

**OVERRIDDEN**

DATE: 03/30/2016

ACT NO. 7869 VETOED  
MAR 23 2016

**GOVERNOR**

**BILL NO. 31-0226**

**THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS**

**Regular Session**

**2016**

An Act amending title 9 Virgin Islands Code, chapter 11 adding subchapter II enacting "The Virgin Islands Uniform Multiple Person Accounts Act"

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*Be it enacted by the Legislature of the Virgin Islands:*

**SECTION 1.** Title 9 Virgin Islands Code, chapter 11 is amended by designating the existing provisions as subchapter I and adding subchapter II to read as follows:

***"SUBCHAPTER II MULTIPLE PERSON ACCOUNTS***

**PART A. Definitions and General Provisions**

**§132a.** This subchapter may be cited as "The Virgin Islands Uniform Multiple-Person Accounts Act".

**§132b. Definitions**

In this subchapter:

- (1) "Account" means a contract of deposit between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, and share account.
- (2) "Agent" means a person authorized to make account transactions for a party.
- (3) "Beneficiary" means a person named as one to whom sums on deposit in an account are payable on request after death of all parties or for whom a party is named as trustee.

(4) "Financial institution" means an organization authorized to do business under Virgin Islands or federal laws relating to financial institutions, and includes a bank, trust company, savings bank, building and loan association, savings and loan company or association, and credit union.

(5) "Multiple-party account" means an account payable on request to one or more of two or more parties, whether or not a right of survivorship is mentioned.

(6) "Party" means a person who, by the terms of an account, has a present right, subject to request, to payment from the account other than as a beneficiary or agent.

(7) "Payment" of sums on deposit includes withdrawal, payment to a party or third person pursuant to check or other request, and a pledge of sums on deposit by a party, or a set-off, reduction, or other disposition of all or part of an account pursuant to a pledge.

(8) "POD designation" means the designation of:

(A) a beneficiary in an account payable on request to one party during the party's lifetime and on the party's death to one or more beneficiaries, or to one or more parties during their lifetimes and on death of all of them to one or more beneficiaries, or

(B) a beneficiary in an account in the name of one or more parties as trustee for one or more beneficiaries if the relationship is established by the terms of the account and there is no subject of the trust other than the sums on deposit in the account, whether or not payment to the beneficiary is mentioned.

(9) "Receive" as it relates to notice to a financial institution, means receipt in the office or branch office of the financial institution in which the account is established, but if the terms of the account require notice at a particular place, in the place required.

(10) "Request" means a request for payment complying with all terms of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but, for purposes of this subchapter if terms of the account condition payment on advance notice, a request for payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for payment.

(11) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under the decedent's will or otherwise.

(12) "Sums on deposit" means the balance payable on an account, including interest and dividends earned, whether or not included in the current balance, and any deposit life insurance proceeds added to the account by reason of death of a party.

(13) "Terms of the account" includes the deposit agreement and other terms and conditions, including the form, of the contract of deposit.

**§132c. Limitation on Scope of subchapter.**

**This subchapter does not apply to:**

- (A) an account established for a partnership, joint venture, or other organization for a business purpose.
- (B) an account controlled by one or more persons as an agent or trustee for a corporation, unincorporated association, or charitable or civic organization, or
- (C) a fiduciary or trust account in which the relationship is established other than by the terms of the account.

**§132d. Types of account; Existing accounts.**

(a) An account may be for a single party or multiple parties. A multiple-party account may be with or without a right of survivorship between the parties. Subject to section 132h (c), either a single-party account or a multiple-party account may have a POD designation, an agency designation, or both.

(b) An account established before, on, or after the effective date of this subchapter, whether in the form prescribed in subsection (c) of this section or in any other form, is either a single-party account or a multiple-party account, with or without right of survivorship, and with or without a POD designation or an agency designation, within the meaning of this part and is governed by this part.

(c) A contract of deposit that contains provisions in substantially the following form establishes the type of account provided, and the account is governed by the provisions of this part applicable to an account of that type:

UNIFORM SINGLE OR MULTIPLE-PARTY ACCOUNT FORM PARTIES (Name one or more parties):

OWNERSHIP [Select one and initial]:

SINGLE-PARTY ACCOUNT

MULTIPLE-PARTY ACCOUNT

Parties own account in proportion to net contributions unless there is clear and convincing evidence of a different intent.

RIGHTS AT DEATH (Select one and initial): SINGLE-PARTY ACCOUNT

At death of party, ownership passes as part of party's estate.

SINGLE-PARTY ACCOUNT WITH POD (PAY ON DEATH) DESIGNATION

(Name One or More Beneficiaries):

At death of party, ownership passes to POD beneficiaries and is not part of party's estate.

**MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP**

At death of party, ownership passes to surviving parties.

**MULTIPLE-PARTY ACCOUNT WITH RIGHT OF SURVIVORSHIP AND POD (PAY ON DEATH) DESIGNATION**

(Name One or More Beneficiaries):

At death of last surviving party, ownership passes to POD beneficiaries and is not part of last surviving party's estate.

**MULTIPLE-PARTY ACCOUNT WITHOUT RIGHT OF SURVIVORSHIP**

At death of party, deceased party's ownership passes as part of deceased party's estate.  
**AGENCY (POWER OF ATTORNEY) DESIGNATION**

Agents may make account transactions for parties but have no ownership or rights at death unless named as POD beneficiaries.

(To Add Agency Designation To Account, Name One or More Agents):

(Select One and Initial):

**AGENCY DESIGNATION SURVIVES DISABILITY OR INCAPACITY OF PARTIES  
 AGENCY DESIGNATION TERMINATES ON DISABILITY OR INCAPACITY OF PARTIES**

(d) A contract of deposit that does not contain provisions in substantially the form provided in subsection (c) is governed by the provisions of this subchapter applicable to the type of account that most nearly conforms to the depositor's intent.

**§132e. Designation of agent**

(a) By a writing signed by all parties, the parties may designate as agent of all parties on an account a person other than a party.

(b) Unless the terms of an agency designation provide that the authority of the agent terminates on disability or incapacity of a party, the agent's authority survives disability and incapacity. The agent may act for a disabled or incapacitated party until the authority of the agent is terminated.

(c) Death of the sole party or last surviving party terminates the authority of an agent.

**§132f. Applicability of subchapter**

The provisions of this subchapter concerning beneficial ownership as between parties or as between parties and beneficiaries apply only to controversies between those persons and their creditors and other successors, and do not apply to the right of those persons to payment as determined by the terms of the account. Part C of this subchapter governs the liability and set-off rights of financial institutions that make payments pursuant to it.

**Part B. Ownership as Between Parties and Others****§132g. Ownership during lifetime**

(a) In this section, "net contribution" of a party means the sum of all deposits to an account made by or for the party, less all payments from the account made to or for the party which have not been paid to or applied to the use of another party and a proportionate share of any charges deducted from the account, plus a proportionate share of any interest or dividends earned, whether or not included in the current balance. The term includes deposit life insurance proceeds added to the account by reason of death of the party whose net contribution is in question.

(b) During the lifetime of all parties, an account belongs to the parties in proportion to the net contribution of each to the sums on deposit, unless there is clear and convincing evidence of a different intent. As between parties married to each other, in the absence of proof otherwise, the net contribution of each is presumed to be an equal amount.

(c) A beneficiary in an account having a POD designation has no right to sums on deposit during the lifetime of any party.

(d) An agent in an account with an agency designation has no beneficial right to sums on deposit.

**§132h. Rights at death**

(a) Except as otherwise provided in this part, on death of a party sums on deposit in a multiple-party account belong to the surviving party or parties. If two or more parties survive and one is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 132g belongs to the surviving spouse. If two or more parties survive and none is the surviving spouse of the decedent, the amount to which the decedent, immediately before death, was beneficially entitled under section 132g belongs to the surviving parties in equal shares, and augments the proportion to which each survivor, immediately before the decedent's death, was beneficially entitled under section 132g, and the right of survivorship continues between the surviving parties.

(b) In an account with a POD designation:

(1) On death of one of two or more parties, the rights in sums on deposit are governed by subsection (a).



(2) On death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal and undivided shares, and there is no right of survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

(c) Sums on deposit in a single-party account without a POD designation, or in a multiple-party account that, by the terms of the account, is without right of survivorship, are not affected by death of a party, but the amount to which the decedent, immediately before death, was beneficially entitled under section 132g is transferred as part of the decedent's estate. A POD designation in a multiple-party account without right of survivorship is ineffective. For purposes of this section, designation of an account as a tenancy in common establishes that the account is without right of survivorship.

(d) The ownership right of a surviving party or beneficiary, or of the decedent's estate, in sums on deposit is subject to requests for payment made by a party before the party's death, whether paid by the financial institution before or after death, or unpaid. The surviving party or beneficiary, or the decedent's estate, is liable to the payee of an unpaid request for payment. The liability is limited to a proportionate share of the amount transferred under this section, to the extent necessary to discharge the request for payment.

#### **§132i. Alteration of rights**

(a) Rights at death of a party under section 132h are determined by the terms of the account at the death of the party. A party may alter the terms of the account by a notice signed by the party and given to the financial institution to change the terms of the account or to stop or vary payment under the terms of the account. To be effective the notice must be received by the financial institution during the party's lifetime.

(b) A right of survivorship arising from the express terms of the account, section 132h or a POD designation may not be altered by will.

