

COMMITTEE ON GOVERNMENT OPERATIONS,
VETERANS AFFAIRS, AND CONSUMER PROTECTION

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BILL NO. 35-0193

Thirty-Fifth Legislature of the Virgin Islands

November 13, 2023

An Act amending title 27 Virgin Islands Code, chapter 15 relating to real estate brokers, sales associates, and property managers

PROPOSED BY: Senator Novelle E. Francis, Jr.
Co-sponsor: Marise C. James

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 27 Virgin Islands Code, chapter 15 is amended in the following instances:

(a) In the chapter heading, strike “and Salesmen” and insert “, Sales Associates, and Property Managers”.

(b) Section 421 is amended as follows:

(1) Insert the following definitions before the definition of “Commission”:

“Agency disclosure” means the disclosure, in written form, of the agency relationship.

“Agency relationship” means a fiduciary relationship created solely by an express written agency agreement between a person and a real estate broker or a

property manager, authorizing the real estate broker or property manager to act as an agent for the person according to the scope of authority granted in the written agency agreement for a real estate transaction.

“Agent” means one authorized and empowered by a written agency agreement to perform actions for a client.

“Buyer” means the transferee in a real estate transaction and includes a person who executes an offer to purchase or lease real estate from a seller, whether alone or through an agent, and whether or not a transfer results, or who seeks the services of an agent with the object of entering into a real estate transaction in more than a casual, transitory, or preliminary manner. “Buyer” includes a lessee.

“Client” means a buyer or seller, or prospective buyer or seller, or both, or lessor or lessee, or prospective lessor or lessee, or both, who has entered a written agency agreement with a real estate broker or property manager in a real estate transaction.”

(2) Insert the following definitions after the definition of “Commission”:

“Commissioner” means the Commissioner of the Department of Licensing and Consumer Affairs.

“Department” means the Department of Licensing and Consumer Affairs.

“Dual agency” means an agency relationship in which a licensee is representing both the buyer and seller or both landlord and tenant in the same transaction.

“Dual agent” means a licensee who, with the written informed consent of all the parties to a contemplated real estate transaction, has entered into a brokerage

1 agreement with and represents the seller and buyer in the same real estate
2 transaction.

3 “Fiduciary” means a real estate broker, sales associate, or property manager
4 in a relationship of trust and confidence between the real estate broker, sales
5 associate, or property manager and a client, which requires loyalty, confidentiality,
6 obedience, full disclosure, accounting and the duty to use skill, care and diligence.

7 “Licensee” when used without modification, means a person licensed under
8 any of the provisions of this chapter.

9 “Listing agreement” means a written contract between a seller of real
10 property and a real estate broker by which the broker has been authorized to sell
11 the property or find or obtain a buyer, including rendering other services for which
12 a real estate license is required to the seller pursuant to the terms of the agreement.

13 “Property management” means the marketing, leasing, or overall
14 management of real estate for others for a fee, commission, or other valuable
15 consideration.

16 “Property manager” means one who manages real estate for a fee,
17 commission, or other valuable consideration, including but not limited to the
18 collection of rents, property supervision or property maintenance, and accounting
19 of fees received for another.

20 “Property Manager-In-Charge” means a real estate licensed property
21 manager designated as the property manager responsible for supervising property
22 managers at a particular real estate property management office and for other
23 administrative and supervisory duties as the Commission may prescribe in
24 regulations.”

(3) Insert the following definitions after the definition of “Real estate salesman”:
“Real estate transaction”:

(1) in sales, means the transfer or attempted transfer of an interest in a unit of real property, an act conducted as a result of or in pursuit of a contract to transfer an interest in a unit of real property or an act conducted in an attempt to obtain a contract to market real property.

(2) in property management, means the lease or rental of a unit of real property, including collection of rent from a tenant of a unit of rented or leased real property, an attempt to rent or lease a unit of real property, an attempt to collect rent from a tenant of rented or leased real property, or an act conducted as a result of or in pursuit of a contract to manage a unit of leased or rented real property.

“Seller” means the transferor in a real estate transaction and includes an owner who lists real estate with an agent, whether or not a transfer results, or who receives an offer to purchase or lease real estate property of which they are the owner from an agent on behalf of another. “Seller” includes a lessor.

“Staff” means an employee or any person in an independent contractor or sponsorship relationship with a real estate broker or property manager.

“Temporary sales apprentice” means a person employed, sponsored, or engaged by a real estate broker on a temporary and limited basis as described in §426a.

“Temporary Sales Apprentice Permit” means a six-month permit to work as a temporary sales apprentice under the supervision of a real estate broker, subject to the limitations established in §426a.”

