Payment to designated agent.

"A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated, or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

"§ 19-602.25. Payment to minor.

"If a financial institution is required or permitted to make payment pursuant to this subchapter to a minor designated as a beneficiary, payment may be made pursuant to Chapter 3 of Title 21 of the District of Columbia Code.

"§ 19-602.26. Discharge.

"(a) Payment made pursuant to this subchapter in accordance with the terms of the account discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries, or their successors. Payment may be made whether or not a party, beneficiary, or agent is disabled, incapacitated, or deceased when payment is requested, received, or made.

"(b) Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be permitted, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

"(c) A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

"(d) Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

"§ 19-602.27. Set-off.

"Without qualifying any other statutory right to set-off or lien and subject to any contractual provision, if a party is indebted to a financial institution, the financial institution has a right to set-off against the account. The amount of the account subject to set-off is the proportion to which the party is, or immediately before death was, beneficially entitled under section 19-602.11 or, in the absence of proof of that proportion, an equal share with all parties.

**"SUBCHAPTER 3. UNIFORM TOD SECURITY REGISTRATION.**

"§ 19-603.1. Definitions.

"For the purposes of this subchapter, the term:

"(1) "Beneficiary form" means a registration of a security which indicates the present owner of the security and the intention of the owner regarding the person who will become the owner of the security upon the death of the owner.

"(2) "Register," including its derivatives, means to issue a certificate showing the ownership of a certificated security or, in the case of an uncertificated security, to initiate or transfer an account showing ownership of securities.

"(3) "Registering entity" means a person who originates or transfers a security title by registration, and includes a broker maintaining security accounts for customers and a transfer agent or other person acting for or as an issuer of securities.

"(4) "Security" means a share, participation, or other interest in property, in a business, or in an obligation of an enterprise or other issuer, and includes a certificated security, an uncertificated security, and a security account.

"(5) "Security account" means:

"(A) A reinvestment account associated with a security, a securities account with a broker, a cash balance in a brokerage account, cash, interest, earnings, or dividends earned or declared on a security in an account, a reinvestment account, or a brokerage account, whether or not credited to the account before the owner's death; or

"(B) A cash balance or other property held for or due to the owner of a security as a replacement for or product of an account security, whether or not credited to the account before the owner's death.

"§ 19-603.2. Registration in beneficiary form; sole or joint tenancy ownership.

"Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by 2 or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form. Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by the entirety, or as owners of community property held in survivorship form, and not as tenants in common.

"§ 19-603.3. Registration in beneficiary form; applicable law.

"A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration, or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

"§ 19-603.4. Origination of registration in beneficiary form.

"A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary to take the ownership at the death of the owner or the deaths of all multiple owners.

"§ 19-603.5. Form of registration in beneficiary form.

"Registration in beneficiary form may be shown by the words "transfer on death" or the abbreviation "TOD," or by the words "pay on death" or the abbreviation "POD," after the name of the registered owner and before the name of a beneficiary.

"§ 19-603.6. Effect of registration in beneficiary form.

"The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners without the consent of the beneficiary.

"§ 19-603.7. Ownership on death of owner.

"On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survive the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

"§ 19-603.8. Protection of registering entity.

"(a) A registering entity is not required to offer or to accept a request for security registration in beneficiary form. If a registration in beneficiary form is offered by a registering entity, the owner requesting registration in beneficiary form assents to the protections given to the registering entity by this subchapter.

"(b) By accepting a request for registration of a security in beneficiary form, the registering entity agrees that the registration will be implemented on death of the deceased owner as provided in this subchapter.

"(c) A registering entity is discharged from all claims to a security by the estate, creditors, heirs, or devisees of a deceased owner if it registers a transfer of the security in accordance with section 19-603.7 and does so in good faith reliance (1) on the registration, (2) on this subchapter, and (3) on information provided to it by affidavit of the personal representative of the deceased owner, or by the surviving beneficiary or by the surviving beneficiary's representatives, or other information available to the registering entity. The protections of this subchapter do not extend to a reregistration or payment made after a registering entity has received written notice from any claimant to any interest in the security objecting to implementation of a registration in beneficiary form. No other notice or other information available to the registering entity affects its right to protection under this subchapter.

"(d) The protection provided by this subchapter to the registering entity of a security does not affect the rights of beneficiaries in disputes between themselves and other claimants to

ownership of the security transferred or its value or proceeds.

"§ 19-603.9. Nontestamentary transfer on death.

"(a) A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this subchapter and is not testamentary.

"(b) This subchapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of the District.

"§ 19-603.10. Terms, conditions, and forms for registration.

"(a) A registering entity offering to accept registrations in beneficiary form may establish the terms and conditions under which it will receive requests (1) for registrations in beneficiary form, and (2) for implementation of registrations in beneficiary form, including requests for cancellation of previously registered TOD beneficiary designations and requests for reregistration to effect a change of beneficiary. The terms and conditions so established may provide for proving death, avoiding or resolving any problems concerning fractional shares, designating primary and contingent beneficiaries, and substituting a named beneficiary's descendants to take in the place of the named beneficiary in the event of the beneficiary's death. Substitution may be indicated by appending to the name of the primary beneficiary the letters LDPS, standing for "lineal descendants per stirpes." This designation substitutes a deceased beneficiary's descendants who survive the owner for a beneficiary who fails to so survive, the descendants to be identified and to share in accordance with the law of the beneficiary's domicile at the owner's death governing inheritance by descendants of an intestate. Other forms of identifying beneficiaries who are to take on one or more contingencies, and rules for providing proofs and assurances needed to satisfy reasonable concerns by registering entities regarding conditions and identities relevant to accurate implementation of registrations in beneficiary form, may be contained in a registering entity's terms and conditions.

"(b) The following are illustrations of registrations in beneficiary form which a registering entity may authorize:

"(1) Sole owner-sole beneficiary: John S Brown TOD (or POD) John S Brown Jr.

"(2) Multiple owners-sole beneficiary: John S Brown Mary B Brown JT TEN TOD John S Brown Jr.

"(3) Multiple owners-primary and secondary (substituted) beneficiaries: John S Brown Mary B Brown JT TEN TOD John S Brown Jr SUB BENE Peter Q Brown or John S Brown Mary B Brown JT TEN TOD John S Brown Jr LDPS.

"§ 19-603.11. Application of subchapter.

"This subchapter applies to registrations of securities in beneficiary form made before or after the effective date of this act, by decedents dying on or after the effective date of this act."

Sec. 303. Section 1 of An Act Relating to the payment or delivery by banks or other

persons or institutions in the District of Columbia of deposits of money and property held in the names of two or more persons, and for other purposes is amended by striking the word "When" and inserting the phrase "Except as provided in D.C. Code §§ 19-602.21 to 19-602.26, when" in its place.

TITLE 4. UNIFORM STATUTORY RULE AGAINST PERPETUITIES ACT.

Sec. 401. This title may be cited as the "Uniform Statutory Rule Against Perpetuities Act of 2000".

Sec. 402. Title 19 of the District of Columbia Code is amended as follows:

(a) The table of contents for the title is amended by adding at the end the phrase "9. Statutory Rule Against Perpetuities; Uniform Law . . . §§ 19-901 to 19-907".

(b) A new Chapter 9 is added to read as follows:

"CHAPTER 9. STATUTORY RULE AGAINST PERPETUITIES; UNIFORM LAW.

"Sec.

"19-901. Statutory rule against perpetuities.

"19-902. When nonvested property interest or power of appointment created.

"19-903. Reformation.

"19-904. Exclusions from statutory rule against perpetuities.

"19-905. Prospective application.

"19-906. Supersession.

"19-907. Uniformity of application and construction.

"§ 19-901. Statutory rule against perpetuities.

"(a) A nonvested property interest is invalid unless:

"(1) When the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

"(2) The interest either vests or terminates within 90 years after its creation.

"(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

"(1) When the power is created, the condition precedent is certain to be satisfied or becomes impossible to satisfy no later than 21 years after the death of an individual then alive; or

"(2) The condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

"(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

"(1) When the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

"(2) The power is irrevocably exercised or otherwise terminates within 90 years

after its creation.

"(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection (a)(1), (b)(1), or (c)(1) of this section, the possibility that a child will be born to an individual after the individual's death is disregarded.

"(e) If, in measuring a period from the creation of a trust or other property arrangement, language in a governing instrument (1) seeks to disallow the vesting or termination of any interest or trust beyond, (2) seeks to postpone the vesting or termination of any interest or trust until, or (3) seeks to operate in effect in any similar fashion upon, the later of (A) the expiration of a period of time not exceeding 21 years after the death of the survivor of specified lives in being at the creation of the trust or other property arrangement or (B) the expiration of a period of time that exceeds or might exceed 21 years after the death of the survivor of lives in being at the creation of the trust or other property arrangement, that language is inoperative to the extent it produces a period of time that exceeds 21 years after the death of the survivor of the specified lives.

"§ 19-902. When nonvested property interest or power of appointment is created.

"(a) Except as provided in subsections (b) and (c) of this section and in section 19-905(a), the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

"(b) For purposes of this chapter, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of a nonvested property interest or a property interest subject to a power of appointment described in section 19-901(b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

"(c) For purposes of this chapter, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

"§ 19-903. Reformation.

"Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the 90 years allowed by section 19-901(a)(2), (b)(2), or (c)(2) if:

"(1) A nonvested property interest or a power of appointment becomes invalid under section 19-901;

"(2) A class gift is not but might become invalid under section 19-901 and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

"(3) A nonvested property interest that is not validated by section 19-901(a)(1) can vest but not within 90 years after its creation.

"§ 19-904. Exclusions from statutory rule against perpetuities.

"Section 19-901 does not apply to:

"(1) A nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

"(A) A premarital or postmarital agreement;

"(B) A separation or divorce settlement;

"(C) A spouse's election under section 19-113;

"(D) A similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties;

"(E) A contract to make or not to revoke a will or trust;

"(F) A contract to exercise or not to exercise a power of appointment;

"(G) A transfer in satisfaction of a duty of support; or

"(H) A reciprocal transfer;

"(2) A fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

"(3) A power to appoint a fiduciary;

"(4) A discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

"(5) A nonvested property interest held by a charity, government, or governmental agency or subdivision;

"(6) A nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse;

"(7) A property interest, power of appointment, or arrangement that was not subject to the common-law rule against perpetuities or is excluded by another statute of the District of Columbia;

"(8) A gift of a present interest or devise to charitable uses;

"(9) In accordance with section 27-113, a grant, donation, or bequest for the embellishment, preservation, renewal, or repair of any tomb, monument, gravestone, or other structure, fence, railing, or other enclosure in or around any cemetery lot, or for the planting and cultivation of any trees, shrubs, flowers, or plants in or around any cemetery lot, according to the terms of such grant, donation, or bequest; or

"(10) A trust in which the governing instrument states that the provisions of this

chapter do not apply to the trust and under which the trustee, or other person to whom the power is properly granted or delegated, has the power under the governing instrument, applicable statute, or common law to hold, sell, lease, or mortgage property for any period of time beyond the period that is required for an interest created under the governing instrument to vest.

