

## Public Law 88-509

## AN ACT

August 30, 1964  
[H. R. 11466]

To enact subtitle II, "Other Commercial Transactions", of title 28, "Commercial Instruments and Transactions", of the District of Columbia Code, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the general and permanent laws of the District of Columbia, relating to commercial instruments and transactions, not embraced in "Subtitle I—Uniform Commercial Code" of title 28, District of Columbia Code, which was enacted by Public Law 88-243, are revised, codified, and enacted as "Subtitle II—Other Commercial Transactions", of title 28, and may be cited as "D.C. Code, §—", as follows:

District of  
Columbia Code.  
"Other Commer-  
cial Transac-  
tions."

77 Stat. 630.

## SUBTITLE II—OTHER COMMERCIAL TRANSACTIONS

CHAPTER	Sec.
21. ASSIGNMENT FOR BENEFIT OF CREDITORS.....	28-2101
23. ASSIGNMENT OF CHOSES IN ACTION.....	28-2301
25. BONDS AND UNDERTAKINGS.....	28-2501
27. BUSINESS HOLIDAYS AND COMPUTATION OF TIME.....	28-2701
29. FIDUCIARY SECURITY TRANSFERS.....	28-2901
31. FRAUDULENT CONVEYANCES.....	28-3101
33. INTEREST AND USURY.....	28-3301
35. STATUTE OF FRAUDS.....	28-3501

### CHAPTER 21—ASSIGNMENT FOR BENEFIT OF CREDITORS

Sec
28-2101. Form of assignment.
28-2102. Extent of assignment—Assets exempt.
28-2103. Assignee.
28-2104. Bond of assignee.
28-2105. Nonperformance by assignee—Trustee.
28-2106. Duties of assignee.
28-2107. Preferences prohibited.
28-2108. Proceedings for benefit of all creditors.
28-2109. Assignment to hinder or defraud creditors.
28-2110. Notice to creditors.

#### § 28-2101. Form of assignment

In a voluntary assignment for the benefit of creditors, the debtor shall annex to the assignment (1) an inventory, under oath or affirmation, of his estate, real and personal, according to the best of his knowledge, (2) a list of his creditors, their respective residences and places of business, if known, and (3) the amounts of their respective demands.

#### § 28-2102. Extent of assignment—Assets exempt

An assignment vests in the assignee the title to all property, except what is legally exempt, belonging to the debtor at the time of making the assignment and comprehended within its general terms. The inventory annexed to an assignment is not conclusive as to the amount of the debtor's estate.

An assignment for the benefit of creditors does not include or cover property exempt from levy or sale on execution unless the exemption is expressly waived. The court may direct the manner in which exempt property may be ascertained and set aside before a sale by a trustee.

**§ 28-2103. Assignee**

Only a resident of the District of Columbia may be an assignee in an assignment for the benefit of creditors. His assent shall appear in writing in, or at the end of, or indorsed on, the assignment. An assignment is invalid unless acknowledged and recorded within five days after its execution in the land records of the District. A trust created by an assignment shall be executed under the supervision and control of the United States District Court for the District of Columbia.

**§ 28-2104. Bond of assignee**

Immediately upon the filing for record of an assignment for the benefit of creditors, the assignee shall execute and file in the clerk's office of the United States District Court for the District of Columbia his bond to the United States, in an amount and with security to be approved by a judge thereof, conditioned for the faithful performance of his duties according to law, and the court may from time to time require the assignee, or a trustee appointed in his place, to give additional security when required by the interests of the creditors.

**§ 28-2105. Non-performance by assignee—Trustee**

If an assignee named in an assignment for the benefit of creditors fails or refuses to comply with any of the requirements of sections 21-2103 and 21-2104, a judge of the District Court may, on the application of the assignor or a creditor interested in the assignment, remove the assignee and appoint a trustee in his place to execute the trusts created by the assignment, who shall give bond as the court may require. And the court may accept the resignation of an assignee or trustee, and in case of his resignation, death, or removal from the District, appoint a trustee in his place. The court, for cause shown, on the application of an interested person, may remove an assignee or trustee and appoint a trustee in his place, and make and enforce all orders necessary to put the newly appointed trustee in possession of all property covered by the assignment. Upon the death of an assignee or trustee the court may require his executor or administrator to settle his account and to deliver over to his successor all property belonging to the trust, in default of which the successor may bring suit upon the bond of the deceased assignee or trustee or upon the bond of the executor or administrator, accordingly as the assignee or trustee, executor or administrator is the party in default.

**§ 28-2106. Duties of assignee**

An assignee or trustee, after giving bond, shall collect and take into his possession all the property covered by the assignment, and to that end he may bring suit in his own name to recover debts due or property belonging to the assignor and embraced in the assignment. The court may require the assignor to be examined under oath touching his property, and may make all orders necessary to prevent any fraudulent transfer of or change in the property of the assignor. The assignee or trustee shall return inventories of the assets coming to his hands and, upon the direction of the court, sell and dispose of them; and his conveyance of any property of the assignor, real or personal, transfers the entire title of the assignor therein to the purchaser. When the assets have been converted into money the assignee or trustee shall settle his accounts and make distribution among the creditors, under the direction of the court, according to the usual course of proceeding in creditor's suits.

**§ 28-2107. Preferences prohibited**

A provision in a voluntary assignment made for the payment of one debt or liability in preference to another is void, and all debts and liabilities within the provisions of the assignment shall be paid pro rata from the assets. This section does not affect the priority of liens and incumbrances created bona fide and existing before the execution of the assignment.

**§ 28-2108. Proceedings for benefit of all creditors**

A proceeding instituted under this chapter by one or more creditors is deemed to be for the equal benefit of all creditors, but the court may make such allowance to the creditor or creditors instituting the same, out of the fund to be distributed, for expenses, including counsel fees, as may be just and equitable.

**§ 28-2109. Assignment to hinder or defraud creditors**

This chapter does not prevent a creditor otherwise entitled from attacking an assignment as made to hinder or defraud the creditors of the assignor. When the court finds an assignment to have been made with that intent, it may enjoin any proceeding thereunder, and upon finally decreeing the assignment to be void may appoint a trustee with power to take possession of all the property of the debtor, and may make and enforce all orders necessary to put him in possession of the property. The trustee shall qualify in the same manner and perform the same duties as the trustees provided for by this chapter.

**§ 28-2110. Notice to creditors**

The court shall require a trustee, whether named in the assignment or appointed by the court, in pursuance of this chapter, to give notice as the court may think proper to all the creditors of the assignor to produce and prove their respective claims against the assignor before the auditor of the court, to the end that they may be fairly adjudicated and the creditors may share equally the assets of the insolvent assignor, subject, however, to any legal priorities created by valid incumbrances antedating the assignment.

**CHAPTER 23—ASSIGNMENT OF CHOSSES IN ACTION**

Sec.

28-2301. Assignment of judgment or money decree.

28-2302. Assignment of bond or obligation.

28-2303. Assignment of nonnegotiable contract.

28-2304. General assignments including choses in action.

28-2305. Contract to assign future salary or wages.

**§ 28-2301. Assignment of judgment or money decree**

A judgment or money decree may be assigned in writing, and upon the assignment thereof being filed in the clerk's office the assignee may maintain an action or sue out an execution on the judgment in his own name, as the original plaintiff might have done.

**§ 28-2302. Assignment of bond or obligation**

An obligee named in a bond or obligation under seal for the payment of money may assign it in writing and the assignee may maintain an action thereon in his own name.

**§ 28-2303. Assignment of nonnegotiable contract**

An owner of a nonnegotiable written agreement for the payment of money, including a nonnegotiable bill of exchange and a promissory note, or for the delivery of personal property, an open account, debt, and demand of a liquidated character, except a claim against the United States or the salary of a public officer, may assign it in writing, and the assignee may maintain an action thereon in his own name.

**§ 28-2304. General assignments including choses in action**

In a general assignment which includes choses in action, it is not necessary to execute a separate assignment of each chose in action, but the assignee, by virtue of the general assignment, may sue in his own name on the several choses in action included therein.

**§ 28-2305. Contract to assign future salary or wages**

(a) A contract attempting or purporting to transfer or assign salary or wages to be earned by the debtor, if made in the District of Columbia, is invalid and contrary to public policy and unenforceable, and if made outside the District of Columbia, is unenforceable in any court within the District of Columbia.

(b) Whoever, in the District of Columbia demands or receives from a debtor an assignment of salary or wages to be thereafter earned by the debtor, or notifies an employer that he holds an assignment of such salary or wages, upon conviction shall be fined not more than \$200 or imprisoned not more than sixty days. Prosecutions under this subsection shall be upon information filed in the Criminal Division of the District of Columbia Court of General Sessions by the Corporation Counsel of the District of Columbia or one of his assistants.

**CHAPTER 25—BONDS AND UNDERTAKINGS**

Sec.

28-2501. Definitions.

28-2502. Action on bond in a penal sum containing an avoidance condition.

28-2503. Action on bond to United States—Interest by private person.

28-2504. Fiduciary's bond—Discharge only after accounting.

**§ 28-2501. Definitions**

A bond, when required by or referred to in this Code, means an obligation in a certain sum or penalty, subject to a condition, on breach of which it is to become absolute and enforceable by action.

An undertaking means an agreement entered into by a party to a suit or proceeding, with or without sureties, upon which a judgment or decree may be rendered in the same suit or proceeding against the party and his sureties, if any, the party and sureties submitting themselves to the jurisdiction of the court for that purpose.