(4) Strike the term “Real estate” and its definition and insert the following new definition:

“Real estate” or “real property” means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold, or non-freehold. For purposes of this chapter, any rights of redemption are considered to be an interest in real estate. The term does not include:

(1) oil and gas leases, royalties, and other mineral interests and rights of way and easements acquired to construct roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, federal and state governments, or any political subdivision; or

(2) any cemetery lot or right of burial in any cemetery.”

(5) Strike the definition of “Real estate broker” and insert the following new definition:

“Real estate broker” means any person who, for another, and for compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive compensation or valuable consideration therefor, acts as agent for any client involved in the showing, sale, purchase, lease, rental or management of real property, or who solicits listings of real estate for the same purpose, or who advertises or holds one’s self out as engaged in any of the foregoing activities. The term includes any person who

engages in the business of charging an advance fee, or collecting escrow deposits, or contracting for the collection of a fee in connection with any contract whereby the person undertakes primarily to promote the sale or leasing of real estate through its listing in a publication, either in print or by electronic means issued primarily for that purpose, or referral of information concerning the real estate to brokers, or both.”

(6) Strike the term “Real estate salesman” and insert “Sales associate”, and in the definition of “Real estate salesman, insert “any form of” before “compensation” and strike “or otherwise”.

(7) Designate the definitions as subsections (a)-(x), respectively.

(c) Section 422 is amended as follows:

(1) In paragraph (2), strike “subpoena witnesses” and insert “hear testimony and receive evidence, subpoena documents and witnesses as it relates to resolving matters within the Commission’s jurisdiction,”;

(2) In paragraph (3), strike all the language and insert the following new language: “conduct all proceedings and maintain records in accordance with the Virgin Islands Code and federal regulations related to administrative procedures;”

(3) In paragraph (4), insert “examine and” before “recommend”;

(4) In paragraph (5), strike both occurrences of “of Licensing and Consumer Affairs”, and strike “annual reports” and insert “an annual report”;

(5) Paragraph (6) is amended as follows:

(A) Strike “rules and regulations and”;

(B) Insert “and promulgate regulations” after the first occurrence of “bylaws”;

(C) Strike “and” after “brokers” and insert a comma;

(D) Strike “salesman” and insert “sales associates, and property managers.”;

and

(E) Strike “ , which rules, regulations or bylaws shall be approved by the Governor.” and insert “The regulations, which must be promulgated in accordance with title 3, chapter 35 of the Virgin Islands Code, must also establish the scopes of practice for each license category and set standards for professional practice and continuing education requirements.”.

(6) Add paragraphs (7)-(10) that read as follows:

“(7) maintain and publish, either in print or electronically, a current list of all persons holding a license issued under this chapter;

(8) adopt a professional code of ethics consistent with industry standards;

(9) Except as provided in 27 V.I.C.§430, set reasonable fees for services provided by the Commission at the rates sufficient to cover operating expenses incurred by the Commission in carrying out its functions; and

(10) recommend to the Attorney General of the Virgin Islands prosecutions or the bringing of civil actions to seek injunctions and other relief against violations of this chapter outside the jurisdiction of the Commission.”

(d) Section 423 is repealed and reenacted with amendments to read as follows:

“§ 423. License required; exemptions to licensure

(a) All persons engaging in the sale or purchase of real estate for others shall hold a valid Real Estate Broker license, or when employed under the direct supervision of a licensed real estate broker, a Sales Associate license.

(b) All persons engaging in the management of real estate, including the collection of rents, property supervision or property maintenance, and accounting of fees received for another, shall hold a valid Property Manager license.

(c) Any person admitted to practice law in the Virgin Islands as a member of the Virgin Islands Bar upon application, presentment of a valid membership card, and payment of the required fee, must be issued any of the licenses in subsection (a) or (b) and any renewals of the respective license.

(d) Except as otherwise provided in this chapter, this chapter does not apply to:

(1) receivers, referees, administrators, executors, guardians, conservators, trustees, or other persons appointed or acting under the judgment or order of any court while acting in that capacity, or attorneys-at-law in the ordinary practice of their profession, but these persons shall not be regularly engaged in the real estate business and shall not hold themselves out as real estate brokers, sales associates, or property managers unless they are licensed under this chapter;

(2) any trustee or auctioneer acting under the authority of a power of sale in a mortgage, deed of trust, or similar instrument securing the payment of a bona fide debt;

(3) except for title companies, any bank, trust company, building and loan or savings and loan association, or insurance company, having a fiduciary interest such as a receiver, referee, administrator, executor, guardian, conservator or trustee, when the bank, trust company, building and loan or savings and loan association, or insurance company is so engaged;

(4) any person who is employed by a licensed real estate broker or property manager in a solely stenographic or clerical capacity and who does not perform, offer, agree, or attempt to perform, any of the activities specified in this chapter;

(5) any officer or employee of the United States or Territorial government while performing official duties; or

(6) any owner or lessor who performs acts that would require a license under this chapter when such acts are performed in the regular course of or incidental to the owner or lessor's management of the real property, business and the investments therein.