#### **§132j. Accounts and transfers nontestamentary**

Except as provided in any law of the Virgin Islands governing augmented estates, or as a consequence of, and to the extent directed by section 132k, a transfer resulting from the application of section 132h is effective by reason of the terms of the account involved and this subchapter and is not testamentary or subject to the laws under this Code governing estate administration.

#### **§132k. Rights of Creditors and Others**

(a) For the purpose of this section, a nonprobate transfer occurs if the last domicile of a depositor whose interest is transferred under section 132h was in the Virgin Islands.

(b) A transferee of a nonprobate transfer is subject to liability to any probate estate of the decedent for allowed claims against that estate and statutory allowances to the decedent's spouse and children to the extent the estate is insufficient to satisfy those claims and allowances. The liability of a nonprobate transferee may not exceed the value of nonprobate transfers received by that transferee.

(c) Nonprobate transferees are liable for the insufficiency described in subsection (b) in the following order of priority:

(1) a transferee designated in the decedent's will or any other governing instrument, as provided in the instrument;

(2) the trustee of a trust serving as the principal nonprobate instrument in the decedent's estate plan as shown by its designation as devisee of the decedent's residuary estate or by other facts or circumstances, to the extent of the value of the nonprobate transfer received;

(3) other nonprobate transferees, in proportion to the values received.

(d) A provision made in one instrument may direct the apportionment of the liability among the nonprobate transferees taking under that or any other governing instrument. If a provision in one instrument conflicts with a provision in another, the later one prevails.

(e) Upon due notice to a nonprobate transferee, the liability imposed by this section is enforceable in proceedings in the Virgin Islands, whether or not the transferee is located in the Virgin Islands.

(f) A proceeding under this section may not be commenced unless the personal representative of the decedent's estate has received a written demand for the proceeding from the surviving spouse or a child, to the extent that statutory allowances are affected, or a creditor. If the personal representative declines or fails to commence a proceeding after demand, a person making demand may commence the proceeding in the name of the decedent's estate, at the expense of the person making the demand and not of the estate. A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

(g) A proceeding under this section must be commenced within one year after the decedent's death, but a proceeding on behalf of a creditor whose claim was allowed after proceedings challenging disallowance of the claim may be commenced within 60 days after final allowance of the claim.

(h) Unless a written notice asserting that a decedent's estate is insufficient to pay allowed claims and statutory allowances has been received from the decedent's personal representative, a trustee receiving a nonprobate transfer is released from liability under this section with respect to any assets distributed to the trust's beneficiaries. Each beneficiary to the extent of the distribution received becomes liable for the amount of the trustee's liability attributable to assets received by the beneficiary.

(i) In this section:

(1) "Child" includes any individual entitled to take as a child by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

(2) "Claims" in respect to the estate of a decedent, includes liabilities of the decedent whether arising in contract, tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent, including funeral expenses and expenses of administration. The term does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent to specific assets alleged to be included in the estate.

### **§132l. Community property and tenancy by the entireties**

(a) A deposit of community property in an account does not alter the community character of the property or community rights in the property, but a right of survivorship between parties married to each other arising from the express terms of the account or section 132h may not be altered by will.

(b) This part does not affect the law governing tenancy by the entireties.

## **PART C. Protection of Financial Institutions**

### **§132m. Authority of financial institution**

A financial institution may enter into a contract of deposit for a multiple-party account to the same extent it may enter into a contract of deposit for a single-party account, and may provide for a POD designation and an agency designation in either a single-party account or a multiple-party account. A financial institution need not inquire as to the source of a deposit to an account or as to the proposed application of a payment from an account.

### **§132n. Payment on multiple-party account**

A financial institution, on request, may pay sums on deposit in a multiple-party account to:

(1) one or more of the parties, whether or not another party is disabled, incapacitated, or deceased when payment is requested and whether or not the party making the request survives another party; or

(2) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased party if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary, unless the account is without right of survivorship under section 132h.



**§132o. Payment on POD designation**

A financial institution, on request, may pay sums on deposit in an account with a POD designation to:

- (1) one or more of the parties, whether or not another party is disabled, incapacitated, or deceased when the payment is requested and whether or not a party survives another party;
- (2) the beneficiary or beneficiaries, if proof of death is presented to the financial institution showing that the beneficiary or beneficiaries survived all persons named as parties; or
- (3) the personal representative, if any, or, if there is none, the heirs or devisees of a deceased party, if proof of death is presented to the financial institution showing that the deceased party was the survivor of all other persons named on the account either as a party or beneficiary.

**§132p. Payment to designated agent**

A financial institution, on request of an agent under an agency designation for an account, may pay to the agent sums on deposit in the account, whether or not a party is disabled, incapacitated, or deceased when the request is made or received, and whether or not the authority of the agent terminates on the disability or incapacity of a party.