**§ 28-2502. Action on bonds in a penal sum containing an avoidance condition**

A bond in a penal sum, containing a condition that it shall be void on the payment of a certain sum of money, or the performance of an act or of certain duties, has the same effect for the purpose of maintaining an action upon it as if it contained a covenant to pay the money or perform the act or the duties specified in the condition. But the damages to be recovered for a breach, or successive breaches, of the condition, as against the sureties therein, may not exceed the penalty of the bond.

**§ 28-2503. Action on bond to United States—Interest by private person**

When a bond is executed to the United States by a fiduciary or public officer, conditioned for the performance of certain duties, in the performance of which private persons are interested, a person aggrieved by a breach of the condition may maintain an action thereon in his own name against the obligor and his sureties to recover damages for the injury suffered by him in consequence of the breach. The custodian of the bond shall furnish a certified copy thereof to the party for that purpose on payment of the legal fees therefor.



**§ 28-2504. Fiduciary's bond—Discharge only after accounting**

A person appointed by order or decree of the court to a fiduciary office may not discharge his bond for the due performance of his duties, by receipts, releases, or acquittances from himself, as attorney for parties interested, to himself as fiduciary; but the funds or estate for the application whereof he is responsible shall be considered as remaining in his hands, and the bond shall continue in force as against both principal and sureties until the funds or estate are fully accounted for and paid over or delivered to the parties interested therein, or their attorney, other than himself.

**CHAPTER 27—BUSINESS HOLIDAYS AND COMPUTATION OF TIME****SUBCHAPTER I—BUSINESS HOLIDAYS**

Sec.

**28-2701. Holidays designated—Time for performing acts extended.****SUBCHAPTER II—COMPUTATION OF TIME****28-2711. Daylight-saving time.****Subchapter I—Business Holidays****§ 28-2701. Holidays designated—Time for performing acts extended**

The following days in each year, namely, the first day of January, commonly called New Year's Day; the twenty-second day of February, known as Washington's Birthday; the Fourth of July; the thirtieth day of May, commonly called Decoration Day; the first Monday in September, known as Labor Day; the twenty-fifth day of December, commonly called Christmas Day; every Saturday, after twelve o'clock noon; any day appointed or recommended by the President of the United States as a day of public feasting or thanksgiving, and the day of the inauguration of the President, in every fourth year are holidays in the District for all purposes. When a day set apart as a legal holiday falls on Sunday the next succeeding day is a holiday. In such cases, and when a Sunday and a holiday fall on successive days, all commercial paper falling due on any of those days shall, for all purposes of presenting for payment or acceptance, be deemed to mature and be presentable for payment or acceptance on the next secular business day succeeding. Every Saturday is a holiday in the District for (1) every bank or banking institution having an office or banking house located within the District, (2) every Federal savings and loan association whose main office is in the District, and (3) every building association, building and loan association, or savings and loan association, incorporated or unincorporated, organized and operating under the laws of and having an office located within the District. An act which would otherwise be required, authorized, or permitted to be performed on Saturday in the District at the office or banking house of, or by, any such bank or bank institution, Federal savings and loan association, building association, building and loan association, or savings and loan association, if Saturday were not a holiday, shall or may be so performed on the next succeeding business day, and liability or loss of rights of any kind may not result from such delay.

## Subchapter II—Computation of Time

### § 28-2711. Daylight-saving time

The Board of Commissioners of the District of Columbia may advance the standard time applicable to the District one hour for the period commencing not earlier than the last Sunday of April and ending not later than the last Sunday of October, of each year. Any such time established by the Commissioners under the authority of this section, during the period of the year for which it is applicable, is the standard time for the District of Columbia.

## CHAPTER 29—FIDUCIARY SECURITY TRANSFERS

Sec.

- 28-2901. Definitions.
- 28-2902. Registration in name of fiduciary.
- 28-2903. Assignment by fiduciary.
- 28-2904. Evidence of appointment of incumbency.
- 28-2905. Adverse claims.
- 28-2906. Nonliability of corporation and transfer agent.
- 28-2907. Nonliability of third persons.
- 28-2908. Territorial applicability.
- 28-2909. Tax obligations.

### § 28-2901. Definitions

In this chapter, unless the context otherwise requires:

- (1) "assignment" includes a written stock power, bond power, bill of sale, deed, declaration of trust or other instrument of transfer;
- (2) "claim of beneficial interest" includes a claim of any interest by a decedent's legatee, distributee, heir or creditor, a beneficiary under a trust, a ward, a beneficial owner of a security registered in the name of a nominee, or a minor owner of a security registered in the name of a custodian, or a claim of a similar interest, whether the claim is asserted by the claimant or by a fiduciary or by any other authorized person on his behalf, and includes a claim that the transfer would be in breach of fiduciary duties;
- (3) "corporation" means a private or public corporation, association or trust issuing a security;
- (4) "fiduciary" means an executor, administrator, trustee, guardian, committee, conservator, curator, tutor, custodian, or nominee;
- (5) "person" includes an individual, a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or other legal or commercial entity;
- (6) "security" includes a share of stock, bond, debenture, note or other security issued by a corporation which is registered as to ownership on the books of the corporation;
- (7) "transfer" means a change on the books of a corporation in the registered ownership of a security;
- (8) "transfer agent" means a person employed or authorized by a corporation to transfer securities issued by the corporation.