(e) The property manager licensing provisions of this chapter do not apply to:

(1) the owner of the real estate;

(2) a relative of the owner of the real estate, defined as follows:

(A) A son or daughter of the property owner or a descendant of either;

(B) a stepson or stepdaughter of the property owner;

(C) a brother, sister, stepbrother, or stepsister of the property owner;

(D) the father or mother of the property owner or the ancestor of either;

(E) a stepfather or stepmother of the property owner;

(F) a son or daughter of a brother or sister of the property owner;

(G) a son-in-law, daughter-in-law, father-in-law, mother-in law, brother-in-law, or sister-in-law of the property owner; and

(H) the spouse of the property owner.

(3) a person acting as attorney-in-fact under a power of attorney from the owner of real estate who authorizes the final consummation of any contract for the renting or leasing of the real estate. This exemption is meant to exclude a single or irregular transaction and shall not be routinely used to escape the necessity of obtaining a license;

(4) a person acting as a manager of a housing complex for low-income individuals subsidized either directly or indirectly by the Territory, any agency or political subdivision of the Territory, or the government or an agency of the United States; or

(5) a person employed by the owner of the real estate if that person's property management duties are incidental to the person's other employment-related duties.

(f) A real estate broker on active status or a sales associate on active status may act as a property manager without meeting any qualifications other than those required for licensure as a real estate broker or real estate sales associate and without holding a separate property manager's license.

(g) No person may purport to be a real estate broker, sales associate, or property manager or to be qualified to engage in any real estate transaction by using the title of "real estate broker", "sales associate", or "property manager", or use any words or symbols indicating or tending to indicate that the person is a real estate broker, sale associate, or property manager, or licensed to engage in real estate transactions regulated by this chapter without meeting the applicable requirements and holding a license as set forth in this chapter."

(e) Section 424 is amended in the following instances:

(1) In subsection (a), strike “or a real estate salesman” and insert “ , sales associate, or property manager”, and insert “ and shall be accompanied by the applicable real estate license fee” after “prescribe”.

(2) Subsection (b) is amended by inserting “ , sales associate, or property manager” after both occurrences of “broker”.

(f) Insert section 424a. to read as follows:

“§ 424a. Qualifications for licensure

(a) To be eligible for licensure as a real estate broker, sales associate, or property manager, an applicant must:

(1) attain the age of 21 for a Real Estate Broker License, or attain the age of 18 for a Sales Associate or Property Manager license;

(2) be a citizen of the United States or a lawful permanent resident;

(3) be a resident of the Territory for 90 consecutive days prior to the date of application;

(4) be a high school graduate or the holder of a high school equivalency certificate;

(5) have successfully completed the education requirements prescribed by the Commission’s regulations;

(6) have passed any examination as required by the Commission’s regulations;

(7) have not had an application for a license under this chapter denied for reasons other than failure to pass the required examination(s) under this chapter;

(8) have not had a real estate license suspended in the Territory or elsewhere, which suspension is still in effect on the date on which the application is filed; and

(9) have not had a real estate license revoked in the Territory or elsewhere within three years prior to the date on which the application is filed.

(b) For a real estate broker applicant, the Commission shall require proof that the applicant has actively participated in the general real estate brokerage business in the Virgin Islands as a licensed sales associate for a period of not less than two years or has had experience as a real estate broker, or the equivalent title in the real estate business, outside of the Territory for a period of at least two years; which must be established by affidavit sworn to under oath or other and further proof required by the Commission.

(c) A sales associate must be sponsored by a licensed real estate broker after passing the written examination in subsection (a)(5) before the Commission may issue a Sales Associate license.”

(g) Section 425 is repealed and reenacted with amendments to read as follows:

“§425. Examination of applicants, education

(a) The Commission shall adopt reasonable education requirements in coordination with the Virgin Islands Department of Education as may be required by law and shall collaborate with the Department of Labor on the establishment of an apprenticeship program governed by this chapter.

(b) The Commission shall adopt examination requirements and develop and update any applicable examination as necessary to remain current with the Virgin Islands Code and regulations.

(c) The standards for examination for a Real Estate Broker and Sales Associate license must be designed to demonstrate that the applicant has an adequate understanding of the general purposes and the general legal effects of deeds, mortgages, land contracts of sale, leases, and an adequate understanding of the obligations between both the client and agent in a real estate transaction, as well as the provisions of this chapter.

