

COMMITTEE ON GOVERNMENT SERVICES, VETERANS
AND CONSUMER AFFAIRS

04/15/2015-HELD IN COMMITTEE

BILL NO. 31-0014

Thirty-first Legislature of the Virgin Islands

February 4, 2015

An Act amending title 33 Virgin Islands Code, adding chapter 120 to re-establish the Office of the Virgin Islands Inspector General as a separate and independent agency of the Government

PROPOSED BY: Senators Clifford F. Graham, Nereida Rivera-O'Reilly and Sammuel Sanes

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 33 of the Virgin Islands Code is amended by adding chapter 120 to read as follows:

“CHAPTER 120 OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL

§3601. As used in this chapter, the term:

(1) “Audit or investigative data” means the working papers, including but not limited to, draft reports, documents containing the evidence to support the findings, conclusions, judgments, and the collection of evidenced prepared or obtained during the audit inspection or investigation.

(2) “Report” means the final audit, inspection or investigate report issued after the auditee or respective officials have had the opportunity to review and respond to its findings and recommendations.

(3) “V. I. Inspector General” means the Virgin Islands Inspector General.

(4) “Office of the V. I. Inspector General means” Office of the Virgin Islands Inspector General.

(5) “Government” means the Government of the Virgin Islands, all three branches and their respective departments, agencies, authorities, instrumentalities, boards and commissions.

§3602. Office of the V. I. Inspector General established.

(a) The Office of the V. I. Inspector General previously established as a separate and independent agency of the Government in chapter 40 of title 3 of this Code is continued under this chapter.

(b) The Office of the V. I. Inspector General is administered and supervised by the V. I. Inspector General.

(c) The V. I. Inspector General is appointed by the nomination of the Governor of the Virgin Islands, with the advice and consent of the Legislature, without regard to political affiliation, and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial management, or investigations.

(d) The nomination must be made no later than 90 days from the V. I. Inspector General’s position’s becoming vacant.

(e) The V. I. Inspector General shall serve a term of seven years from the date of appointment, and may be reappointed. The V. I. Inspector General may be removed from office by the Governor of the Virgin Islands with the advice and consent of the Legislature only upon a finding of neglect of duty or malfeasance in office. Any vacancy occurring in the Office of the V. I. Inspector General must be filled in the same manner as the initial appointment.

(f) The V. I. Inspector General must be bonded in an amount equal to that of a commissioner in the Executive Branch.

(g) The V. I. Inspector General shall appoint a Deputy V. I. Inspector General who in addition to the duties assigned by the V. I. Inspector General, shall supervise the performance of audit, investigation, and inspection activities relating to programs and operations. The Deputy V. I. Inspector General must be qualified in the same manner as the V. I. Inspector General and must be bonded in an amount equal to that of a commissioner in the Executive Branch.

(h) The salary of the V. I. Inspector General is equal to that of the highest paid commissioner in the Executive Branch, and may not be reduced during the incumbent's term.

§3603. Powers and duties; authority; report of criminal violations to the Virgin Islands Attorney General or the United States Attorney

(a) The Office of the V. I. Inspector General shall:

(1) conduct and supervise audits, inspections, and related investigations of programs and operations of the Government;

(2) provide leadership, coordination and recommend policies for activities designed:

(A) to promote economy, efficiency, and effectiveness in the administration of; and

(B) to prevent and detect fraud, waste, and abuse in such programs and operations; and

(3) provide a means for keeping the Governor, the Legislature, and the Judiciary fully and currently informed about problems and deficiencies relating to the administration of government programs and operations and the necessity for and progress of corrective action;

(4) conduct audits, inspections, and investigations relating to the programs and operations of any Government executive department, board, bureau, commission, or instrumentality and the legislative and judicial branches;

1 (5) take such steps as may be necessary and lawful to ensure that
2 recommendations are fully implemented;

3 (6) coordinate efforts with the Office of the Inspector General of the Department
4 of the Interior and the Legislative Post Auditor to avoid unnecessary duplication of work;

5 (7) give advice and issue opinions, not in conflict with its duties and
6 responsibilities, when requested by other Government departments, agencies, or
7 instrumentalities;

