

COMMITTEE ON CULTURE, HISTORIC PRESERVATION,
YOUTH AND RECREATION

BILL NO 31-0303

Thirty-first Legislature of the Virgin Islands

February 12, 2016

An Act providing for the recognition of and respect for our sacred national patrimony, and the rights of the Taino, Carib, and other Caribbean Indigenous Peoples, as pre-Columbian inhabitants of the Virgin Islands, and recognizing that their descendants continue to exist today; designating Salt River Bay and Magens Bay as Amerindian Sacred Places, amending 29 V.I.C., section 964 and 32 V.I.C., sections 31 and 52 providing for the Magens Bay Authority to perform preservation activities and providing for other related purposes

PROPOSED BY: Senator Myron D. Jackson

1 **WHEREAS**, the diverse indigenous groups which inhabited the Virgin Islands left us

2 rich evidence of a complex historic process that began more than 3,000 years ago; and

3 **WHEREAS**, the pre-agricultural cultures, as well as the agricultural ones, known to

4 us as Igneri, Ostionoid, Arawaks, Tainos, Kalinago, and Caribs cultures, populated and

5 transformed the Virgin Islands leaving behind a lasting legacy; and

6 **WHEREAS**, the island of St. Croix was named Ay-Ay by the indigenous people and

7 that St. Thomas, St. John and surrounding keys were occupied before 2500 B.C.; and

8 **WHEREAS**, our island's environment was modified through the introduction of

9 continental flora and fauna and the names of places identifying rivers, mountains and valleys,

1 and multiple elements of our diet, foods, and language still reflect their influence of this
2 cultural heritage left behind today; and

3 **WHEREAS**, Salt River and Magens Bay, are identified as a pre-Columbian
4 settlements by archeological investigations conducted in 1923 by the Danish archeologist
5 Gudmund Hatt, and that human remains, artifacts, ball court stones and other materials were
6 transshipped to Denmark and are presently housed at the Danish National Museum; and

7 **WHEREAS**, pre-1493 archaeological evidence of Taino culture was uncovered on
8 coastal areas of Trunk, Cinnamon, and Lameshur Bays on St. John by the National Park
9 Service; and

10 **WHEREAS**, on St. Thomas a pre-Columbian village site, known as TAVI Site, was
11 uncovered by the archaeologists from the State Historic Preservation Office in 1992 during
12 the construction of the Tutu Mall; and

13 **WHEREAS**, a settlement, human remains, and artifacts were recovered, and through
14 community efforts to preserve this site a landmark court case for a temporary restraining
15 order was filed against Tutu Park Mall in 1992 by two private citizens who identified
16 themselves as descendants of indigenous people of the region for the identification and the
17 protection of this cultural patrimony; and

18 **WHEREAS**, as a result of this discovery during the 500-year anniversary observance
19 of the 1492 Voyages of Columbus, the development of a policy for an Antiquities & Cultural
20 Properties Act of 1998, was passed by the Virgin Islands Legislature; and

21 **WHEREAS**, the history and the culture of the Virgin Islands are paramount to
22 educational, economic, social, cultural development and spiritual well being of the people of
23 the Virgin Islands; and

1 **WHEREAS**, actualized, optimum preservation of Salt River Bay National Historical
2 Park and Ecological Preserve at “Salt River Bay” and Magens Bay is nonexistent; and

3 **WHEREAS**, the potential to procure cultural heritage tourism revenue for these sites
4 is not being acted upon in a timely manner; and

5 **WHEREAS**, the potential to procure international recognition from private and
6 public archaeological, political, historical, biological, maritime, architectural, and scientific
7 agencies is not being acted upon; and

8 **WHEREAS**, the mandates of previous laws have not been recognized or enforced;
9 and

10 **WHEREAS**, the repatriation of Amerindian remains is mandated by federal law to
11 recognize Amerindian tribes; and

12 **WHEREAS**, the potential of Salt River Bay to be recognized as a United Nations
13 Educational, Scientific and Cultural Organization World Heritage Site, or “UNESCO WHS”,
14 is not being acted upon; and

15 **WHEREAS**, it is recognized that there are descendants of the Taino and other
16 Amerindian peoples in the Virgin Islands and those descendants should be recognized by
17 groups such as the United Confederation of Taino People and Opi’a Taino of St. Thomas,
18 Virgin Islands who signed a Declaration of Unity which proves the developmental intent of
19 the Taino people to assert their cultural, historical, and spiritual agency; and

20 **WHEREAS**, title 29 V.I.C., chapter 17, section 951 mandates the cooperation of the
21 Government of the Virgin Islands with the Government of the United States “in protecting
22 and managing the Territory’s terrestrial and marine historical, cultural and archaeological
23 resources for the benefit of the people of the Virgin Islands; and