(d) The examination for a Real Estate Broker license must be of a more exacting nature and scope and more stringent than the examination for a Sales Associate's license.

(e) The examination for a Property Manager license must be designed to demonstrate that the applicant has an adequate understanding of the general purposes and the general legal effects of real property leases, and an adequate understanding of fiduciary responsibilities, financial management, general business ethics and the obligations between lessees and lessors or their representatives."

(h) Section 426 is amended as follows:

(1) Strike all the language in subsection (a) and replace with the following language: "The Commission, upon a determination that all requirements for licensure under this chapter have been satisfied, shall issue a license to each qualifying applicant within 30 days by mail or e-mail."

(2) Subsection (b) is amended in the following instances:

(A) In the first sentence, strike "pocket card" and insert "license", strike "size and", and strike "or real estate salesman" and insert ", sales associate, or property manager".

(B) Strike all the language after the first sentence.

(i) Section 426a is added to read as follows:

“§ 426a. Temporary Sales Apprentice Permit

(a) The Commission may issue a Temporary Sales Apprentice Permit to an applicant for a Sales Associate License who has met the requirements to sit for the examination upon the written request of the applicant’s sponsoring real estate broker agreeing to be responsible for the acts of the temporary sales apprentice. A Temporary Sales Apprentice Permit is valid for six months and may be renewed once and does not confer any property right in the privileges to be exercised under the permit. The authority to act under the temporary permit terminates upon the expiration date of the permit or as of the date when the holder of the permit successfully qualifies for a Sales Associate license by written examination under section 425, whichever date occurs first.

(b) The holder of a Temporary Sales Apprentice Permit shall not sign any contract or agreement on behalf of the real estate broker with whom the temporary sales apprentice is employed or independently contracted.”

(j) Section 427 is amended in the following instances:

(1) Strike the section heading and insert a new section heading to read as: “Effective term of license, license renewal, continuing education”.

(2) In the second sentence, strike “or a real estate salesman” and insert “, sales associate, or property manager”.

(3) Insert the following language after the second sentence: “The renewal application must include proof that the licensee has met continuing education requirements prescribed by the Commission’s regulations.”.

(4) Designate the existing language as subsection (a) and insert subsections (b), (c), and (d) that read as follows:

1 “(b) A licensee who fails to renew the license annually in the month
2 immediately following the month of expiration, shall not conduct any real estate
3 business until reinstatement of the license. The license may be reinstated during
4 the first 12 months immediately following the date the license became invalid by
5 payment of any penalty or reinstatement fees established by the Commission, in
6 addition to the renewal fee.

7 (c) A licensee who fails to reinstate a license during the first 12 months
8 immediately following the date the license became invalid, prior to resuming any
9 business under the license, shall submit an application on the prescribed form and
10 meet all other requirements for licensure.

11 (d) A person may not engage in a professional practice governed by this
12 chapter without a valid license.”

13 (k) Sections 427a to 427c are added to read as follows:

14 **“§ 427a. Inactivation of License.**

15 (a) Licensees under this chapter may request that their license be placed into
16 inactive status as provided by the Commission’s regulations and upon payment of
17 any applicable fee or other reasonable requirements. The licensee shall be
18 designated as being inactive and any issued inactive license certification may
19 include an endorsement stating that it is inactive and does not permit the holder to
20 transact business under it.

21 (b) A licensee may reactivate an inactive license by paying an activation fee
22 and complying with all procedures provided in the regulations.

23 **§ 427b. Conditions for participation in dual agency relationship**

1 (a) No licensee shall participate in a dual agency relationship unless both
2 the seller and the buyer, or both the lessor and the lessee, in the transaction have
3 full knowledge of the dual representation and consent in writing to the dual
4 representation on the agency disclosure statement.

5 (b) Before a licensee obtains the consent of any party to a dual agency
6 relationship, the licensee shall disclose to both the buyer and seller, or to the lessor
7 and lessee, all relevant information necessary to enable each party to make an
8 informed decision as to whether to consent to the dual agency relationship. If, after
9 consent is obtained, there is a material change in the information disclosed to the
10 buyer and the seller, or to the lessor and the lessee, the licensee shall disclose the
11 change of information to the buyer and the seller or to the lessor and the lessee, and
12 give them an opportunity to revoke their consent. Either party consenting to dual
13 agency may revoke that agency consent at any time during the transaction.