### § 28-2902. Registration in name of a fiduciary

A corporation or transfer agent registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent, or correct description of the fiduciary relationship, and thereafter the corporation and its transfer agent may assume without inquiry that the newly registered owner continues to be the fiduciary until the corporation or transfer

agent receives written notice that the fiduciary is no longer acting as such with respect to the particular security.

#### **§ 28-2903. Assignment by fiduciary**

Except as otherwise provided by this chapter, a corporation or transfer agent making a transfer of a security pursuant to an assignment by a fiduciary:

(1) may assume without inquiry that the assignment, even though to the fiduciary himself or his nominee, is within his authority and capacity and is not in breach of his fiduciary duties;

(2) may assume without inquiry that the fiduciary has complied with any controlling instrument and with the law of the jurisdiction governing the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer; and

(3) is not charged with notice of and is not bound to obtain or examine any court record or recorded or unrecorded document relating to the fiduciary relationship or the assignment, even though the record or document is in its possession.

#### **§ 28-2904. Evidence of appointment of incumbency**

A corporation or transfer agent making a transfer pursuant to an assignment by a fiduciary who is not the registered owner shall require the following evidence of appointment or incumbency:

(1) in the case of a fiduciary appointed or qualified by a court, a certificate issued by or under the direction or supervision of the court or an officer thereof, and dated within sixty days before the transfer; or

(2) in any other case, a copy of a document showing the appointment or a certificate issued by or on behalf of a person reasonably believed by the corporation or transfer agent to be responsible or, in the absence of such a document or certificate, other evidence reasonably deemed by the corporation or transfer agent to be appropriate. Corporations and transfer agents may adopt reasonable standards with respect to evidence of appointment or incumbency under this subsection. Neither the corporation nor transfer agent is charged with notice of the contents of any document obtained pursuant to this subsection except to the extent that the contents relate directly to the appointment or incumbency.

#### **§ 28-2905. Adverse claims**

(a) A person asserting a claim of beneficial interest adverse to the transfer of a security pursuant to an assignment by a fiduciary may notify in writing the corporation or transfer agent of the claim. The corporation or transfer agent is not put on notice unless the written notice (1) identifies the claimant, the registered owner, and the issue of which the security is a part, (2) provides an address for communications directed to the claimant, and (3) is received before the transfer. This chapter does not relieve the corporation or transfer agent of any liability for making or refusing to make the transfer after it is so put on notice, unless it proceeds in the manner authorized by subsection (b).

(b) As soon as practicable after the presentation of a security for transfer pursuant to an assignment by a fiduciary, a corporation or transfer agent which has received notice of a claim of beneficial interest adverse to the transfer may send notice of the presentation by registered or certified mail to the claimant at the address given by him. If the corporation or transfer agent so mails such a notice it shall withhold the transfer for thirty days after the mailing and shall then make the transfer unless restrained by a court order.

**§ 28-2906. Nonliability of corporation and transfer agent**

A corporation or transfer agent does not incur liability to any person by making a transfer or otherwise acting in a manner authorized by this chapter.

**§ 28-2907. Nonliability of third persons**

(a) A person who participates in the acquisition, disposition, assignment or transfer of a security by or to a fiduciary including a person who guarantees the signature of the fiduciary is not liable for participation in any breach of fiduciary duty by reason of failure to inquire whether the transaction involves such a breach unless it is shown that he acted with actual knowledge that the proceeds of the transaction were being or were to be used wrongfully for the individual benefit of the fiduciary or that the transaction was otherwise in breach of duty.

(b) When a corporation or transfer agent makes a transfer pursuant to an assignment by a fiduciary, a person who guaranteed the signature of the fiduciary is not liable on the guarantee to any person to whom the corporation or transfer agent by reason of this chapter incurs no liability.

(c) This section does not impose any liability upon the corporation or its transfer agent.

**§ 28-2908. Territorial application**

(a) The rights and duties of a corporation and its transfer agents in registering a security in the name of a fiduciary or in making a transfer of a security pursuant to an assignment by a fiduciary are governed by the law of the jurisdiction under whose laws the corporation is organized.

(b) This chapter applies to the rights and duties of a person other than the corporation and its transfer agents with regard to acts and omissions in the District of Columbia in connection with the acquisition, disposition, assignment or transfer of a security by or to a fiduciary and of a person who guarantees in the District of Columbia the signature of a fiduciary in connection with such a transaction.

