

s/AWCJR

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 35-0013
Offered by Senator Samuel Carrión**

Bill No. 35-0013 is amended by striking all the provisions after the enacting clause and inserting new provisions that read as follows:

“SECTION 1. Title 20 Virgin Islands Code, part II, chapter 35 section 372a is amended as follows:

(a) The words “is authorized to” are stricken, and “shall” is inserted in their place, “Real ID” is inserted after “Virgin Islands,” and “and meets the qualifications established under the REAL ID Act” is inserted after the second occurrence of “Virgin Islands.”

(b) The existing provisions are designated as subsection (a), and subsection (b) is added to read as follows: “(b) The Director shall issue a non-Real ID Limited Purpose Virgin Islands Identification Card to any resident who meets the qualifications established in section 372g”.

SECTION 2. Title 20 Virgin Islands Code, part II, chapter 35 section 372b is amended in the following instances:

(a) Subsection (a) is stricken

(b) Subsection (b) is amended by striking “shall mean” and inserting “means and redesignating it as subsection (a)

(c) Subsections (b), (c), (d), (e) and (f) are added and read as follows:

“(b) The term “Legal Resident” means any natural person who is a legal resident of the Virgin Islands who has been domiciled in the Virgin Islands for at least 90 days and meets the qualifications established under the REAL ID Act of 2005.

(c) The term Non-Real ID Limited Purpose Card means an identification card issued by the Bureau of Motor Vehicles in a manner not compliant with the Real ID Act of 2005 for territorial purposes only.

(d) The term “Resident” means a person who has maintained a residence in the Virgin Islands for at least 180 days pursuant to this chapter.

(e) The term “Real ID Card” means an identification card issued by the Bureau of Motor Vehicles that meets the requirements of the federal Real ID Act of 2005 to be accepted by federal agencies or for other official federal purposes.

(f) The term “Virgin Islands Identification Card” means a Real ID Card and a Non-Real ID Limited Purpose Card issued by the Bureau of Motor Vehicles.”

SECTION 3. Title 20 Virgin Islands Code, part II, chapter 35 section 372c is amended-
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(1) in the section heading by adding “for Virgin Islands identification Card” after “Application;”

(2) in subsection (a) by inserting “or resident” after “resident” and inserting “Identification Card” after “ ID”; inserting “Limited Purpose Virgin Islands Card, Real ID before “driver’s”, striking the first occurrence of “learner’s permit” and inserting “or non-real ID Limited Purpose driver’s license before “has”, by inserting real ID Identification Card or non-real ID Limited Purpose Identification Card, real ID or non-real ID Limited Purpose ” after “whose” and before driver’s license”; and by striking the second occurrence of “learner’s permit”; and

(3) by striking subsection (b) and inserting a new subsection (b) to read as follows:

“(b) The Director shall promulgate regulations for the application for, replacement, amendment, and renewal of a Virgin Islands Real ID Identification Card and for a non-real ID Limited Purpose Virgin Islands Identification Card.”

SECTION 4. Title 20 Virgin Islands Code, part II, chapter 35, section 372d is amended-

(1) in the section heading by adding “of the Virgin Islands Identification Card” after “Issuance;”

(2) in subsection (a) by inserting “for either a Real ID or Non-Real ID Limited Purpose” after “nontransferable”;

(3) in subsection (b) by inserting “Real ID” before “Virgin Islands Identification Card”; by redesignating subsection (c) as subsection (d) and inserting a new subsection (c) that reads as follows: “(c) The Director shall require an applicant for a non-Real ID Limited Purpose Virgin Islands Identification Card or renewal thereof to provide proof of the applicant’s residency in the Virgin Islands for at least 180 days and proof of physical address in the Virgin Islands.”

(4) in the existing subsection (d) by striking “The” before identification and inserting “Every”.

SECTION 5. Title 20 Virgin Islands Code, part II, chapter 35 section 372e is amended in the following instances:

(a) Subsection (a) is amended at the beginning of the subsection by inserting “Real ID” after “A” and striking “from the date of issuance until the date of expiration determined by the Director” and inserting for five years.”

(b) Subsection (b) is redesignated as subsection (c), and a new subsection (b) is added to read as follows: “(b) The non-real ID Limited Purpose Virgin Islands Identification Card is

valid for three years from the date of issuance. The date of issuance and expiration must be noted on the identification card.”

SECTION 6. Title 20 Virgin Islands Code, part II, chapter 35 is amended by adding section 372g to read as follows:

“372g. Proof of Identity and Residency applicable to Non Real ID Limited Purpose Virgin Islands Identification Card

(a) When applying for a non-real ID Limited Purpose Virgin Islands Identification Card, the applicant shall submit documentation establishing proof of identity and residency in the Virgin Islands for not less than 180 days. Proof of identity is established either through one form of primary proof of identity or through two forms of secondary proof of identity.

