

Property Managers Face New Licensing Rules in Virgin Islands Real Estate Overhaul

The new real estate bill introduces a licensing requirement for property managers as part of sweeping industry reforms

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No significant changes have been made to laws guiding the territory's real estate industry since 1968. However, on Monday Senator Novelle Francis declared that he intends to "close the gaps" in the outdated legislation with the eventual enactment of Bill 35-0193.

With the statute "largely unchanged" since its enactment, Mr. Francis observed that there are loopholes "being exploited for financial gain to the detriment of the Virgin Islands Community." Consequently, the local real estate industry has "gained a reputation of being a wild wild west where anything goes," the Senate President complained.

Among its many goals, the implementation of Bill 35-0193 is expected to bring about increased consumer protection. It includes definitions, licensing requirements, continuing education considerations, disclosure requirements and overall statutory guidance to support the regulatory role of the Real Estate Commission. Additionally, the draft legislation lowers the minimum age to enter the industry from 21 to 18, allowing youth to participate in the real estate industry as apprentices. The Department of Labour will be required to support the training of the apprentices in the sector.

Importantly, Bill 35-0193 requires property managers to acquire a property management license, an entirely new obligation. According to Laurent Alfred, chair of the Virgin Islands Real Estate Commission and a drafter of the bill, property managers have “operated for decades without effective regulatory oversight, thereby causing confusion among the public and within the real estate industry.” Developing the new property manager exam is expected to cost approximately \$92,000.

The bill does not impact property owners, whether you're renting short-term units or longterm apartments. Currently for owners of short-term rentals such as Airbnbs, a Short Term Rental License categorized under A, B, or C will be required regardless of the number of properties. Conversely, owners of up to four long-term rental properties on the same land will not need a license, but more than four will necessitate an Apartment House License.

The bill introduces a 90-day residency requirement for operating in the Virgin Islands' real estate market, aimed at ensuring that real estate practitioners are well-acquainted with the local community and its needs.

Mr. Francis's proposed legislation has been described as “necessary and beneficial” by Dan Savaro, president of the Territorial Association of Realtors. He was one of several invited testifiers to commend the Mr. Francis for the changes. “As the real estate landscape continues to evolve, it is essential for the regulatory frameworks to adapt accordingly,” he conceded. Similarly, Ava Gail Bourdon, president and Principal Broker at RE/MAX St. Croix commented that “the framework of this bill sets a solid base for generations to come.”

B.J. Harris, vice chair of the V.I. Department of Licensing and Consumer Affairs Real Estate Commission, expressed her pleasure with the new requirements for property managers. Such a position requires “a clear understanding of the fiduciary duties of a manager, knowledge of accounting and reporting procedures,” she declared. With the eventual passage of the bill, DLCA would then be able to monitor that sub-sector by “consolidating the many license options into one property manager license.” Her DLCA colleague Horace Graham, assistant commissioner, mused that the proposed amendments “demonstrate a comprehensive approach to ensuring transparency, competency and ethical conduct.”

He did, however, suggest the implementation of a grace period for the educational component of the bill, explaining that “establishing such a program may take time.” The proposed grace period would “afford individuals the opportunity to meet the educational requirements once the course is in place.” The educational requirements will ensure practitioners remain current on real estate laws, regulations and best practices.

The only major source of opposition came from Carl Gotts, vice president of Vacation St. Croix. He made it clear that “we do not want to be associated with the National Association of Realtors,” citing a lawsuit that accused the NAR of anti-competitive practices and inflating commissions. The matter was settled in April to the tune of \$418 million. “We don't want any part of it. We

don't want to be called realtors and it's not our mess to clean up,” he said.

Mr. Gotts further feared that the new license would “jeopardize our ability to collect and turn over the 12.5% Virgin Islands hotel taxes each month. Mr. Alfred, the V.I. Real Estate Commission chair, quickly clarified that “if hotel occupancy tax has to be collected, it must be collected whether or not this industry is regulated under the real estate commission.”

The proposed bill received no pushback from lawmakers, though Senator Marise James suggested cleaning up some language.

Senator Carla Joseph was interested in a timeframe for the implementation of the “required rules and regulations for the property managers component.” She also inquired on a timeframe for the promulgation of educational requirements captured in the bill. Replying to the latter, Mr. Graham suggested that “between 90 and 180 days might be a reasonable timeframe.” As per Section Three of the draft bill, rules and regulations must be developed within 90 days of enactment. A grace period would move the needle to 180 days.

Bill 35-0193 will now be considered in the Committee on Rules and Judiciary, along with a companion bill that will create a position for a property manager on the Real Estate Commission.