COMMITTEE ON FINANCE

BILL NO. 33-0098

Thirty-Third Legislature of the Virgin Islands

June 24, 2019

An Act amending title 12A of the Virgin Islands Code by adding a new chapter 8 requiring that businesses offer at least two payment options to their customers, and matters related thereto

PROPOSED BY: Senator Kurt A. Vialet

WHEREAS, resident and visiting consumers in the Virgin Islands are limited and inconvenienced by the lack of payment options offered by businesses;

WHEREAS, one of the biggest challenges facing the Government of the Virgin Islands is the fight against tax fraud;

WHEREAS, the prevention of tax fraud is a battle that requires technological tools and a clear legal framework that promotes and encourages the transparency of commercial transactions;

WHEREAS, the objectives of transparency and security in commercial transactions with electronic money tend to improve economic relations;

WHEREAS, a more consistent and predictable payment system contributes to greater efficiency and less litigation, which in turn, allows the consumer to achieve greater control over possible losses due to fraud;

WHEREAS, confidence in commercial transactions with cash is subject to the transparency and good faith in the will of the parties involved;

WHEREAS, some businesses receive cash without issuing a receipt, therefore there is no record of a transaction which aids in the underreporting of sales;

WHEREAS, the Bureau of Internal Revenue's control over tax evasion caused by underreported sales will result in the generation of more income to the Treasury of the Virgin Islands;

WHEREAS, it is the duty of the Legislature of the Virgin Islands to establish the necessary regulation so that each commercial transaction is carried out with the greatest possible confidence; and

WHEREAS, this legislation combines the protection of consumers and ensures the management of commercial transactions in a legal framework of transparency that seeks to reduce tax fraud.

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

SECTION 1. Title 12A of the Virgin Islands Code is amended by inserting a new chapter 8 to read as follows:

"Chapter 8. Payment Options

§ 451. Definitions

For purposes of this chapter:

(a) "Business" means any individual, sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services or both are sold as well as professional corporations, and any other business entity where legal, medical, dental or other professional services are provided.

(b) "Customer" means a person or organization that buys goods or services from a business.

(c) "Legal name" means the official name of the person or entity that owns a business.

(d) "Payment method" means payment by cash, credit or debit card, check or money order, or electronic funds transfer.

(e) "Person" means an individual or a business.

§452. Payment Options

(a) (1) A business shall offer at least two (2) payment options to a customer, and one of the payment options must be credit or debit card.

(2) The option to use one of the payment methods made available to a customer in paragraph (1) of this subsection remains with the customer, and no business shall induce or coerce a customer to use a particular payment method.

(3) (A) If a payment method made available to a customer in paragraph (1) of this subsection becomes unavailable, the business shall offer an additional alternative payment method.

(B) If a payment method becomes unavailable under subparagraph (A) of this subsection for more than five (5) business days, the business shall notify the Department of Licensing and Consumer Affairs in writing of the unavailability of the payment method and the steps taken by the business to remedy the unavailability of the payment method.

(b) A business may impose a minimum purchase amount of up to $10 for credit card charges, however, the customer must be given written notice of the minimum purchase amount at the point of sale.

§453. Receipts

(a) A business shall offer a customer a receipt for any transaction of $5 or more. For transactions under $5, the business shall provide the customer with a receipt upon request.

(b) A receipt must contain the following information:

(1) the items purchased;

(2) the amount of money paid for each item;

(3) the date of the purchase; and

(4) the legal name and address of the business.

§ 454. Posting Requirements

(a) A business shall prominently display at the point of sale a clearly identifiable sign specifying the payment options available.

(b) A business that does not offer goods or services from a physical location is required to inform a customer verbally or in writing about the available payment options.

§ 455. Recordkeeping

A business shall maintain a record of daily transactions that includes the items sold to customers, the amount received, and the payment method. The records shall be maintained and available for inspection by the Virgin Island Bureau of Internal Revenue for a period of not less than seven (7) years.

§456. Complaints

(a) Any person with knowledge of a suspected violation of the provisions of this chapter may file a formal complaint with the Department of Licensing and Consumer Affairs. A complaint can also be made telephonically and may be filed anonymously.

(b) The Department of Licensing and Consumer Affairs shall make a prompt investigation of any complaint.

§ 457. Administration and Enforcement

(a) The Commissioner of the Department of Licensing and Consumer Affairs shall administer and enforce the provisions of this chapter.

(b) The Commissioner of the Department of Licensing and Consumer Affairs is authorized to promulgate rules and regulations necessary to carry out the purposes of this chapter including procedures for filing, investigating and resolving complaints, and for handling notices of payment method unavailability under section 452(3)(B) of this chapter.

(c) (1) In the administration of this chapter, the Commissioner of the Department of Licensing and Consumer Affairs shall perform periodic on-site inspections of businesses.

(2) No notice is required before an inspection.

§ 458. Penalties

(a) A person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of not less than $500 nor more than $3,000 for a first offense, and not less than $5,000 nor more than $10,000 for subsequent offenses.

(b) In addition to the penalties prescribed in subsection (a) of this section, the Commissioner of the Department of Licensing and Consumer Affairs, in consultation with the Director of the Bureau of Internal Revenue, may impose an administrative fine of not less than $1,000 nor more than $5,000 for each offense."

SECTION 2. Section 1 shall take effect 90 days after the enactment of this Act.

<u>Bill Summary</u>

This Bill amends title 12A of the Virgin Islands Code by adding a new chapter 8 to require that businesses offer at least two payment options to their customers, one of which must be by credit card. The Bill requires that a business must provide notice to its customers of the payment options. A business may impose a minimum purchase amount of up to $10 for credit card charges, but must first notify the customer of the minimum purchase amount. A business is required, pursuant to the Bill, to offer a customer a receipt for any transaction of $5 or more, provide, upon request by the customer, a receipt for a transaction under $5, and maintain records of daily transactions for at least seven years. The Bill also allows complaints to be filed with the Department of Licensing and Consumer Affairs ("DLCA") for suspected violations. The Commissioner of the DLCA is tasked with administering and enforcing the provisions of the Bill and is authorized to promulgate rules and regulations. Finally, the Bill provides penalties for violations of the Bill. The provisions of the Bill will not become effective until 90 days after its enactment.

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