(b) Primary proof of identity includes:

(1) A valid passport issued by the applicant’s country of citizenship that is unexpired or expired for not more than two years at the time the application for the non-real ID Limited Purpose Virgin Islands Identification Card is submitted;

(2) A valid, unexpired consular identification document issued by an applicant’s country of citizenship; or

(3) any other form of identification published by the Director as acceptable primary proof of identification.

(c) “Secondary proof of identity includes:

(1) A valid, unexpired motor vehicle operator’s license, with security features, issued by another state or country;

(2) A valid national identification card;

(3) An original birth certificate with a raised seal issued by the applicant’s country; and

(4) A Social Security Card; and

(5) Any other form of identification published by the Director as acceptable as secondary proof of identification.

(d) Proof of residency is established by providing any two of the following documents that are not from the same category and contain the applicant's name and physical address and, unless provided otherwise, are dated not less than 180 days before the date of application:

(1) A utility or medical bill;

(2) A bank or credit card statement or transaction including the bank's name and mailing address;

(3) A pre-printed pay stub;

(4) A tax bill dated not less than twelve months before the date of application;

(5) A current homeowner's insurance or renter's insurance policy or motor vehicle insurance card or policy;

(6) A residential contract such as a mortgage or lease showing signatures from all parties needed to execute the agreement;

(7) Postmarked mail sent from the government or a utility company;

(8) A change of address confirmation from the United States Postal Service indicating an applicant's current and prior address;

(9) A survey of an applicant's real property issued by a licensed surveyor;

(10) Any official school records showing enrollment dated not less than 180 days before the date of application; and

(11) any other documentation published by the Director as acceptable proof of residence.

(e) Any form of proof of identity or residency submitted to the Director of the Bureau of Motor Vehicles in a language other than English must be accompanied by a notarized English translation of the document prepared by a translator. No photocopy, notarized photocopy, or nonnotarized document is acceptable as proof of identity.

(f) A non-Real ID Limited Purpose Virgin Islands Identification Card does not convey voting privileges and is not valid for any official federal purpose.

(g) A Limited Purpose Virgin Islands Identification Card is for territorial identification purposes only valid for three years from the date of issuance to the date of expiration and shall bear the words "Not Valid for Federal Purposes."

(h) Neither the Director, any employee of the Bureau of Motor Vehicle, nor anyone who comes into possession of the information submitted by an applicant shall disclose or otherwise make accessible any motor vehicle record containing personal information, or any personal information for any purposes related to Title 8 of the United States Code any portion of any record that identifies whether or not the type of operator's license, motorcycle license, learner's permit, or non-driver identification card that a person has applied for complies with the provisions of the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary to it, or any federal regulations adopted thereunder, except where:

- (1) The applicant provides written informed consent to the disclosure;
- (2) The requesting entity presents a warrant signed by a Virgin Islands court or federal judge, lawful court order, or subpoena;
- (3) The disclosure is required by territorial or federal law; or
- (4) The disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification fraud.

(i) Nothing in this section shall be construed to prohibit or in any way restrict any action where the prohibition or restriction would be contrary to federal law.

(j) The Director may adopt regulations in accordance with this chapter to implement the provisions of this section.

SECTION 7. Title 20 Virgin Islands Code, part II, chapter 35 section 373 is amended by redesignating subsections (a) and (b) and the other affected subsections and inserting new subsections (a) and (b) to read as follows:

“(a) The Director shall issue a Real ID Virgin Islands Operator’s License to any natural person who meets the qualifications of operators and the qualifications established under the REAL ID Act of 2005 and is a legal resident of the Virgin Islands.

(b) The Director shall issue a Non-Real ID Limited purpose Virgin Islands Operator’s License to any resident who meets the qualifications of operators as well as the proof of identity and proof of residency requirement of 20 VIC 375a.”

SECTION 8. Title 20 Virgin Islands Code, part II, chapter 35 is amended by adding section 375a and section 375b to read as follows: “**§ 375a. Proof of identity and residency applicable to Non-Real ID Limited Purpose Operator’s License;**

(a) When applying for a Non Real ID Limited Purpose Virgin Islands Operator’s License, the applicant shall submit documentation establishing proof of identity and proof of residency in the Virgin Islands for not less than 180 days. Proof of identity is established either through one form of primary proof of identity or through two forms of secondary proof of identity.