14 (c) No licensee shall participate in a dual agency relationship unless the real
15 estate brokerage firm or property manager has established a procedure under which
16 licensees, including management level licensees, who represent one client will not
17 have access to and will not obtain confidential information concerning another client
18 of the firm involved in the dual agency transaction.

19 **§ 427c. Fiduciary duties of a licensee in an agency relationship**

20 (a) The common law of agency as supplemented by this section applies to
21 the relationship between a licensee and the licensee's client.

22 (b) In accepting employment by a client, a licensee pledges a primary duty
23 of absolute fidelity to protect and promote the interests of the client or clients.

(c) A fiduciary must put the interest of the client ahead of the interests of the agent and any third party. Licensees owe to all parties in a real estate transaction the fiduciary duty to:

- (1) use reasonable efforts to further the interest of the client;
- (2) exercise reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
- (3) perform the terms of the written agency agreement and agency relationship;
- (4) follow lawful instructions of the client unless doing so would expose the licensee to liability from another party to a contract, lease, or rental agreement;
- (5) perform all duties specified in this section in a manner that demonstrates loyalty to the interests of the client;
- (6) comply with all requirements of this section and other applicable statutes and rules;
- (7) disclose to the client material facts of the transaction that the licensee is aware of or should be aware of in the exercise of reasonable skill and care and that are not confidential information under a current or prior agency or dual agency relationship;
- (8) advise the client to obtain expert advice concerning material matters when necessary or appropriate;
- (9) account in a timely manner for all moneys and property received in which the client has or may have an interest; and
- (10) keep confidential any information given to the licensee in confidence, or any information obtained by the licensee that the licensee knows a reasonable

individual would want to keep confidential, unless disclosure of this information is required by law, violates a fiduciary duty to a client, becomes public knowledge, or is authorized by the party in writing. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.

(d) Unless otherwise agreed, the duty to protect a client's confidences continues after the brokerage service agreement or property management agreement expires or is otherwise terminated.

(e) A licensee who represents more than one client in a real estate transaction, or provides services as a dual agent, owes the duties as specified in subsection (c) to each client, except where the duties to one client will violate the fiduciary duties of the licensee to other clients.

(f) The duties required of a licensee under this section shall not be waived by a client.

(g) The licensee is further obligated to act in accordance with the code of professional conduct provided in regulations, when:

(1) representing a seller, including a lessor, in an agency relationship;

(2) representing a buyer, including a lessee, in an agency relationship;

(3) representing both buyer and seller in a dual agency relationship;

(4) representing both a lessor and lessee in a dual agency relationship as a property manager.”

(l) Section 428 is amended in the following instances:

(1) In the section heading, insert “and property manager” after “broker”.

1 (2) In subsection (a), strike all the language and insert new language to read as
2 follows:

3 “Each real estate broker or property manager shall maintain a fixed office
4 within the Virgin Islands which shall be designated on the license. The fixed office
5 may also be the residence of the real estate broker or property manager, subject to
6 approval by the Department of Planning and Natural Resources and the Virgin
7 Islands Fire Services. The license of a real estate broker or property manager and
8 the license of each sales associate in the employ of or under contract with a real
9 estate broker shall be prominently displayed in the office.”

10 (3) In subsection (b), strike “the applicant for a real estate broker’s license” and
11 insert “a real estate broker or property manager”.

12 (4) Add subsection (c) to read as follows:

13 “(c) Whenever a real estate broker or property manager changes the location
14 of the place of business or discontinues the business, the real estate broker or
15 property manager shall notify the Commission in writing not later than 15 days
16 after the event and return the license to the Commission. If there is a change of
17 office location, the licensee shall apply to the Commission designating the new
18 location of his office.”

19 (m) Section 429 is amended in the following instances:

20 (1) Strike the section heading and insert a new section heading that reads as
21 follows: “Unlawful conduct; suspension or revocation of license; penalties”.

22 (2) Subsection (a) is amended by striking “Commissioner of Licensing and
23 Consumer Affairs, upon recommendation of the Commission, and subject to appeal to
24 the Governor within fifteen days of such recommendation, may” and inserting

“Commission may impose a monetary penalty or”, inserting a comma after “hearing by the Commission”, and striking “guilty of any of the offenses described in this chapter” and inserting “to have committed any offense in subsection (b) or in any regulations adopted thereunder”.

(3) Subsection (b) is amended as follows:

(A) Insert “investigate the actions of any person engaged in the business or acting in the capacity of real estate broker, sales associate, or property manager within this Territory, and” after “person,” in the first sentence.

(B) Strike “recommend to the Commissioner of Licensing and Consumer Affairs the revocation or suspension of” and insert “revoke or suspend”.

(C) Strike “mentioned herein” and insert “within the scope of this chapter”.