1 **WHEREAS**, title 29 V.I.C., chapter 17, section 953 (c) mandates the implementation
2 of a plan to study and identify all earth and marine sites of archaeological, historical, and
3 cultural value to the Virgin Islands; and

4 **WHEREAS**, the abandoned boats at Salt River Bay require actions pursuant to Title
5 12 V.I.C., chapter 7; and

6 **WHEREAS**, the Taino, Carib, and other Caribbean Indigenous Peoples of the Virgin
7 Islands represented by Opi'a Taino, Opi'a Taino International, and the United Confederation
8 of Taino People, their members and affiliates have made decisions and taken positive action
9 to protect, defend, preserve, revitalize, and maintain the ancient traditions, customs, and
10 spirituality of their ancestors; and

11 **WHEREAS**, Opi'a Taino, Opi'a Taino International, and the United Confederation
12 of Taino People have diligently worked to promote an equitable dialogue among Caribbean
13 Indigenous Peoples and local and national government to raise awareness on the important
14 issue of indigenous sacred sites, burial grounds, ceremonial objects, and ancestral remains in
15 the Virgin Islands and throughout the Caribbean; and

16 **WHEREAS**, DNA testing completed in the 21st century has proven that there are
17 people in the Virgin Islands of the United States of America with bio-genetic, cultural and
18 historical heritage linkages to the indigenous native people who once populated these Virgin
19 Islands and are identified as Haplo Group C - a pre-Columbus human population; and

20 **WHEREAS**, some of the living descendants of the indigenous people of the Virgin
21 Islands have established an international liaison through Opi'a Taino International formally
22 in effect with the United Confederation of Taino People for the creation and maintenance of
23 an International Tribal Registry for people with indigenous ancestral heritage here in the
24 Virgin Islands; Now, Therefore,

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

2 **SECTION 1.** As used in this Act:

3 (a) “Artifact” means any object that contains or references information that gives
4 insight into the culture and history of societies before and during Antiquity, including but not
5 limited to:

6 (1) Pottery

7 (2) Tools

8 (3) Carvings; and

9 (4) Stone petroglyphs

10 (b) “Government” means the Government of the Virgin Islands.

11 (c) “Preservation” means the protection and maintenance of all fauna, flora,
12 artifacts, and historical and cultural structures that are a part of or contribute to the historical,
13 ecological, cultural, and environmental identity of the United States Virgin Islands.

14 (d) “Remains” means any human remains and associated funerary objects

15 (e) “UNESCO WHS” means United Nations Educational, Scientific and Cultural
16 World Heritage Site.

17 **SECTION 2.** (a) The Magens Bay historic site is added to the Virgin Islands
18 Registry of Historic Places.

19 (b) The Department of Planning and Natural Resources shall designate Magens
20 Bay as a pre-historic Amerindian Site of Memory.

21 (c) The Department of Planning and Natural Resources shall commence a
22 nomination process with the National Park Service Office of International Affairs to place
23 Salt River Bay on the UNESCO WHS list and produce a draft report for the public of the
24 nomination by the year 2017 in tandem with the centennial observance of the transfer from

1 Danish rule to American rule. The State Historic Preservation Officer/Commissioner or
2 Deputy State Historic Preservation Officer of the Department of Planning and Natural
3 Resources shall delegate such staff as necessary to conduct and complete the nomination
4 process for recognition as a UNESCO WHS.

5 (d) The Department of Planning and Natural Resources and the Virgin Islands
6 National Park Service shall disclose, inventory, and repatriate the remains of Amerindians
7 found in the Danish West Indies before and after the 1917 Transfer of the Virgin Islands
8 from Danish rule to American rule pursuant to the Native American Graves Protection and
9 Repatriation Act and the United Nations Declaration on the Rights of Indigenous Peoples.

10 (e) The Department of Planning and Natural Resources service is tasked with
11 creating an inventory and unified database in collaboration with all museums in the world of
12 any pre-Columbian material from the Virgin Islands collected by the Virgin Islands
13 government, private collections, and international research groups or firms. The Department
14 of Planning and Natural resources shall seek collaboration and assistance from the Virgin
15 Islands Park Service.

16 (f) Human remains that have been excavated and identified as Amerindian must
17 be reinterred in a designated burial vault built by the Magens Bay Authority at Magens Bay,
18 Salt River and Estate Tutu at the Charles W. Turnbull Regional Library if the remains were
19 excavated at those sites or deemed appropriate for human remains that cannot be reinterred to
20 their original sites. At Salt River Bay, the Department of Planning and Natural Resources
21 shall make the designation in collaboration with the National Park Service. At Magens Bay,
22 the Magens Bay Authority shall make the designation in collaboration with the Department
23 of Planning and Natural Resources.

