

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 19 of the District of Columbia Code to enact the Uniform Community Property Disposition at Death Code, to provide default rules that ensure the equitable distribution of community property when the first spouse dies, to assist courts in determining the character of property when there is a dispute between potential heirs, to clarify the process for partitioning and reclassifying community property for couples who mutually agree to separate their interests, to provide a remedy to address bad-faith transfers intended to impair the property rights of one spouse, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Community Property Disposition at Death Act of 2024”.

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

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

“23. Uniform Community Property Disposition at Death Code . . . . . 19-2301”.

(b) A new Chapter 23 is added to read as follows:

“CHAPTER 23

“UNIFORM COMMUNITY PROPERTY DISPOSITION AT DEATH CODE.

“Sec.

- “19-2301. Short title.
- “19-2302. Definitions.
- “19-2303. Included and excluded property.
- “19-2304. Form of partition, reclassification, or waiver.
- “19-2305. Community property presumption.
- “19-2306. Disposition of property at death.
- “19-2307. Other remedies available at death.
- “19-2308. Right of surviving community-property spouse.
- “19-2309. Right of heir, devisee, or nonprobate transferee.
- “19-2310. Protection of third person.
- “19-2311. Principles of law and equity.
- “19-2312. Uniformity of application and construction.
- “19-2313. Saving provision.

“19-2314. Transitional provision.

“§ 19-2301. Short title.

“This chapter may be cited as the “Uniform Community Property Disposition at Death Code”.

“§ 19-2302. Definitions.

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

“(1) “Community-property spouse” means an individual in a marriage or other relationship:

“(A) Under which community property could be acquired during the existence of the relationship; and

“(B) That remains in existence at the time of death of either party to the relationship.

“(2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

“(3) “Jurisdiction” means the United States, a state, a foreign country, or a political subdivision of a foreign country.

“(4) “Partition” means voluntarily dividing property to which this chapter otherwise would apply.

“(5) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

“(6) “Personal representative” includes an executor, administrator, successor personal representative, special administrator, and other person that performs substantially the same function.

“(7) “Property” means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein.

“(8) “Reclassify” means to change the characterization or treatment of community property to property owned separately by community-property spouses.

“(9) “Record” means information:

“(A) Inscribed on a tangible medium; or

“(B) Stored in an electronic or other medium and retrievable in perceivable form.

“(10) “Sign” means, with present intent to authenticate or adopt a record:

“(A) To execute or adopt a tangible symbol; or

“(B) To attach to or logically associate with the record an electronic symbol, sound, or process.

“(11) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term “state” includes a federally recognized Indian tribe.

“§ 19-2303. Included and excluded property.

“(a) Subject to subsection (b) of this section, this chapter applies to the following property of a community-property spouse, without regard to how the property is titled or held:

“(1) If a decedent was domiciled in the District at the time of death:

“(A) All or a proportionate part of each item of personal property, wherever located, that was community property under the law of the jurisdiction where the decedent or the surviving community-property spouse was domiciled when the property:

“(i) Was acquired; or

“(ii) After acquisition, became community property;

“(B) Income, rent, profit, appreciation, or other increase derived from or traceable to property described in subparagraph (A) of this paragraph; and

“(C) Personal property traceable to property described in subparagraph (A) or (B) of this paragraph; and

“(2) Regardless of whether a decedent was domiciled in the District at the time of death:

“(A) All or a proportionate part of each item of real property located in the District traceable to community property or acquired with community property under the law of the jurisdiction where the decedent or the surviving community-property spouse was domiciled when the property:

“(i) Was acquired; or

“(ii) After acquisition, became community property; and

“(B) Income, rent, profit, appreciation, or other increase, derived from or traceable to property described in subparagraph (A) of this paragraph.

“(b) If community-property spouses acquired community property by complying with the law of a jurisdiction that allows for creation of community property by transfer of property to a trust, this chapter applies to the property only to the extent the property is held in the trust or characterized as community property by the terms of the trust or the law of the jurisdiction under which the trust was created.

“(c) This chapter does not apply to property that:

“(1) Community-property spouses have partitioned or reclassified; or

“(2) Is the subject of a waiver of rights granted by this chapter.

“§ 19-2304. Form of partition, reclassification, or waiver.

“(a) Community-property spouses domiciled in the District may partition or reclassify property to which this chapter otherwise would apply. The partition or reclassification must be in a record signed by both community-property spouses.

“(b) A community-property spouse domiciled in the District may waive a right granted by this chapter only by complying with the law of the District, including the District’s choice-of-law rules, applicable to waiver of a spousal property right.

“§ 19-2305. Community property presumption.

“All property acquired by a community-property spouse when domiciled in a jurisdiction where community property then could be acquired by the community-property spouse by operation of law is presumed to be community property. This presumption may be rebutted by a preponderance of the evidence.

“§ 19-2306. Disposition of property at death.

“(a) One-half of the property to which this chapter applies belongs to the surviving community-property spouse of a decedent and is not subject to disposition by the decedent at death.

“(b) One-half of the property to which this chapter applies belongs to the decedent and is subject to disposition by the decedent at death.

“(c) The property that belongs to the decedent under subsection (b) of this section is not subject to the elective-share right of the surviving community-property spouse.

“(d) This section does not apply to property transferred by right of survivorship or under a revocable trust or other nonprobate transfer.

“(e) This section does not limit the right of a surviving community-property spouse to a homestead allowance under § 19-101.02.

“(f) If at death a decedent purports to transfer to a third person property that, under this section, belongs to the surviving community-property spouse and transfers other property to the surviving community-property spouse, this section does not limit the authority of the court under other law of the District to require that the community-property spouse elect between retaining the property transferred to the community-property spouse or asserting rights under this chapter.

“§ 19-2307. Other remedies available at death.

“(a) At the death of a community-property spouse, the surviving community-property spouse or a personal representative, heir, or nonprobate transferee of the decedent may assert a right based on an act of:

“(1) The surviving community-property spouse or decedent during the marriage or other relationship under which community property then could be acquired; or

“(2) The decedent that takes effect at the death of the decedent.

“(b) In determining a right under subsection (a) of this section and corresponding remedy, the court:

“(1) Shall apply equitable principles; and

“(2) May consider the community property law of the jurisdiction where the decedent or surviving community-property spouse was domiciled when property was acquired or enhanced.

“§ 19-2308. Right of surviving community-property spouse.

“(a) The surviving community-property spouse of the decedent may assert a claim for relief with respect to a right under this chapter in accordance with the following rules:

“(1) In an action asserting a right in or to property, the surviving community-property spouse must:

“(A) Not later than 3 years after the death of the decedent, commence an action against an heir, devisee, or nonprobate transferee of the decedent that is in possession of the property; or

“(B) Not later than 6 months after appointment of the personal representative of the decedent, send a demand in a record to the personal representative; and

“(2) In an action other than an action under paragraph (1) of this subsection, the surviving community-property spouse must:

“(A) Not later than 6 months after appointment of the personal representative of the decedent, send a demand in a record to the personal representative; or

“(B) If a personal representative is not appointed, commence the action not later than 3 years after the death of the decedent.

“(b) Unless a timely demand is made under subsection (a)(1)(B) or (2)(A) of this section, the personal representative may distribute the assets of the decedent’s estate without personal liability for a community-property spouse’s claim under this chapter.

“§ 19-2309. Right of heir, devisee, or nonprobate transferee.

“An heir, devisee, or nonprobate transferee of a deceased community-property spouse may assert a claim for relief with respect to a right under this chapter in accordance with the following rules:

“(1) In an action asserting a right in or to property, the heir, devisee, or nonprobate transferee must:

“(A) Not later than 3 years after the death of the decedent, commence an action against the surviving community-property spouse of the decedent who is in possession of the property; or

“(B) Not later than 6 months after appointment of the personal representative of the decedent, send a demand in a record to the personal representative; and

“(2) In an action other than an action under paragraph (1) of this subsection, the heir, devisee, or nonprobate transferee must:

“(A) Not later than 6 months after the appointment of the personal representative of the decedent, send a demand in a record to the personal representative; or

“(B) If a personal representative is not appointed, commence the action not later than 3 years after the death of the decedent.

“§ 19-2310. Protection of third person.

“(a) With respect to property to which this chapter applies, a person is not liable under this chapter to the extent the person:

“(1) Transacts in good faith and for value:

“(A) With a community-property spouse; or

“(B) After the death of the decedent, with a surviving community-property spouse, personal representative, heir, devisee, or nonprobate transferee of the decedent; and

“(2) Does not know or have reason to know that the other party to the transaction is exceeding or improperly exercising the party’s authority.

“(b) Good faith under subsection (a)(1) of this section does not require the person to inquire into the extent or propriety of the exercise of authority by the other party to the transaction.

“§ 19-2311. Principles of law and equity.

“The principles of law and equity supplement this chapter except to the extent inconsistent with this chapter.

“§ 19-2312. Uniformity of application and construction.

“In applying and construing this chapter, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

“§ 19-2313. Saving provision.

“If a right with respect to property to which this chapter applies is acquired, extinguished, or barred on the expiration of a limitation period that began to run under another statute before the effective date of this chapter, that statute continues to apply to the right even if the statute has been repealed or superseded by this chapter.

“§ 19-2314. Transitional provision.

“Except as provided in § 19-2313, this chapter applies to a judicial proceeding with respect to property to which this chapter applies commenced on or after effective date of this chapter, regardless of the date of death of the decedent.”.

### Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a)

### Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the

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Mayor, action by the Council to override the veto), and 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. Official Code § 1-206.02(c)(1)).

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia