

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend An Act To establish a code of law for the District of Columbia to provide that property held by spouses or domestic partners as tenants by the entirety, including the proceeds of such property, that is subsequently conveyed to a trust shall, in certain circumstances, be presumed to have the same immunity from the claims of the separate creditors of the spouses or domestic partners as would exist if the property were still held by the spouses or domestic partners as tenants by the entirety.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Joint Property Protection Amendment Act of 2022”.

Sec. 2. Section 1031 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1352; D.C. Official Code § 42-516), is amended by adding a new subsection (d) to read as follows:

“(d)(1) Notwithstanding D.C. Official Code § 19-1305.05, except as explicitly provided for in a trust instrument, property held by spouses or domestic partners, as that term is defined in section 2(3) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(3)), in a tenancy by the entirety that is subsequently conveyed to a trustee of a joint or separate revocable or irrevocable trust shall be presumed to have the same immunity from the claims of the separate creditors of the spouses or domestic partners as would exist if the property were still held by the spouses or domestic partners as tenants by the entirety; provided, that:

“(A) The spouses or domestic partners continue to be married or in a domestic partnership with one another;

“(B) The property continues to be held in trust by the trustee or the successors in trust of the trustee; and

“(C) Both spouses or domestic partners are beneficiaries of the trust.

“(2) The immunity from the claims of separate creditors under this subsection may be waived as to any specific creditor, including any separate creditor of either spouse or domestic partner, or any specifically described property, including any former tenancy by the entirety property conveyed into a trust, by the trustee acting under the express provision of a trust instrument or with the written consent of both spouses or domestic partners.

“(3) Upon the death of the first spouse or domestic partner, property held in a trust that was immune from the claims of their separate creditors under paragraph (1) of this subsection immediately before the individual’s death shall continue to have the same immunity from the claims of the separate creditors of the decedent spouse or domestic partner as would exist if the property were still held by the spouses or domestic partners as tenants by the entirety.

“(4) For the purposes of this subsection, the term “property” includes the proceeds of any real or personal property.”.

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 Mayor, action by the Council to override the veto), 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)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia