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VETERANS AFFAIRS, AND CONSUMER PROTECTION

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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

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

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

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

6 (b) Section 421 is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

22 “Dual agent” means a licensee who, with the written informed consent of all
23 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.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) Section 422 is amended as follows:

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

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

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

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

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

22 (A) Strike “rules and regulations and”;

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

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

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

3 and

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

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

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

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

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

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

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

20 **“§ 423. License required; exemptions to licensure**

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

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

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

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

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

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

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

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

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

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

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

13 (1) the owner of the real estate;

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

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

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

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

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

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

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

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

1 (H) the spouse of the property owner.

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

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

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

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

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

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

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

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

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

8 **“§ 424a. Qualifications for licensure**

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

11 (1) attain the age of 21 for a Real Estate Broker License, or attain the age of
12 18 for a Sales Associate or Property Manager license;

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

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

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

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

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

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

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

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

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

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

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

16 **“§425. Examination of applicants, education**

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

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

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

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

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

15 (h) Section 426 is amended as follows:

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

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

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

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

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

2 **“§ 426a. Temporary Sales Apprentice Permit**

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

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

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

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

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

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

23 (4) Designate the existing language as subsection (a) and insert subsections (b),
24 (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.

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

4 (1) use reasonable efforts to further the interest of the client;

5 (2) exercise reasonable skill and care in representing the client and carrying
6 out the responsibilities of the agency relationship;

7 (3) perform the terms of the written agency agreement and agency
8 relationship;

9 (4) follow lawful instructions of the client unless doing so would expose the
10 licensee to liability from another party to a contract, lease, or rental agreement;

11 (5) perform all duties specified in this section in a manner that demonstrates
12 loyalty to the interests of the client;

13 (6) comply with all requirements of this section and other applicable statutes
14 and rules;

15 (7) disclose to the client material facts of the transaction that the licensee is
16 aware of or should be aware of in the exercise of reasonable skill and care and that
17 are not confidential information under a current or prior agency or dual agency
18 relationship;

19 (8) advise the client to obtain expert advice concerning material matters
20 when necessary or appropriate;

21 (9) account in a timely manner for all moneys and property received in
22 which the client has or may have an interest; and

23 (10) keep confidential any information given to the licensee in confidence,
24 or any information obtained by the licensee that the licensee knows a reasonable

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

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

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

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

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

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

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

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

20 (4) representing both a lessor and lessee in a dual agency relationship

21 as a property manager.”

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

23 (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

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

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

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

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

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

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

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

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

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

21 “being convicted in a court of competent jurisdiction of this Territory
22 or any state, or federal court, of forgery, embezzlement, obtaining money
23 under false pretenses, bribery, larceny, extortion, conspiracy to defraud,
24 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

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

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

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

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

7 “ **§429a. Notice to Commission upon termination of Sales Associate or**
8 **Property Manager for statutory violation; Contests; Sanctions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 “(b) (1) The Commission may, by regulation, increase the fees under this
13 chapter but a regulation that increases the fees set forth in this chapter by more than
14 20% over a 5-year period is void.

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

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

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

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

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

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

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

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

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

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

BILL SUMMARY

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

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

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

21 Section 423 was repealed and reenacted with amendments requiring that all persons
22 engaging in the sale or purchase of real estate for others hold a valid Real Estate Broker license,
23 or when employed under the direct supervision of a licensed real estate broker, hold a Sales
24 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.