"§ 19-905. Prospective application.

"(a) Except as extended by subsection (b) of this section, this chapter applies to a nonvested property interest or a power of appointment that is created on or after the effective date of this chapter. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

"(b) If a nonvested property interest or a power of appointment was created before the effective date of this chapter and is determined in a judicial proceeding, commenced on or after the effective date of this chapter, to violate the District of Columbia's rule against perpetuities as that rule existed before the effective date of this chapter, a court, upon the petition of an interested person, may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

"§ 19-906. Supersession.

"This chapter supersedes the rule of the common law known as the rule against perpetuities.

"§ 19-907. Uniformity of application and construction.

"In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to the subject matter among states enacting it."

Sec. 403. Sections 1023, 1024, and 1025 of An Act To establish a code of law for the District of Columbia, and section 1 of An Act To exempt certain pension and other employee trusts from the laws of the District of Columbia relating to perpetuities, restraints on alienation, and accumulation of income, are repealed.

#### TITLE 5. UNIFORM PRINCIPAL AND INCOME ACT.

Sec. 501. This title may be cited as the "Uniform Principal and Income Act of 2000".

Sec. 502. Subtitle II of Title 28 of the District of Columbia Code is amended as follows:

(a) The table of contents for the title is amended by adding at the end the phrase "48. Principal and Income; Uniform Law . . . §§ 28-4801.1 to 28-4806.2."

(b) The table of contents for subtitle II is amended by adding at the end the phrase "48. Principal and Income; Uniform Law . . . §§ 28-4801.1 to 28-4806.2."

(c) A new Chapter 48 is added to read as follows:

"CHAPTER 48. PRINCIPAL AND INCOME; UNIFORM LAW.  
"SUBCHAPTER 1. DEFINITIONS AND FIDUCIARY DUTIES.

"Sec.

"28-4801.1. Short title.

"28-4801.2. Definitions.

"28-4801.3. Fiduciary duties; general principles.

"28-4801.4. Trustee's power to adjust.

"SUBCHAPTER 2. DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST.

"28-4802.1. Determination and distribution of net income.

"28-4802.2. Distribution to residuary and remainder beneficiaries.

"SUBCHAPTER 3. APPORTIONMENT AT BEGINNING AND END  
OF INCOME INTEREST.

"28-4803.1. When right to income begins and ends.

"28-4803.2. Apportionment of receipts and disbursements when decedent dies or income interest begins.

"28-4803.3. Apportionment when income interest ends.

"SUBCHAPTER 4. ALLOCATION OF RECEIPTS DURING  
ADMINISTRATION OF TRUST.

"SUBPART 1. RECEIPTS FROM ENTITIES.

"28-4804.1. Character of receipts.

"28-4804.2. Distribution from trust or estate.

"28-4804.3. Business and other activities conducted by trustee.

"SUBPART 2. RECEIPTS NOT NORMALLY APPORTIONED.

"28-4804.4. Principal receipts.

"28-4804.5. Rental property.

"28-4804.6. Obligation to pay money.

"28-4804.7. Insurance policies and similar contracts.

"SUBPART 3. RECEIPTS NORMALLY APPORTIONED.

"28-4804.8. Insubstantial allocations not required.

"28-4804.9. Deferred compensation, annuities, and similar payments.

"28-4804.10. Liquidating asset.

"28-4804.11. Minerals, water, and other natural resources.

"28-4804.12. Timber.

"28-4804.13. Property not productive of income.

"28-4804.14. Derivatives and options.

"28-4804.15. Asset-backed securities.

"SUBCHAPTER 5. ALLOCATION OF DISBURSEMENTS DURING  
ADMINISTRATION OF TRUST.

"28-4805.1. Disbursements from income.

"28-4805.2. Disbursements from principal.

"28-4805.3. Transfers from income to principal for depreciation.

"28-4805.4. Transfers from income to reimburse principal.

"28-4805.5. Income taxes.

"28-4805.6. Adjustments between principal and income because of taxes.

"SUBCHAPTER 6. MISCELLANEOUS PROVISIONS.

"28-4806.1. Uniformity of application and construction.

"28-4806.2. Application of chapter to existing trusts and estates.

"CHAPTER 48. PRINCIPAL AND INCOME; UNIFORM LAW.

"SUBCHAPTER 1. DEFINITIONS AND FIDUCIARY DUTIES.

"§ 28-4801.1. Short title.

"This chapter may be cited as the "Uniform Principal and Income Act".

"§ 28-4801.2. Definitions.

"For the purposes of this chapter, the term:

"(1) "Accounting period" means a calendar year unless another 12-month period is selected by a fiduciary. The term includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends.

"(2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

"(3) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

"(4) "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in subchapter 4 of this chapter.

"(5) "Income beneficiary" means a person to whom net income of a trust is or may be payable.

"(6) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

"(7) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

"(8) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this chapter to or from income during the period.

"(9) "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.

"(10) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.

"(11) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.

"(12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

"(13) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

"§ 28-4801.3. Fiduciary duties; general principles.

"(a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of subchapters 2 and 3 of this chapter, a fiduciary:

"(1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this chapter;

"(2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this chapter;

"(3) Shall administer a trust or estate in accordance with this chapter if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

"(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this chapter do not provide a rule for allocating the receipt or disbursement to or between principal and income.

