

s/AWCJR

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 35-0240
Offered by Senator Novelle E. Francis, Jr.**

Bill No. 35-0240 is amended as follows:

(a) The preamble is stricken, and new preamble is inserted to read:

“WHEREAS, the Virgin Islands Department of Labor administers the Workers’ Compensation Administration;

WHEREAS, the Workers’ Compensation Administration receives and processes claims for injury or disease that arises out of and in the course of employment in the Virgin Islands;

WHEREAS, the Government Insurance Fund was established to insure employers against liabilities for injuries occurring at the workplace; to assure that employees injured on the job receive compensation, necessary medical coverage and rehabilitation assistance; and, in the case of death, that the employee’s dependents receive adequate assistance.

WHEREAS, the Virgin Islands Department of Finance currently administers the Government Insurance Fund and releases the funds for payment of claims;

WHEREAS, injured workers should be able to file the claims and receive timely benefits, while providers should be paid promptly;

WHEREAS, the Workers’ Compensation Administration will be strengthened and enhanced through the automation of all services, beginning with claims and including payments;

WHEREAS, the Workers’ Compensation Administration will benefit by merging the claims and payment components of the Workers’ Compensation Insurance Program; and

WHEREAS, the Government Insurance Fund will be renamed the Workers' Compensation Trust Fund and reestablished in the Department of Labor and administered by the Commissioner of the Department of Labor or his designee; Now, therefore,"

(b) All the language after the enacting clause is stricken and new language is inserted that reads as follows:

"SECTION 1. Title 24 Virgin Islands Code, chapter 11 is amended as follows:

(a) By striking "Commissioner of Finance" in wherever it occurs and inserting "Commissioner of Labor";

(b) by striking "Virgin Islands Government Insurance Fund" or "Government Insurance Fund" wherever they occur and inserting "Workers' Compensation Trust Fund";

(c) by striking "Administrator" in wherever it occurs and inserting "Director";

(d) in section 251(a), by striking the definitions of "Board", "District Administrator" and "Fund Administrator" and inserting the following definitions:

(1) "Director" means a person appointed by the Commissioner of Labor to administer the operations of the Workers Compensation Administration.

(2) "Waiting Period" means the time that must pass before disability benefits can be paid to an employee who has sustained a personal injury or occupational disease arising out of and in the course of employment. The waiting period is counted as consecutive business days, not calendar days. The date of the injury triggers the start of the waiting period.

(e) by repealing section 251a in its entirety;

(f) in section 251b:

(1) in the section heading by striking "Board of Workers' Compensation Administration" and inserting "Commissioner of Labor";

(2) in the first sentence by striking “Board of Directors of the Workers’ Compensation Administration” and inserting “Commissioner of Labor”;

(3) by striking subsections (b), (c) and (d) and inserting new subsections (b), (c), and (d) that read as follows:

“(b) appoint the Director of the Workers’ Compensation Administration;

(c) to determine the salary of the Director of the WCA;

(d) the Commissioner of Labor shall hear appeals of decisions rendered by the administrative law judge;”;

(4) “in subsections (h) and (i) by striking the word “board” and “Board”, respectively, and inserting with “Commissioner of Labor”; and

(5) by redesignating subsection (i) as (j), and inserting a new subsection (i) that reads: “(i) administer the Workers’ Compensation Trust Fund including the following:

(1) protect the solvency of the Workers’ Compensation Trust Fund by conducting actuarial studies; determining premium rates in accordance with the costs of administration and payment of claims;

(2) pay claims issued by the Commissioner of Labor;

(3) through the use of technology, plan and improve, the payment of claims;

(4) maintain accounts of income, expenditures and balances;

(5) manage the staff of the Workers’ Compensation Trust Fund;

(6) prepare the budget of the Workers’ Compensation Trust Fund;

(7) certify documents;

(8) collect interest on the Workers’ Compensation Trust Fund for the benefit of the Fund; and

(9) perform other duties related to the management of the Workers' Compensation Trust Fund.”;

(g) in section 251c:

(1) in subsection (b) by striking “Board of Directors of the WCA” and inserting “Commissioner of Labor”;

(2) in subsections (c), (d), (e), (i) and (j) by striking “board” and inserting “Commissioner of Labor” wherever it appears; and

(3) in subsection (j) by adding paragraphs (13) and (14) to read:

“(13) review title 24, chapter 11 and make recommendations for amendments every five years; and

(14) establish, in partnership with the local medical community, a fee schedule for the payment of medical procedures that must be implemented not later than 60 days after it has been established.”;

(h) by repealing section 251d in its entirety;

(i) in section 252(a):

(1) after the first sentence, by inserting two sentences that read: “There will be a five-day waiting period before disability benefits may be paid. If an employee is found eligible for payment on the 15th day, the compensation is retroactive to the first full day of disability”;

(j) in section 254a, by adding subsections (j) and (k) to read:

“(j) There is a four-year statute of limitations on medical care. If there has been no activity in a case for four consecutive years, the case will be closed.

