

COMMITTEE ON HOUSING, TRANSPORTATION, AND
TELECOMMUNICATIONS

BILL NO. 33-0152

Thirty-Third Legislature of the Virgin Islands

September 3, 2019

An Act amending title 28, chapter 12, sections 251 and 254 of the Virgin Islands Code relating to construction liens by exempting government-owned property and property of homeowners under government-administered home repair and construction programs from construction liens, and providing protections to certain homesteaders, and for other related purposes

PROPOSED BY: Senator Marvin A. Blyden

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 28, chapter 12, subchapter I of the Virgin Islands Code is amended in section 251 by designating subsection (f) as subsection (g) and inserting a new subsection (f) to read as follows:

“(f) “Protected person” means:

(1) an individual who contracts to give a security interest in, or to buy or have improved, residential real estate, all or a part of which the individual occupies or intends to occupy as a residence;

(2) a person obligated primarily or secondarily on a contract to buy or to improve residential real estate or on an obligation secured by residential real estate if, when the person becomes obligated, that person is related to an

1 individual who occupies or intends to occupy all or a part of the real estate as a
2 residence; or

3 (3) with respect to a real estate security agreement, a person who
4 acquires residential real estate and assumes or takes subject to the obligation of
5 a prior protected party pursuant to paragraphs (1) or (2) of this subsection under
6 the security agreement.”

7 **SECTION 2.** Title 28, chapter 12, subchapter II of the Virgin Islands Code is amended
8 in section 254 by striking all the existing language in the section and inserting new language in
9 its place to read as follows:

10 “(a) All real estate owned by the Government of the Virgin Islands, a
11 governmental agency, or an instrumentality of the Government of the Virgin
12 Islands, and all real estate declared for a public use, is exempt from construction
13 liens under this chapter.

14 (b) A construction lien does not exist under this chapter for work,
15 services, materials, or equipment, in connection with the improvement of a
16 residential dwelling under an emergency home repair program or other home-
17 repair or construction program administered by the Government of the Virgin
18 Islands or any instrumentality of the Government of the Government of the
19 Virgin Islands.

20 (c) A construction lien does not exist under this chapter for real estate
21 owned by a protected person unless the real estate improvement contract is in
22 writing, is signed by the contracting owner, and includes the following notice
23 conspicuously on its first page:

24 “Notice. By signing this contract, you are subjecting your real estate
25 to the provisions of the of the Virgin Islands construction lien law under title 28,

1 chapter 12 of the Virgin Islands Code, and to the risk of a forced sale to enforce
2 payment for services or materials under this contract.”

3 (d) A construction lien does not exist under this chapter in favor of any
4 contractor, subcontractor, or sub-subcontractor who is not licensed as required
5 by title 27 chapters 7, 8, or 10 of the Virgin Islands Code or other applicable law
6 of the Virgin Islands, but a surety that has provided a bond on behalf of the
7 unlicensed contractor, subcontractor, or sub-subcontractor are not affected by
8 this exclusion.”

9 **Bill Summary**

10 This Bill amends the Virgin Islands’ construction lien law in title 28, chapter 12 of the
11 Virgin Islands Code. Section 1 amends section 251 by adding a definition of “protected person”.
12 The definition is added for purposes of defining a class whose homestead property is subject to
13 certain protections and exceptions from the lien provisions in section 253. The definition is taken
14 from the Uniform Construction Lien Act of 1987, which is now a model act.

15 Section 2 of the Bill generally amends title 28, section 254 of the Virgin Islands Code.
16 Under the existing law, a person making an improvement pursuant to a real estate improvement
17 contract with the Government is not entitled to a lien. Subsection (a) of section 2 abolishes that
18 provision, and instead exempts all government-owned property and property declared for public
19 use from construction liens. Subsection (b) protects homeowners participating in government-
20 administered home repair or construction programs from incurring a lien on their property.
21 Subsection (c) of section 2 conditions the existence of a construction lien against protected
22 persons’ property on the real estate improvement contract being in writing, signed by the owner,
23 and containing a written statement notifying the owner of the applicability of the construction
24 lien law to the owner’s property for services provided under the contract. This provision is
25 intended to protect homesteaders and their families from unknowingly risking loss of their
26 homestead through lien enforcement. Subsection (d) of section 2 precludes unlicensed
27 contractors from entitlement to a construction lien.

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29 **BR 19-0542/August 12, 2019/YLT/Reviewed by EEM**