

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 15 of the District of Columbia Official Code to provide absolute fee waivers for relevant personal representatives; to amend Title 19 of the District of Columbia Official Code to raise the exempt property allowance to \$20,000, to eliminate the exempt property allowance for disinherited adult children, and to raise the Homestead allowance for survivors to \$30,000; to amend Title 20 of the District of Columbia Official Code to expand the definition of a small estate to include estates valued up to \$80,000, to replace the term “standard probate” with “formal probate”, to allow for a hybrid process for issuing letters of appointment, to reduce the publication requirement for notice of probate from 3 consecutive weeks to 2, to raise the family allowance to \$30,000, to permit transfer by affidavit for small estates, and to increase allowable reimbursement rates for funeral expenses; to amend Title 47 of the District of Columbia Official Code to extend the homestead deduction and senior tax credit to one year; and to amend the Secure DC Omnibus Amendment Act of 2024 to make changes to the applicability section.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Strengthening Probate Administration Amendment Act of 2024”.

Sec. 2. Section 15-712 of the District of Columbia Official Code is amended by adding a new subsection (i) to read as follows:

“(i) The Probate Division of the Superior Court of the District of Columbia shall not require the payment of court costs on behalf of a decedent’s estate:

“(1) At any time during which a litigant for whom the Court granted a waiver of fees and costs or security is serving as the personal representative of the decedent’s estate; or

“(2) After the closure of an estate.”.

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

(a) Section 19-101.02 is amended by striking the phrase “\$15,000” both times it appears and inserting the phrase “\$30,000” in its place.

(b) Section 19-101.03 is amended to read as follows:

“§19-101.03. Exempt property.

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“(a) In addition to the homestead allowance, the decedent’s surviving spouse or surviving domestic partner is entitled from the estate to a value, not exceeding \$20,000 in excess of any security interests therein, in household furniture, automobiles, furnishings, appliances, and personal effects.

“(b)(1) If there is no surviving spouse or surviving domestic partner, the decedent’s surviving children are entitled jointly to the same value.

“(2) If a written last will and testament does not bequeath anything to the decedent’s surviving children or does not express an intention to benefit the decedent’s surviving children, then the exempt property allowance shall be eliminated for the decedent’s surviving children.

“(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$20,000, or if there is not \$20,000 worth of exempt property in the estate, the spouse, domestic partner, or children are entitled to other assets of the estate, if any, except for real property, to the extent necessary to make up the \$20,000 value.

“(d) Rights to exempt property have priority over all claims against the estate, except the homestead allowance, the family allowance, and as provided in § 20-906.

“(e) These rights are in addition to any benefit or share passing to the surviving spouse, surviving domestic partner, or surviving children by the decedent’s will, unless otherwise provided by intestate succession or by way of elective share.”.

(c) Section 19-101.05(a) is amended by striking the phrase “\$15,000” and inserting the phrase “\$30,000” in its place.

Sec. 4. Title 20 of the District of Columbia Code is amended as follows.

(a) Section 20-101(r) is amended by striking the phrase “Standard probate” and inserting the phrase “Formal probate” in its place.

(b) Section 20-103 is amended by adding a new subsection (f) to read as follows:

“(f) **Waiver of notice.** — A person may waive the right to any notice or may consent to any matter. The waiver or consent shall set forth the specific matter that is the subject of the waiver or consent, be signed, and be filed with the Court and served on the personal representative. A person may revoke a waiver or consent at any time by filing a revocation with the Court and serving it on the personal representative. The revocation shall have prospective effect only.”.

(c) Section 20-301 is amended by striking the phrase “standard probate proceeding” and inserting the phrase “formal probate proceeding” in its place.

(d) Section 20-303 is amended by a new subsection (c-1) to read as follows:

“(c-1) **Appointment by Nomination.** — Subject to subsections (a) and (b) of this section, the heirs of an intestate decedent or the legatees of a testate decedent may nominate by writing a person to act as personal representative. A person may renounce his or her right to nominate, to be nominated, or to be appointed by filing an appropriate writing with the Court. The Register of Wills may prescribe the form by which such nomination shall occur.”.

(e) Section 20-304(e) is amended by striking the phrase “standard probate” both times it appears and inserting the phrase “formal probate” in its place.

(f) Section 20-311 is amended to read as follows:

“§ 20-311. Nature of proceeding.

“(a) Upon request for abbreviated probate contained in a petition for probate, the Register of Wills:

“(1) May admit a will to probate; and

“(2) Shall appoint one or more personal representatives based on the statements contained in the petition for probate.

“(b) The Register of Wills may require additional verified proof, which shall be filed in the proceeding.

“(c) The finality of abbreviated probate shall be governed by § 20-331.”.

(g) The subchapter heading for Subchapter III of Chapter 3 is amended by striking the phrase “Standard Probate” and inserting the phrase “Formal Probate” in its place.

(h) Section 20-321 is amended by striking the phrase “standard probate” wherever it appears and inserting the phrase “formal probate” in its place.

