

BILL NO. 36-0102

Thirty-Sixth Legislature of the Virgin Islands

June 24, 2025

An act amending title 31 Virgin Islands Code, chapter 23 by re-enacting section 236b requiring the use of construction materials manufactured in the Virgin Islands, to the greatest extent practicable, for locally or federally funded contracts with the Government of the Virgin Islands

PROPOSED BY: Senators Marvin A. Blyden and Angel L. Bolques, Jr.
Co-Sponsor: Avery L. Lewis

WHEREAS, the Virgin Islands, as a territory, requires a pool of local contractors and suppliers in order to maintain capacity and readiness to carry out regular construction and maintenance activities as well as to carry out emergency response and recovery activities in the event of natural disasters;

WHEREAS, requiring the utilization of local construction materials in projects funded with local and federal government funds is a mechanism for stimulating the growth and maintenance of such a pool of local contractors and suppliers;

WHEREAS, the United States Court of Appeals for the First Circuit, in *Antilles Cement Corp. v. Fortuño*, 670 F.3d 310 (1st Cir. 2012) upheld the language of a Puerto Rico statute which requires the use of local construction materials in locally and federally funded government contracts. Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 31 Virgin Islands Code, chapter 23, is amended by re-enacting section 236b as follows:

“§ 236b. Construction Materials Manufactured in the Virgin Islands

(a) Definitions

(1) ‘Government’ means the Government of the Virgin Islands, its departments, agencies, instrumentalities.

(2) ‘Commissioner’ means the Commissioner of the Virgin Islands Department of Property and Procurement.

(3) ‘Construction works’ means construction, reconstruction, repair, conservation or expansion works.

(4) ‘Construction materials manufactured in the Virgin Islands’ means goods, articles and materials needed to carry out construction, that are extracted, manufactured, processed or finished in the Virgin Islands.

(5) ‘Cement manufactured in the Virgin Islands’ means cement manufactured in the Virgin Islands using raw material from the Virgin Islands except for raw material unavailable in the Virgin Islands for sale in industrial amounts. ‘Cement manufactured in the Virgin Islands’ also includes cement blocks, pre-mixed concrete, concrete mixed at the site and mixture for plastering.

(6) ‘Competitive Bidding’ means the competitive bidding required by any department, agency, or instrumentality in charge of awarding bids in the Virgin Islands.

(7) ‘Public funds’ means funds or guarantees from the Government of the Virgin Islands or from the United States Government, and those funds provided by federal laws for the purposes of revitalizing the economy.

(b) Calls for bids

When bids are required for the contracting of a construction project with public funds pursuant to title 31 Virgin Islands Code, part II, chapter 23, section 235, the list of specifications circulated to the bidders shall contain a provision requiring the use of construction materials manufactured in the Virgin Islands in the submitted proposals.

(c) Contracts without competitive bidding

In the cases in which competitive bidding is not required by law and the government contracts for a construction project with public funds, the construction contract shall require the use of construction material manufactured in the Virgin Islands.

(d) Construction projects of the Government of the Virgin Islands

The Government of the Virgin Islands shall use construction materials manufactured in the Virgin Islands in all of its construction projects.

(e) Availability of list

The Commissioner shall make a list of construction materials manufactured in the Virgin Islands available to all its departments, agencies, and instrumentalities.

(f) Exceptions

The provisions of this chapter shall not apply when the Commissioner determines that:

(1) The total cost of any of the material used in the construction project is more than fifteen percent higher for that material due to the use of materials manufactured in the Virgin Islands than if the material were purchased outside of the Virgin Islands;

(2) The construction materials manufactured in the Virgin Islands are not available in sufficient amounts;

(3) The construction materials manufactured in the Virgin Islands are not of a satisfactory quality;

(4) The use of construction materials manufactured in the Virgin Islands places a business at a competitive disadvantage by restricting fair trade where a direct competitor exists; or

(g) Discretionary authority of the Commissioner

If, for reasons beyond the control of the local factory, such as the breakdown of equipment or force majeure, raw material or an intermediate imported product may be

used for a period not exceeding six months, which may be extended for a further period of six months if the Commissioner so determines.

(h) Penalties

Every person or entity who violates this chapter shall not be compensated for any work performed and must reimburse the Government of the Virgin Islands for any compensation received and must demolish and remove whatever was built unlawfully, upon request of the Commissioner, and compensate the Government for any damages.

(i) Application

The provisions of this chapter shall apply to the Government of the Virgin Islands, its departments, agencies, and instrumentalities.”

BILL SUMMARY

This bill amends title 31 Virgin Islands Code, chapter 23 by re-enacting section 236b relating to construction materials manufactured in the Virgin Islands by requiring the use of locally sourced construction materials, to the greatest extent practicable, on all locally or federally funded contracts with the Government of the Virgin Islands.

BR25-0217/June 9, 2025/PFA/Revised June 13, 2025/PFA