



MEMORANDUM
OFFICE OF SENATOR NOVELLE E. FRANCIS, JR.
36th Legislature of the Virgin Islands

TO: Shawna K. Richards, Chief of Staff
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DATE: August 13, 2026
RE: **White Paper: Probate Reform Bill (Bill 36-0277)**

1. Executive Summary

Bill 36-0277 is a comprehensive, policy-sound modernization of Virgin Islands probate law and, just as importantly, an opportunity to complete reform the Territory first attempted in 2010. The legislative history shows that the earlier UPC-based enactment was repeatedly delayed, substantially repealed, and followed by restoration of the pre-2010 framework. That history counsels support for the present reform, but also deliberate technical review and coordinated implementation before the new code becomes operative. We recommend support with technical amendments or a committee substitute before final passage.

1.1 Purpose and Scope

Bill 36-0277, introduced by Senator Novelle E. Francis, Jr., enacts a comprehensive probate code for the Virgin Islands covering intestate and testate succession, administration of decedents' estates, and related procedures. The bill adds Articles II, III, and IV to Title 15, Virgin Islands Code, and repeals antiquated provisions derived from the pre-1957 New York Decedent Estate Law.

1.2 Key Findings

Category	Assessment
Policy Direction	Strong. Modernizes VI probate law along UPC lines; resolves the "two Title 15's" problem.
Drafting Quality	Good overall, but contains numbering errors, typos, and terminology mismatches requiring correction.
Potential Risks	Unintentional repeal of TOD deed statute and nonprobate transfer provisions; reduction of small-estate threshold from \$100,000 to \$25,000.
Implementation	Requires a coordinated implementation package: the Legislature may identify needed rule changes and request consideration; any probate-rule or court-form changes remain for the judiciary to adopt through its own rulemaking process, with Clerk workflows, staff training, registry creation, and Bar education coordinated before the effective date.

Recommendation	Do not advance without: (1) preserving TOD/nonprobate provisions; (2) correcting small-estate threshold; (3) fixing numbering/typos; (4) harmonizing electronic wills; (5) conforming terminology; (6) replacing obsolete Probate Rule references and thresholds; (7) confirming court readiness.
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Staff Takeaway: *The bill is the right policy move, but technical amendments and an implementation condition for coordinated court-rule consideration are needed before a floor vote. The Legislature should identify needed changes, request consideration by the Superior Court, and coordinate with the Court, Clerk of Court, Office of the Lieutenant Governor, and VI Bar; any rule or form changes remain for the judiciary to adopt through its own rulemaking process. A committee substitute remains the cleanest vehicle.*

2. Background and Legislative Context

2.1 The “Two Title 15’s” Problem

The Virgin Islands currently suffers from a unique structural deficiency in its probate statutes. There are effectively “two Title 15’s” in the Virgin Islands Code. The first Title 15 contains the pre-2010 provisions — Part I, Chapter 1 (Wills), 15 V.I.C. §§ 1–42; Chapter 3 (Descent and Distribution), 15 V.I.C. §§ 81–89; and Part II (Administration of Estates) — which are derived from the New York Decedent Estate Law and remain operative today. The second Title 15 contains the remnants of the Uniform Probate Code articles that were enacted and subsequently repealed through a series of legislative acts between 2010 and 2012.

2.2 Legislative History: The 2010-2012 Reform, Reconsideration, and Repeal

Act	Year	Action
Act No. 7150	2010	Repealed former Chapters 1-51 and 63; enacted Virgin Islands Uniform Probate and Fiduciary Relations Code (effective May 1, 2010).
Act No. 7174	2010	Extended effective date to January 1, 2011.
Act No. 7241	2011	Repealed additional chapters; extended effective date to July 1, 2011.
Act No. 7254, § 3	2011	Repealed Articles II and III of the UPC; reenacted former Chapters 1-5 and 11-29.
Act No. 7267	2011	Extended effective date to October 1, 2011.
Act No. 7356, § 2	2012	Repealed Articles IV, VI, and X (August 22, 2012).

The net result was not simply repeal of a modern code. The Territory moved from a comprehensive UPC-based reform back to substantial portions of the pre-2010 New York-derived framework after a sequence of enactments, effective-date extensions, partial repeals, and reenactments. Articles II, III, and IV were ultimately repealed, while the older provisions were restored. The Code was left with parallel numbering schemes and remnants of the earlier reform, creating confusion for practitioners and courts. Bill 36-0277 therefore should be understood in its historical context: the Legislature is revisiting much of the same subject matter that proved difficult to implement more than fifteen years ago. The lesson from that history is not that comprehensive probate

modernization should be abandoned. **Rather, a reform of this scale should be technically complete, institutionally coordinated, and operationally ready before its effective date.**

2.3 Current Statutory Framework Being Replaced

Bill 36-0277 targets the following operative provisions for repeal:

Part I, Chapter 1 (Wills): 15 V.I.C. §§ 1–42 — governing will formalities, execution, revocation, and related matters, derived from the New York Decedent Estate Law. Part I, Chapter 1A (Virgin Islands Uniform Electronic Wills Act), 15 V.I.C. §§ 51–62, is separate from the repeal and should be expressly preserved.

Part I, Chapter 3 (Descent and Distribution): 15 V.I.C. §§ 81–89 — governing intestate succession, including dower and curtesy under 15 V.I.C. § 83, intestate distribution under 15 V.I.C. § 84, and disqualification rules under 15 V.I.C. § 87.

Part II (Administration of Estates): 15 V.I.C. §§ 161–495 — governing probate jurisdiction, executors/administrators, creditor claims, distribution, and estate closing.

2.4 What the Bill Does

Bill 36-0277 essentially restores — in modernized form — the previously repealed Articles II, III, and IV, drawing on current Uniform Probate Code provisions. Specifically:

Section 1 adds Article II (intestate succession, elective share, wills, nonprobate transfers, rule against perpetuities, international wills, disclaimers) and Article III (probate administration, formal/informal tracks, personal representatives, creditors' claims, distribution, tax apportionment, closing, small estates). Bill § 1.

Section 2 adds Article IV (foreign personal representatives and ancillary administration). Bill § 2.

Section 3 sets an effective date of January 1, 2027 with transition rules. Bill § 3.

Section 4 repeals 15 V.I.C. Part I, Chapter 1 (15 V.I.C. §§ 1–42), Part I, Chapter 3 (15 V.I.C. §§ 81–89), and Part II, but not Part I, Chapter 1A (15 V.I.C. §§ 51–62). Bill § 4.

Staff Takeaway: Bill 36-0277 offers the Legislature an opportunity to finish, on a more deliberate footing, the modernization first attempted in 2010. Because the earlier enactment was followed by repeated effective-date extensions and substantial repeal, implementation is part of the substantive legislative task, not an afterthought. The present bill should resolve the resulting 15-year structural problem while avoiding a second cycle of enactment, delay, corrective legislation, and repeal.

3. Substantive Analysis — What the Bill Improves

3.1 Intestate Succession

Current Law

Under 15 V.I.C. § 84, the surviving spouse receives one-third of the estate with the residue to children when descendants exist; \$5,000 plus one-half of the residue when no descendants but parent(s) survive; or the entire estate if no descendant, parent, sibling, nephew, or niece survives. With siblings or nephews/nieces, the spouse receives \$10,000 and one-half the residue. These dollar amounts have not been updated in decades. 15 V.I.C. § 87 disqualifies certain spouses and parents from distributive shares due to divorce, abandonment, or refusal to support.

What the Bill Changes

Bill § 2-102 replaces the current framework with modern UPC-style graduated spouse shares: the entire estate where all descendants are also descendants of the surviving spouse and the spouse has no other descendants; the first \$300,000 plus three-quarters of the balance if no descendant survives but a parent does; the first \$225,000 plus one-half where all descendants are common and the spouse has other descendants; or the first \$150,000 plus one-half where the decedent has descendants who are not descendants of the surviving spouse.

Practical Benefits

The graduated-share approach addresses blended-family realities, provides substantially larger minimum spousal protection (from \$5,000-\$10,000 to \$150,000-\$300,000), and tracks UPC § 2-102 as adopted in approximately 18 states. The framework eliminates unfair results under current law where a surviving spouse with minor children from the marriage receives only one-third.

Staff Takeaway: Major improvement. Dollar thresholds should be reviewed against VI cost of living. Consider including an inflation-adjustment mechanism.