(i) The lead-in language of section 20-322 is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(j) Section 20-323 is amended as follows:

(1) The section heading is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(2) Subsection (a) is amended to read as follows:

“(a) **When given.** – A person filing a petition for formal probate shall promptly give notice to all known interested persons. In addition, the petitioner shall publish a notice once a week for 2 successive weeks in a legal periodical of general circulation in the District or in any other publication the Court may provide by Rule.”.

(k) Section 20-324 is amended as follows:

(1) The lead-in language is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(2) Paragraph (2) is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(l) Section 20-331 is amended as follows:

(1) The section heading is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(2) Subsection (a) is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(3) Subsection (b) is amended by striking the phrase “standard probate” and inserting the phrase “formal probate” in its place.

(m) Section 20-343(a) is amended by striking the phrase “3 successive weeks a notice in a newspaper of general circulation in the District of Columbia and” and inserting the phrase “2 successive weeks a notice in a legal periodical of general circulation in the District or” in its

place. (n) Section 20-351 is amended by striking the phrase "\$40,000" and inserting the phrase "\$80,000" in its place.

(o) A new subchapter VII of Chapter 3 is added to read as follows:

"Subchapter VII. Transfers by affidavit.

"§ 20-360. Definitions.

"For the purposes of this subchapter, the term:

"(1) "Designated successor" means one who shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by District law.

"(2) "Person" means any individual, corporation, business trust, fiduciary, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

"(3) "Small asset" means any indebtedness owed to or any asset belonging or presently distributable to the decedent, other than real property. The term "small asset" includes any bank account, savings institution account, credit union account, brokerage account, security, deposit, tax refund, overpayment, item of tangible personal property, or an instrument evidencing a debt, obligation, stock, or chose in action.

"(4) "Successor" means any person, other than a creditor, who is entitled under the decedent's will or the laws of intestacy to part or all of a small asset.

"§ 20-361. Payment or delivery of small asset by affidavit.

"(a) Any person having possession of a small asset shall pay or deliver the small asset to the designated successor of the decedent upon being presented an affidavit made by all of the known successors stating:

"(1) The value of the decedent's entire probate estate, less liens and encumbrances, as of the date of the decedent's death, wherever located, exceeds the estate's known liabilities but does not exceed \$40,000, and that such estate does not include an interest in real property;

"(2) At least 60 days have elapsed since the decedent's death as shown in a certified copy of the decedent's death certificate attached to the affidavit;

"(3) No application for the appointment of a personal representative is pending or has been granted in any jurisdiction;

"(4) The decedent's will, if any, was duly admitted to probate;

"(5) The funeral expenses of the decedent have been paid;

"(6) The names and addresses of all successors, to the extent known, and the amount, proportion, or percentage of the small asset to which each successor is entitled;

"(7) The name of each successor designated to receive payment or delivery of the small asset on behalf of any other successor, the grounds for such representation, and that each designated successor shall have a fiduciary duty to safeguard and promptly pay or deliver the small asset as required by District law; and

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“(8) The person named as successor to the small asset under the affidavit swears or affirms that all statements in the affidavit are true and material, under penalty of perjury pursuant to § 22-2402.

“(b) The designated successor may discharge his fiduciary duty to promptly pay or deliver the small asset to a successor who is, or is reasonably believed to be, incapacitated or under a legal disability, by paying or delivering the asset directly to the incapacitated or disabled successor or applying it for such successor's benefit, or by:

“(1) Paying it to the guardian or conservator of such successor’s property or, if no such guardian or conservator exists, the guardian of such successor’s person;

“(2) Paying it to such successor's custodian under Chapter 3 of Title 21 or custodial trustee under Chapter 11 of Title 19, and, for that purpose, creating a custodianship or custodial trust;

“(3) If the designated successor does not know of a conservator, guardian, custodian, or custodial trustee, paying it to an adult relative or other person having legal or physical care or custody of such successor to be expended on such successor's behalf; or

“(4) Managing it as a separate fund on such successor's behalf, subject to such successor's continuing right to withdraw the asset.

“(c) A transfer agent of any security, upon the surrender of the certificates, if any, evidencing the security, shall change the registered ownership on the books of a corporation from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection (a) of this section.

“(d) The Department of Motor Vehicles shall transfer title of a motor vehicle from the decedent to the designated successor upon the presentation of an affidavit as provided in subsection (a) of this section and payment of any necessary fees.

“(e)(1) Upon the presentation of an affidavit as provided in subsection (a) of this section, the designated successor may endorse or negotiate any small asset that is a check, draft, or other negotiable instrument that is payable to the decedent or the decedent's estate.

“(2) Notwithstanding the provisions of §§ 28:3-403, 28:3-417, and 28:3-420, a financial institution accepting such check, draft, or other negotiable instrument presented for deposit in such manner is discharged from all claims for the amount accepted.

“(f) For purposes of subsection (a) of this section, a distributee shall have the same rights as a personal representative under Chapter 25 of Title 21 to access a digital asset of the decedent.