"(b) In exercising the power to adjust under § 28-4801.4(a) or a discretionary power of administration regarding a matter within the scope of this chapter, whether granted by the terms of a trust, a will, or this chapter, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this chapter is presumed to be fair and reasonable to all of the beneficiaries.

"§ 28-4801.4. Trustee's power to adjust.

"(a) A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in § 28-4801.3(a), that the trustee is unable to comply with § 28-4801.3(b).

"(b) In deciding whether and to what extent to exercise the power conferred by subsection (a) of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

- "(1) The nature, purpose, and expected duration of the trust;
  - "(2) The intent of the settlor;
  - "(3) The identity and circumstances of the beneficiaries;
  - "(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;
  - "(5) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;
  - "(6) The net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;
  - "(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;
  - "(8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and
  - "(9) The anticipated tax consequences of an adjustment.
- "(c) A trustee may not make an adjustment:
- "(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;
  - "(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;
  - "(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;
  - "(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;
  - "(5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;
  - "(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

"(7) If the trustee is a beneficiary of the trust; or

"(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

"(d) If subsection (c)(5), (6), (7), or (8) of this section applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

"(e) A trustee may release the entire power conferred by subsection (a) of this section or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (c)(1) through (6) or (c)(8) of this section or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (c) of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual.

"(f) Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection (a) of this section.

"SUBCHAPTER 2. DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST.

"§ 28-4802.1. Determination and distribution of net income.

"After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

"(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in subchapters 3 through 5 of this chapter which apply to trustees and the rules in paragraph (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

"(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in subchapters 3 through 5 of this chapter which apply to trustees and by:

"(A) Including in net income all income from property used to discharge liabilities;

"(B) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

"(C) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

"(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under paragraph (2) of this section or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

"(4) A fiduciary shall distribute the net income remaining after distributions required by paragraph (3) of this section in the manner described in § 28-4802.2 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

"(5) A fiduciary may not reduce principal or income receipts from property described in paragraph (1) of this section because of a payment described in § 28-4805.1 or § 28-4805.2 to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

"§ 28-4802.2. Distribution to residuary and remainder beneficiaries.

"(a) Each beneficiary described in § 28-4802.1(4) is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

"(b) In determining a beneficiary's share of net income, the following rules apply:

"(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the

distribution date, including assets that later may be sold to meet principal obligations.

"(2) The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

"(3) The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

"(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

"(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

"(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

"SUBCHAPTER 3. APPORTIONMENT AT BEGINNING AND  
END OF INCOME INTEREST.

"§ 28-4803.1. When right to income begins and ends.

"(a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

"(b) An asset becomes subject to a trust:

"(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

"(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

"(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

"(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

"(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

"§ 28-4803.2. Apportionment of receipts and disbursements when decedent dies or income interest begins.

"(a) A trustee shall allocate an income receipt or disbursement other than one to which § 28-4802.1(1) applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

"(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance must be allocated to income.

"(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this chapter. Distributions to shareholders or other owners from an entity to which § 28-4804.1 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

"§ 28-4803.3. Apportionment when income interest ends.

"(a) For the purposes of this section, the term "undistributed income" means net income received before the date on which an income interest ends. The term "undistributed income" does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

"(b) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than 5 percent of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

"(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

**"SUBCHAPTER 4. ALLOCATION OF RECEIPTS DURING  
ADMINISTRATION OF TRUST.**

**"SUBPART 1. RECEIPTS FROM ENTITIES.**

"§ 28-4804.1. Character of receipts.

"(a) For the purposes of this section, the term "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate

to which § 28-4804.2 applies, a business or activity to which § 28-4804.3 applies, or an asset-backed security to which § 28-4804.15 applies.

"(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

"(c) A trustee shall allocate the following receipts from an entity to principal:

"(1) Property other than money;

"(2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

"(3) Money received in total or partial liquidation of the entity; and

"(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

"(d) Money is received in partial liquidation:

"(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

"(2) If the total amount of money and property received in a distribution or series of related distributions is greater than 20 percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt.

"(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

"(f) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

"§ 28-4804.2. Distribution from trust or estate.

"A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, § 28-4804.1 or § 28-4804.15 applies to a receipt from the trust.

"§ 28-4804.3. Business and other activities conducted by trustee.

"(a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.

"(b) A trustee who accounts separately for a business or other activity may determine the

extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.

"(c) Activities for which a trustee may maintain separate accounting records include:

- "(1) Retail, manufacturing, service, and other traditional business activities;
- "(2) Farming;
- "(3) Raising and selling livestock and other animals;
- "(4) Management of rental properties;
- "(5) Extraction of minerals and other natural resources;
- "(6) Timber operations; and
- "(7) Activities to which § 28-4804.14 applies.

"SUBPART 2. RECEIPTS NOT NORMALLY APPORTIONED.

"§ 28-4804.4. Principal receipts.

"A trustee shall allocate to principal:

"(1) To the extent not allocated to income under this chapter, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

"(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this subchapter;

"(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in § 28-4805.2(a)(7) or for other reasons to the extent not based on the loss of income;

"(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

"(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

"(6) Other receipts as provided in subpart 3 of this subchapter.

"§ 28-4804.5. Rental property.

"To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have

been satisfied with respect to that amount.

"§ 28-4804.6. Obligation to pay money.

"(a) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, shall be allocated to income without any provision for amortization of premium.

"(b) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income.

"(c) This section does not apply to an obligation to which § 28-4804.9, 28-4804.10, 28-4804.11, 28-4804.12, 28-4804.14, or 28-4804.15 applies.