**§ 28-2909. Tax obligations**

This chapter does not affect any obligation of a corporation or transfer agent with respect to estate, inheritance, succession, or other taxes imposed by the laws of the District of Columbia.

**CHAPTER 31—FRAUDULENT CONVEYANCES**

Sec.

28-3101. Intent to defraud creditors.

28-3102. Intent to defraud purchasers.

28-3103. Fiduciaries' suit to vacate fraudulent transaction.

**§ 28-3101. Intent to defraud creditors**

A conveyance or assignment, in writing or otherwise, of an estate or interest in land or its rents and profits, or in goods or things in action, and a charge upon the same, and a bond or other evidence of debt given, or judgment or decree suffered, with the intent to hinder or defraud persons having just claims or demands, of their lawful suits, damages, or demands, is void as against the persons so hindered or defrauded.

This section does not affect the title of a purchaser for value, unless it appears that he had previous notice of the fraudulent intent of his immediate grantor, or of the fraud rendering void the title of the grantor. The question of fraudulent intent is a question of fact and not of law.



**§ 28-3102. Intent to defraud purchasers**

A conveyance of an estate or interest in land, or its rents and profits, and a charge upon the same, made or created with the intent to defraud prior or subsequent purchasers for a valuable consideration of the same lands, rents, or profits, are void, as against the purchasers. Such a conveyance or charge is not deemed fraudulent in favor of a subsequent purchaser who has actual or legal notice thereof at the time of his purchase, unless it appears that the grantee in the conveyance, or the person to be benefited by the charge, was privy to the fraud intended.

**§ 28-3103. Fiduciary's suit to vacate fraudulent transaction**

An executor, administrator, receiver, assignee, or trustee of an estate, or of the property and effects of an insolvent estate, corporation, association, partnership, or individual, may, for the benefit of creditors and others interested in the estate or property so held in trust, disaffirm, treat as void, and resist all acts done, transfers, and agreements made in fraud of the rights of a creditor, including themselves and others interested in an estate or property held by or of right belonging to him or the estate. Whoever, in fraud of the rights of creditors and others receives, takes, or in any manner interferes with the estate, property, or effects of a deceased person or insolvent corporation, association, partnership, or individual is liable, in the proper action, to the executors, administrators, receivers, or trustees of the estate or property for the same, or the value of any property or effects so received or taken, and for all damages caused by such acts to the trust estate.

**CHAPTER 33—INTEREST AND USURY**

Sec.

28-3301. Rate of interest expressed in contract.

28-3302. Rate of interest not expressed and on judgments.

28-3303. Usury defined.

28-3304. Action to recover usury paid.

28-3305. Unlawful interest credited on principal debt.

28-3306. Parties compelled to testify.

**§ 28-3301. Rate of interest expressed in contract**

The parties to an instrument in writing for the payment of money at a future time may contract therein for the payment of interest on the principal amount thereof at any rate not exceeding 8 percent per annum.

**§ 28-3302. Rate of interest not expressed and on judgments**

The rate of interest in the District upon the loan or forbearance of money, goods, or things in action, and the rate to be allowed in judgments and decrees, in the absence of express contract, is 6 percent per annum. Interest, when authorized by law, on judgments against the District of Columbia, is at the rate of not exceeding 4 percent per annum.

**§ 28-3303. Usury defined**

If a person or corporation contracts in the District,

(1) verbally, to pay a greater rate of interest than 6 percent per annum, or

(2) in writing, to pay a greater rate than 8 percent per annum, the creditor shall forfeit the whole of the interest so contracted to be received.

This section does not affect sections 26-601 to 26-611.

**§ 28-3304. Action to recover usury paid**

If a person or corporation in the District directly or indirectly takes or receive a greater amount of interest than is declared by this chapter to be lawful, whether in advance or not, the person or corporation paying the same may within one year after the date of payment sue for and recover the amount of the unlawful interest so paid.

**§ 28-3305. Unlawful interest credited on principal debt**

In an action upon a contract for the payment of money with interest at a rate forbidden by law, any payment of interest that may have been made on account of the contract is deemed to be payment made on account of the principal debt; and judgment shall be rendered for no more than the balance found due after deducting and properly crediting the interest so paid. A bona fide indorsee of negotiable paper purchased before due is not affected by any usury exacted by a former holder of the paper unless he had notice of the usury before his purchase.

**§ 28-3306. Parties compelled to testify**

When in an action to recover a debt the defendant claims that payment of unlawful interest on the debt has been made to the plaintiff or those under whom he claims, which the defendant is entitled to have credited on the principal of the debt, the plaintiff or the party who received the unlawful interest may be examined as a witness to prove the payment, and may not be excused from testifying in relation thereto. A creditor who is made defendant in a proceeding for discovery as to payments of unlawful interest made to him may not be excused from answering.

