



United States Virgin Islands Commission on Uniform State Laws

0
5600 Royal Dane Mall, Suite 21
Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00802

TESTIMONY OF TOM BOLT
CHAIR, VIRGIN ISLANDS UNIFORM LAW COMMISSION
BEFORE THE 31ST LEGISLATURE'S COMMITTEE ON ECONOMIC
DEVELOPMENT, AGRICULTURE AND PLANNING
REGARDING BILL NO. 31-0226

DECEMBER 4, 2015

Madame Chair, Members of the 31st Legislature's Committee on Economic Development, Agriculture and Planning, legislative staff, ladies and gentlemen, I am Tom Bolt and appear before you this morning as Chair of the Virgin Islands Uniform Law Commission to offer testimony in support of Bill No. 31-0226, the Virgin Islands Uniform Multiple Person Accounts Act.

The Uniform Law Commission first adopted the Uniform Multiple-Person Accounts Act in 1969 and was later revised in 1989. The Act was first introduced in the U.S. Virgin Islands in 2010.

This legislation updates the law on multiple party accounts and makes them easier to use. Additionally, it comprehensively covers problems that have been cited before previous Legislatures of the Virgin Islands relative to financial institution accounts in which one or more persons have an interest. It also speaks to: (1) ownership of accounts as between multiple owners,

and the existence, validity, and revocability of survivor's benefits; and (2) financial institution protection.

People use multiple-person accounts for various reasons. A married couple might have a joint checking account so that either of them may write checks to pay bills. However, the traditional "joint account" does not adequately allow the depositor to distinguish among the different functions of the multiple-person account, and the depositor's use of a joint account for one purpose may yield unwanted consequences for other purposes.

A parent might add a child's name to the parent's account so that the child can assist with the parent's financial matters, or because the parent wants to make a gift to the child of the funds in the account at the time of the parent's death. If the account is not clearly titled, there can be confusion about the parties' rights in the account when one party dies. For many years, Virgin Islanders have opened bank accounts within the Territory with an account name such as John Smith ITF Mary Smith with the understanding that the account was held by one individual in trust for another. The problem ensues as there is in fact no actual trust – sometimes known as a "naked trust" as there is no language to clothe the trust.

Pursuant to Bill 31-0226, an account is owned by the parties during their respective lifetimes in accordance with each party's net contribution. One party owns all if that party is the sole contributor to the account. Evidenced by the intention of that particular party to make a gift to another party might change the result, but no intention to make a present gift is imputed from opening an account in two names or from making an additional deposit to an account.

The Virgin Islands Multiple Person Accounts Act clarifies the relationships among the various persons involved with an account. The account may be owned by a single party or by multiple parties. Either a single-party account or a multiple party account may include a payable-on-death (POD) beneficiary designation or an agency designation or both. This issue was discussed by this committee when we met on the Uniform TOD Security Registration Act a few weeks ago. It would allow for joint accounts with

and without a right of survivorship, for “payable-on-death” accounts, and for agency accounts.

Section 132c, subsection (d) of Bill No. 31-0226 includes sample language that Virgin Islands financial institutions can utilize when establishing a new account to indicate which type of account is intended. Part B of the Act which begins on page 6 states the rights of the various parties in each type of account, and Part C beginning on page 11 protects financial institutions from liability if the financial institution pays out account funds to one of the parties in accordance with law as incorporated in Bill No. 31-0226.

I would note that the rights of the creditors in joint accounts are not addressed in the Uniform Multiple Person Accounts Act as that issue is addressed in a different Uniform act that applies to all types of non-probate transfers, rather than only transfer to a joint account holder.

I also note that the content of Bill No. 31-0226 has been approved by the American Bar Association, and endorsed by AARP. I urge your support of this legislation and the enactment of the Uniform Multiple Person Accounts Act by this 31st Legislature.

Bill No. 31-0226 addresses the issue that was brought before this Committee only a few weeks ago – that is the non-probate transfer of bank accounts. Again, we are all conscious of the problems Virgin Islanders are facing with probate in the Territory. I endorse the strategy that is being employed by this 31st Legislature and this Committee to address the very real and costly concerns of many people negatively impacted by our antiquated probate system by enacting the non-probate transfer bills first and then to take on the other acts that are a part of the Uniform Probate Code on an act by act basis.

I welcome any questions that members of this Committee or this 31st Legislature may have on Bill No. 31-0226.