

COMMITTEE ON BUDGET, APPROPRIATIONS AND
BUDGET

BILL NO. 35-0099

Thirty-Fifth Legislature of the Virgin Islands

June 12, 2023

An Act amending title 28, chapter 23, of the Virgin Islands Code relating to the foreclosure of Liens Upon Real Property

PROPOSED BY: Senator Marise C. James

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 28, chapter 23 of the Virgin Islands Code is amended by inserting a new section 531A that reads as follows:

§531A Ancient Mortgages

(a) Unless the lien of a mortgage, deed of trust, or other instrument that creates a security interest of record in real property to secure a debt or other obligation has earlier expired, the lien expires at, and is not enforceable by action for foreclosure commenced, power of sale exercised, or any other means asserted after, the later of the following times:

(1) If the final maturity date or the last date fixed for payment of the debt or performance of the obligation is ascertainable from the recorded evidence of indebtedness, 5 years after that date.

1 (2) If the final maturity date or the last date fixed for payment of the debt or
2 performance of the obligation is not ascertainable from the recorded evidence of
3 indebtedness, or if there is no final maturity date or last date fixed for payment of the
4 debt or performance of the obligation, 35 years after the date the instrument that created
5 the security interest was recorded.

6 (3) If a notice of intent to preserve the security interest is recorded within the
7 time prescribed in paragraph (1) or (2), 5 years after the date the notice is recorded.

8 (b) For the purpose of this section, a power of sale is deemed to be exercised upon
9 recordation of the deed executed pursuant to the power of sale.

10 (c) The times prescribed in this section may be extended only if an extension
11 agreement is recorded before expiration of the prescribed times. In case an extension agreement
12 is so recorded, the period shall continue until five (5) years have elapsed during which no
13 further extensions have been recorded.

14 (d) Expiration of the lien of a mortgage, deed of trust, or other security interest
15 pursuant to this section or any other statute renders the lien unenforceable by any means
16 commenced or asserted thereafter and is equivalent for all purposes to a certificate of satisfaction,
17 reconveyance, release, or other discharge of the security interest, and execution and recording
18 of a certificate of satisfaction, reconveyance, release, or other discharge is not necessary to
19 terminate or evidence the termination of the security interest. Nothing in this section precludes
20 execution and recording at any time of a certificate of satisfaction, reconveyance, release, or
21 other discharge.

22 (e) The time shall not be extended by non-residence or disability of any person
23 interested in the mortgage or real estate, or by any partial payment, agreement, extension,
24 acknowledgment affidavit, or other action not meeting the requirements of this section.

1 (f) This section applies on the operative date to all mortgages, deeds of trust, and other
2 instruments that create a security interest in real property to secure a debt or other obligation,
3 whether executed or recorded before, on, or after the operative date.

4 (g) This section shall not cause the lien of a mortgage, deed of trust, or other security
5 interest in real property to expire or become unenforceable before the passage of five years
6 after the operative date of this section.

7 **BILL SUMMARY**

8 This bill amends chapter 23 of title 28 of the Virgin Islands Code and establishes a time
9 limit for certain mortgages and other security interests to expire due to passage of time thus
10 releasing property that would otherwise be considered encumbered.

11 **BR23-0257/January 19, 2023/AA/REVISED May 9, 2023**