**CHAPTER 35—STATUTE OF FRAUDS**

Sec.

28-3501. Estate created otherwise than by deed.

28-3502. Special promise to answer for debt or default of another.

28-3503. Declaration, grant, and assignment of trust.

28-3504. New promise or acknowledgment of contract—Action against joint contractors.

28-3505. New promise or acknowledgment of debt incurred during infancy.

**§ 28-3501. Estate created otherwise than by deed**

An estate, attempted to be created for a greater term than one year in real estate, other than by deed, is an estate by sufferance.

**§ 28-3502. Special promise to answer for debt or default of another**

An action may not be brought to charge an executor or administrator upon a special promise to answer damages out of his own estate, or to charge the defendant upon a special promise to answer for the debt, default, or miscarriage of another person, or to charge a person upon an agreement made upon consideration of marriage, or upon a contract or sale of real estate, of any interest in or concerning it, or upon an agreement that is not to be performed within one year from the making thereof, unless the agreement upon which the action is brought, or a memorandum or note thereof, is in writing, which need not state the consideration, and signed by the party to be charged therewith or a person authorized by him.

**§ 28-3503. Declaration, grant, and assignment of trust**

A declaration or creation of trust or confidence of real estate which is not in writing, signed by the party who is by law enabled to declare the trust or by his last will in writing, is void.

A grant or assignment of a trust or confidence which is not in writing, signed by the party granting or assigning it, or by his last will, is void.

Where a conveyance is made of real estate by which a trust or confidence is or may arise or result by the implication or construction of law, or is transferred or extinguished by an act or operation of law, the trust or confidence is of the same effect as it would have been if this section had not been enacted.

**§ 28-3504. New promise or acknowledgement of contract—Action against joint contractors**

In an action upon a simple contract, an acknowledgement or promise by words only is not sufficient evidence of a new or continuing contract whereby to take the case out of the operation of the statute of limitations or to deprive a party of the benefit thereof unless the acknowledgement or promise is in writing, signed by the party chargeable thereby. This section does not alter or take away, or lessen the effect of a payment of principal or interest made by any person. In actions against two or more joint contractors, or executors, or administrators, if it appears at the trial, or otherwise, that the plaintiff, though barred by the statute of limitations as to one or more of the defendants, is nevertheless entitled to recover against any other defendant by virtue of a new acknowledgement or promise or otherwise, judgment may be given for the plaintiff as to that defendant. An indorsement or memorandum of a payment written or made upon a promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment is to be made, is sufficient proof of the payment so as to take the case out of the operation of the statute of limitations.

**§ 28-3505. New promise or acknowledgement of debt incurred during infancy**

An action may not be maintained to charge a person upon an acknowledgement of, or promise to pay, a debt contracted during infancy, made after full age, except for necessities, unless the acknowledgement or promise is in writing signed by the party to be charged therewith. This section does not affect ratification by conduct.

SEC. 2. Section 12-301 of the District of Columbia Code is amended by adding the following paragraph at the end:

77 Stat. 510.

"This section does not apply to actions for breach or contracts for sale governed by § 28-2-725."

77 Stat. 670.

SEC. 3. (a) Section 15-106(e) of the District of Columbia Code is amended by striking out "28-2405" and inserting "28-2502".

77 Stat. 523.

(b) (1) Subchapter I of chapter 1, title 15 of the District of Columbia Code, is amended by adding the following new sections:

31 Stat. 1265;  
Ante, p. 670.

77 Stat. 522.

**"§ 15-108. Interest on judgment for liquidated debt**

"In an action in the United States District Court for the District of Columbia to recover a liquidated debt on which interest is payable by contract or by law or usage the judgment for the plaintiff shall include interest on the principal debt from the time when it was due and payable, at the rate fixed by the contract, if any, until paid.

**"§ 15-109. Interest on judgment for damages in contract or tort**

"In an action to recover damages for breach of contract the judgment shall allow interest on the amount for which it is rendered from the date of the judgment only. This section does not preclude the jury, or the court, if the trial be by the court, from including interest as an element in the damages awarded, if necessary to fully compensate the plaintiff. In an action to recover damages for a wrong the judgment for the plaintiff shall bear interest.

**"§ 15-110. Interest on judgment on contracts made elsewhere**

"In an action on a contract for the payment of a higher rate of interest than is lawful in the District, made or to be performed in a State or territory of the United States where such a contract rate of interest is lawful, the judgment for the plaintiff shall include the contract interest to the date of the judgment and interest thereafter at the rate of 6 per cent per annum until paid.

**"§ 15-111. Counsel fee in proceeding on bond or undertaking**

"In a proceeding in the United States District Court for the District of Columbia to recover damages upon a bond or undertaking given to obtain a restraining order or preliminary or pendente lite injunction, the Court, in assessing damages to be recovered thereunder, may include such reasonable counsel fees as the party damaged by the restraining order or injunction may have incurred in obtaining a dissolution thereof."

