



VIRGIN ISLANDS
BAR ASSOCIATION

Legislation & Law Reform Committee

Semaj Johnson, Esq.
Committee Chair

July 21, 2025

To: The Honorable Carla J. Joseph
Chair of the Committee on Rules and Judiciary
for the 36th Legislature of the Virgin Islands
Capitol Building, P.O. 1690
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Tel. (340) 693-3515
senatorcarlajoseph@legvi.org

RE: Legislation and Law Reform Committee (“LLR”) Review of Bill 36-0077 – An Act amending Title 3 Virgin Islands Code, Chapter 37, to enact the Virgin Islands Commission on Ethics and Conflicts of Interest.

DISCLAIMER: This letter has not been reviewed or approved by the Virgin Islands Bar Association (“VIBA”) Board of Governors, does not necessarily represent the views of VIBA, and is provided for informational purposes only to assist the Virgin Islands Legislature.

Good afternoon Honorable Carla J. Joseph,

Please allow this letter to serve as the testimony I plan to present on behalf of the LLR of VIBA to the Honorable Virgin Islands Legislature on July 22, 2025, regarding Bill 36-0077. Regrettably, neither Ms. Hinda Carbon, Executive Director of VIBA, nor Mr. Semaj Johnson, Esq., Chair of the LLR of VIBA are available for that date/time, so I humbly agreed to participate in their stead.

We commend the Legislature for advancing this important legislation. The creation of a non-partisan, independent body to promote ethical governance and ensure accountability is vital to maintaining public trust and the rule of law in the Virgin Islands. As a body comprised of legal professionals committed to the integrity of our institutions, VIBA's LLR recognizes this Commission as a long-overdue measure to standardize and enforce ethical conduct across government branches.

After a thorough review by the members of the VIBA LLR, the following comments and suggestions are herein presented.

1. Comment: *“Appointment Process and Independence” (New Proposed §§ 1108(a)-(b)):*

To enhance transparency and public confidence, we recommend requiring public disclosure of expected qualifications for candidates, nominee qualifications, and a standard vetting process before Legislative confirmation.

Suggestion: Please consider updating Bill 36-0077 by adding language to *New Proposed §§ 1108(a)-(b)* that enumerates the requirements for holding such a position. Also, please consider disclosing by publication all names of nominees for potential appointment to this honorable Commission to the public, along with the vetting procedures that will be uniformly applied to all candidates.

Reason: This type of transparency will allow for public confidence in the proposed creation of an Ethics and Conflicts of Interest Commission.

2. Comment: *“Vacancy Procedure and Timeline” (New Proposed § 1108(e)):* The 60-day deadline to fill vacancies is reasonable and achievable. However, no enforcement mechanism is articulated if a branch fails to act. Quorums have been, and continue to be, a problem in the Territory.

Suggestion: The Bill could be strengthened by specifying a default appointment mechanism or interim appointment authority to prevent the Commission from becoming non-functional for lack of a Quorum.

Reason: Having language in the Bill to ensure a proper Quorum will be present at all necessary meetings will prevent later rescission or invalidation of its rulings. Such a prophylactic approach can save the V.I. Government and proposed Commission a lot of wasted time and money from having to perform remedial actions.

3. **Comment:** “*Budget and Operational Sustainability*” (New Proposed §§ 1108(h) – (j)[23-25]): While not specifically addressed herein, the Government and Courts are in a financial crisis.

Suggestion: We strongly recommend that the Legislature ensure a dedicated funding stream to protect the Commission’s independence and avoid reliance on discretionary appropriations. Please consider requiring that the Commission’s budget be submitted independently to the Legislature.

Reason: An independent and dedicated funding stream will prevent interruptions of important Commission business, while ensuring that Government funds previously earmarked for other organizations will not be disturbed by an underfunded Commission needing additional funds to continue its duties.

4. **Comment:** “*Legal Counsel Requirements*” (New Proposed § 1108(i)): It should be considered that there may be a Conflict either internally among Commission members, or a conflict for a Commission member with an external party.

Suggestion: We suggest that there be language that allows for retaining outside Counsel in conflict situations, subject to ethical screening and disclosure rules.

Reason: Allowing for the use of outside Counsel in the above-mentioned scenarios will likely increase public confidence that the proposed Commission is operating fairly and without the pressure of internal conflicts.

5. **Comment:** “*Promulgation of Code of Conduct*” (New Proposed § 1108(k)): A Code of Conduct that requires a high standard of personal as well as public accountability are vital to the success of this Commission.

Suggestion: The bill should explicitly require public consultation during code development and reference at least the minimum standards established by the V.I. Code

of Conduct for public officials. Additional accountability requirements would also be appropriate for this particular Commission.

Reason: By inviting all people of the V.I. to lend their voices to this process and making sure these voices are *heard* by this Legislative body will likely yield overwhelmingly positive results.

6. **Comment:** “*Progress and Effectiveness of Commission*”: For additional transparency with the proposed Commission moving forward, a summary outlining its duties and results thereof for each year should be required and be publicly available.

Suggestion: The above-suggested requirement could model that of The V.I.’s Coastal Management Commission Statute, 12 V.I.C. § 904(f), which provides:

“The Commission shall evaluate progress being made towards the implementation of the provisions of this chapter and shall submit a report to the Governor and Legislature on an annual basis.”

Reason: Transparency.

Thank you and have a wonderful day.

Sincerely,

/s/Anna Kristin McKown, Esq.

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