“§ 20-362. Effect of affidavit.

“(a)(1) Any person paying or delivering a small asset pursuant to § 20-361 shall be discharged and released to the same extent as if that person dealt with the personal representative of the decedent.

“(2) Such person shall not be required to see the application of the small asset or to inquire into the truth of any statement in any affidavit.

“(b) If any person to whom such an affidavit is presented refuses to pay or deliver any small asset, the small asset may be recovered, or its payment or delivery compelled, and damages

may be recovered, on proof of rightful claim in a proceeding brought for that purpose by or on behalf of the person entitled thereto.

“(c)(1) If a person or entity holding property of a decedent refuses to honor an affidavit without reasonable cause, such person or entity shall be liable for all costs, including reasonable attorney fees and costs, incurred by or on behalf of the persons entitled to such property.

“(2) The person to whom an affidavit was delivered shall bear the burden of proving reasonable cause by a preponderance of the evidence.

“(d) Any person to whom payment or delivery of a small asset has been made shall be answerable and accountable therefor to any personal representative of the decedent's estate or to any other successor having an equal or superior right.”.

(p) Section 20-527 is amended by striking the phrase “standard probate” wherever it appears and inserting the phrase “formal probate” in its place.

(q) Section 20-701(b) is amended by striking the phrase “standard probate” both times it appears and inserting the phrase “formal probate” in its place.

(r) Section 20-704 is amended by striking the phrase “publish a notice of the appointment in a newspaper of general circulation in the District of Columbia and any other publication the Court may order or provide by Rule once a week for 3 successive weeks” and inserting the phrase “publish a notice of the appointment in a legal periodical of general circulation in the District or any other publication as the Court may provide by Rule once a week for 2 successive weeks” in its place.

(s) Section 20-741(16) is amended by striking the phrase “\$5,000” and inserting the phrase “\$15,000” in its place.

(t) Section 20-906(a)(2) is amended by striking the phrase “\$1,500” and inserting the phrase “\$5,000” in its place.

(u) Section 20-907 is amended by striking the phrase “\$1,500 according to the condition and circumstances of the decedent, but in no event shall such allowance exceed \$5,000” and inserting the phrase “\$5,000 according to the condition and circumstances of the decedent, but in no event shall such allowance exceed \$15,000” in its place.

Sec. 5. Title 47 of the District of Columbia Official Code is amended as follows:

(a) Section 47-850.02(b) is amended as follows:

(1) Paragraph (1) is amended by striking the phrase “30 days” and inserting the phrase “12 months” in its place.

(2) A new paragraph (7) is added to read as follows:

“(7) Notwithstanding paragraphs (1)-(3) of this subsection, if a real property no longer qualifies as a homestead as a result of the death of the owner, the following provisions shall apply:

“(A) The applicant, or current owner if there is no applicant, shall notify the Mayor of the date of the change in eligibility within 365 days after the owner's death;

“(B) The homestead shall continue to the end of the second half year following the half year of the death of the owner or 12 months after the death of the owner, whichever is latest;

“(C) Notwithstanding subparagraph (A) of this paragraph, the applicant shall not be required to notify the Mayor of the change in eligibility if the real property is transferred and continued to qualify as a homestead within 365 days before the property was transferred by deed to the new owner; and

“(D) If the tax is paid within 365 days of the corresponding bill, timely notification of the change in eligibility shall preclude assessment of penalty and interest.”.

(b) Section 47-863(f) is amended by adding a new paragraph (7) to read as follows:

“(7) Notwithstanding paragraphs (1)-(3) of this subsection, if a real property no longer qualifies as a homestead as a result of the death of the owner, the following provisions shall apply:

“(A) The applicant, or current owner if there is no applicant, shall notify the Mayor of the date of the change in eligibility within 365 days after the owner’s death;

“(B) The deduction shall continue to the end of the second half year following the half year of the death of the owner or 12 months after the death of the owner, whichever is latest;

“(C) Notwithstanding subparagraph (A) of this paragraph, the applicant shall not be required to notify the Mayor of the change in eligibility if the real property is transferred and continued to qualify for the deduction within 365 days before the property was transferred by deed to the new owner; and

“(D) If the tax is paid within 365 days of the corresponding bill, timely notification of the change in eligibility shall preclude assessment of penalty and interest.”.

Sec. 6. Section 45(a)(1) of the Secure DC Omnibus Amendment Act of 2024, effective June 8, 2024 (D.C. Law 25-175; 71 DCR 2732), is amended to read as follows:

“(a)(1) The second subsection designated (b) in section 2, and sections 5, 9, 14, amendatory subsection (b-11) in section 28(b)(3), section 32, 33, amendatory section 7 in section 37, and section 44 shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.”.

Sec. 7. Applicability.

(a) Section 5 shall apply upon the date of inclusion of their fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

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(2) The date of publication of the notice of the certification shall not affect the applicability of the provision identified in subsection (a) of this section.

Sec. 8. 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. 9. 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) 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)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia