The Virgin Islands Consortium

Letter to the Editor | AARP Supports Bill NO. 32-0327

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J.F.L. Board Chairman Troy De Chabert-Schuster.

Dear Editor,

In a herculean effort to help property owners in the Virgin Islands, Senators Myron Jackson and Novell Francis have responded to the request of AARP to sponsor Bill NO. 320-027. This Bill brings together four (4) Uniform Acts: the Uniform Real Property Transfer on Death Act, the Uniform Disclaimer of Property Interest Act, the Uniform Custodial Trust Act, and the Uniform Partition of Heirs Act. This Bill is of benefit to all property owners and their heirs in The Virgin Islands and is particular interest to the elderly and person of lower and middle income. This Bill helps keep property out of probate thereby ensuring that property stays in the control of the owner and passes on to their intended heirs.

The Uniform Real Property Transfer on Death Act (URPTODA) enables an owner of real property to pass the property simply and directly to the beneficiary on the owner's death without probate. People with a high net worth or a complex estate often use trusts and gifting strategies to transfer wealth outside of probate, but those strategies are prohibitively expensive for smaller estates. Many lower-income families can avoid probate for their personal property by using the simpler means established by the enactment of this Bill.

The Uniform Disclaimer of Property Interest Act provides definite, tax-sensitive rules governing refusals to accept transfers of property by gift or inheritance, and identifying who takes in the event of a disclaimer. Disclaimers are used to reallocate interest in estates, trusts and other kinds of property holdings in which benefits may be allocated at death. This Act makes it clear that trustees and other fiduciaries may use disclaimers, that powers of appointment may be disclaimed, and that unfair distributions of interests are avoided when disclaimers are used.

The Uniform Custodial Trust Act (UCTA) allows any person to create a custodial trust by executing a simple statement. The UCTA also establishes a custodial trust into which property satisfying the obligation is placed for the incapacitated person as beneficiary. If the value of the property so placed exceeds $20,000, however, a transfer into such a trust must be approved by a court.

The Uniform Partition of Heirs Property Act addresses a problem faced by many middle to lower-income families who inherit real property and may face dispossession of their land through a forced sale. For many of these families, real estate is their single most valuable asset. Rural African-American/Black families have been hit especially hard. However, this Act preserves the right of an heir to sell his or her interest in inherited real estate, while ensuring that the other heirs will have the necessary due process to prevent a forced sale: notice, appraisal, and right of first refusal. If the other heirs do not exercise their right to purchase the property from the seller, the court must order a partition-in-kind if feasible, and if not, a commercially reasonable sale for fair market value.

All four of the Uniform Acts contained in Bill NO. 32-0327 benefit all property owners and their heirs in The Virgin Islands and is of special benefit to seniors and/or lower to middle income. Please encourage your senators to vote in favor of this Bill and encourage the Honorable Governor Kenneth E. Mapp to enact it.

Submitted by: Troy de Chabert Schuster on Thursday. Mr de Chabert-Schuster is the state director of AARP USVI.