(2) The analysis of subchapter I of chapter 1, title 15 of the District of Columbia Code, preceding § 15-101 is amended by adding:

"15-108. Interest on judgment for liquidated debt.

"15-109. Interest on judgment for damages in contract or tort.

"15-110. Interest on judgment on contracts made elsewhere.

"15-111. Counsel fee in proceeding on bond or undertaking."

77 Stat. 557.

(c)(1) Title 16 of the District of Columbia Code is amended by inserting the following to precede chapter 7:

**"CHAPTER 6—BONDS AND UNDERTAKINGS**

"Sec.

"16-601. Undertaking in lieu of fiduciary's bond.

**"§ 16-601. Undertaking in lieu of fiduciary's bond**

"A bond required from an executor, administrator, administrator cum testamento annexo, administrator de bonis non, guardian, committee, collector, trustee, receiver, assignee for the benefit of creditors, or other fiduciary appointed or confirmed by the United States District Court for the District of Columbia, or a judge thereof, or a bond required from a party to a cause or proceeding pending in that court, shall be in the form of an undertaking, under seal, in a maximum amount to be fixed by the court, conditioned as required by law, the surety or sureties therein submitting themselves to the jurisdiction of the court and undertaking for themselves and each of them, their and each of their heirs, executors, administrators, successors, and assigns to abide by and perform the judgment or decree of the court in the premises; and further agreeing that, upon default by the principal in any of the conditions thereof, the damages may be ascertained in such manner as the court directs and the court may give judgment thereon in favor of any person thereby aggrieved against the principal and sureties for the damages sustained by him, and that judgment may be rendered against all or any of the parties whose names are thereto signed.

"The United States District Court for the District of Columbia has jurisdiction to enter such judgments and decrees against the principal and surety or sureties, or any of them, upon the undertaking, as law and justice require. This section does not deprive a party having a claim or cause of action under or upon the undertaking from electing to pursue his ordinary remedy by civil suit.

"The provisions of this Code relating to actions, remedies and proceedings upon bonds of fiduciaries apply to such undertakings to the same extent as if undertaking had been expressly mentioned and referred to therein."



(2) The analysis preceding chapter 1 of title 16 of the District of Columbia Code is amended by inserting after

"5. Attachment and Garnishment..... 16-501"

the following new item:

"6. Bonds and Undertakings..... 16-601"

SEC. 4. The last sentence of clause 27 of § 28:1-201, is amended to read:

77 Stat. 634.

"Due diligence does not require an individual acting for the organization to communicate information unless the communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information."

SEC. 5. The first sentence of clause (1) (a) of § 28:3-501, is amended to read: "(a) presentment for acceptance is necessary to charge the drawer and indorsers of a draft where the draft so provides, or is payable elsewhere than at the residence or place of business of the drawee, or its date of payment depends upon such presentment."

77 Stat. 687.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subtitle II of title 28, District of Columbia Code, as set out in section 1 of this Act.

Appropriation  
authorization.

SEC. 7. This Act takes effect on January 1, 1965.

Effective date.

SEC. 8. (a) The following British statutes, deemed to have been in force in the District of Columbia by virtue of the Act of Mar. 1, 1901, ch. 854, sec. 1, have no further force, as such, in the District:

21 Henry III (1236), Alex. Brit. Stat., p. 36, D.C. Code, 1961 ed., § 28-2803;

31 Stat. 1189.  
D.C. Code 49-  
301.

24 Geo. II, ch. 23, §§ 1, 2 (1751), Alex. Brit. Stat., pp. 768-770, D.C. Code, 1961 ed., §§ 28-2801, 28-2802.

(b) The sections of the Acts or parts of Acts, enumerated in the schedule below, are repealed. Any rights or liabilities existing under the sections so repealed, and any cases or proceedings instituted under, or growing out of them, are not affected by the repeal. However, laws becoming effective after June 1, 1964, and inconsistent with this Act, supersede it to the extent of the inconsistency.

Repeals.