(D) Strike “guilty of” and insert “to have committed any of the following acts”.

(E) In paragraph (1), strike “agents or salesman” and insert “staff or other licensees,”.

(F) In paragraph (3), strike “keep such funds of others in escrow or trustee account” and insert “comply with any of the fiduciary duties requirements in section 427 c.”.

(G) Strike all the language in paragraph (4) and insert the following new language:

“being convicted in a court of competent jurisdiction of this Territory or any state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, sexual crimes, drug distribution, arson, physical violence, or any similar

1 offense or offenses. For the purposes of this paragraph, being convicted
2 includes all instances in which a plea of guilty or nolo contendere is the basis
3 for the conviction and all proceedings in which the sentence has been
4 deferred or suspended, or”

5 (H) At the end of paragraph (9), strike the period after “real estate business
6 and insert “ , or”, and insert paragraphs (10) through (14) to read as follows:

7 “(10) failing to provide an agency disclosure to the buyer or seller, or
8 both in the case of dual agency. The writing must be made before or at the
9 time of entering into a listing agreement or an agreement for representation
10 or before showing of property, whichever occurs first, or

11 (11) knowingly committing, or being a party to any material fraud,
12 misrepresentation, concealment, conspiracy, collusion, trick, scheme, or
13 device, whereby any other person relies upon the word, representation or
14 conduct of the licensee, or

15 (12) discriminating against any person in hiring or in sales activity
16 based on race, color, religion, sex, disability, gender identity, or national
17 origin, or violating any of the provisions of any state or federal anti-
18 discrimination law. A certified copy of the final holding of any court of
19 competent jurisdiction in such matter, or a certified copy of the order issued
20 by any state or federal administrative agency having jurisdiction in such
21 matter, shall be conclusive evidence in any hearing conducted under this
22 chapter, or

23 (13) failing to exercise reasonable supervision over the activities of
24 licensees and any unlicensed staff, or

(14) failing to inform the Commission in writing within 30 days of a conviction as described in paragraph (4).”

(4) Insert a subsection (c) that reads as follows:

“(c) If the licensee does not agree with the penalty imposed, the licensee may appeal the penalty pursuant to the appeals process in 3 V.I.C. § 272(f).”

(n) Section 429a. is added to read as follows:

“ §429a. Notice to Commission upon termination of Sales Associate or Property Manager for statutory violation; Contests; Sanctions

(a) The responsible real estate broker who discharges a sales associate or a property manager or the Property-Manager-In-Charge who discharges a property manager for a violation of any of the provisions of this chapter prescribing a ground for disciplinary action, shall file a certified written statement of the facts concerning the violation with the Commission within 24 hours. The failure of the responsible real estate broker or Property Manager-In-Charge to notify the Commission as required by this section may result in the temporary suspension or permanent revocation of the license of the responsible real estate broker or Property Manager-In-Charge, upon notice and hearing.

(b) Whenever a sales associate or property manager is discharged or terminates the sponsorship, employment, or contractual relationship with a real estate broker or a Property Manager-In-Charge, the real estate broker or the Property Manager-In-Charge, not later than 15 calendar days after the discharge or termination, shall mail notification to the Commission with a copy of the former Sales Associate or Property Manager’s license. A copy of this notice must also be sent to the former sales associate or property manager.

(c) It is unlawful for any sales associate or property manager to perform any of the acts specified in this chapter under authority of the license issued pursuant to this chapter, from the date of discharge or termination until the sales associate is sponsored by another real estate broker and a license is reissued by the Commissioner or until a license is reissued to the property manager.”

(o) Section 430 is amended in the following instances:

(1) The introductory clause is amended by striking “Treasury of the Virgin Islands” and inserting “General Fund of the Government of the Virgin Islands”.

(2) Paragraph (1) is amended by striking all the language and inserting new language to read as follows:

“For each examination for a Real Estate Broker’s License, Sales Associate License, or a Property Manager’s License, a fee not to exceed \$350.”.

(3) Paragraph (2) is amended by striking “broker’s” and inserting “Real Estate Broker’s”, and by striking “\$200” and inserting “\$365.”.

(4) Paragraph (3) is amended by striking “salesman’s” and inserting “Sales Associate’s”, and by striking “\$100” and inserting “\$285”.

(5) Paragraph (4) is amended by striking “\$80” and inserting “\$100”.

(6) Paragraph (5) is amended by striking “\$5” and inserting “\$75”.

(7) Paragraph (6) is amended by striking “\$2” and inserting “\$50”.

(8) Strike paragraph (7) and insert a new paragraph (7) that reads as follows:

“(7) For each property management business Office of Property Managers, an annual fee of \$350.”

