TESTIMONY OF CHIEF DEPUTY ATTORNEY GENERAL
IAN S.A. CLEMENT
THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON CULTURE, YOUTH, AGING, SPORTS, AND PARKS
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Good day, Chair Bolques, Vice Chair Joseph, Senator Francis Heyliger as Sponsor of Bill No. 36-0192, distinguished members of the Committee, legislative staff, and the listening and viewing audience. Thank you for inviting the Department of Justice to testify on Bill No. 36-0192. I am Chief Deputy Attorney General Ian S.A. Clement. On behalf of Attorney General Gordon C. Rhea, it is my pleasure to appear before you today.

The United States Virgin Islands has a significantly higher median age — about 45 years — compared to the U.S. mainland, which is roughly 39 years. This five-to-seven-year difference indicates that the Virgin Islands has a notably older population on a per capita basis. A larger senior population increases the risk of elder financial exploitation. Research on elder financial exploitation shows seniors are more vulnerable because of:

- Cognitive decline
- Dependence on caregivers or relatives for transactions
- Predictable income streams (pensions/SSA)

These risks are well documented at the federal level, with elder financial exploitation recognized as the **most common** form of elder abuse nationwide.[1]

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[1] https://www.congress.gov/crs-product/IN12462, last referenced 3/6/26.

Given that the USVI has one of the highest elderly populations per capita in the United States, the risk is correspondingly higher. With about one in four residents in the elder cohort the Bill aims to protect, the islands have:

- A high concentration of potential targets for coercion
- A population where promissory note scams, coerced signatures, or undue influence will disproportionately affect community wealth

This demographic environment mirrors the high-risk conditions noted by elder justice authorities. On December 4, 2024, the Board of Governors of the Federal Reserve System, Consumer Financial Protection Bureau, Federal Deposit Insurance Corporation, Financial Crimes Enforcement Network, National Credit Union Administration, and Office of the Comptroller of the Currency, and state regulators issued a joint statement that warned that elder financial exploitation causes major economic and emotional harm, with annual losses nationally estimated at $28.3 billion.[2] Federal guidance and state statutes emphasize that coercion, undue influence, and misuse of authority are defining elements of elder financial exploitation. Because the USVI population is older than the average U.S. population, the risk of exploitative promissory note schemes is higher, especially given:

- Caregiver relationships
- Family financial stress
- Cross-generational financial dependence
- Limited local resources and financial literacy gaps among elders.

[2] https://www.consumerfinancialserviceslawmonitor.com/2024/12/federal-and-state-financial-agencies-issue-guidance-on-elder-financial-exploitation/, last referenced 3/6/26.

Migration of younger adults also increases social and financial isolation among seniors. In other words, the fewer working-age adults present in the community, the fewer people are watching out for predators. There are fewer on-island family protectors and more elderly living alone. This means elders become more dependent on non-family caregivers, acquaintances, and financial intermediaries—relationships where coercion is more likely to happen or where outside coercion can fester.

The proposed bill complements other sections of the Virgin Islands Code, specifically the Elder and Dependent Adult Abuse Act, and the criminal provisions at 34 V.I.C. §§ 469 and 470 governing criminal abuse and financial abuse of an elder or dependent adult. The Territory's existing elder-abuse statutes criminalize physical abuse, neglect, and certain forms of financial exploitation. Still, they do not specifically address the misuse of promissory notes as instruments of coercion. Bill No. 36-0192 strengthens our legal framework by explicitly prohibiting inducing, pressuring, or manipulating an elder to execute a financial instrument that primarily benefits the wrongdoer. This specificity matters. It provides prosecutors with a clear statutory basis, aligns the Territory's protections with modern elder-justice standards, and ensures that exploitative actors can no longer hide behind formal-looking documents to justify what is, at its core, financial abuse.

The Department expects members to ask about the relationship between Bill No. 36-0192 and existing 34 V.I.C. § 470, which already covers financial elder abuse. These two provisions are complementary, not redundant. Section 470 addresses general patterns of financial exploitation carried out in bad faith, but predators have long exploited a structural gap. When a facially valid promissory note documents coercion, defendants claim the senior voluntarily contracted, thereby depriving the prosecution of its evidentiary advantage. Bill No. 36-0192 directly addresses this gap by declaring instruments obtained through fraud, coercion, or undue influence invalid as a matter of law (§ 493(b)), establishing a specific criminal offense (§ 499), and allowing temporary holds on transactions when exploitation is suspected (§ 496). Together, these provisions provide the Department with a layered enforcement framework — § 470 for general conduct and Chapter 15A for the specific instruments through which exploitation occurs.

For these reasons, the Department of Justice strongly endorses Bill No. 36-0192. The bill addresses a known and dangerous gap in our elder-protection laws, aligns with federal guidance on financial exploitation, and offers a targeted, practical tool for prosecutors. The Department believes this bill will significantly reduce the occurrence of coercive financial practices targeting our senior population and will strengthen public confidence that the Territory is committed to protecting its most vulnerable residents.

While the Department supports the Bill as currently written, our review has identified several technical issues that, if addressed before passage, would significantly improve the statute's enforceability and resistance to constitutional challenges. These issues include, among others, the mens rea needed for a felony conviction under § 499; the apparent redundancy in the enhanced-penalty provision at § 499(b); the agency responsible for issuing training guidance to financial institutions under § 497; alignment with the federal Senior Safe Act of 2018, which offers similar federal immunity for trained financial-institution employees who report suspected exploitation; the protection of voided notes from losing validity due to holder-in-due-course status under UCC Article 3; and an explicit grant of authority to the Attorney General to initiate civil enforcement actions under § 494 on behalf of affected seniors and the Territory. With the Committee's approval, the Department will submit a brief memorandum of proposed technical amendments within seven business days after this hearing for the Committee's review before markup.

The Department expects to manage the initial enforcement of Chapter 15A using existing investigative and prosecutorial resources and is not requesting funding at this time. The Department will evaluate resource needs as caseloads grow and reserves the right to revisit the Legislature with a specific funding request in a future fiscal cycle if the financial-exploitation caseloads increase, especially concerning forensic-accounting and expert-witness costs typical of these cases.

In conclusion, this bill is a timely and essential step toward protecting the financial dignity of our senior community. It closes a loophole that has allowed predatory practices to persist and gives prosecutors the clarity and authority needed to safeguard our elders effectively. The Department of Justice thanks the Committee for its attention to this urgent issue and respectfully urges the Legislature to move forward with Bill No. 36-0192, along with the technical amendments the Department will submit for the Committee's consideration.

This concludes my testimony, and I remain available to answer any of the senators' questions.