"§ 28-4804.7. Insurance policies and similar contracts.

"(a) Except as otherwise provided in subsection (b) of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

"(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to § 28-4804.3, loss of profits from a business.

"(c) This section does not apply to a contract to which § 28-4804.9 applies.

**"SUBPART 3. RECEIPTS NORMALLY APPORTIONED.**

"§ 28-4804.8. Insubstantial allocations not required.

"If a trustee determines that an allocation between principal and income required by § 28-4804.9, 28-4804.10, 28-4804.11, 28-4804.12, or 28-4804.15 is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in § 28-4801.4(c) applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in § 28-4801.4(d) and may be released for the reasons and in the manner described in § 28-4801.4(e). An allocation is presumed to be insubstantial if:

"(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10 percent; or

"(2) The value of the asset producing the receipt for which the allocation would be made is less than 10 percent of the total value of the trust's assets at the beginning of the accounting period.

"§ 28-4804.9. Deferred compensation, annuities, and similar payments.

**ENROLLED ORIGINAL**

"(a) For the purposes of this section, the term "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term "payment" includes a payment made in money or property from the payor's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

"(b) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

"(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

"(d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

"(e) This section does not apply to payments to which § 28-4804.10 applies.

"§ 28-4804.10. Liquidating asset.

"(a) For the purposes of this section, the term "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term "liquidating asset" includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term "liquidating asset" does not include a payment subject to § 28-4804.9, resources subject to § 28-4804.11, timber subject to § 28-4804.12, an activity subject to § 28-4804.14, an asset subject to § 28-4804.15, or any asset for which the trustee establishes a reserve for depreciation under § 28-4805.3.

"(b) A trustee shall allocate to income 10 percent of the receipts from a liquidating asset and the balance to principal.

"§ 28-4804.11. Minerals, water, and other natural resources.

"(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

"(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income.

"(2) If received from a production payment, a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal.

"(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, 90 percent shall be allocated to principal and the balance to income.

"(4) If an amount is received from a working interest or any other interest not provided for in paragraph (1), (2), or (3) of this subsection, 90 percent of the net amount received shall be allocated to principal and the balance to income.

"(b) An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, 90 percent of the amount shall be allocated to principal and the balance to income.

"(c) This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

"(d) If a trust owns an interest in minerals, water, or other natural resources on the effective date of this chapter, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee before the effective date of this chapter. If the trust acquires an interest in minerals, water, or other natural resources after the effective date of this chapter, the trustee shall allocate receipts from the interest as provided in this chapter.

"§ 28-4804.12. Timber.

"(a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

"(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

"(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

"(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (1) and (2) of this subsection; or

"(4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraph (1), (2), or (3) of this subsection.

"(b) In determining net receipts to be allocated pursuant to subsection (a) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

"(c) This chapter applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

"(d) If a trust owns an interest in timberland on the effective date of this chapter, the trustee may allocate net receipts from the sale of timber and related products as provided in this

chapter or in the manner used by the trustee before the effective date of this chapter. If the trust acquires an interest in timberland after the effective date of this chapter, the trustee shall allocate net receipts from the sale of timber and related products as provided in this chapter.

"§ 28-4804.13. Property not productive of income.

"(a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under § 28-4801.4 and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by § 28-4801.4(a). The trustee may decide which action or combination of actions to take.

"(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

"§ 28-4804.14. Derivatives and options.

"(a) For the purposes of this section, the term "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

"(b) To the extent that a trustee does not account under § 28-4804.3 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

"(c) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option shall be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal.

"§ 28-4804.15. Asset-backed securities.

"(a) For the purposes of this section, the term "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term "asset-backed security" includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term "asset-backed security" does not include an asset to which § 28-4804.1 or 28-4804.9 applies.

"(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

"(c) If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate 10 percent of the payment to income and the balance to principal.

"SUBCHAPTER 5. ALLOCATION OF DISBURSEMENTS DURING  
ADMINISTRATION OF TRUST.

"§ 28-4805.1. Disbursements from income.

"A trustee shall make the following disbursements from income to the extent that they are not disbursements to which § 28-4802.1(2)(B) or (C) applies:

"(1) One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

"(2) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

"(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

"(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

"§ 28-4805.2. Disbursements from principal.

"(a) A trustee shall make the following disbursements from principal:

"(1) The remaining one-half of the disbursements described in § 28-4805.1(1) and (2);

"(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

"(3) Payments on the principal of a trust debt;

"(4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

"(5) Premiums paid on a policy of insurance not described in § 28-4805.1(4) of which the trust is the owner and beneficiary;

"(6) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

"(7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

"(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

"§ 28-4805.3. Transfers from income to principal for depreciation.

"(a) For the purposes of this section, the term "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one year.

"(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

"(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary;

"(2) During the administration of a decedent's estate; or

"(3) Under this section if the trustee is accounting under § 28-4804.3 for the business or activity in which the asset is used.

"(c) An amount transferred to principal need not be held as a separate fund.

"§ 28-4805.4. Transfers from income to reimburse principal.

"(a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

"(b) Principal disbursements to which subsection (a) of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

"(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

"(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

"(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

"(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

"(5) Disbursements described in § 28-4805.2(a)(7).

"(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a) of this section.

"§ 28-4805.5. Income taxes.

"(a) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

"(b) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

"(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

"(1) From income to the extent that receipts from the entity are allocated to income; and

"(2) From principal to the extent that:

"(A) Receipts from the entity are allocated to principal; and

"(B) The trust's share of the entity's taxable income exceeds the total receipts described in paragraphs (1) and (2)(A) of this subsection.

