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# Controversial Whistling Cay Amendment Passes as Addition to Non-Germane Bill

**Legislative Majority backs amendment and non-germane bill despite controversies**

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**Whistling Cay, St. John USVI. By. GETTY IMAGES**

The controversial topic of the land swap involving Whistling Cay [returned to the Legislature](#) once more during Tuesday's legislative session, this time winning approval.

Senator Angel Bolques, on behalf of Senator President Novelle Francis, tacked on an amendment to non-germane bill 35-0159 that strikes Section 3 of Act 8741 (the land swap legislation) and replaces it with a new Section 3 that reads as follows "the Government of the Virgin Islands may exchange the land in section one, so long as the use and public access to Whistling Cay and its

waterways known as Fungi Passage remain consistent with the National Park Service Organic Act 54 USC Section 100101 and all applicable federal laws and regulations."

The amendment drew strong opposition from several lawmakers, with Senator Kenneth Gittens attempting to stand on a point of order, alleging that rule 511 had been violated. Rule 511 C 2), argued Mr. Gittens, states that amendments must be circulated to lawmakers at least 24 hours in advance. "And I know for sure that this wasn't distributed," he challenged.

Despite the rule, Mr. Gittens was deemed out of order by Senate President Novelle Francis.

Senator Alma Francis Heyliger also suggested that rule 511 had been broken, saying, "The fact that this document was put on my desk today, this is the first time I saw it. And he [Senator Bolques] did not waive the rules or do anything when he brought this amendment forward, so it's not properly before this body."

Legal counsel, however, disagreed. Senator Francis Heyliger also disclosed that a lawsuit had been filed over the issue. Consortium journalists are currently attempting to find the text of the complaint, which the senator indicated was filed in the D.C. circuit.

Senator Javan James Sr. also stood in opposition to the amendment, wondering what was the difference between the proposal before them and the last one, which failed [in the previous regular session](#).

Mr. Bolques in response stated that the amendment is "primarily influenced by what would be the insurance titling company." Act 8741 as currently written, he explained, "poses a challenge in obtaining insurance for Whistling Cay. This is because it implies that water rights that have been historically and still do belong to the Department of Interior's National Park Service, are not under the territorial jurisdiction of the Virgin Islands Government."

He added, "This language is to clarify that the government of the Virgin Islands may swap the land in order for the deal to go through so that the titling company can get the insurance for Whistling Cay."

In response to a question from Senator Javan James Sr. about what would happen if the amendment did not pass, Mr. Bolques admitted that things were at an impasse. "Due to the titling insurance company's concerns being held up, which is necessary for the closing and the transfer of the deeds, the amendment is essential for a smooth transition so that we are able to get the insurance for whistling Cay, so that the actual agreement can go through."

The impasse, said Mr. Bolques, "stands as a pivotal element in a \$200 million fully funded development which is ready to proceed, but is currently being hindered by this stipulation. Without resolving this issue, the project cannot move forward as planned by the GVI."

Mr. Bolques said that he had been in intense discussions with the National Park Service as well as the executive branch of government on the issue, dating back to February of this year. "The last time that the amendment was brought, I also had a meeting with the executive branch concerning what the issue is, and what exactly we need to do moving forward," he said.

Nine senators eventually voted in favor of the amendment, with 11 ultimately voting for the entire non-germane bill, which included a host of other amendments.