

BILL NO. 35-0412

Thirty-Fifth Legislature of the Virgin Islands

November 19, 2024

An Act amending title 31 Virgin Islands Code, chapters 21 and 23, sections 205, 231a, 232, 236, 236a, and 239 pertaining to the management of public property and procurement and sale of goods and services

PROPOSED BY: Senator Novelle E. Francis, Jr., by Request of the Governor

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 31, Virgin Islands Code, chapter 21, section 205 is amended as follows:

(a) In subsection (b) by designating the second sentence as paragraph (1) and adding paragraphs (2) and (3) to read as follows:

“(2) Other than is permitted under paragraph (3), if a lease provides for the sublease of government real estate, that lease may not be approved unless the lease provides for the payment to the Government of a sum equivalent to 35% of the rental income due under the sublease.

(3) Notwithstanding paragraph (2), if any lessee of Government property is contractually obligated to invest a minimum of \$500,000 into capital improvements on the leased property during the term of the lease agreement, the Government, through its Department of Property and Procurement, may negotiate a lower percentage of the required subleasing rental fee in recognition of the investment. This paragraph does apply to current and future leases.”

(b) In subsection (c)

(1) by striking “one year” and inserting “five years”;

(2) by striking “five years” and inserting “10 years”; and

SECTION 2. Title 31 Virgin Islands Code, chapter 23 is amended as follows:

(a) Section 231a is amended as follows:

(1) In subsection (a)

(a) by striking “three” and inserting “two”;

(b) by striking “residents of” and inserting “licensed in”; and

(c) by adding a new sentence at the end of the subsection that reads as follows: “When the Government is acquiring property by exchange, the Government shall obtain two appraisals of each property.”

(2) In subsection (b) by striking “transportation expenses and a reasonable per diem allowance when actually employed” and inserting “the services provided.”

(3) In subsection (c)

(a) by striking “three” and inserting “two”;

(b) by striking “other” before “appraisers” in the second sentence;

(c) by adding “purchase” between “negotiated” and “price” in the second sentence; and

(d) by adding a sentence immediately following the existing second sentence to read: “When there is an acquisition by exchange, the average value of the properties to be exchanged must be equivalent, and if one property’s average value is more than the other, the exchange must be equalized by a cash payment or additional appraised property.”

1 (b) Section 232 is amended by inserting the “and” after the semi-colon in
2 paragraph (5), and by adding a period after “others” in paragraph (6) and by striking “;
3 and” in paragraph (6) and by striking paragraph (7).

4 (c) Section 236 is amended as follows:

5 (1) In subsection (g) by striking subparagraphs (g)(1)(B) and (C) and by
6 redesignating subparagraph (g)(1)(D) as (g)(1)(B); and

7 (2) In subsection (l) by adding “s” after “section” and inserting “236 or”
8 before “239”.

9 (d) Section 236a is amended in subsection (c) by striking the sentence which
10 reads: “Bids submitted by preferred bidders shall not be required to be accompanied by
11 surety or bid bond if the bid is \$50,000 or less.” and by striking all instances of “\$50,000”
12 in subsection (c) and (c)(1) and inserting “\$150,000”.

13 (e) Section 239, subsection (a) is amended as follows:

14 (1) In paragraph (3), and subparagraph (B) by striking “\$10,000” and
15 inserting “\$10,000.01” and striking “\$50,000” and inserting “\$150,000.00”, and by
16 adding a subparagraph (D) to read: “(D) The Commissioner of the Department of
17 Property and Procurement may through policies, rules, or regulations established
18 in accordance with title 3 Virgin Islands Code, chapter 35, continuously increase
19 the aggregate amount hereunder, to match the micro-purchase threshold for the
20 Federal Government.”

21 (2) In paragraph (4):

22 (a) by striking “is less than” and inserting “does not exceed”;

23 (b) by adding “.00” to “\$10,000”; and

24 (c) by adding a subparagraph (D) to read: “(D) The Commissioner
25 of the Department of Property and Procurement may through policies, and
26 rules or regulations established in accordance with tile 3 Virgin Islands Code,

chapter 35, continuously increase the aggregate amount hereunder, to match the micro-purchase threshold for the Federal Government.”

(3) In paragraph (12), by adding the following language “or is made pursuant to the terms of a contract held by the federal agency for which the agency has a federal grant for the services or acquisition of goods in question or made pursuant to the terms of a federal government cooperative agreement or contract held by a nationally recognized procurement organization or its member states and the acquisition complies with the competitive or non-competitive requirements of the grant award,” immediately following “Federal Supply Service”.

(4) By striking paragraph (13) and inserting a new paragraph (13) that reads as follows: “the purchase or contract is for equipment, services, or supplies to be used by first responder agencies in direct response to an accident or emergency; provided that the procurements must be made with such competition as is maximally practicable under the circumstances.”

BILL SUMMARY

This bill amends Virgin Islands Code title 31, chapter 21, section 205 which regulates the sale, lease or other disposition of government real property by designating the first sentence in subsection (b) as paragraph 1 and inserting two additional paragraphs that read:

“(2) Other than is permitted under paragraph (3), if a lease provides for the sublease of government real estate, that lease may not be approved unless the lease provides for the payment to the Government of a sum equivalent to 35% of the rental income due under the sublease.

(3) Notwithstanding paragraph (2), if any lessee of Government property is contractually obligated to invest a minimum of \$500,000 into capital improvements on the leased property during the term of the lease agreement, the Government, through its Department of Property and Procurement, may negotiate a lower percentage of the

1 required subleasing rental fee in recognition of the investment. This paragraph applies
2 to current and future leases.”

3 The bill also amends chapter 23, sections 231a, which provides for the appraisals of real
4 property to be acquired or exchanged by the government. The changes to the statute would
5 reduce the number of appraisers from three to two.

6 Section 236a in subsection (c) increases the amount of a contract let to a preferred bidder
7 where no surety is to be posted from \$50,000 to \$150,000 and in section 239 the aggregate
8 amount for public exigency purchases is increased from \$50,000 to \$150,000.

9 **BR24-1140/June 21, 2024, 2024/AA**
10 **G35-067**