

TESTIMONY OF TOM BOLT  
CHAIR, VIRGIN ISLANDS UNIFORM LAW COMMISSION  
BEFORE THE 31<sup>ST</sup> LEGISLATURE'S COMMITTEE ON ECONOMIC  
DEVELOPMENT, AGRICULTURE AND PLANNING  
REGARDING BILL NO. 31-0227

NOVEMBER 10, 2015

Madame Chair, Members of the 31<sup>st</sup> 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 Bill No. 31- 0227, the Virgin Islands Uniform TOD (Transfer on Death) Security Registration Act, one of the most successful and widely adopted of all Uniform laws. Since the Act was approved in 1989 by the National Conference of Commissioners on Uniform State Laws, it has been enacted in 48 states and the District of Columbia. I would note that TOD – Security Registration was the law in the U.S. Virgin Islands up until a few years ago when it was inadvertently repealed with other aspects of the Uniform Probate Code.

TOD stands for "Transfer on Death." This law would allow securities brokers and anyone else who registers investments to offer their customers the option to name a beneficiary who will receive the investments when they pass away. This is accomplished very simply by titling the investment account with a second name, a

successor in interest, after the letters "TOD." Bill No. 31- 0227 would permit issuers of securities to set the standards for allowing TOD registrations and for transferring securities when a customer/owner dies, including standards for proof of death.

TOD registration is not a new concept. It has been permitted under federal law for United States Saving Bonds since the 1950's and even longer for banks. Residents of the United States Virgin Islands can use TOD Registration today if they invest with a broker based on the U.S. mainland, but not a broker based in the Territory – this simple fact steers funds from the Territory.

Under our current laws, some investors name another person as a joint account owner in order to ensure the person receives the investments when the original owner dies. However, joint ownership creates unnecessary risk. Creditors of the joint account holder could gain access to the investments. Even worse, if the original investor wants to liquidate the investment and spend the proceeds, the joint owner of the account must agree to the transaction. In the case of a TOD registration, it is much safer than a jointly-titled account because the owner retains 100 percent control during the owner's lifetime. The owner even has the option to change their mind and name a different TOD beneficiary at any given time.

If Bill No.31-0227 is enacted once again, U.S. Virgin Islands brokers would be able to offer the same option to their customers as those throughout the United States. In addition, this bill would provide a way to avoid the issue of probate, a problem that is becoming out of control, especially for our elderly population. The TOD security registration merely allows realization of the probate avoidance benefits of a joint registration but avoids the loss of sole control for the owner. Our local brokers should be able to compete with companies based on the mainland, and this bill will allow them to offer a safe and simple method for naming a beneficial owner of securities accounts.

Bill No. 31-0227 enables avoidance of probate without the risk of problems caused by joint and survivor security titles that are especially hard on our seniors. A person, typically elderly and worried about the impact of high probate costs on family survivors, decides to add the name of a child to their security account to create a joint tenancy with right of survivorship. The sole purpose is probate avoidance. The elderly originator of the joint holding probably does not realize that the one named co-owner now appears to own half of the asset meaning that the investment can't be cashed out or re-registered without the consent of both owners.

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The bad news may come when a child's creditors or divorcing spouse lays claim to the child's half. In short, to get the benefit of probate avoidance through co-ownership and survivorship, an elderly owner has to subject money set aside for future needs to the whims and claims of others, including possible strangers to the family. TOD Security Registration merely permits realization of the probate avoidance benefits of a joint registration, but avoids the loss of sole control for the owner.

The Uniform TOD Security Registration Act has been approved by the American Bar Association, and endorsed by AARP and the Securities Industry Association. I urge you to support this bill and enact Bill No. 31-0227, the Uniform TOD Security Registration Act.

I am available for any questions you may have.