3.2 Will Formalities

Current Law

15 V.I.C. § 13 requires: (1) subscription by the testator at the end of the will; (2) subscription made in the presence of each attesting witness or acknowledged to each; (3) declaration by testator that the instrument is the last will and testament; and (4) at least two attesting witnesses signing at the end at the testator's request. These strict formalities have produced litigation. In Rabsatt v. Estate of Savain, 878 F. Supp. 762 (D.V.I. 1995), aff'd in part, 72 F.3d 123 (3d Cir. 1995) a will was invalidated where the deceased did not declare it to be her last will and the witnesses signed at another person's bequest. In re Estate of Walters, 38 V.I. 14 (V.I. Terr. Ct. 1997), held that failure to abide by statutory formalities renders a will invalid. Courts have sought to soften this rigidity: In re Estate of Smith, 48 V.I. 82 (V.I. Super. Ct. 2006), held

that substantial compliance with 15 V.I.C. § 13 suffices, but that doctrine has uncertain scope without a statutory harmless-error provision.

What the Bill Changes

The bill modernizes execution requirements and adds a harmless-error cure. Bill § 2-502 simplifies formalities by requiring the testator's signature (not necessarily at the end) and attestation by two witnesses within a reasonable time. The bill also incorporates the harmless-error rule (clear and convincing evidence standard) consistent with UPC § 2-503, which allows courts to validate documents that substantially evidence testamentary intent despite technical execution defects.

Practical Benefits

Reduces invalid-will litigation. Protects testamentary intent where formality defects are minor. Aligns with the substantial-compliance doctrine already recognized in In re Estate of Smith, 48 V.I. 82 (V.I. Super. Ct. 2006), but provides explicit statutory authority rather than relying on judicial discretion.

Holographic Wills

Current 15 V.I.C. § 8 limits holographic wills to soldiers/sailors in service or mariners at sea (with a one-year expiration after discharge), but also validates wills "written entirely in the handwriting of the maker even if unattested." In re Estate of Buckley, 536 F.2d 580, 13 V.I. 345 (3d Cir. 1976), clarified that 15 V.I.C. § 8 is limited to wills not otherwise satisfying formal requirements. The bill continues to recognize holographic wills consistent with UPC § 2-502(b).

Staff Takeaway: *The harmless-error rule is the single most impactful will-formality reform. It codifies what courts have tried to do through substantial compliance, with a clear evidentiary standard.*

3.3 Elective Share and Augmented Estate

Current Law

Under 15 V.I.C. § 10, the surviving spouse has a personal right of election to take the intestate share, capped at no more than one-half of the net estate after debts, funeral and administration expenses, and estate tax. This approach is easily defeated by lifetime transfers and nonprobate designations. Estate of Thomson, 8 V.I. 636 (D.V.I. 1972) held that filing a petition to probate the will did not constitute an irrevocable election or waiver. The current framework provides no mechanism to recapture assets transferred during the marriage to defeat the elective share.

What the Bill Changes

Bill § 2-202 creates a surviving-spouse elective share equal to 50% of the marital-property portion of the augmented estate, plus a \$75,000 supplemental elective share if applicable; homestead, exempt property, and family allowance are in addition.

Bill § 2-203 defines the augmented estate with four components: (1) decedent's net probate estate; (2) decedent's nonprobate transfers to others; (3) decedent's nonprobate transfers to the surviving spouse; and (4) the surviving spouse's property and nonprobate transfers to others. The marital-property percentage ranges from 3% (less than one year of marriage) to 100% (15 years or more).

Bill §§ 2-204 and 2-205 include in the augmented estate: joint tenancy, POD/TOD/co-ownership registrations, insurance, retained interests, and certain transfers within two years exceeding \$17,000.

Practical Benefits

Prevents disinheritance through nonprobate transfers. The accrual-based percentage rewards longer marriages. Tracks UPC § 2-202 as adopted in multiple jurisdictions. In re Estate of George, 51 V.I. 43 (V.I. Super. Ct. 2009) recognized that probate proceedings should ensure the surviving spouse can maintain the standard of living enjoyed before death — the augmented-estate approach furthers this policy systematically rather than through ad hoc judicial discretion.

Staff Takeaway: *Most significant policy shift in the bill. Committee should solicit input from the VI Bar on impacts to blended families and beneficiary-designation assets. See Section 4.6 for concerns.*

3.4 Informal vs. Formal Probate Tracks

Current Law

Current law provides a single judicial-proceeding model. 15 V.I.C. § 161 grants probate jurisdiction to the Superior Court. Ottley v. Estate of Bell, 61 V.I. 480 (V.I. 2014) confirmed that the Superior Court has original jurisdiction over probate matters and that 15 V.I.C. § 161's reference to "district court" has been implicitly repealed by 4 V.I.C. § 76(a). Every estate — regardless of size, complexity, or dispute — must go through the same full judicial process.

What the Bill Changes

The bill creates a dual-track system:

Informal Probate (Bill §§ 3-301 to 3-311): Administrative proceedings before the Clerk of Court. The Clerk may probate an uncontested will, appoint a personal representative, and issue letters — all without a judicial hearing. The Clerk may decline without adjudication.

Formal Testacy (Bill §§ 3-401 et seq.): Litigation to determine whether the decedent left a valid will, used when there is a contest or the Clerk declines informal probate. Formal proceedings stay informal action during their pendency.

Supervised Administration (Bill § 3-501): A single *in rem* proceeding under continuing court authority until estate settlement and discharge, available for complex or contested estates.

Bill § 3-107 provides that proceedings are independent unless supervised administration is involved. Bill § 3-108 sets a general three-year ultimate time limit for informal and formal probate proceedings with exceptions.

Court Rule Implications

The current Virgin Islands Rules for Probate and Fiduciary Proceedings are organized around court-filed petitions, judicial orders, and court-issued letters (Rules 3–5 and 10). They do not provide an operational Clerk track or the bill’s structured formal-testacy framework. The Legislature should identify these gaps and request that the Superior Court, through its own rulemaking process and in coordination with the Clerk of Court, consider separate applications and checklists for informal probate, informal appointment, successor and special administrators, statements of informal probate or appointment, letters, acceptance, and bond; and consider conforming the current will-contest and proof model in Rules 7–8 to procedures addressing formal petitions, notice and hearing, written objections, self-proved and notarized wills, witness proof, burdens, finality, and vacation under Bill §§ 3-401–3-414. The Legislature should also invite the Court to consider stating that a Clerk’s declination is not an adjudication and explaining how an applicant proceeds formally. Any resulting rule or form changes remain for the judiciary to adopt.

Practical Benefits

Uncontested estates — the vast majority — move through probate faster and with lower cost. Contested estates retain full judicial protections. The three-year outer limit prevents indefinite open estates. This is the core structural improvement of UPC-based probate reform.

Staff Takeaway: *The dual-track system is the bill’s most practical reform for everyday Virgin Islanders, but it cannot function without Clerk-facing applications, checklists, escalation criteria, and a formal-testacy rules package considered and, if adopted, promulgated by the Court through its own rulemaking process. The Legislature should request a coordinated readiness review by the Superior Court and Clerk, with input from the Office of the Lieutenant Governor and the VI Bar, before the effective date.*

3.5 Small Estates

Current Law

Under 15 V.I.C. § 167, “Estates, wherein the value of the assets is less than one hundred thousand dollars, may be administered in a summary manner, under such general and special rules as may be prescribed by the Superior Court.” Act 8264 (2019) raised this threshold from \$300 to \$100,000, reflecting legislative recognition that modest estates need simplified procedures.

15 V.I.C. §§ 191-200 provide settlement without administration where heirs of an intestate decedent with no debts (or debts heirs assume) can petition for recognition and possession without full administration. Within that subchapter, 15 V.I.C. § 191 governs the petition; 15 V.I.C. § 195 makes the recorded judgment prima facie proof of title; 15 V.I.C. § 197 provides for a creditor lien; 15 V.I.C. § 199 addresses service on an absent heir or legatee; and 15 V.I.C. § 200 establishes a 120-day period during which certain transactions are voidable by a prejudiced creditor. Powell

v. Mahabir, 2008 U.S. Dist. LEXIS 99905 describes this procedure. V.I. R. Prob. 23 supplies the procedure and notice requirements, including publication once a week for four consecutive weeks.

What the Bill Changes

Bill § 3-1201 allows collection of personal property by affidavit only if the entire estate does not exceed \$25,000. Bill § 3-1203 allows summary administration if the entire estate does not exceed homestead allowance, exempt property, family allowance, administration expenses, funeral expenses, and necessary medical/hospital expenses of the last illness. Bill § 3-1204 provides for closing by sworn statement of the personal representative. Bill §§ 3-315 to 3-322 preserve and refine the settlement-without-administration procedure.

Court Rule Implications

Rule 22 is obsolete on its face: it is titled “Summary Administration; Estates under \$300,” repeats the former \$300 threshold, requires a two-week publication and 30-day claim period, and cites 15 V.I.C. § 167 even though § 167 now provides for summary administration of estates under \$100,000. The Legislature should request that the Superior Court, through its own rulemaking process and in coordination with the Clerk of Court, consider replacing Rule 22 with rules keyed to Bill §§ 3-1201–3-1204, separating collection by affidavit, summary administration, and closing by sworn statement. The Legislature should likewise invite the Court to consider retitling and revising Rule 23 so settlement without administration is not mislabeled summary administration and its four-week creditor notice, inventory, judgment, lien, and 120-day transaction protections are carried forward. The final rule text remains for the Court to adopt through its own process.

Practical Benefits and Concerns

The settlement-without-administration procedure is preserved, which is positive. However, the \$25,000 affidavit threshold represents a significant reduction from the current \$100,000 summary threshold. This could force more modest estates into the full informal-probate track. See Section 4.2 herein for detailed analysis.

Staff Takeaway: *The threshold reduction from \$100,000 to \$25,000 is a policy concern. Recommend amendment to \$100,000 or higher. Regardless of the legislative threshold, the Legislature should request that the Superior Court consider replacing Rule 22’s \$300 reference and current summary procedure through its own rulemaking process before implementation. The requested rule review should be coordinated with the Clerk of Court and reflected as an implementation condition. See Proposed Revision C and Court Rule Recommendation I.*

3.6 Foreign Personal Representatives

Current Law

The Virgin Islands currently lacks a comprehensive framework for foreign personal representatives. In re Estate of DeChabert, 43 V.I. 27 (V.I. Terr. Ct. 2000) noted that foreign administrators generally lack extraterritorial authority and that current VI law did not provide for appointment of an ancillary representative. The court relied on Callwood v. Virgin Islands Nat’l

Bank, 221 F.2d 770 (3d Cir. 1955) and observed that UPC § 4-204 would allow domiciliary administrators to act in non-resident jurisdictions absent local administration. The current workaround — the Rule 24 ancillary procedure and settlement without administration under 15 V.I.C. §§ 191–200 — is cumbersome and uncertain.

What the Bill Changes

Bill Article IV (Bill §§ 4-101 et seq.) directly addresses this gap. It allows payment or delivery to a domiciliary foreign personal representative after 60 days absent local administration and resident-creditor notice; provides for filing proof of authority and bond; grants powers as a local personal representative; establishes transition rules if local administration begins; and addresses jurisdiction, service, and effect of adjudication.

Court Rule Implications

Rule 24 currently treats ancillary administration as a petition by devisees or legatees under former §§ 198 and 192, requires four-week publication, and imposes a fixed \$500 assessment; it does not implement Article IV’s direct-payment and foreign-representative powers. The Legislature should request that the Superior Court, through its own rulemaking process and in coordination with the Clerk of Court, consider dividing the rule between (a) Article III local or ancillary administration and foreign-will recognition and (b) Article IV filing by a domiciliary foreign personal representative, including authenticated appointment and bond, the no-local-administration affidavit, a resident-creditor notice protocol, the 60-day waiting period, service, and transition when local administration begins. Rule 24(f)’s fixed \$500 assessment should be removed or tied to an applicable statutory fee schedule through the appropriate Court process.

Practical Benefits

Eliminates the problem identified in DeChabert. Reduces costs and delays for nonresident decedents with VI assets (common in a territory with significant nonresident property ownership). Protects local creditors through the 60-day waiting period and notice requirements.

Staff Takeaway: *This fills a critical gap, but the Legislature should request that the Court consider revising Rule 24 through its own rulemaking process, in coordination with the Clerk and affected practitioners. The Court’s final rule text should not carry forward the old statutory references or fixed \$500 assessment without confirmation through that process.*

3.7 Nonprobate Transfers

Current Law

15 V.I.C. § 201 declares that nonprobate transfer-on-death provisions in insurance, contracts, securities, accounts, trusts, conveyances, and similar instruments are nontestamentary. 15 V.I.C. § 201a imposes liability on nonprobate transferees for allowed claims and statutory allowances where the probate estate is insufficient, capped at value received. 15 V.I.C. §§ 202–217 constitute the Virgin Islands Uniform Real Property Transfer on Death Act, including the short

title, definitions, applicability, effect of a TOD deed at the transferor's death, and uniformity provisions in 15 V.I.C. §§ 202, 202a, 203, 213, and 217.

What the Bill Changes

The bill includes modern nonprobate-transfer provisions addressing simultaneous death, beneficiary designations, the slayer rule, divorce revocation, reformation, and modification to achieve tax objectives. Bill §§ 2-701 et seq.

CRITICAL ISSUE: Because Bill § 4 repeals 15 V.I.C. Part II, current 15 V.I.C. §§ 201, 201a, and 202-217 (the entire TOD Act) may be unintentionally repealed unless expressly preserved or recodified. See Section 4.1 for detailed analysis.

3.8 Estate-Tax Apportionment

Current Law

The Virgin Islands currently lacks a comprehensive estate-tax apportionment statute. Apportionment disputes are resolved under general equitable principles and testamentary direction, without clear default rules.

What the Bill Changes

The bill adds the Uniform Estate Tax Apportionment Act as Part 9A (Bill §§ 3-9A-101 through 3-9A-111). "Estate tax" is defined as federal, state, or foreign tax imposed because of death, excluding inheritance tax, income tax, and most generation-skipping transfer tax. Bill § 3-9A-103 respects express and unambiguous apportionment directions in wills, revocable trusts, and other dispositive instruments. Bill § 3-9A-104 provides statutory apportionment to each person with an interest in the apportionable estate.

Note: Commissioner v. Estate of Bosch, 387 U.S. 456 (1967) held that federal authorities are not conclusively bound by state trial court determinations of property interests in federal estate-tax controversies. Clear local apportionment statutes reduce the risk of federal/local conflicts but cannot bind the IRS.

Practical Benefits

Provides certainty for estate planners and personal representatives. Reduces litigation over tax burdens. Follows the uniform act adopted in multiple states. Establishes clear default rules while respecting testator's express directions.

3.9 Disclaimers

What the Bill Changes

The bill adds the Virgin Islands Uniform Disclaimer of Property Interests Act beginning at Bill § 2-1101. This provides a comprehensive framework for disclaiming interests in property, governing timing, form, effect, and delivery requirements for all types of property interests.

Practical Benefits

Enables post-mortem estate planning. Allows beneficiaries to redirect assets for tax-efficiency or family-planning purposes. Provides clarity on when disclaimers are valid and their legal effect.

3.10 International Wills

What the Bill Changes

Bill §§ 2-1001 through 2-1007 adopt the Uniform International Wills Act, derived from the Annex to the Convention of October 26, 1973, Providing a Uniform Law on the Form of an International Will. Interpretation should regard the international origin and need for uniformity. Bill § 2-1009 makes Virgin Islands attorneys in good standing authorized persons for international wills. Bill § 2-1010 requires the Office of the Lieutenant Governor to establish a confidential international will information registry.

Practical Benefits

Given the Virgin Islands' international character and significant nonresident property ownership, international will recognition provides certainty for cross-border estate planning. The registry provides a mechanism for locating wills after death. Current 15 V.I.C. §§ 15-16 already validate wills executed outside the VI under certain conditions (see In re Estate of Georg, 298 F. Supp. 741 (D.V.I. 1969); Machover v. Estate of Machover, 28 V.I. 7 (V.I. Terr. Ct. 1992)), and the international-wills framework complements this existing openness.

3.11 Creditor Claims and Administration

Current Law

In re Estate of Small, 57 V.I. 416 (V.I. 2012) established that notice to creditors under 15 V.I.C. § 391 requires publication once a week for four consecutive weeks; creditors can make claims after six months subject to priority penalties under 15 V.I.C. § 392, but once estate administration is complete the claim is extinguished. In re Estate of Pitterson, 40 V.I. 13 (V.I. Terr. Ct. 1998) cited 15 V.I.C. § 395 for requiring competent evidence beyond claimant testimony to validate rejected claims. Ottley v. Estate of Bell, 61 V.I. 480 (V.I. 2014), described the creditor-claim process under 15 V.I.C. §§ 391, 392, 393, 394, 421(a), and 606(b) as an “inflexible claims-processing rule” and confirmed Superior Court jurisdiction under 15 V.I.C. § 161 and 4 V.I.C. § 76(a). Kaloo v. Estate of Small, 62 V.I. 571 (V.I. 2015), discusses probate costs and claims-related provisions including 15 V.I.C. §§ 165, 394, and 395 and 5 V.I.C. § 541.

What the Bill Changes

Bill §§ 3-801 through 3-814 create modernized creditor-claim procedures: publication once a week for three successive weeks (reduced from four); claims barred if not presented within one year after death or specified notice deadlines; classification of claims; payment priority rules; personal representative liability standards; and compromise provisions.

Court Rule Implications

The current rules should be reviewed for separation into a general creditor-notice rule and special notice rules for settlement without administration and ancillary proceedings. Rule 11 requires four weekly publications and a six-month presentation period; Bill §§ 3-801 and 3-803 instead use three successive publications, a four-month publication period, a 60-day actual-notice period subject to the statutory later-expiring rule, and a one-year outer bar. The Legislature should request that the Superior Court, through its own rulemaking process and in coordination with the Clerk, consider issuing standard forms for creditor notice, claim presentation, disallowance, proof of publication or mailing, and requests for court allowance, while preserving the separate four-week publication period in Bill § 3-319 for settlement without administration and any corresponding ancillary procedure.

Practical Benefits

Reduces publication requirements (three weeks vs. four) and clarifies the bar date, priority, and compromise authority. The Legislature should request that the Court consider conforming Rule 11 and the claim forms to the new deadlines through its own rulemaking process, while preserving the bill's distinct notice period for settlement without administration and ancillary proceedings.

3.12 Exempt Property and Family Allowances

What the Bill Changes

Bill §§ 2-402 to 2-405 provide: homestead allowance of \$22,500; exempt property of \$15,000; family allowance for no longer than one year if the estate is inadequate; and personal representative determination of family allowance up to \$27,000 or \$2,250 per month for one year. These supplement — and are in addition to — any elective-share or intestate-share entitlement. In re Estate of George, 51 V.I. 43 (V.I. Super. Ct. 2009) recognized that probate proceedings should ensure the surviving spouse and dependent children can maintain their standard of living during administration. The allowances codify this principle with specific dollar amounts.

Court Rule Implications

The Legislature should invite the Court to consider replacing or conforming Rule 14's generic support procedure to the statutory allowance framework through the Court's own rulemaking process. The Court should be invited to consider requiring a prompt personal-representative determination after inventory; distinguishing homestead allowance, exempt property, and family allowance; providing notice and a simple petition or objection process for interested persons; and stating that allowances have the statutory priority and are not charged against the spouse's or children's testamentary, intestate, or elective-share benefits unless the Code provides otherwise. Forms should cross-reference the statutory dollar amounts rather than hard-code them.

Staff Takeaway: Dollar amounts in Bill §§ 2-402 through 2-405 should be confirmed as appropriate for VI cost of living. Court forms should cross-reference, rather than hard-code, those amounts. The Legislature should request that the Court consider a prompt

determination and review process under Rule 14 through its own rulemaking process, with Court, Clerk, Bar, and stakeholder input.

4. Caveats, Risks, and Implementation Concerns

4.1 Potential Unintentional Repeal of TOD Deed Statute and Nonprobate Transfer Provisions

Risk Level: HIGH

Section 4 of the bill provides: “Title 15 Virgin Islands Code, Part I, Chapters 1 and 3 and Part II are repealed on January 1, 2027.” Bill § 4. Current 15 V.I.C. Part II includes:

- **15 V.I.C. § 201** — nonprobate transfer-on-death provisions declared nontestamentary.
- **15 V.I.C. § 201a** — liability of nonprobate transferees for allowed claims and statutory allowances.
- **15 V.I.C. §§ 202-217** — the Virgin Islands Uniform Real Property Transfer on Death Act, including 15 V.I.C. §§ 202, 202a, 203, 213, and 217.

While the bill includes new nonprobate-transfer provisions in Bill Article II (Bill §§ 2-701 et seq.), those provisions address rules of construction (simultaneous death, divorce revocation, slayer rule, beneficiary designations) — not the fundamental declaration that nonprobate designations are nontestamentary, not the transferee-liability provisions, and not the TOD deed mechanism.

Practical Consequences if Unremedied:

(1) Title insurance companies may refuse to insure title conveyed by existing TOD deeds, creating immediate real-property uncertainty. (2) Nonprobate transferee liability for estate debts would disappear, potentially leaving creditors without recourse when probate estates are insufficient. (3) The fundamental nontestamentary character of beneficiary designations could be questioned. (4) 15 V.I.C. § 213 — providing that beneficiaries take subject to encumbrances and addressing joint-owner survivorship — would be repealed.

***Staff Takeaway:** This is the single most critical defect in the bill. Section 4 must be amended to expressly preserve 15 V.I.C. §§ 201, 201a, and 202-217. See Proposed Revision A.*

4.2 Reduction of Small-Estate Pathway

Risk Level: MODERATE

Provision	Current Law	Bill 36-0277
Summary/Affidavit Threshold	15 V.I.C. § 167: \$100,000 (per Act 8264, 2019)	Bill § 3-1201: \$25,000 (personal property only)
Summary Administration	15 V.I.C. § 167: Entire estate < \$100,000; summary manner under court rules	Bill § 3-1203: Estate < homestead + exempt property + allowances + expenses (narrower test)

Settlement Without Administration	15 V.I.C. §§ 191-200: Available for intestate decedent with no debts or debts heirs assume	Bill §§ 3-315 to 3-322: Preserved and refined (domestic/foreign will, inventory, notice, judgment)
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The Legislature deliberately raised the threshold from \$300 to \$100,000 in Act 8264 (2019) — just seven years ago — recognizing that small estates need simplified access. The bill’s \$25,000 affidavit threshold represents a 75% reduction. Given VI median household income and typical modest-estate values, this could force many families into the more formal and costly informal-probate track.

Staff Takeaway: Recommend amendment to restore the \$100,000 threshold for the affidavit procedure. See Proposed Revision C.

4.3 Duplicate Section Numbering and Typographical Errors

Risk Level: MODERATE (creates ambiguity in cross-references and potential litigation over which provision controls)

Duplicate Numbering (Bill §§ 3-320 and 3-321)

Section Number	First Assignment	Second Assignment (Duplicate)
Bill § 3-320	Judgment Recognizing Heirs and Placing them in Possession	Creditor’s lien
Bill § 3-321	Judgment prima facie proof of title	Service of process upon absent devisee, legatee or heir

Additionally, Bill § 3-322 (“Prescribed period when transactions voidable by creditor”) should be renumbered to accommodate the corrected sequence.

Typographical and Grammatical Errors

Section	Error	Correction
Bill § 3-1203	“without giving native to creditors”	“without giving notice to creditors”
Bill § 3-1101	“constriction”	“construction”
Bill § 3-905	“imparting to penalize”	“purporting to penalize”
Bill § 2-706(a)(4)	“Class membe”	“Class member”
Bill § 3-301(a)(4)(i)	“relating to located in the Virgin Islands”	“relating to property located in the Virgin Islands”
Bill § 4-201 heading	“H 4-201”	“§ 4-201”
Bill § 3-303(c)	Missing terminal period	Add period after “without further proof”

Staff Takeaway: These are readily correctable but must be fixed before enactment. A committee substitute is the cleanest vehicle. See Proposed Revisions D and E.

4.4 Terminology Mismatches

Risk Level: MODERATE

The bill imports language from the Uniform Probate Code that refers to “county of the decedent’s residence” — a term that has no legal meaning in the Virgin Islands, which uses judicial divisions and districts. Problematic references appear in Bill §§ 2-706, 2-803, and 2-804 (payment-to-court provisions). *Ottley v. Estate of Bell*, 61 V.I. 480 (V.I. 2014) already held that 15 V.I.C. § 161’s “district court” reference was implicitly repealed by 4 V.I.C. § 76(a) and that the Superior Court has probate jurisdiction. A modern enactment should not repeat the same type of error by importing “county” references.