"(d) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

"§ 28-4805.6. Adjustments between principal and income because of taxes.

"(a) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

"(1) Elections and decisions, other than those described in subsection (b) of this section, that the fiduciary makes from time to time regarding tax matters;

"(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

"(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a

beneficiary.

"(b) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

"SUBCHAPTER 6. MISCELLANEOUS PROVISIONS.

"§ 28-4806.1. Uniformity of application and construction.

"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 the states that enact it.

"§ 28-4806.2. Application of chapter to existing trusts and estates.

"This chapter applies to every trust or decedent's estate existing on the effective date of this chapter except as otherwise expressly provided in the will or terms of the trust or in this chapter."

TITLE 6. AMENDMENTS TO UNIFORM TRANSFERS TO MINORS ACT.

Sec. 601. This title may be cited as the "Uniform Transfers to Minors Amendment Act of 2000".

Sec. 602. Chapter 3 of Title 21 of the District of Columbia Code is amended as follows:

(a) Section 21-309 is amended as follows:

(1) Subsection (a)(8) is amended by striking the paragraph designation "(6)" and inserting the paragraph designation "(7)" in its place.

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

"(d) A transferor who transfers property to an individual under the age of 21 years pursuant to section 21-304 or 21-305 may expressly provide that the custodian shall deliver, convey, or pay the property to the individual on the individual's attaining the age of 21 by inclusion of the parenthetical "(21)" after the words "District of Columbia Uniform Transfers to Minors Act" or substantially similar language. In such case, the word "minor", as used in this chapter, shall mean an individual who has not attained the age of 21 years."

(b) Section 21-320(1) is amended by adding after the phrase "18 years of age", the phrase ", or if the transfer was made as provided in section 21-309(d), the minor reaches 21 years of age,".

TITLE 7. DEBTOR STATUTE EXEMPTION MODERNIZATION.

Sec. 701. This title may be cited as the "Debtor Statute Exemption Modernization Amendment Act of 2000".

Sec. 702. Section 15-501(a) of the District of Columbia Code is amended as follows:

(a) Paragraphs (1) through (7) are amended to read as follows:

"(1) the debtor's interest, not to exceed \$2,575 in value, in one motor vehicle;

"(2) the debtor's interest, not to exceed \$425 in value, in any particular item or \$8,625 in aggregate value in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal family or household use of the debtor or a dependent of the debtor;

"(3) the debtor's aggregate interest in any property, not to exceed \$850 in value, plus up to \$8,075 of any unused amount of the exemption provided under paragraph (14) of this subsection;

"(4) the debtor's aggregate interest, not to exceed \$1,625 in value, in any implements, professional books, or tools of the trade of the debtor or the trade of a dependent of the debtor (this exemption shall also apply to merchants);

"(5) any unmaturred life insurance contract owned by the debtor, other than a credit life insurance contract;

"(6) professionally prescribed health aids for the debtor or a dependent of the debtor;

"(7) the debtor's right to receive:

"(A) a social security benefit;

"(B) a veteran's benefit;

"(C) a disability, illness, or unemployment benefit;

"(D) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; and

"(E) a payment under a stock bonus, pension, profit-sharing, annuity, or similar plan or contract on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor, unless:

"(i) the plan or contract was established by or under the auspices of an insider that employed the debtor at the time the debtor's rights under the plan or contract arose;

"(ii) the payment is on account of age or length of service; and

"(iii) the plan or contract does not qualify under section 401(a) or 403(b) of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 *et seq.*) ("1986 Code");".

(b) Strike the undesignated phrase "The exemption provided for by clause (5) of this

subsection also applies to the merchants." after paragraph (8).

(c) Paragraph (9)(B) is amended by striking the word "and" at the end.

(d) Paragraph 10 is amended by striking the phrase "subsection." and inserting the phrase "subsection;" in its place.

(e) New paragraphs (11) through (14) are added to read as follows:

"(11) the debtor's right to receive property that is traceable to:

"(A) an award under a crime victim's reparation law;

"(B) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(C) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent on the date of the individual's death, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(D) a payment, including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or

"(E) a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

"(12) provisions for 3 months support, whether provided or growing;

"(13) the library, office furniture, and implements of a professional person or artist, not exceeding \$300 in value; and

"(14) the debtor's aggregate interest in real property used as the residence of the debtor, or property that the debtor or a dependent of the debtor in a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence, or in a burial plot for the debtor or dependent of the debtor.".

#### TITLE 8. ABOLISHMENT OF ESTATE OF DOWER; AMENDMENTS CONCERNING FAMILY ALLOWANCES AND INTESTATES' ESTATES; AMENDMENT TO TITLE 21.

Sec. 801. Chapter 1 of Title 19 of the District of Columbia Code is amended as follows:

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

(1) Strike the phrase "19-101. Family allowance; construction; penalties." and insert the phrase "19-101. Repealed." in its place.

(2) Add after the phrase "19-101. Repealed" the following:

"19-101.1. Applicable law.

"19-101.2. Homestead allowance.

"19-101.3. Exempt property.

"19-101.4. Family allowance.

"19-101.5. Source, determination, and documentation.

"19-101.6. Penalties.".

**ENROLLED ORIGINAL**

(3) Strike the phrase "19-102. Dower; quarantine; curtesy abolished." and insert the phrase "19-102. Dower and curtesy abolished." in its place.

(4) Strike the phrase "19-103. Forfeiture of dower by desertion and adultery." and insert the phrase "19-103. Repealed." in its place.

