

02/27/2014-HELD IN COMMITTEE

BILL NO. 30-0257

Thirtieth Legislature of the Virgin Islands

October 21, 2013

An Act amending title 1, chapter 15 of the Virgin Islands Code by providing requirements for settled claims and settlement agreements for the Government of the Virgin Islands and providing that settled claims and agreements of the Government of the Virgin Islands are public records

PROPOSED BY: Senator Nereida "Nellie" Rivera-O'Reilly
Co-Sponsor: Sammuel Sanes

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 1, chapter 15 of the Virgin Islands Code is amended by adding a new
3 section 257 to read as follows:

4 "**§257. Settled claims and settlement agreements of the Government of the Virgin Islands**

5 (a) The Government of the Virgin Islands, including the legislative, executive and
6 judicial branches, and all autonomous and semi-autonomous agencies and instrumentalities, shall
7 maintain a public written or electronic record of all settled claims. The record for all such claims
8 settled shall include a written executed settlement agreement. The settlement agreement shall
9 contain a brief description of the claim, the party or parties released under the settlement, and the

1 amount of the financial compensation, if any, paid by or to the government entity or on its
2 behalf.

3 (b) Any claim or settlement agreement involving a government entity shall be a
4 public record but, to the extent permitted by subsection (f), specific portions of the claim or
5 settlement agreement may be withheld from the public. A private insurance company or
6 government agency providing coverage to the public entity shall, without delay, provide to the
7 public entity a copy of any claim or settlement agreement to be maintained as a public record.

8 (c) For the purposes of this section, a 'settlement agreement' means any contractual
9 agreement to settle or resolve a claim involving a government entity or on behalf of the
10 government entity, a government official, or a government employee by the government entity, a
11 private insurance company, or a government agency providing coverage.

12 (d) For the purposes of this section, a confidentiality or nondisclosure clause or
13 provision contained in or relating to a settlement agreement shall neither cause nor permit a
14 settlement agreement or the claim or any other public record to be withheld from the public.
15 Nothing in this section shall require a government official or government employee or any party
16 to the settlement agreement to comment on the settlement agreement.

17 (e) For the purposes of this section, a 'confidentiality or nondisclosure clause or
18 provision' means any covenant or stipulation adopted by parties to a settlement agreement that
19 designates the settlement agreement, the claim, or any other public record as confidential, or in
20 any other way restricts public access to information concerning the settlement agreement or
21 claim.

22 (f) The following records, unless publicly disclosed in an open court, open
23 administrative proceeding, or open meeting or disclosed by a public entity pursuant to its duties,
24 may be withheld from the public by the lawful custodian of the records:

1 (1) Personal information in records regarding a student, prospective student,
2 or former student of any educational institution when such records are maintained by and
3 in the possession of a public entity, other than routine directory information;

4 (2) Medical records, other than records of births and deaths and except as
5 provided in paragraph (5) of this subsection, in any form concerning any person;

6 (3) Trade secrets, academic and scientific research work which is in progress
7 and unpublished, and other proprietary or commercial information which if released
8 would give advantage to business competitors and serve no public purpose;

9 (4) Records which represent the work product of an attorney and the
10 government entity involved which are related to preparation for litigation, labor
11 negotiations, or claims made by or against the government entity or which are
12 confidential communications;

13 (5) Records developed or received by law enforcement agencies and other
14 government entities charged with duties of investigation or examination of persons,
15 institutions, or businesses, when the records constitute a part of the examination,
16 investigation, intelligence information, citizen complaints or inquiries, informant
17 identification, or strategic or tactical information used in law enforcement training;

18 (6) Appraisals or appraisal information and negotiation records concerning the
19 purchase or sale, by a government entity, of any interest in real or personal property, prior
20 to completion of the purchase or sale;

21 (7) Personal information in records regarding personnel of government
22 entities other than salaries and routine directory information;

23 (8) Information solely pertaining to protection of the security of government
24 property and persons on or within government property, such as specific, unique

1 vulnerability assessments or specific, unique response plans, either of which is intended
2 to prevent or mitigate criminal acts the public disclosure of which would create a
3 substantial likelihood of endangering public safety or property; computer or
4 communications network diagrams, plans or schemes, passwords, and user identification
5 names; guard schedules; lock combinations; or public utility infrastructure specifications
6 or design drawings the public disclosure of which would create a substantial likelihood of
7 endangering public safety or property, unless otherwise provided by state or federal law;

8 (9) Records or portions of records kept by a publicly funded library which,
9 when examined with or without other records, reveal the identity of any library patron
10 using the library's materials or services;

11 (10) Correspondence, memoranda, and records of telephone calls related to the
12 performance of duties by a member of the Legislature in whatever form;

13 (11) Records or portions of records kept by government entities which would
14 reveal the location, character, or ownership of any known archaeological, historical, or
15 paleontological site in the Virgin Islands when necessary to protect the site from a
16 reasonably held fear of theft, vandalism, or trespass. This section shall not apply to the
17 release of information for the purpose of scholarly research;

18 (12) Records or portions of records kept by government entities which maintain
19 collections of archaeological, historical, or paleontological significance which reveal the
20 names and addresses of donors of such articles of archaeological, historical, or
21 paleontological significance unless the donor approves disclosure;

22 (13) Job application materials submitted by applicants, other than finalists, who
23 have applied for employment by any government entity. For purposes of this section:

1 (A) 'Job application materials' means employment applications,
2 resumes, reference letters, and school transcripts; and

3 (B) 'Finalist' means any applicant:

4 (i) who reaches the final pool of applicants, numbering four or
5 more, from which the successful applicant is to be selected,

6 (ii) who is an original applicant when the final pool of
7 applicants numbers less than four, or

8 (iii) who is an original applicant and there are four or fewer
9 original applicants;

10 (14) Social security numbers; credit card, charge card, or debit card numbers
11 and expiration dates; and financial account numbers supplied to state and local
12 governments by citizens; and

13 (g) This section does not apply to claims made in connection with insured or self-
14 insured health insurance contracts.”

15 **BILL SUMMARY**

16 This bill amends title 1, chapter 15 of the Virgin Islands Code by providing requirements
17 for settled claims and settlement agreements for the Government of the Virgin Islands and
18 providing that settled claims and agreements of the Government of the Virgin Islands are public
19 records.

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21 BR13-0531/August 23, 2013/EEM/Reviewed by MMH
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