Staff Takeaway: *A global conforming amendment should replace all “county” references with “judicial division” language consistent with Bill § 3-201. See Proposed Revision F.*

4.5 Potential Conflicts with Electronic Wills Act

Risk Level: MODERATE

Current Part I, Chapter 1A of Title 15, Virgin Islands Code, 15 V.I.C. §§ 51–62, constitutes the Virgin Islands Uniform Electronic Wills Act. Its short title is in 15 V.I.C. § 51 and its applicability provision is in 15 V.I.C. § 62; the Act provides comprehensive rules for execution (15 V.I.C. § 55), harmless error (15 V.I.C. § 56), revocation (15 V.I.C. § 57), self-proving (15 V.I.C. § 58), certified paper copies (15 V.I.C. § 59), uniformity (15 V.I.C. § 60), and E-SIGN compliance (15 V.I.C. § 61).

The bill’s new Article II, Part 5 (will formalities) does not expressly reference Chapter 1A or state which provisions control in case of conflict. Because Bill § 4 repeals only 15 V.I.C. Part I, Chapter 1 (15 V.I.C. §§ 1–42), Part I, Chapter 3 (15 V.I.C. §§ 81–89), and Part II — not Part I, Chapter 1A (15 V.I.C. §§ 51–62) — the Electronic Wills Act likely survives. However, the absence of an express savings clause and priority rule creates interpretive ambiguity.

Example conflict: If Article II, Part 5 sets different witness requirements or harmless-error standards than Chapter 1A, which controls for an electronic will?

Staff Takeaway: *Add an express savings clause for Chapter 1A and a priority rule. See Proposed Revision B.*

4.6 Elective-Share / Augmented-Estate Policy Implications

Risk Level: POLICY QUESTION

The bill shifts from the current simple elective-share model (spouse elects intestate share, capped at one-half of net estate) to the UPC augmented-estate model (50% of marital-property portion of augmented estate). This is a fundamental policy change with significant practical implications:

Impact Area	Current Approach	Bill Approach	Practical Effect
Nonprobate transfers	Not included in elective-share calculation	Included in augmented estate (Bill § 2-205)	Insurance, POD/TOD, joint tenancy, retirement accounts subject to spousal claim
Surviving spouse's own assets	Not considered	Counted in augmented estate (Bill § 2-203(4))	Wealthy surviving spouse gets reduced share
Blended families	Simple one-third to surviving spouse	Graduated by length of marriage (3%-100%)	Short-marriage spouses get less; long-marriage spouses protected
Lifetime gifts	Not reached	Transfers within 2 years > \$17,000 included (Bill § 2-205)	Anti-depletion protection for surviving spouse

This reform protects surviving spouses (the primary legislative goal) but can alter outcomes for children from prior relationships, beneficiaries of insurance and retirement assets, and donees of lifetime transfers. These are policy choices requiring legislative deliberation.

***Staff Takeaway:** The augmented-estate concept is sound policy, but the Committee should expressly state its intent and solicit input from the VI Bar and community stakeholders about blended-family impacts before final passage. See Proposed Revision H.*

4.7 Effective Date and Implementation Readiness

Risk Level: MODERATE

The bill sets an effective date of January 1, 2027. Implementation should be treated as a coordinated readiness condition among the Legislature, Superior Court, Clerk of Court, Office of the Lieutenant Governor, and VI Bar. The Legislature may identify needed rule and form changes, request consideration, and coordinate implementation, but any amendments to court rules or court forms remain for the judiciary to adopt through its own rulemaking process. Implementation requires:

(1) identification by the Legislature of needed probate-rule changes and a request that the Superior Court consider, through its own rulemaking process and in coordination with the Clerk, a conforming package covering informal probate before the Clerk, formal testacy, notices and citations, creditor claims, inventory and accounting, allowances, closing and discharge, small estates, settlement without administration, foreign and ancillary procedures, and real-property recording;

(2) Superior Court and Clerk coordination on official forms, checklists, docket protocols, and training for Clerk staff, judges, and magistrate judges on the new informal, formal, supervised, and foreign-representative tracks;

- (3) Office of the Lieutenant Governor establishment of the international will information registry (Bill § 2-1010), coordinated with the Court and Clerk as needed for implementation;
- (4) VI Bar education and practice feedback on new procedures, elective share, and creditor-claim deadlines as part of the coordinated implementation process;
- (5) transition planning among the Legislature, Superior Court, Clerk, and other implementation partners for estates opened before the effective date.

The implementation risk is not limited to staffing. The current Rules assume court-centered petitions and orders, require four-week creditor publication and six-month claim periods, mandate a two-appraiser inventory process, require quarterly accounts, retain a “Summary Administration; Estates under \$300” rule, and impose a fixed \$500 ancillary-administration assessment. The Legislature may identify these provisions and request that the Court and Clerk review them; any amendment or replacement of a court rule or court form remains for the judiciary to adopt through its own rulemaking process. The Legislature, Superior Court, Clerk of Court, Office of the Lieutenant Governor, and VI Bar should coordinate the work before new forms or procedures are issued.

***Staff Takeaway:** The effective date should be an implementation condition tied to completion of the Court’s rule-and-form review and any rule changes the judiciary elects to adopt, together with Clerk training, registry readiness, Bar education, and transition planning. A six-to-twelve-month implementation period after enactment is prudent; the Legislature should request readiness testing with the Court and Clerk, coordinated with the Office of the Lieutenant Governor and VI Bar, before the new code becomes operative. See Proposed Revision G and Court Rule Recommendation I.*

4.8 Court Rule and Form Implementation Package

Risk Level: HIGH

Bill 36-0277 cannot operate through the current Rules without a Court-led conforming rewrite. The Legislature should identify the procedural gaps and request or recommend that the Superior Court consider a rule package keyed to Articles II–IV, together with a cross-reference table and an effective-date protocol, while leaving any rule or form changes to the judiciary’s own rulemaking process.

The governing authorities support that allocation of roles. V.I. R. Prob. 1 provides that the Virgin Islands Rules for Probate and Fiduciary Proceedings apply in probate, guardianship, trust, and other fiduciary proceedings and that, where no procedural provision is included, procedures in the Virgin Islands Rules of Civil Procedure may be adapted by the Court as appropriate. The current Rules then supply the operational court-rule structure for probate practice, including petitions and appointments (Rules 3–4), notice and citation (Rules 5–6), will contests and proof (Rules 7–8), letters and bond (Rule 10), creditor notice (Rule 11), inventory (Rule 12), allowances and accounts (Rules 14–18), distribution and discharge (Rules 19–21), summary administration (Rule 22), settlement without administration (Rule 23), and ancillary administration (Rule 24).

15 V.I.C. § 162 states that probate pleadings and forms are to be prescribed by court rules; its current cross-reference identifies the Virgin Islands Rules for Probate and

Fiduciary Proceedings as the governing procedural rules. Section 167 likewise provides that estates under \$100,000 may be administered in a summary manner under general and special rules prescribed by the Superior Court. These authorities support a nonbinding legislative coordination model: the Legislature may identify needed changes, request consideration, recommend an implementation condition, and coordinate with the Superior Court and Clerk, but should not purport to amend, direct, or confer rulemaking power over the Court. Any court-rule or court-form changes remain for the judiciary to adopt through its own rulemaking process, with implementation coordinated among the Legislature, Superior Court, Clerk of Court, Office of the Lieutenant Governor, and VI Bar.

4.8.1 Proposed Court Rule Coordination Agenda

• **Rules 1–2 (scope and judicial assignment):** The Legislature should request that the Superior Court consider, through its own rulemaking process and in coordination with the Clerk, how to reflect the Clerk’s statutory informal role, distinguish administrative informal filings from formal Court proceedings, specify the route after a declination, and preserve magistrate judge authority for formal matters while defining how Clerk actions are recorded and reviewed.

• **Rules 3–10 (petitions, proof, letters, and bond):** The Legislature should invite the Court to consider, through its own rulemaking process and with Clerk input, recasting the current petition and waiver provisions for formal proceedings and adding applications, Clerk findings, original-will custody, authenticated foreign wills, acceptance, letters, and bond procedures under Bill §§ 3-301–3-311 and §§ 3-601–3-605.

• **Rules 7–8 (formal testacy):** The Legislature should request that the Court consider replacing the current declaration-of-contest and proof model with rules for formal petitions, notice and hearing, written objections, uncontested proof, self-proved and notarized wills, witness testimony, burdens, final orders, partial intestacy, and vacation under Bill §§ 3-401–3-414.

• **Rules 5, 6, and 11 (notice, citation, and claims):** The Legislature should request that the Court consider, with the Clerk and Bar, separating formal citations from informal information duties, providing safeguards and Court referral for minors or incapacitated interested persons, and conforming general creditor notice to Bill §§ 3-801–3-806. The forms should specify service, publication, mailing, proof, claim presentation, disallowance, and requests for judicial allowance, subject to the Court’s own rulemaking process.

• **Rule 12 (inventory and appraisal):** The Legislature should invite the Court to consider replacing the mandatory two-appraiser and 14-day request process with the bill’s three-month inventory, fair-market-value, encumbrance, optional-qualified-appraiser, and supplementary-inventory framework. The Court may determine when an inventory is filed with the Court and when it is delivered to interested persons.

• **Rules 14–18 (allowances and accounting):** The Legislature should request that the Court consider conforming Rule 14 to the statutory homestead, exempt-property, and family-allowance framework; replacing universal quarterly accounts with separate protocols for unsupervised, formal, and supervised estates; preserving verified final accounts and

supporting records where required; and providing a Court process for compelling an accounting or reviewing compensation.

- **Rules 19–21 and 25 (distribution, recording, and discharge):** The Legislature should invite the Court to consider standardizing distribution instruments and receipts, requiring detailed legal descriptions and certified recording of real-property judgments or deeds, and replacing automatic closure and bond exoneration with the closing-statement, one-year termination, and discharge-certificate procedures in Bill §§ 3-1001–3-1008.

- **Rule 22 (summary administration and small estates):** The Legislature should request that the Court consider, through its own rulemaking process and in coordination with the Clerk, replacing the obsolete “Estates under \$300” title and reference with a rule keyed to Bill §§ 3-1201–3-1204 that separately addresses collection by affidavit, summary administration, inventory, the statutory threshold, closing statement, and notice to known creditors or claimants as required by the enacted text.

- **Rule 23 (settlement without administration):** The Legislature should invite the Court to consider correcting the notice caption and preserving the sworn inventory under Bill § 3-318, the four-week publication under § 3-319, the Clerk-versus-Court judgment allocation for personal versus real property, the creditor lien and 120-day voidable-transaction protections, and the recording protocol for real property.

- **Rule 24 (foreign and ancillary matters):** The Legislature should request that the Court consider dividing foreign-will recognition or local ancillary administration from Article IV’s direct foreign-representative powers, including authenticated authority and bond filings, the no-local-administration affidavit, resident-creditor notice and objection procedures, the 60-day waiting period, service, and transition provisions. Obsolete §§ 198 and 192 references and the fixed \$500 assessment should be addressed through applicable law and the Court’s own rulemaking process.

- **Cross-references and dollar amounts:** The Legislature should identify Rules 3–25 for a cross-reference audit and request that the Court consider removing references to repealed Part I Chapters 1 and 3 and Part II, replacing obsolete “district court” and other terminology as appropriate, and avoiding hard-coding statutory dollar amounts in rules or forms. Rule 22’s \$300 threshold and Rule 24(f)’s \$500 assessment should be flagged for legislative review and, as applicable, Court consideration through the Court’s own process.

4.8.2 Forms and Clerk Training

The Legislature should request that the Superior Court consider, through its own rulemaking process and in coordination with the Clerk, promulgating a single forms set before the effective date: informal probate and appointment applications; formal testacy petitions, notices, and objections; demands for notice; letters, acceptance, and bond documents; information-to-heirs notices; creditor notices, claims, and disallowance notices; inventories and supplements; allowance selections and determinations; settlement-without-administration petitions, judgments, and lien filings; foreign-representative filings and affidavits; closing statements; final accounts; discharge certificates; and real-property recording cover sheets. The forms effort should be coordinated with the Office of the Lieutenant Governor, VI Bar, and other affected stakeholders where their responsibilities intersect.

Training should include a written Clerk checklist, escalation criteria for declinations, possible will conflicts, minors or incapacitated interested persons, and formal-testacy requests; docket coding that distinguishes informal, formal, supervised, settlement, and ancillary matters; verification of notice and recording; and public guidance for self-represented families. The Legislature should invite the Court to designate a rule-and-forms workgroup, with participation by the Superior Court, Clerk of Court, Office of the Lieutenant Governor, VI Bar, legislative staff, and Recorder of Deeds; any rules or forms would remain subject to the Court's own process.

4.8.3 Transition Procedures

The Legislature should request that the Superior Court consider issuing a transition order or administrative directive before the effective date, through whatever process the Court deems appropriate. It should identify which law governs pending estates and newly filed proceedings, preserve acts, rights, and claim periods that accrued under former law, carry existing appointments, letters, and bonds forward, provide a mechanism to supplement pending petitions and substitute new forms, and address pending Rule 22, Rule 23, and Rule 24 matters and proceedings already in publication. Any departure from the new code under Section 3(b)(2) should be stated in the case record, with the Court and Clerk coordinating implementation and the Legislature, Office of the Lieutenant Governor, and VI Bar providing input as appropriate.

For new filings after the effective date, the Legislature should request that the Court and Clerk coordinate forms and procedures using Articles II–IV and the new claim, inventory, accounting, and closing periods. The Court should determine the final rules and forms through its own process. For pre-effective claims or rights, the Court should preserve former law as required by Section 3(b)(3). The Legislature should request publication of a table mapping current Rules 3–25 to replacement rules and statutory sections.

***Staff Takeaway:** The Legislature should not purport to grant, direct, or amend court-rule authority. It should use an implementation condition that requests Court consideration and coordinates a sequenced package: Court-led rulemaking where appropriate, forms, Clerk training, a transition directive, and a cross-reference audit. The effective date should not precede readiness testing with the Court and Clerk, coordinated with the Office of the Lieutenant Governor and VI Bar.*

4.9 Uniform Law Commentary

Research did not return detailed official Uniform Law Commission commentary beyond the sources identified herein (including UPC § 4-204 as referenced in DeChabert, the Virgin Islands Uniform Electronic Wills Act in 15 V.I.C. §§ 51–62, the Uniform Real Property Transfer on Death Act in 15 V.I.C. §§ 202-217, the Uniform Estate Tax Apportionment Act in Bill §§ 3-9A-101 through 3-9A-111, the Uniform International Wills Act in Bill §§ 2-1001 through 2-1007, and the Virgin Islands Uniform Disclaimer of Property Interests Act in Bill §§ 2-1101 et seq.).

Recommendation: Committee counsel should obtain official UPC/Uniform Law Commission comments for the committee record before markup. These comments will provide additional

context on policy choices, explain variations from the uniform text, and identify provisions that jurisdictions have commonly modified.

5. Proposed Bill Revisions and Court-Coordination

Recommendations

The following specific bill amendments and nonbinding court-coordination recommendations are proposed. Each is drafted as proposed text or an implementation direction with an explanatory note.

Revision A: Preservation of Nonprobate Transfer and TOD Deed Statutes

Amend Section 4 of Bill 36-0277:

PROPOSED REVISION: Section 4 — Repeal with Preservation

Current: “Title 15 Virgin Islands Code, Part I, Chapters 1 and 3 and Part II are repealed on January 1, 2027.”

Proposed: “Title 15 Virgin Islands Code, Part I, Chapter 1 (15 V.I.C. §§ 1–42), Part I, Chapter 3 (15 V.I.C. §§ 81–89), and Part II are repealed on January 1, 2027; provided, however, that 15 V.I.C. §§ 201, 201a, and 202 through 217, inclusive, are not repealed by this Act and remain in effect unless and until expressly amended, repealed, or recodified by subsequent legislation.”

Optional Conforming Addition:

“The Code Revisor is authorized to renumber or relocate preserved provisions as necessary to avoid duplication and maintain continuity of citations.”

Explanatory Note: Avoids unintended repeal of 15 V.I.C. § 201 (nonprobate transfer nontestamentary declaration), 15 V.I.C. § 201a (nonprobate transferee liability for claims and allowances), and 15 V.I.C. §§ 202–217 (the Uniform Real Property Transfer on Death Act). Preserves title certainty for existing TOD deeds and maintains creditor protections.

Revision B: Preserve Electronic Wills Act

Add to Section 4 or new Section 5:

PROPOSED REVISION: Electronic Wills Savings Clause

Current: [No existing provision]

Proposed: “Nothing in this Act repeals or limits Chapter 1A of Title 15, Virgin Islands Code, the Virgin Islands Uniform Electronic Wills Act, 15 V.I.C. §§ 51–62. In the case of an electronic will, Chapter 1A governs to the extent of any inconsistency with Article II, Part 5 of this Act.”

Add to Bill § 2-502:

PROPOSED REVISION: Bill § 2-502(d) — Electronic Wills Cross-Reference

Current: [No existing subsection (d)]

Proposed: “(d) Electronic Wills. This section applies to nonelectronic wills. Electronic wills are governed by Chapter 1A of Title 15, Virgin Islands Code (15 V.I.C. §§ 51–62), and Chapter 1A controls to the extent of any inconsistency.”

Explanatory Note: Although Bill § 4 repeals only Part I Chapters 1 and 3 and Part II — not Chapter 1A — the absence of an express savings clause creates interpretive ambiguity. This amendment provides clarity, particularly for the harmless-error provision (15 V.I.C. § 56 vs. Bill § 2-503’s general harmless-error rule).

Revision C: Small Estates Threshold

Option 1 — Amend Bill § 3-1201(a)(1):

PROPOSED REVISION: Bill § 3-1201(a)(1) — Affidavit Threshold

Current: ~~“does not exceed \$25,000.00”~~

Proposed: “does not exceed \$100,000.00”

Option 2 (Alternative or Addition) — New Bill § 3-1205:

PROPOSED REVISION: Bill § 3-1205 — Summary Procedure for Modest Estates

Current: ~~[No existing provision]~~

Proposed: “An estate whose value, less liens and encumbrances, does not exceed \$100,000.00 may be administered in a summary manner under rules prescribed by the Superior Court, consistent with this Part.”

Explanatory Note: Aligns with current 15 V.I.C. § 167 as amended by Act 8264 (2019) and avoids narrowing simplified administration for modest estates. The relevant proposed bill provisions are Bill §§ 3-1201, 3-1203, and 3-1204. The Legislature deliberately raised this threshold from \$300 to \$100,000 seven years ago; a reduction to \$25,000 would be regressive and inconsistent with that recent policy judgment.

Revision D: Correct Duplicate Section Numbering

Technical renumbering:

- Retain Bill § 3-320 as “Judgment Recognizing Heirs and Placing them in Possession.”
- Retain Bill § 3-321 as “Judgment prima facie proof of title.”
- Renumber the second Bill § 3-320 (“Creditor’s lien”) as Bill § 3-322.
- Renumber the second Bill § 3-321 (“Service of process upon absent devisee, legatee or heir”) as Bill § 3-323.

- Renumber current Bill § 3-322 (“Prescribed period when transactions voidable by creditor”) as Bill § 3-324.
- Conform all internal cross-references.

Explanatory Note: Duplicate section numbers create ambiguity and potential litigation over which provision controls. Cross-reference conformity is essential.

Revision E: Drafting Cleanup

Proposed corrections:

- **Bill § 3-1203:** Replace “without giving notice to creditors” with “without giving notice to creditors.”
- **Bill § 3-1101:** Replace “constriction” with “construction.”
- **Bill § 3-905:** Replace “imparting to penalize” with “purporting to penalize.”
- **Bill § 2-706(a)(4):** Replace “Class membe” with “Class member.”
- **Bill § 3-301(a)(4)(i):** Replace “relating to located in the Virgin Islands” with “relating to property located in the Virgin Islands.”
- **Bill § 3-303(c):** Add period after “without further proof.”
- **Bill § 4-201 heading:** Replace odd character “¶ 4-201” with “§ 4-201.”

Explanatory Note: These are non-substantive corrections that prevent ambiguity and maintain statutory professionalism.

Revision F: County Terminology Conforming Amendment

PROPOSED REVISION: Global Conforming Amendment

Current: ~~“county of the decedent’s residence” and “county” (various provisions)~~

Proposed: “Wherever Article II or Article III refers to the ‘county of the decedent’s residence’ or a ‘county,’ replace that phrase with ‘the judicial division in which the decedent was domiciled at death, or, if the decedent was not domiciled in the Virgin Islands, the judicial division in which property of the decedent was located,’ consistent with § 3-201.”

Explanatory Note: “County” has no legal meaning in the Virgin Islands. *Ottley v. Estate of Bell*, 61 V.I. 480 (V.I. 2014), already found that a similar territorial reference (“district court”) in 15 V.I.C. § 161 was implicitly repealed by 4 V.I.C. § 76(a). Proactive correction avoids repetition of the same problem.

Revision G: Effective Date and Implementation

Amend Section 3(a):

PROPOSED REVISION: Section 3(a) — Effective Date

Current: “January 1, 2027”

Proposed: “January 1, 2028, or the date that is six months after enactment, whichever is later”

Add Implementation Section:

PROPOSED REVISION: New Section — Implementation Coordination (Nonbinding Request)

Current: [No existing provision]

Proposed: “The Legislature recognizes that implementation may require amendments to the Virgin Islands Rules for Probate and Fiduciary Proceedings and related court forms. The Legislature requests that the Superior Court consider any needed changes, in coordination with the Clerk of Court, through the judiciary’s own rulemaking process. Nothing in this section directs, amends, or confers rulemaking authority over the Court. The Legislature further recommends coordinated implementation planning among the Legislature, the Superior Court, the Clerk of Court, the Office of the Lieutenant Governor, and the Virgin Islands Bar, including Court and Clerk readiness, forms, training, transition procedures, and implementation of § 2-1010 (International Will Information Registry). The Office of the Lieutenant Governor may adopt administrative procedures necessary to implement § 2-1010.”

Explanatory Note: Ensures adequate time for Court-led consideration of rule and form changes, Clerk training, international will registry establishment, and Bar education. The proposed language is a nonbinding request and coordination mechanism; it does not purport to amend, direct, or confer rulemaking power over the judiciary. The implementation condition should be evaluated jointly by the Legislature, Superior Court, Clerk, Office of the Lieutenant Governor, and VI Bar.

Revision H: Elective Share Policy Safeguards

Proposed Committee Findings Section (nontext / legislative history):

If textual findings are desired, add a committee findings section stating:

“The Legislature finds and declares that the augmented-estate elective-share provisions of Article II, Part 2 are intended to protect surviving spouses from disinheritance through nonprobate transfers and lifetime gifts, while preserving administrable rules for nonprobate transferees and bona fide purchasers. The Legislature further finds that these provisions may affect the interests of children from prior relationships, beneficiaries of insurance and retirement assets, and donees of lifetime transfers, and the Legislature has considered those impacts in determining that surviving-spouse protection warrants a comprehensive approach.”

Explanatory Note: Express legislative intent provides interpretive guidance for courts applying the augmented-estate provisions. Committee should solicit input from the VI Bar and community stakeholders about blended-family impacts before finalizing this language.

Court Rule Recommendation I: Nonbinding Coordination Request for Conforming Probate Rules

PROPOSED COURT-COORDINATION RECOMMENDATION: The Legislature should request that the Superior Court consider, through its own rulemaking process and in coordination with the Clerk of Court, an omnibus amendment to the Virgin Islands Rules for Probate and Fiduciary Proceedings and accompanying forms keyed to Articles II–IV, with separate informal and formal tracks; new notice and citation procedures; Bill §§ 3-801–3-814 claim procedures; three-month inventories and supplementary inventories; allowance, accounting, closing, discharge, small-estate, settlement-without-administration, ancillary, foreign-representative, and real-property-recording procedures; and a transition directive for pending estates and pre-effective claim periods. The final rule and form text would remain for the judiciary to adopt through its own process.

Implementation Deliverables: The Legislature should coordinate with the Superior Court, Clerk of Court, Office of the Lieutenant Governor, and VI Bar toward: (1) a rule-by-rule cross-reference table; (2) official forms and filing checklists; (3) Clerk, judge, magistrate-judge, and Bar training; (4) a published transition directive; (5) a protocol for recording judgments and deeds affecting Virgin Islands real property; and (6) a readiness assessment or certification process before the effective date, with Court rulemaking and Court forms remaining subject to the judiciary’s own process.

Explanatory Note: This nonbinding coordination recommendation preserves the Court’s role in formal and supervised proceedings while giving the Clerk a workable administrative pathway for uncontested matters. It also prevents obsolete Rule 22, Rule 24 references, statutory references, and fixed deadlines from carrying over into the new code without Court consideration and adoption through the judiciary’s own process.

6. Questions for Legislative Hearings or Markup

The following questions should be posed to relevant stakeholders at committee hearing or during markup:

6.1 For Bill Drafting Counsel

Q1: Does Bill § 4 intentionally repeal current 15 V.I.C. §§ 201, 201a, and the Uniform Real Property Transfer on Death Act (15 V.I.C. §§ 202-217)? If not, will drafting counsel accept the preservation language in Proposed Revision A?

Q2: Has a cross-reference table been prepared identifying all internal cross-references affected by the renumbering in Proposed Revision D?

Q3: Were the dollar amounts in the bill (elective share, homestead, exempt property, family allowance, affidavit threshold) set with reference to Virgin Islands cost-of-living data, or were they adopted directly from the uniform text?

6.2 For the Superior Court and Clerk of Court

Q4: Can informal probate and appointment workflows be administered by the Clerk under Bill §§ 3-301 to 3-311? What forms, staffing, training, and rule amendments are needed?

Q5: What timeline does the Court anticipate for considering and, if appropriate, adopting probate rules and forms necessary to implement the Act through its own rulemaking process?

Q6: Does the Court have concerns about the three-year ultimate time limit in Bill § 3-108 or the six-month closing period in Bill § 3-1001?

Additional Court Implementation Questions

Q18: Which of Rules 1–25 will the Court repeal, replace, or retain, and will the Court publish a cross-reference table mapping each retained rule to Articles II–IV?

Q19: What exact workflow will govern an informal application submitted to the Clerk, including intake, oath, docketing, original-will custody, letters, notice, declination, and referral to formal proceedings?

Q20: How will the Court handle citation and notice for formal testacy, minors or incapacitated interested persons, unknown or unreachable interested persons, and demands for notice under Bill §§ 3-204 and 3-403?

Q21: Will Rule 11’s four-week and six-month creditor process be replaced with Bill §§ 3-801 and 3-803, and what forms will document publication, actual notice, claim presentation, disallowance, and court allowance?

Q22: Will the Court replace Rule 12’s mandatory two-appraiser and 14-day process with the bill’s three-month inventory and optional-appraiser framework, and how will supplementary inventories be filed?

Q23: Will quarterly accounts under Rule 15 remain mandatory for unsupervised estates, or be limited to supervised or formal matters? What closing-statement, final-account, discharge, and certificate forms will be used?

Q24: How will the Court separate collection by affidavit, summary administration, settlement without administration, and ancillary administration, including who issues personal-property versus real-property judgments and how liens and 120-day protections are recorded?

Q25: How will the Court implement Article IV’s 60-day direct-payment rule, resident-creditor notice, authenticated authority and bond filings, service on foreign representatives, and transition when local administration begins?

Q26: What transition directive will govern pending estates, existing letters and bonds, proceedings already in publication, and claim periods or rights that began under former law?

Q27: What training, staffing, e-filing, docketing, and recording resources are required, and what readiness test will the Court use before the effective date?

6.3 For the VI Bar and Probate Practitioners

Q7: Should the affidavit threshold be \$25,000, \$100,000, or another amount? Would the bill increase or reduce costs for modest estates?

Q8: How will the augmented-estate elective share affect estate planning for blended families? Are there specific provisions that would create unworkable outcomes for common VI family structures?

Q9: Are the creditor-claim bar dates (one year after death, notice deadlines) adequate for VI practice? Is three-week publication sufficient given limited newspaper circulation?

6.4 For the Office of the Lieutenant Governor

Q10: What resources are needed to create the international will information registry under Bill § 2-1010, and how will confidentiality be maintained?

Q11: Can the registry be operational by the effective date? If not, should Bill § 2-1010 have a separate later effective date?

6.5 For Community Stakeholders

Q12: How will the augmented estate affect surviving spouses, children from prior relationships, beneficiary-designation assets, and family land issues?

Q13: For families with modest estates (under \$100,000), will the bill make probate easier or harder? More or less expensive?

6.6 For Title and Real Estate Stakeholders

Q14: What will happen to existing TOD deeds if Section 4 is enacted without preservation language? Will title companies insure conveyances based on existing TOD deeds?

Q15: Are there title-examination or recording issues that the bill should address to ensure continuity of real-property transfers?

6.7 For Tax and Probate Practitioners

Q16: Are the Uniform Estate Tax Apportionment Act provisions (Bill §§ 3-9A-101 to 3-9A-111) workable for VI estates and compatible with federal estate-tax administration?

Q17: Does the bill adequately address the interaction between local apportionment and federal estate tax, given the holding in Commissioner v. Estate of Bosch, 387 U.S. 456 (1967) that federal authorities are not bound by state trial court property-interest determinations?

Staff Takeaway: *At minimum, the TOD-preservation, Clerk-workflow, small-estate threshold, recording, creditor-notice, rule-mapping, and transition questions must be answered before advancing the bill. The answers will determine whether a committee substitute and a Court-led, coordinated implementation condition are required, with the Legislature requesting consideration rather than directing court-rule changes.*

7. Conclusion and Recommended Position

7.1 Overall Assessment

Bill 36-0277 represents the most significant and long-overdue reform of Virgin Islands probate law since the Territory adopted the New York Decedent Estate Law. It also represents a second opportunity to accomplish a modernization effort first undertaken in 2010. The intervening legislative history matters: the prior UPC-based framework was enacted, its effective date was repeatedly extended, major articles were repealed, and substantial portions of the former law were restored. The resulting statutory structure has persisted for more than fifteen years. That experience supports the bill's policy direction while also demonstrating why technical review, stakeholder participation, court coordination, forms, training, transition planning, and realistic implementation timing should precede effectiveness. With those safeguards, the Legislature can complete the earlier modernization effort rather than repeat its implementation difficulties. The bill resolves the "two Title 15's" structural problem, modernizes intestacy shares to reflect contemporary family structures and economic realities, introduces a dual-track probate system that reduces cost and delay for uncontested estates, fills critical gaps (foreign personal representatives, estate-tax apportionment, disclaimers, international wills), and strengthens spousal protections through the augmented-estate elective share.

7.2 Recommended Position

RECOMMENDED POSITION: SUPPORT WITH TECHNICAL AMENDMENTS / COMMITTEE SUBSTITUTE

Do not advance the bill to a floor vote without the following minimum conditions:

Priority	Condition	Proposed Revision
CRITICAL	Preserve TOD deed statute and nonprobate transfer provisions (15 V.I.C. §§ 201, 201a, and 202-217)	Revision A
HIGH	Correct small-estate threshold from \$25,000 to \$100,000	Revision C
HIGH	Expressly preserve Electronic Wills Act (Chapter 1A) with priority rule	Revision B
HIGH	Fix duplicate section numbering (Bill §§ 3-320/3-321)	Revision D
MODERATE	Correct typographical and grammatical errors	Revision E
MODERATE	Replace all "county" references with VI-appropriate terminology	Revision F
MODERATE	Extend effective date and establish a nonbinding implementation-coordination condition	Revision G
HIGH	Request and coordinate a Court-led, judiciary-adopted conforming rules and forms package, train the Clerk, and confirm court and recording readiness (Questions 4-6 and 18-27)	Court Rule Package
ADVISORY	Solicit stakeholder input on augmented-estate impacts	Revision H

7.3 Recommended Vehicle

Given the number and scope of required corrections, a committee substitute coordinated with a Court-led implementation package is the cleanest vehicle. This allows renumbering, typographical corrections, conforming amendments, and substantive changes (TOD preservation, small-estate threshold, electronic-wills savings clause) to be incorporated in a single clean text while the Court separately considers and, if appropriate, adopts the rules, forms, and transition directive needed for implementation through its own process, in coordination with the Legislature, Clerk, Lieutenant Governor, and Bar.