(5) Strike the phrase "19-104. Absent or incompetent spouse." and insert the phrase "19-104. Repealed." in its place.

(6) Strike the phrase "19-105. Jointure before marriage as bar to dower." and insert the phrase "19-105. Repealed." in its place.

(7) Strike the phrase "19-106. Jointure after marriage; election." and insert the phrase "19-106. Repealed." in its place.

(8) Strike the phrase "19-107. Effect of acts of one spouse." and insert the phrase "19-107. Repealed." in its place.

(9) Strike the phrase "19-107a. Release of dower." and insert the phrase "19-107a. Repealed." in its place.

(10) Strike the phrase "19-108. Recovery of dower withheld; damages." and insert the phrase "19-108. Repealed." in its place.

(11) Strike the phrase "19-109. Recovery of dower obtained by default or collusion; damages." and insert the phrase "19-109. Repealed." in its place.

(12) Strike the phrase "19-110. Assignment by guardian; rights of heir." and insert the phrase "19-110. Repealed." in its place.

(13) Strike the phrase "19-111. Reendowment upon eviction from jointure." and insert the phrase "19-111. Repealed." in its place.

(b) Section 19-101 is repealed.

(c) New sections 19-101.1, 19-101.2, 19-101.3, 19-101.4, 19-101.5, and 19-101.6 are added to read as follows:

"§ 19-101.1. Applicable law.

"Sections 19-101.1 to 19-101.6 apply to the estate of a decedent who dies domiciled in the District of Columbia. Rights to homestead allowance, exempt property, and family allowance for a decedent who dies not domiciled in the District of Columbia are governed by the law of the decedent's domicile at death.

"§ 19-101.2. Homestead allowance.

"A decedent's surviving spouse is entitled to a homestead allowance of \$15,000. If there is no surviving spouse, each surviving minor child and each surviving dependent child of the decedent is entitled to a homestead allowance amounting to \$15,000 divided by the number of surviving minor and surviving dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate, except as provided in section 20-906. The homestead allowance is in addition to any share passing to the surviving spouse or surviving minor or surviving dependent child by the will of the decedent, unless otherwise provided by intestate succession, or by way of elective share.

"§ 19-101.3. Exempt property.

"In addition to the homestead allowance, the decedent's surviving spouse is entitled from the estate to a value, not exceeding \$10,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects. If there is no surviving spouse, the decedent's surviving children are entitled jointly to the same value. If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, except for real property, to the extent necessary to make up the \$10,000 value. Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in section 20-906. These rights are in addition to any benefit or share passing to the surviving spouse or surviving children by the decedent's will, unless otherwise provided by intestate succession or by way of elective share.

"§ 19-101.4. Family allowance.

"(a) In addition to the right to homestead allowance and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support and children who were in fact being supported by the decedent are entitled to a reasonable allowance in money out of the estate for their maintenance during the period of administration. It is payable to the surviving spouse, if living, for the use of the surviving spouse and the decedent's surviving minor and dependent children; otherwise to the children, or persons having their care and custody. If a minor child or dependent child is not living with the surviving spouse, the allowance may be made partially to the child or his or her guardian, or other person having the child's care and custody, and partially to the spouse, as their needs may appear. The family allowance is exempt from and has priority over all claims, except the homestead allowance, and as provided in section 20-906.

"(b) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent, unless otherwise provided, by intestate succession, or by way of elective share. The death of any person entitled to family allowance terminates the right to allowances not yet paid.

"§ 19-101.5. Source, determination, and documentation; equitable apportionment when minor children are not in custody of surviving spouse.

"(a) If the estate is otherwise sufficient, property specifically devised may not be used to satisfy rights to homestead allowance or exempt property. Subject to this restriction, the surviving spouse, guardians of minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make those selections if the surviving spouse, the children, or the guardians of the minor children are unable or fail to do so within a reasonable time, or there is no guardian of a minor child. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. The personal

representative may disburse the family allowance in a lump sum not exceeding \$15,000 in cash or in personalty at its fair value as the surviving spouse may elect. The personal representative or an interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

"(b) If there are minor or other dependent children of the decedent who are not in the custody of the surviving spouse, the personal representative shall equitably apportion the family allowance under this section between the surviving spouse, minor and dependent children, and other children of the decedent.

"(c) The receipt by the recipient of the property distributed under this subchapter shall constitute a full release of the personal representative or administrator making the distribution.

"§ 19-101.6. Penalties.

"Whoever, with respect to the allowances or exemptions authorized by sections 19-101.1 to 19-101.5, (1) makes a false affidavit, (2) willfully violates an order of the Probate Division, or (3) willfully violates a provision of this chapter, shall be fined not more than \$2,500 for each offense."

(c) Section 19-102 is amended to read as follows:

"§ 19-102. Dower and curtesy abolished.

"The estates of dower and curtesy are abolished."

(d) Sections 19-103 to 19-111 are repealed.

(e) Section 19-112 is amended by striking the phrase “, and his or her dower rights”.

(f) Section 19-113 is amended as follows:

(1) Subsection (a) is amended as follows:

(A) The first sentence is amended by striking the phrase “or dower rights, as the case may be,”.

(B) The second sentence is amended by striking the phrase “(except than in lieu of my legal share of the real estate, I elect to take dower in all the real estate of my deceased spouse to which that right is applicable)”.

(2) Subsection (b) is repealed.

(3) Subsection (c) is amended by striking the phrase “or (b)”.

