

**UNIFORM DISCLAIMERS OF PROPERTY INTERESTS
ACT REVISION ACT OF 2006**

**Before the
Committee on the Judiciary
Council of the District of Columbia**

The Honorable Phil Mendelson, Chairman

**June 9, 2006, 10:00 a.m.
Room 412, John A. Wilson Building**



**Testimony of
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Good morning, Chairman Mendelson and members of the Committee on the Judiciary. I am Michael J. Cooper, Associate General Counsel in the Office of Tax and Revenue. I am pleased to present testimony today on Bill 16-707, the “Uniform Disclaimers of Property Interests Act Revision Act of 2006.”

Bill 16-707 amends Title 19 of the District of Columbia (“District”) Official Code (“Code”) to establish a new chapter 15, Uniform Disclaimers of Interests. We support the purposes of this bill to maximize the ability of individuals generally to disclaim interests in property.

The Office of Tax and Revenue’s (OTR) concern with Bill 16-707, however, is that, in its present form, the District runs the serious risk of having its tax liens under Code section 47-4421 defeated by the disclaimers provided in Bill 16-707, resulting in severe loss of collection of tax for the District.

As one example, new chapter 15 includes a provision that covers disclaimers of interests in property received by beneficiaries under a will or by intestacy and provides in pertinent part:

“[if] the disclaimant is an individual...the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.”

The quoted sentence has the effect of treating a beneficiary that disclaims an interest in property received under a will, for example, as having never owned that

property for all purposes. As such, it defeats the purpose of existing Code section 47-4421.

Specifically, Code section 47-4421 creates a lien in favor of the District whenever a taxpayer either neglects or refuses to pay taxes. The lien attaches to the taxpayer's property "acquired...at any time during the period of the lien."

(Emphasis added.) In essence, under Bill 16-707, as currently proposed, a taxpayer could attempt to disclaim his or her interest in an inheritance, to which the District lien would otherwise attach, to avoid having that asset subjected to a District lien and used to pay his or her back taxes.

To resolve this problem, OTR recommends renumbering sections 4 and 5 of Bill 16-707 as sections 5 and 6, respectively. After section 3, add the following new section:

Sec. 4. Amendment to Title 47. D.C. Official Code § 47-4421 is amended by inserting "(a)" after the section heading, and by adding the following new subsection at the end:

"(b) A disclaimer of a property interest does not invalidate a lien under this section."

OTR strongly recommends this amendment as the most effective way to remedy this collection problem. The amendment to Code section 47-4421 is broadly stated to include all disclaimers, because proposed Code § 19-1513(e) provides that "[a] disclaimer is barred or limited if so provided by law other than this chapter."

Under this amendment, the lien would attach to the property interest even if a taxpayer disclaims his right to receive it, and the District could then satisfy the unpaid tax liability out of that property.

Fiscal Impact of Bill 16-707

[To be supplied by the Office of Revenue Analysis.]

Thank you, Chairman Mendelson, for the opportunity to comment on this bill. I would be happy to answer any questions you or other councilmembers might have at this time.