

SUMMARY OF COMMENTS
of
The Estates, Trusts and Probate Law Section
of the D.C. Bar
Regarding Proposed Bill No. 10-88
"Uniform Property Conveyancing Revision Act of 1993"

The Estates, Trusts and Probate Law Section proposes to send the attached letter to The Honorable James Nathanson who introduced the proposed "Uniform Property Conveyancing Revision Act of 1993," and to testify in support of this proposed legislation at the hearings before the D.C. City Council on June 9, 1993.

The major issues to be addressed in both the letter and the testimony, and the Section's position on each, are as follows:

1. We strongly support the proposed amendment of Section 20-742 of the District of Columbia Code, which will eliminate the need for a Court order to sell real property owned by a decedent's estate in most cases.

2. We strongly support the proposed amendment of various sections of the District of Columbia Code to allow the sale, lease and other transfer of real property owned by a decedent's estate or by one or more individuals under a power of attorney. With regard to more specific details:

(a) We support certain changes in the language of the proposed legislation which are intended to ensure that a person signing such a power of attorney is aware of the power they are giving to their agent, including the requirement that the real property be identified in the power of attorney.

(b) We oppose any requirement that the legal description of the real property, and a specific mention of certain recordation and transfer tax forms, be required to be included in the power of attorney, primarily because the validity of the power of attorney could not then be determined by an examination of the document. This means that anyone relying on, or acting under, the power of attorney would do so at their peril. We believe that any power of attorney which clearly designates an agent and delegates powers to that agent should be effective for that purpose, and should not be rendered useless because of a possible technical error or inadvertent omission which, because of the absence or incapacity of the individual, may not be able to be corrected in a timely fashion, if at all.