(9) Re-designate paragraphs (4)–(6) as paragraphs (8)–(10) and insert new paragraphs (4)–(6) to read as follows:

“(4) For the issuance or renewal of each Property Manager’s license, a fee of \$250.

(5) For the issuance or renewal of each Temporary Sales Apprentice Permit, a fee of \$130.

(6) For each brokerage business Office of Real Estate Agents and Brokers, an annual fee of \$450.”

(10) Add paragraph (11) to read as follows:

“(11) A non-refundable license application fee of \$50 and a non-refundable background check fee of \$200.”

(11) Designate the existing language as subsection (a) and add subsection (b) to read as follows:

“(b) (1) The Commission may, by regulation, increase the fees under this chapter but a regulation that increases the fees set forth in this chapter by more than 20% over a 5-year period is void.

(2) Subject to the increase limitation set forth in paragraph (1), the Commissioner, in consultation with the Commission, may revise any fee established by the Commission.”

(p) Section 431 is amended in the following instances:

(1) Subsection (a) is amended by striking “or a licensed real estate salesman” and inserting “sales associate, or property manager”, strike “broker or a salesman” and insert “real estate broker, sales associate, or property manager”.

(2) Strike the language in subsection (b) and replace with the following language:

“(b) (1) Except as otherwise provided in this chapter, it is unlawful for any person to engage, or attempt to engage, either directly or indirectly, in the business

of, or act in the capacity of, real estate broker, sales associate, or property manager, temporary or otherwise, and no person shall advertise or represent themselves as being authorized to act as a real estate broker, sales associate, or property manager, or to engage in an activity regulated by this chapter without a license. No person licensed under this chapter may engage in any activity beyond the scope of their respective license.

(2) Any person who, after a hearing, shall be found by the Commission to have unlawfully engaged, or attempted to engage, in a real estate transaction regulated by this chapter, or any person who knowingly assisted a person to unlawfully engage in such practice, shall be subject to a fine imposed by the Commission of not more than \$10,000 for each offense.”

(3) Subsection (c) is amended by striking “any of the provisions of this chapter or any rules or regulations issued hereunder” and inserting “or knowingly participates in the violation of subsection (b) or any of the provisions of section 429 or any regulations issued thereunder”, and by striking “fined not more than \$500 or imprisoned not more than six months or both” and inserting “guilty of a misdemeanor punishable by a fine not to exceed \$10,000 or by imprisonment not to exceed six months, or by a fine and imprisonment.”.

SECTION 2. Any person or entity holding a license under this chapter on the effective date of this act, upon renewal of the license, shall comply with chapter 15 of title 27 of the Virgin Islands Code, as amended by section 1 of this act.

SECTION 3. The Virgin Islands Real Estate Commission shall, not later than 90 days after the enactment of this act, promulgate regulations to reflect the amendments to chapter 15 of title 27 of the Virgin Islands Code under section 1 of this act.

BILL SUMMARY

Section 1 of this bill amends title 27, Virgin Islands Code, chapter 15 as follows:

In section 421, existing definitions were amended and new definitions were inserted relating to real estate brokers, sales associates, property managers, and real estate transactions.

Section 422 was amended by making technical amendments and updating the powers and duties of the Real Estate Commission (“Commission”) by giving the Commission the power and duty to: hear testimony and receive evidence, and subpoena documents and witnesses as it relates to resolving matters within the Commission’s jurisdiction; conduct all proceedings and maintain records in accordance with the Virgin Islands Code and federal regulations related to administrative procedures; promulgate its regulations in accordance with title 3, chapter 35 of the Virgin Islands Code and update its regulations to establish the scopes of practice for each license category and set standards for professional practice and continuing education requirements; conduct all proceedings and maintain records in accordance with the Virgin Islands Code and federal regulations related to administrative procedures; adopt a professional code of ethics consistent with industry standards; set reasonable fees, except as provided in 27 V.I.C.§430, for services provided by the Commission at the rates sufficient to cover operating expenses incurred by the Commission in carrying out its functions; and recommend to the Attorney General of the Virgin Islands prosecutions or the bringing of civil actions to seek injunctions and other relief against violations of this chapter outside the jurisdiction of the Commission.

Section 423 was repealed and reenacted with amendments requiring that all persons engaging in the sale or purchase of real estate for others hold a valid Real Estate Broker license, or when employed under the direct supervision of a licensed real estate broker, hold a Sales Associate license; requiring that all persons engaging in the property management of real estate

1 hold a valid Property Manager license; providing for exemptions from the licensure
2 requirement, and retaining the provision that any person who is a member of the Virgin Islands
3 Bar shall, upon application and a showing of his membership and a payment of the required
4 fee, be issued any of the licenses under the chapter and any renewals thereto.