8 (8) seek advice from Government experts or private consultants when necessary;

9 (9) employ personnel into classified positions without following the certification
10 and appointment procedures prescribed in section 3 V.I.C. §526, and employ such other
11 employees by contract or otherwise, as needed to execute the provisions of this chapter;

12 (10) establish its own compensation, wage, and salary scales in accordance with
13 industry standards;

14 (11) promulgate, pursuant to 3 V.I.C., chapter 35, such regulations as may be
15 necessary to carry out the provisions of this chapter;

16 (12) recommend changes in existing law which will assist the Office of the
17 V. I. Inspector General in performing its duties efficiently; and

18 (13) faithfully execute the provisions of this chapter and all laws relating to it.

19 (b) In addition to the authority otherwise provided by this chapter, the Office of the
20 V. I. Inspector General may:

21 (1) have access to all records, reports, audits, reviews, documents, papers,
22 recommendations, or other material available to the applicable entity which relate to programs
23 and operations to which the Office of the V. I. Inspector General has responsibilities under
24 this chapter;

1 (2) make such investigations and reports relating to the administration of the
2 programs and operations of the applicable entity as are, in the judgment of the V. I. Inspector
3 General, necessary;

4 (3) require by subpoena the production of all information, documentation, reports,
5 answers, records, accounts, papers, other data and documentary evidence, and witnesses
6 necessary in the performance of the functions authorized by this chapter. The subpoena, in
7 the case of contumacy or refusal to obey, is enforceable by order of any court of jurisdiction
8 in the Virgin Islands; but, procedures other than subpoenas must first be used by the V. I.
9 Inspector General to obtain documents and information;

10 (4) administer to or take from any person an oath, affirmation, or affidavit,
11 whenever necessary in the performance of the functions authorized by this chapter. An oath,
12 affirmation, or affidavit, when administered or taken by or before an employee of the Office
13 of the V. I. Inspector General designated by the V. I. Inspector General, has the same effect as
14 if administered or taken by or before an officer having a seal;

15 (5) upon the request of the Governor, the Legislature, the Judiciary, or on the V. I.
16 Inspector General's own initiative, conduct audits, inspections, and investigations of any
17 recipient of funds from the Virgin Islands; and

18 (6) have direct and prompt access to the head of the entity involved, including the
19 Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, the President
20 of the Legislature, the Governor, commissioner or head of any department or agency, the
21 executive director of any instrumentality of Government, and the chairperson of any board or
22 commission, when necessary for any purpose pertaining to the performance of functions and
23 responsibilities under this chapter.

24 (c) No Virgin Islands Government official may:

(1) prevent or prohibit, or attempt to prevent or prohibit, the V. I. Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation, or from issuing any subpoena or report in the course of any such activity; or

(2) interfere or attempt to interfere with the V. I. Inspector General's performing any activity authorized by this chapter.

(d) If the V. I. Inspector General has reasonable grounds to believe that any act prohibited by subsection (c) has occurred, the V. I. Inspector General shall expeditiously and simultaneously notify the Governor, Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, or President of the Legislature, as appropriate.

(e) In carrying out the powers, duties, and authority of this chapter, the Office of the V. I. Inspector General shall comply with generally accepted auditing standards established by the Government Accountability Office and the American Institute of Certified Public Accountants.

(f) In carrying out the powers, duties and authority of this chapter, the Office of the V. I. Inspector General shall report expeditiously to the Attorney General or the United States Attorney whenever the V. I. Inspector General has reasonable grounds to believe there has been a violation of law.

(g) Subsection (f) of this section may not be construed to authorize the Attorney General or the United States Attorney to limit the authority of the V. I. Inspector General to conduct an investigation.

(h) The V. I. Inspector General shall notify the Governor, Chief Justice of the Supreme Court, the Presiding Judge of the Superior Court, or President of the Legislature, as appropriate, no later than 30 business days after the Attorney General or the United States Attorney declines orally or in the writing to prosecute a matter referred to, or otherwise brought to the attention of the Attorney General or United States Attorney pursuant to subsection (f) of this section.

(i) To enforce the provisions of this chapter, any investigator of the Office of the V. I. Inspector General as designated by the V. I. Inspector General has the same designation, powers and authorization as those of a peace officer under 5 V.I.C., chapter 305.