Statutes at Large					D.C. Code—1961 ed., section
Date	Chapter	Section	Volume	Page	
1901—Mar. 3.....	854	431	31	1256	28-2501
Do.....	854	432	31	1256	28-2502
Do.....	854	433	31	1256	28-2503
Do.....	854	434	31	1256	28-2504
Do.....	854	434-A			28-2505
Do.....	854	435	31	1256	28-2601
Do.....	854	436	31	1257	28-2602
Do.....	854	437	31	1257	28-2603
Do.....	854	438	31	1257	28-2604
Do.....	854	439	31	1257	28-2605
Do.....	854	440	31	1258	28-2606
Do.....	854	441	31	1258	28-2607
Do.....	854	442	31	1258	28-2608
Do.....	854	443	31	1258	28-2609
Do.....	854	444	31	1258	28-2610
Do.....	854	478	31	1264	28-2401
Do.....	854	479	31	1265	28-2402
Do.....	854	479a			28-2403
Do.....	854	479b			28-2404
Do.....	854	480	31	1265	28-2405
Do.....	854	481	31	1265	28-2406
Do.....	854	482	31	1265	28-2407
Do.....	854	1116	31	1367	28-3001
Do.....	854	1117	31	1367	28-3002
Do.....	854	1118	31	1367	28-3003
Do.....	854	1120	31	1368	28-3101
Do.....	854	1121	31	1368	28-3102
Do.....	854	1122	31	1368	28-2103
Do.....	854	1178	31	1377	28-2701
Do.....	854	1179	31	1377	28-2702
Do.....	854	1180	31	1377	28-2703
Do.....	854	1181	31	1377	28-2704
Do.....	854	1182	31	1378	28-2705
Do.....	854	1183	31	1378	28-2706
Do.....	854	1184	31	1378	28-2707
Do.....	854	1185	31	1378	28-2708
Do.....	854	1186	31	1378	28-2709
Do.....	854	1271	31	1390	28-3005
Do.....	854	1271			28-3006
Do.....	854	1389	31	1404	28-616
1902—June 30.....	1329		32	530	28-2406
Do.....	1329		32	530	28-2604
Do.....	1329		32	542	28-2703
Do.....	1329		32	542	28-2705
Do.....	1329		32	542	28-3006
Do.....	1329		32	543	28-616
July 1.....	1352		32	610	28-2701
1920—Apr. 19.....	153	1	41	<sup>1</sup> 564	28-2403
Do.....	153	1	41	<sup>2</sup> 565	28-2404
Do.....	153	1	41	<sup>3</sup> 568	28-2702
Do.....	153	1	41	<sup>4</sup> 568	28-2703
1944—Dec. 20.....	610	3	58	819	28-2505
1946—July 13.....	576		60	534	28-616
1949—May 24.....	139	127	63	107	28-2602
1953—Apr. 28.....	30		67	23	28-2804
1956—July 2.....	491		70	482	28-2804

Date	Public Law	Section	Volume	Page	D.C. Code—1961 ed., section
1960—July 5.....	86-584	1	74	322	28-2321
Do.....	86-584	2	74	322	28-2322
Do.....	86-584	3	74	322	28-2323
Do.....	86-584	4	74	323	28-2324
Do.....	86-584	5	74	323	28-2325
Do.....	86-584	6	74	323	28-2326
Do.....	86-584	7	74	324	28-2327
Do.....	86-584	8	74	324	28-2328
Do.....	86-584	9	74	324	28-2329
Do.....	86-584	10	74	324	28-2330
Do.....	86-584	11	74	324	28-2321 note
Do.....	86-584	13	74	324	28-2321 note

<sup>1</sup> Beginning with line 36 and ending with line 10 on p. 565. <sup>2</sup> Lines 11-20. <sup>3</sup> Lines 27-28. <sup>4</sup> Lines 29-38.  
Approved August 30, 1964.

## Public Law 88-510

## AN ACT

To authorize the establishment of the Fort Bowie National Historic Site in the State of Arizona, and for other purposes.

August 30, 1964  
[H. R. 946]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized to designate, for preservation as the Fort Bowie National Historic Site, the site and remaining historic structures of old Fort Bowie, situated in Cochise County, Arizona, together with such additional land, interests in land, and improvements thereon, as the Secretary in his discretion may deem necessary to accomplish the purposes of this Act: *Provided*, That the Secretary shall designate no more than one thousand acres for inclusion in said site.

Fort Bowie  
National Historic Site, Ariz.  
Establishment.

SEC. 2. Within the area designated pursuant to section 1 hereof, the Secretary of the Interior is authorized, under such terms, reservations, and conditions as he may deem satisfactory, to procure by purchase, donation, with donated funds, exchange, or otherwise, land and interests in land for the national historic site. When the historic remains of old Fort Bowie and all other privately owned lands within the aforesaid designated area have been acquired as provided in this Act, notice thereof and of the establishment of the Fort Bowie National Historic Site shall be published in the Federal Register. Thereupon all public lands within the designated area shall become a part of the Fort Bowie National Historic Site.

Acquisition of  
land.

Publication in  
Federal Register.

SEC. 3. The Fort Bowie National Historic Site, as constituted under this Act, shall be administered by the Secretary of the Interior as a part of the national park system, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended, the Historic Sites Act of August 21, 1935 (49 Stat. 666), and all laws and regulations of general application to historic areas within the national park system.

Administration.

16 USC 1-4.  
16 USC 461-467.

SEC. 4. There is hereby authorized to be appropriated a sum not to exceed \$550,000 to carry out the purposes of this Act.

Appropriation.

Approved August 30, 1964.