

Proposed Markup Language for Bill No. 36-0070

Amendments to Title 28, Virgin Islands Code, Chapter 19

Bill No. 36-0070

[Draft for Legislative Consideration]

1. Title 28, Chapter 19, Section 411 is amended to add the following numbers (10-14):

§ 411. Public Use – Definition

“Public use” shall be construed to cover a broad range of government-authorized activities which benefit the public, including but not limited to:

- (10) access to beaches, shorelines, rivers, and other natural water features;
- (11) access to cultural heritage sites, historic ruins, trails, and communal burial grounds;
- (12) establishment of greenways, scenic overlooks, and traditional footpaths;
- (13) infrastructure for climate resilience, flood mitigation, and ecological restoration;
- and
- (14) the creation or protection of land held in the public commons for educational, cultural, recreational, or conservation purposes.

2. Title 28, Chapter 19, Section 411 is amended to add a new subsection (b):

§ 411(b). Declaration of Public Necessity – Expanded Criteria

In determining public necessity under this chapter, the acquiring agency must consider whether the proposed acquisition:

- (1) advances access to public commons or natural or cultural resources;
- (2) supports climate adaptation, coastal protection, or environmental resilience;
- (3) preserves traditional community access routes or spaces; or
- (4) contributes to the long-term public benefit in accordance with the public trust doctrine and the Virgin Islands Coastal Zone Management Act.

Where feasible, the agency shall explore alternatives to full acquisition, including the use of perpetual easements as authorized under § 423(i).

3. Title 28, Chapter 19, Section 423 is amended to add new subsections (e) through (i):

§ 423(e). Public Use Clarification

The definition of “public use” under this chapter shall include, but is not limited to:

- (1) public access to beaches and shorelines;
- (2) preservation of cultural, historical, or scenic sites;
- (3) protection of environmental resources and natural infrastructure; and

(4) the creation or maintenance of land held in public trust as commons.

This subsection shall be construed in alignment with § 411.

§ 423(f). Repurposing of Unused Property

If the originally intended project does not commence within twenty-five (25) years of property acquisition, the acquiring agency shall evaluate and, where feasible, implement alternative public uses consistent with environmental, cultural, or recreational objectives. The agency shall consult with the Department of Planning and Natural Resources in making this determination for alignment with the Comprehensive Land and Water Use Plan.

§ 423(g). Commons Priority Clause

Agencies are encouraged to prioritize the acquisition or preservation of lands that serve the public as commons, particularly those providing beach and shoreline access, historic trail corridors, cultural sites, freshwater sources, or open green space.

§ 423(h). Transparency and Reporting Requirement

The Department of Property and Procurement, in coordination with the Department of Planning and Natural Resources and the Department of Public Works, shall publish an annual report listing all properties acquired through eminent domain. The report shall include each property's location, current status, intended use, and any changes in use, transfer, or repurposing.

§ 423(i). Perpetual Easements for Public Access

In lieu of full property acquisition, the Government of the Virgin Islands is authorized to obtain, establish, and maintain perpetual easements across private land to ensure public access to:

- (1) beaches, coastal areas, and shorelines;
- (2) historic footpaths, trails, and traditional access routes;
- (3) freshwater sources including springs, wells, and guts;
- (4) scenic overlooks, greenways, and recreational open space;
- (5) culturally significant lands and heritage sites; and
- (6) ecological buffers and conservation corridors.

Such easements shall be recorded in the public land records, be non-exclusive in nature, and confer permanent rights of access for the specified public benefit without transferring fee ownership. Terms and conditions shall be determined by the appropriate agency in consultation with the Department of Justice.