1 (g) The developer of any development project that is executed, funded, assisted,
2 permitted, licensed, or approved by the Government shall institute a process that assesses the
3 possible effects of the actions on historic and cultural property before the project is started.

4 (h) The Virgin Islands Government, through the Department of Public Works and
5 Department of Sports, Parks, & Recreation, may seek to obtain adjacent land outside of the
6 National Park Service boundaries to commence a project that redirects motor vehicle access
7 and parking to the Salt River Bay site. The project must reference or institute previous
8 conceptual architectural and landscape plans for access to Salt River Bay. The new roads
9 and parking and their construction must not interfere directly or indirectly with the
10 preservation of the archaeological and historical sites at Salt River Bay. The Department of
11 Public Works shall work with Department of Planning and Natural Resources and the
12 National Park Service in determining the optimum ways of redeveloping public access to the
13 site while maintaining preservation efforts at the site.

14 (i) The Government shall negotiate concurrent jurisdiction agreements for law
15 enforcement patrolling activities with the National Park Service at Salt River Bay pursuant to
16 the Cooperative Management Agreement signed by both parties.

17 (j) The Department of Planning and Natural Resources shall commence planning
18 for removal and cleanup of derelict and abandoned boats in the water at Salt River Bay by
19 2016.

20 (k) The Government shall recognize any individual as having Native American
21 heritage or ancestry if through voluntary DNA testing that person has at least a 2.5% blood
22 quantum level of Native American genetics. That this data bank registry must be conducted
23 by the University of the in collaboration with the State Historic Preservation Office of the
24 Department of Planning and Natural Resources. The Historic Preservation Office shall

1 submit an annual report of the findings of this registry to the Legislature and the National
2 Park Service.

3 **SECTION 3.** The Department of Planning and Natural Resources shall submit to the
4 Legislature no later than 90 days after the enactment of this act information needed for
5 designation of Magens Bay as a historic district.

6 **SECTION 4.** (a) It is the declared policy of the Virgin Islands that all citizens, non-
7 governmental organizations, and the Government and its associated departments, agencies,
8 and instrumentalities respect our sacred national patrimony, and the rights of the Taino,
9 Carib, and other Caribbean Indigenous Peoples.

10 (b) Based on these truths that are self-evident and scientifically proven, the living
11 descendants of the indigenous people of the Virgin Islands are entitled to respect,
12 acknowledgement and inclusion as indigenous/native people of the Virgin Islands from
13 henceforth.

14 (c) The Government shall observe August 9 annually as “International Day of the
15 World’s Indigenous People”, as celebrated by the United Nations.

16 **SECTION 5.** (a) Title 29 Virgin Islands Code, chapter 17, section 964 is amended at
17 the end of subsection (c) by adding “and to carry out the preservation activities of the
18 Magens Bay Authority.

19 (b) Title 32 Virgin Islands Code, chapter 2A, section 31 is amended in the last
20 sentence of subsection (b) after “chapter” by inserting “and for the preservation activities of
21 the Magens Bay Authority”.

22 (c) Title 32 Virgin Islands Code, chapter 3, section 52 is amended in paragraph
23 (8) after “shall” by inserting “plan execute, and manage the preservation initiatives at
24 Magens Bay and”.

BILL SUMMARY

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2 Section 1 sets forth the definitions of terms used in the bill. Included in this
3 definition section are the definitions of “artifacts” “preservation” and “remains”.

4 Section 2 of the bill provides for the placement of Magens Bay on the Virgin Islands
5 Registry of Historic Places. Section 2 also mandates the Department of Planning and Natural
6 Resources to designate Magens Bay as a pre-historic Amerindian Site of Memory and
7 requires the Department to commence the process to nominate Salt River Bay as a UNESCO
8 World Heritage Site by the year 2017.

9 Section 3 provides for the disclosure, inventory, and repatriation the remains of
10 Amerindians, commencement of a project that redirects motor vehicle access and parking
11 from the Salt River Bay site, removes abandoned and derelict vessels from Salt River, and
12 recognizes individuals as having Native American heritage or ancestry.

13 Section 4 sets forth the Territorial policy to respect the sacred national patrimony, and
14 the rights of the Taino, Carib, and other Caribbean Indigenous Peoples. The section also
15 designates August 9 annually as “International Day of the World’s Indigenous People” as
16 celebrated by the United Nations.

17 Section 5 amends the Archeological Preservation Fund and the Territorial Park Trust Fund to
18 authorize financing for the Magens Bay Authority’s preservation activities.

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20 **BR15-0443/February 9, 2015/YLT**

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