(k) If there has been no activity on a claim for six months, that claim is inactive.

The injured worker must submit a medical report for the Director's consideration in

determining if the case will return to active status. A claim may remain inactive for not more than four years.”;

(l) in section 254c:

(1) in subsection (b), by striking “245b” and inserting “254b”;

(2) by striking the language in subsection (c) and inserting new language to

read:

“(c) If a contract or temporary employee is injured, that employee is eligible for a maximum of 26 weeks temporary total disability benefits after the last day of employment. If the injury is catastrophic, that employee is eligible for 120 weeks of disability benefits after the last day of employment. Contract and temporary employees are entitled to medical rehabilitation as provided in section 254a”;

(3) by adding subsection (g) to read:

“(g) Temporary total disability income benefits are paid for a period not to exceed 120 weeks, or upon reaching maximum medical improvement, whichever occurs first.”;

(m) in section 256 by striking “Board of the Workers’ Compensation Administration”, “board”, and “Board of the WCA” wherever they occur and inserting “Commissioner of Labor”;

(n) in sections 261 and 263 by striking “Government Insurance Fund” wherever it occurs and inserting “Workers Compensation Trust Fund”;

(o) by striking section 265 in its entirety and inserting a new section 265 that reads:

“Section 265. Workers’ Compensation Trust Fund

There is created the Workers’ Compensation Trust Fund (“WCTF”) within the Department of Labor and administered by the Commissioner of Labor for the purpose of

insuring employers against liabilities imposed under this chapter, to guarantee that persons entitled to compensation provided by this chapter will receive it, to pay providers and vendors for services to injured workers, and to compensate injured workers directly. The WCTF consists of all premiums received and paid into the WCTF, properties and securities acquired by the WCTF, ten percent of all monies collected for traffic violations under title 20 Virgin Islands Code, chapter 43, and any interest earned on monies belonging to the Fund. The Commissioner of Labor shall make payments from the Fund for losses sustained due to injuries and for expenses in as provided in this chapter.”;

(p) by striking section 266 in its entirety;

(q) in section 272 by striking subsection (c);

(r) in section 273:

(1) by striking subsection (c) and inserting a new subsection (c):

“(c) The annual premium must be paid in full by December 31, or in two installments. If the installment option is chosen, the first installment is payable on or before December 31, consisting of not less than one-half of the annual premium, plus any additional premium due, for which a 6-month policy will issue, and the second installment must be paid on or before June 30, for which a policy will issue for the remaining six months effective until December 31. The actual number of employees a company has employed must be reported to the Workers’ Compensation Administration not later than September 30 of the current year. Rates and notices must be issued to the employer by the Workers’ Compensation Administration not later than November 15, and insurance policy renewals must begin on January 1 of the following year.”;

(s) in section 276, by striking "four" and inserting “ten”;

(t) in section 277(a), by striking “\$500” and inserting “\$5,000”;

(u) by striking the language in section 279 in its entirety and inserting new language that reads:

“Every employer insured under the Workers’ Compensation Trust Fund shall keep a true and accurate record of the number of employees and of the wages paid, and the records must be always available for inspection and audit by the Director and the Commissioner of Labor. The Commissioner of Labor shall assess and collect fines from an employer who fails to keep true and accurate records or wilfully misrepresents the difference between the premiums paid and the premiums that should have been paid in the same manner as premiums are assessed and collected.”

(v) in section 285(a)(2), after the first sentence, by inserting the following sentence: “An employee terminated for just cause may not receive disability benefits.”

(w) in section 286, by adding subsection (d) to read as follows:

“(d) An employer shall respond to a payroll inquiry not later than ten days after the inquiry. The Director of the Workers’ Compensation Administration shall impose a fine of \$250 when an employer failure to respond within the ten days. The Director of the Workers’ Compensation Administration shall recommend to the Commissioner of Licensing and Consumer Affairs that the employer’s business license be suspended until the payroll inquiry has been completed.”;

(x) in section 287(c) by striking “Board of Directors of the Workers’ Compensation Administration” and inserting “Commissioner of Labor”; and

(y) in section 288 by striking “Board”, “Board of Directors”, “hearing reporter section of the board”, “the board”, and “board member” and inserting “Commissioner of Labor” in each instance.

SECTION 2. Title 20 Virgin Islands Code, chapter 43 is amended by striking “Government Insurance Fund” or “Virgin Islands Government Insurance Fund” wherever it occurs and inserting “Workers’ Compensation Trust Fund”.

SECTION 3. This act must be fully implemented not later than December 31, 2025.”

Amendment No. 35-782/July 18, 2024/HLF