

ENROLLMENT(S)



COUNCIL OF THE DISTRICT OF COLUMBIA

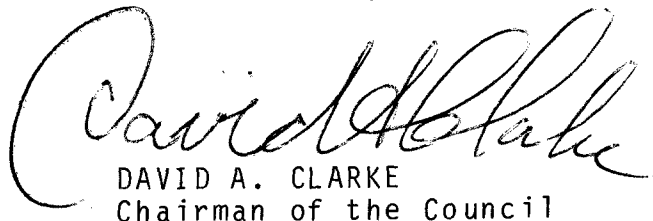
NOTICE

D.C. LAW 8-10

"Automatic Substitution of Fiduciaries
Amendment Act of 1989".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 8-141 on first and second readings, April 4, 1989, and April 18, 1989, respectively. Following the signature of the Mayor on April 27, 1989, this legislation was assigned Act No. 8-26, published in the May 12, 1989, edition of the D.C. Register, (Vol. 36 page 3364) and transmitted to Congress on May 2, 1989 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 8-10, effective June 16, 1989.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

May 2,3,4,5,8,9,10,11,12,15,16,17,18,19,22,23,24,25,31

June 1,2,5,6,7,8,9,12,13,14,15

Codification,
District of Columbia Code
(1989 Supp.)

AN ACT

D.C. ACT 8 - 26

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

APR 27 1989

To amend An Act To establish a code of law for the District of Columbia to provide for the automatic substitution of fiduciaries upon merger, consolidation, purchase, or creation of a subsidiary qualified to administer trusts.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Automatic Substitution of Fiduciaries Amendment Act of 1989".

Sec. 2. An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1189; D.C. Code, sec. 26-401 et seq.), is amended by adding a new section 723a to read as follows:

"Sec. 723a. Automatic substitution of fiduciaries.

New, Section
26-411.1

"(a) For the purpose of this section, the term:

(1) "Affiliate" means a company that is affiliated with a bank or bank holding company because the bank or bank holding company has the power to vote 5% or more of the outstanding voting securities of the company.

(2) "Bank" means a bank as defined in section 2(c)(1) of the Bank Holding Companies Act, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. 1841(c)(1)).

(3) "Bank holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Companies Act, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. 1841(a)).

(4) "Beneficiary" means a person who is currently receiving or is entitled to receive a current distribution of principal or income from a trust, estate, or fund from a fiduciary that is subject to this section. The term "beneficiary" shall include:

(A) A minor beneficiary's natural or legal guardian; and

(B) Any person acting on behalf of an incompetent beneficiary under a court ordered guardianship, conservatorship, or committee.

(5) "District" means the District of Columbia.

(6) "Fiduciary" means a trustee, executor, personal representative, executor, executrix, receiver, special administrator, guardian, conservator, committee, custodian, or any other term denoting a fiduciary relationship.

(7) "Trust company" means a corporation organized under the laws of the District to carry on a trust business or a national association organized under the laws of the United States that is authorized to transact trust business in the District and meets the criteria of section 2(2)(d) of the Bank Holding Companies Act, approved May 9, 1956 (70 Stat. 133; 12 U.S.C. 1841(c)(2)(D))."

"(b) Notwithstanding any other provision of law, the successor bank, trust company, or subsidiary shall be automatically substituted as the successor fiduciary if:

"(1) A bank that is qualified to administer trusts merges into, is consolidated with, or purchases the assets of a trust company or a bank that is qualified to administer trusts;

"(2) A trust company merges into, is consolidated with, or purchases the assets of another trust company or a bank that is qualified to administer trusts;

"(3) A bank or bank holding company causes a subsidiary that is qualified to administer trusts to succeed to part or all of the trust business of the bank or bank holding company; or

"(4) A bank or bank holding company causes a subsidiary to succeed to part or all of the trust business of another subsidiary of the bank or bank holding company.

"(c) The substitution of one fiduciary for another fiduciary pursuant to this section shall be effective 60 days after closing pursuant to the acquisition or merger agreement, without any order or approval of any court or public officer. The successor fiduciary shall have all the rights and duties of the predecessor fiduciary. Unless otherwise provided in the document or instrument, the successor fiduciary shall be automatically named as fiduciary in all writings, wills, trusts, court orders, or similar documents or instruments that name the predecessor fiduciary as fiduciary, whether signed before or after the successor fiduciary is created or succeeds to the trust business of the predecessor fiduciary.

"(d) For the purposes of qualification as a fiduciary or a successor fiduciary under any requirement contained in any document creating or relating to a fiduciary capacity, the successor bank, trust company, bank holding company, or


subsidiary trust company is considered to have capital and surplus equal to its capital and surplus plus the capital and surplus of its owning bank, bank holding company, and their affiliates.

"(e) Not less than 30 days before the succession becomes effective under this section, the successor fiduciary shall publish notice of the succession in a newspaper of general circulation in the District and shall mail the notice to each co-fiduciary of the successor fiduciary, to each surviving settlor of a trust, to each person who alone or in conjunction with others has the power to remove the fiduciary, to each beneficiary of a trust, estate, or fund, and to the Superintendent of Banking and Financial Institutions of the District of Columbia. In the case of a trust described in chapter 736 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 134; 26 U.S.C. 401(a)), notice shall be mailed to the employer, employee organization, or both, responsible for the maintenance of the trust. Notice shall be sent by certified mail to the last known address of the addressee and shall contain the name of the predecessor fiduciary, the name of the successor fiduciary, and the effective date of the assumption of fiduciary responsibilities by the successor fiduciary.

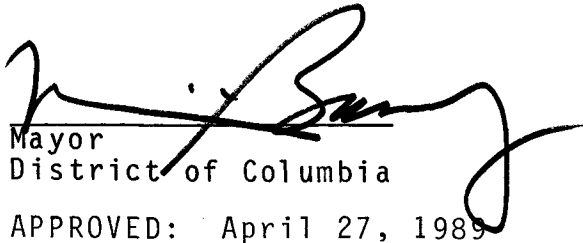
"(f) Within 180 days after succession under this section, a co-fiduciary, settlor of a trust, beneficiary, guardian, conservator, committee, or any other person authorized to remove a fiduciary, may apply to the Superior Court of the District of Columbia ("Court") for the appointment of a new fiduciary to replace the successor fiduciary. The court may appoint a new fiduciary to replace the successor fiduciary if it finds, after notice to all parties in interest and a hearing, that the successor fiduciary will adversely affect the administration of the fiduciary account and that the appointment of a new fiduciary will be in the best interest of the petitioner and all interested parties. This provision shall be in addition to any other provision of law governing the removal of a fiduciary and shall be subject to the terms upon which the original fiduciary was designated as fiduciary.

Sec. 3. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia

Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: April 27, 1989



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Eight

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 8-141

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 4-4-89

VOICE VOTE: Approved

Recorded vote on request

Absent: Jarvis and Kane

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell C. Smith
 Secretary to the Council

4-19-89
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 4-18-89

VOICE VOTE: Approved

Recorded vote on request

Absent: Ray and Wilson

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell C. Smith
 Secretary to the Council

4-19-89
 Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____ (_ / _ / _)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					THOMAS, SR.				
CRAWFORD					NATHANSON					WILSON				
JARVIS					RAY					WINTER				
KANE					ROLARK									
LIGHTFOOT					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

 Secretary to the Council

 Date