(4) Subsection (d) is amended by striking the phrase “, but may, instead, elect to take dower as provided by subsection (b) of this section”.

(5) Subsection (e) is amended as follows:

(A) Strike the phrase “, including dower if elected in lieu of the legal share in the real estate,”.

(B) Strike the phrase “, or, if dower is elected, one-half of the net personal property bequeathed and dower in the real estate devised”.

Sec. 802. Section 1154 of An Act To establish a code of law for the District of Columbia is amended by striking the phrase "dower," from the last sentence.

Sec. 803. Title 16 of the District of Columbia Code is amended as follows:

(a) The table of contents for the title is amended by striking the phrase "29. Partition and Assignment of Power . . . §§ 16-2901 to 16-2925." and inserting the phrase "29. Partition . . . §§ 16-2901 to 16-2925." in its place.

(b) Chapter 9 is amended as follows:

(1) The table of contents for Chapter 9 is amended by striking the phrase "16-912. Permanent alimony; enforcement; retention of dower." and inserting the phrase "16-912. Permanent alimony; enforcement." in its place.

(2) Section 16-912 is amended as follows:

(A) The heading is amended by striking the phrase "; retention of dower".

(B) Strike the phrase ", and may, if it seems appropriate, retain to the wife her right of dower in the husband's estate; and the court may, in similar circumstances, retain to the husband his right of dower in the wife's estate".

(c) Chapter 29 is amended as follows:

(1) The chapter heading is amended by striking the phrase "and Assignment of Dower".

(2) The table of contents for subchapter II is amended to read as follows:

*"Subchapter II. Assignment of Dower; Parties  
to Partition Proceeding; Sale of Property  
Discharged from Dower  
or Spouse's Intestate Share.*

"16-2921. Repealed.

"16-2922. Repealed.

"16-2923. Repealed.

"16-2924. Repealed.

"16-2925. Repealed."

(3) Subchapter II is repealed.

Sec. 804. The Act of Parliament, 6 Edw. 1, c.5, § 1 is amended by striking the phrase ", or in dower".

Sec. 805. Chapter 3 of Title 19 of the District of Columbia Code is amended as follows:

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

(1) Strike the phrase "19-302. When surviving spouse entitled to whole." and insert the phrase "19-302. Share of spouse." in its place.

(2) Strike the phrase "19-303. When surviving spouse entitled to one-third." and insert the phrase "19-303. Repealed." in its place.

(3) Strike the phrase "19-304. When surviving spouse entitled to one-half." and insert the phrase "19-304. Repealed." in its place.

(b) Section 19-302 is amended to read as follows:

"§ 19-302. Share of spouse.

"The intestate share of a decedent's surviving spouse is:

"(1) The entire intestate estate, if no descendant or parent of the decedent survives the decedent;

"(2) Two-thirds of any balance of the intestate estate, if the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

"(3) Three-fourths of any balance of the intestate estate, if no descendant of the decedent survives the decedent, but a parent of the decedent survives the decedent;

"(4) One-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent; or

"(5) One-half of any balance of the intestate estate, if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.".

(c) Sections 19-303 and 19-304 are repealed.

Sec. 806. Section 21-2091 of the District of Columbia Code is amended as follows:

(a) Strike the phrase "an incapacitated or protected" and insert the word "a" in its place.

(b) Add the sentence "For the purposes of this subchapter, the term "representative of a person" includes a personal representative of a decedent, a conservator of an incapacitated or protected person, a guardian of a minor or incapacitated person, and an agent acting on behalf of the person under the authority of a power of attorney, unless otherwise restricted by the power of attorney." after the phrase "restriction.".

#### TITLE 9. AMENDMENTS TO TITLE 20 OF THE D.C. CODE: PROBATE AND ADMINISTRATION OF DECEDENTS' ESTATES.

Sec. 901. Section 20-351 of the District of Columbia Code is amended by striking the phrase "\$15,000" and inserting the phrase "\$40,000" in its place.

Sec. 902. Section 20-906 of the District of Columbia Code is amended to read as follows:

"(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

"(1) Court costs, publication costs, and bond premiums;

- "(2) Funeral expenses, not exceeding \$1,500;
  - "(3) Fiduciary and attorney's fees, not exceeding \$1,000;
  - "(4) The homestead allowance pursuant to section 19-101.2 and the family allowance pursuant to section 19-101.4;
  - "(5) Exempt property pursuant to section 19-101.3;
  - "(6) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent;
  - "(7) Claims for rent in arrears for which an attachment might be levied by law;
  - "(8) Judgment and decrees of courts in the District of Columbia; and
  - "(9) All other just claims.
- "(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to preference over claims not due."

TITLE 10. AMENDMENT TO D.C. LAW 13-129, THE "FAIRNESS  
IN REAL ESTATE TRANSACTIONS AND RETIREMENT FUNDS PROTECTION  
AMENDMENT ACT OF 2000".

Sec. 1001. Section 556a(b) of An Act To establish a code of law for the District of Columbia is amended by striking the phrase "or other party" and inserting the phrase "other party" in its place.

TITLE 11. FISCAL IMPACT; EFFECTIVE DATE.

Sec. 1101. 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. Code § 1-233(c)(3)).

Sec. 1102. Applicability.

For the purposes of Title 5 and Title 9 and sections 801(b), 805, and 806 of Title 8, the provisions relating to the administration of decedents' estates shall apply only to the estates of decedents who die on or after the effective date of this act.

Sec. 1103. 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), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in

the District of Columbia Register.

---

Chairman  
Council of the District of Columbia

---

Mayor  
District of Columbia