§3604. Complaints by employees; disclosure of identity; reprisals

(a) The V. I. Inspector General may receive and investigate complaints or information from employees of the Government concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety.

(b) The V. I. Inspector General may not, after receipt of a complaint or information from any employee, disclose the identity of the employee without the consent of the employee, except in accordance with a request of the Attorney General or United States Attorney for the purpose of a criminal investigation.

(c) Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, may not with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the V. I. Inspector General, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

§3605. Handling of audit or investigative data and reports; annual report

(a) Audit or investigative data is confidential information, pursuant to 3 V.I.C. § 881(g), any authorized disclosure of audit, inspection, investigation information is subject to all applicable laws.

(b) Reports must be submitted to the appropriate officials of the audited organizations, to the appropriate officials of the organizations requiring or arranging for the audits, to the Governor and the Legislature of the Virgin Islands, unless legal restrictions, ethical considerations, or other

1 arrangements prevent it. Unless restricted by law, copies of final reports must be available for public
2 inspection.

3 (c) The Office of the V. I. Inspector General shall retain audit data and audit reports for a
4 period of not less than five years, or until all findings have been cleared or otherwise settled to the
5 satisfaction of the V. I. Inspector General.

6 (d) The V. I. Inspector General shall submit to the Governor and the Legislature an annual
7 report summarizing the activities of the Office of the V. I. Inspector General for the preceding fiscal
8 year. The annual report must include without limitation:

9 (1) A description of significant problems, abuses, and deficiencies relating to the
10 Government's administration of its programs and operations disclosed by the investigative
11 activities of the Office of the V. I. Inspector General during the reporting;

12 (2) A description of recommendations for corrective action made by the Office of
13 the V. I. Inspector General during the reporting period, with respect to the significant
14 problems, abuses, and deficiencies identified;

15 (3) An identification of each significant recommendation described in previous
16 annual reports on which corrective action has not been completed;

17 (4) A summary of matters referred to the Attorney General or United States
18 Attorney and the prosecutions and convictions that have resulted; and,

19 (5) A list of each audit and inspection report completed by the Office of the V. I.
20 Inspector General during the reporting period.

21 **§3606. Annual budget**

22 (a) The V. I. Inspector General shall prepare and submit directly to the Legislature an
23 annual budget that includes staffing levels for the Office of the V. I. Inspector General. The budget,
24 once appropriated by the Legislature, must be allotted.

(b) The V. I. Inspector General shall establish and maintain an imprest checking account.

No later than 15 days after the beginning of each fiscal year, the Commissioner of Finance shall deposit into the Office of the V. I. Inspector General's imprest account the sum of \$100,000 from the annual operating budget of the Office of the V. I. Inspector General.

(c) The V. I. Inspector General may expend monies from the imprest account for any purpose in exercising powers of the office and carrying out duties of the V. I. Inspector General as set forth in this chapter or any other law. Before the expiration of 30 days following the end of each quarter, the V. I. Inspector General shall submit to the Department of Finance a report detailing the amount, the nature, and the justification for each item of expenditure in the previous quarter. The report must be accompanied by receipts and any other such documentation required by the Department's regulations or other laws of the Virgin Islands. Before the expiration of 30 days following the end of the fiscal year, the V. I. Inspector General shall compile and submit to the Commissioner of Finance an annual financial report for the fiscal year's expenditures from the imprest account.

SECTION 2. The person serving in the position of V. I. Inspector General on the effective date of this Act shall continue to serve in the position until the expiration of the person's term, unless removed pursuant to 33 V.I.C. §.3602 (e), as added by section 1 of this Act.

SECTION 3. Title 3 Virgin Islands Code, chapter 40 is repealed.

SECTION 4. This Act takes effect October 1, 2017.

BILL SUMMARY

Section 1 of this bill reestablishes the Office of the V. I. Inspector General under title 33. The Office of the V. I. Inspector General is currently established under title 3, chapter 40 and is designated a separate and independent agency. Under section 1 of this bill, the Office of the V. I. Inspector General would continue to maintain that status.

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2 **BR15-0134/January 26, 2015/YLT**

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