**§132q. Payment to minor**

If a financial institution is required or permitted to make payment pursuant to this part to a minor designated as a beneficiary, payment may be made pursuant to the Uniform Transfers to Minors Act.

**§132r. Discharge**

(a) Payment made pursuant to this part in accordance with the terms of the account discharges the financial institution from all claims for amounts so paid, whether or not the payment is consistent with the beneficial ownership of the account as between parties, beneficiaries, or their successors. Payment may be made whether or not a party, beneficiary, or agent is disabled, incapacitated, or deceased when payment is requested, received, or made.

(b) Protection under this section does not extend to payments made after a financial institution has received written notice from a party, or from the personal representative, surviving spouse, or heir or devisee of a deceased party, to the effect that payments in accordance with the terms of the account, including one having an agency designation, should not be permitted, and the financial institution has had a reasonable opportunity to act on it when the payment is made. Unless the notice is withdrawn by the person giving it, the successor of any deceased party must concur in a request for payment if the financial institution is to be protected under this section. Unless a financial institution has been served with process in an action or proceeding, no other notice or other information shown to have been available to the financial institution affects its right to protection under this section.

(c) A financial institution that receives written notice pursuant to this section or otherwise has reason to believe that a dispute exists as to the rights of the parties may refuse, without liability, to make payments in accordance with the terms of the account.

(d) Protection of a financial institution under this section does not affect the rights of parties in disputes between themselves or their successors concerning the beneficial ownership of sums on deposit in accounts or payments made from accounts.

**§132s. Set-off**

Without qualifying any other statutory right to set off or lien and subject to any contractual provision, if a party is indebted to a financial institution, the financial institution has a right to set-off against the account. The amount of the account subject to set-off is the proportion to which the party is, or immediately before death was, beneficially entitled under section 132g or, in the absence of proof of that portion, an equal share with all parties.

**§132t. Uniformity of Application and Construction.** This subchapter must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this subchapter among jurisdictions enacting it.

**§132u. Supplementary General Principles of Law Applicable** unless displaced by the particular provisions of this subchapter, the principles of law and equity supplement its provisions.

**§132v.** On the effective date of this subchapter:

(1) An act done before the effective date and any accrued right is not impaired by this subchapter. If a right is acquired, extinguished, or barred on the expiration of a prescribed period of time that has commenced to run by the provisions of any statute before the effective date, the provisions remain in force with respect to that right.

(2) Any rule of construction or presumption provided in this subchapter applies to accounts established before the effective date unless there is a clear indication of a contrary intent.

(3) The rights of a party, beneficiary, or creditor in an account established before the effective date of this subchapter are governed by the law applicable before the effective date for a period of one year after the effective date and thereafter are governed by this subchapter.

**§132w. Severability Clause.** If any provision of this subchapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable.”

**SECTION 2.** (a) The Official Comments to the Uniform Multiple-Person Accounts Act (1989/1998) by the National Conference of Commissioners of Uniform State Laws are adopted by this Act.

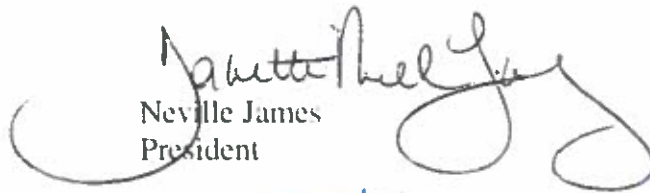
(b) The publisher of the Virgin Islands Code shall publish the Official Comments as annotations to title 9, chapter 11, subchapter II of the Virgin Islands Code.


**SECTION 3.** This Act takes effect on the first day of the month following 60 days after its enactment.

Thus passed by the Legislature of the Virgin Islands on February 25, 2016.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 14 Day of March, A.D., 2016.



  
Neville James  
President

  
Myron D. Jackson  
Legislative Secretary

**LEGISLATURE OF THE VIRGIN ISLANDS**

**CERTIFICATE OF ENACTMENT  
NOTWITHSTANDING THE GOVERNOR'S VETO**

**THIS IS TO CERTIFY THAT**, Bill No. 31-0226- An Act amending title 9 Virgin Islands Code, chapter 11 adding subchapter II enacting "The Virgin Islands Uniform Multiple Person Accounts Act", enacted by the Thirty-first Legislature at its regular session held on February 25, 2016. (a copy of which is attached hereto) and vetoed by the Governor on March 23, 2016, was duly enacted, by override, by the Thirty-first Legislature at its regular session on March 30, 2016, pursuant to section 9(d) of the Revised Organic Act of the Virgin Islands, 48 U.S.C. §1575 (d), notwithstanding the Governor's veto and has become law.

DATED: 4/13/16

  
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Neville A. James  
President



ATTEST:  
  
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Myron D. Jackson  
Legislative Secretary