5 The amendment to section 424 relates to the application for licensure and updates the
6 titles of the different real estate personnel. Section 424a. was added and establishes the
7 qualifications to obtain a license as a real estate broker, sales associate, or a property manager
8 and setting forth minimum age, citizenship, education, and examination requirements. The
9 minimum age was reduced from 21 to 18 for sales associates. The Virgin Islands residency
10 requirement was reduced from two years for a real estate broker and one year for a sales
11 associate to ninety days to conform to the residency period that has been required by the
12 Commission for the past 15 years. Section 424a. also: disqualifies applicants, under certain
13 circumstances, who have had their licenses denied, suspended, or revoked; requires that a real
14 estate broker applicant provide proof that the applicant has actively participated in the general
15 real estate brokerage business in the Virgin Islands as a licensed sales associate or has had the
16 equivalent experience in general real estate business outside of the Virgin Islands for at least
17 two years; and requires a sales associate, prior to a license being issued, to be sponsored by a
18 licensed real estate broker after passing the written examination.

19 Section 425 was repealed and reenacted with amendments. The new language retains the
20 requirement that applicants pass a written examination and requires the Commission to adopt
21 examination requirements and be responsible for developing and updating any applicable
22 examination to remain current with the Virgin Islands Code and regulations; requires the
23 Commission to adopt reasonable education requirements in coordination with the Virgin
24 Islands Department of Education; removes the provision that required an applicant to wait six

1 months to re-take an examination that the applicant failed twice in succession to pass; and
2 established the topics that the written examination must cover for licensure as a real estate
3 broker, sales associate, and property manager.

4 Section 426 was amended by allowing a license to be issued by e-mail and by making
5 technical amendments. Section 426a. was added and retains the language in the current law
6 pertaining to the Commission's ability to issue a temporary sales apprentice permit.

7 Section 427 was amended by making technical amendments and by establishing the
8 requirements for license renewal and reinstatement. Sections 427a. was added and allows a
9 licensee to place his license into inactive status. Sections 427b. was added and establishes the
10 requirements for a licensee to participate in a dual agency relationship. Section 427c. was added
11 and establishes the fiduciary duties of a licensee in an agency relationship. Section 428 was
12 amended by replacing the language requiring each resident licensed real estate broker to
13 maintain a fixed office with language requiring each real estate broker or property manager to
14 have a fixed office location; requiring that certain notification requirements be followed when
15 there is a change in office location or discontinuation of business; providing the penalties for
16 failure to comply with the notification requirements; and making technical amendments.

17 Section 429 was amended by allowing the Commission to investigate complaints about
18 the actions of any person engaged in the business or acting in the capacity of a real estate
19 licensee, and allowing for the suspension or revocation of a license when a licensee: fails to
20 provide a client with a written agency disclosure within a certain time; violates a fiduciary duty;
21 commits fraud; engages in discrimination; fails to provide notice to the Commission within 30
22 days of a conviction of certain crimes; and fails to exercise reasonable supervision over staff.
23 This section was also amended to allow a licensee to appeal any adverse action under the
24 appeals process in 3 V.I.C. § 272(f) instead of to the Governor. Section 429a. was added and

1 establishes the notice requirements to be followed when a sales associate or property manager
2 is discharged by their responsible real estate broker or Property Manager-In-Charge for a
3 violation of any of the provisions of chapter 15 prescribing a ground for disciplinary action or
4 is separated for other reasons. Section 430 was amended by making technical amendments;
5 increasing existing fees; allowing the Commission, by regulation, to increase the fees under
6 chapter 15 if the increase does not exceed 20% over a five-year period; and allowing the
7 Commissioner of DLCA to revise any fee established by the Commission, in consultation with
8 the Commission and subject to the increase limitation.

9 Section 431 was amended by making technical amendments, retaining the provision in
10 the current law prohibiting any person or entity from engaging in any of the real estate activities
11 provided in the chapter without first obtaining a license, and increasing the penalties for
12 violations.

13 Section 2 of this bill requires that any person or entity holding a license under chapter 15
14 of title 27 of the Virgin Islands Code, upon renewal of the license, comply with all provisions
15 of section 1 of this bill.

16 Section 3 requires the Commission within 90 days of enactment, to revise its regulations
17 to reflect the new provisions of this bill.

18 **BR23-0157/January 18, 2023/Revised August 16, 2023/Revised October 27, 2023/GC**

19 **DRAFTER'S NOTE**

20 This bill is a companion bill to BR23-0156, and as such both bill requests should go
21 through the pro-forma process together and be heard in committee together.