(b) Primary proof of identity” includes:

(1) A valid passport issued by the applicant's country of citizenship that is unexpired or expired for not more than two years at the time the application for a motor vehicle operator's license is submitted;

(2) A valid, unexpired consular identification document issued by an applicant's country of citizenship; or

(3) Any other form of identification published by the Director as acceptable primary proof of identification.

(c) Secondary proof of identity-includes:

(1) A valid, unexpired motor vehicle operator's license, with security features, issued by another state or country;

(2) A valid national identification card;

(3) An original birth certificate with a raised seal issued by the applicant's country; and

(4) A Social Security Card; and

(5) Any other form of identification published by the Director as acceptable secondary proof of identification.

(d) Proof of residency is established by providing two of the following documents, which shall not be from the same category and must contain the applicant's name and physical address and be dated at least 180 days before filing an application unless provided otherwise:

(1) A dated utility or medical bill;

(2) A dated bank or credit card statement or transaction, including the bank's name and mailing address ;

(3) A pre-printed pay stub;

(4) A tax bill dated not less than twelve months before the date of application;

(5) a current homeowner's insurance or renter's insurance policy or motor vehicle insurance card or policy;

(6) A residential contract such as a mortgage or lease showing signatures from all parties needed to execute the agreement dated not less than twelve months before the application;

(7) postmarked mail from the government or a utility company dated not less than twelve months before the application;

(8) A change of address confirmation from the United States Postal Service indicating an applicant's current and prior address.

(9) A survey of an applicant's real property issued by a licensed surveyor;

(10) Any official school records showing enrollment dated not less than 12 months before the date of application;

(11) Any other documentation the Director publishes as acceptable proof of residence.

(e) No inference shall be made because of an application for or use of the operator's license regarding legal status. Limited Purpose Operator's licenses are not valid identification for arrest, detention, or any other immigration enforcement action.

(f) A non-real ID Limited Purpose Operator's license does not convey voting privileges and is not valid for any official federal purpose.

(g) A non-real ID Limited Purpose Operator's license is for territorial driving purposes only and is valid for three years and expires on the licensee's birthday in the third year and shall bear the words "Not Valid for Federal Purposes" and have a unique design or color indicator that distinguishes it from other driver's license as required by the REAL ID ACT of 2005.

(h) Nothing in this section shall be construed to prohibit or restrict any action where the prohibition or restriction is contrary to federal law.

(i) Any form of primary proof of identity or proof of residency submitted to the Director in a language other than English must be accompanied by a notarized English translation of the document prepared by a translator. No photocopy, notarized photocopy, or noncertified document is acceptable as a form of proof of identity.

(j) As a prerequisite to issuing an operator's license, the Director shall administer a knowledge test to all applicants after the applicant has satisfied the requirements of this section.

(k) Neither the Director, any employee of the Bureau of Motor Vehicle, nor anyone who comes into possession of the information submitted by an applicant shall disclose or otherwise make accessible any motor vehicle record containing personal information, or any personal information for any purposes related to Title 8 of the United States Code any portion of any record that identifies whether or not the type of operator's license, motorcycle license, learner's permit, or non-driver identification card that a person has applied for complies with the provisions of the "REAL ID Act of 2005," Pub.L.109-13, any acts amendatory or supplementary to it, or any federal regulations adopted thereunder, except where:

- (1) The applicant provides written informed consent to the disclosure;
- (2) The requesting entity presents a warrant signed by a territorial court or federal judge, lawful court order, or subpoena;
- (3) The disclosure is required by Virgin Islands or federal law; or
- (4) The disclosure is in connection with an audit or investigation of identity fraud, driver's license fraud, or non-driver identification fraud.

(l) Nothing in this section shall be construed to prohibit or in any way restrict any action where the prohibition or restriction would be contrary to federal law.

(m) The Director shall adopt regulations in accordance with this chapter to implement the provisions of this section

§375b. Penalties

(a) Any officer or employee of an agency, who, by his employment or official position, has possession of, or access to, agency records that contain individually identifiable information, the disclosure of which is prohibited by section 375a or by regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

(b) Any person who knowingly and willfully requests or obtains any record required by section 372g or section 375a concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than \$5,000.

SECTION 9. Title 22 Virgin Islands Code, chapter 9 is amended by adding section 230d to read as follows:

§ 230d. Automobile insurance coverage for holders of non-real ID limited purpose operator’s licenses

Any insurer providing a person with motor vehicle insurance coverage shall not consider, as part of any of its underwriting requirements, the legal status of a person who has obtained an operator’s license under 20 V.I.C. § 375a, and shall not deny automobile insurance coverage based on a person’s legal status in the Virgin Islands.”

AMENDMENT NO. 35-255/July 11, 2023/YLT