

Drafted & Reviewed
By Legal Counsel

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AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 30-0153

Offered by Senator Janette Millin Young

Bill No. 30-0153 is amended by striking all the language after the short title and inserting the following language:

WHEREAS, there exists in localities throughout the territory, areas that once experienced commercial and trade activity, but due to the general economic downturn are in need of economic and physical revitalization; and

WHEREAS, these areas have displayed high levels of unemployment, physical deterioration, and economic disinvestment; and

WHEREAS, the existence of such areas tarnishes the image and reputation of the territory in the eyes of its residents and visitors alike, reduce the desirability of these areas as places to visit and work, and substantially impairs the sound growth of business enterprise within these areas; and

WHEREAS, the revitalization and redevelopment of these areas for the ultimate benefit of the territory as a whole is of critical importance; and

WHEREAS, the resources of the Government alone, without the aid provided in this subchapter, are insufficient and often inappropriate, to successfully undertake the massive task of restoring the social and economic productivity of such areas; and

WHEREAS, the revitalization of these areas can only occur if the private sector can be induced to invest its own resources in productive enterprises that will ultimately rebuild the commercial viability of these areas and provide jobs; and

WHEREAS, in order to provide the private sector with the necessary incentives to invest in these areas, the Government should seek ways to facilitate and expedite fiscal and regulatory requirements

and should seek to identify supportive actions that facilitate business investment in these areas; now therefore:

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1 Title 29 Virgin Islands Code, Chapter 19, subchapter 1 is amended in the title by inserting the words “and Commercial” after the word “Enterprise”

SECTION 2 Title 29 VIC, Chapter 19, subchapter I is amended in the following instances:

1. In section 1003 paragraph (1) by inserting after the words “as designated by law or” after the words “enterprise zone” where they appear without capital letters, and by inserting the word “additional” after the words “ “legal description of the” and by adding paragraph (11) to read as follows:

(11) “Commercial Zone” means the total area within the Territory which has been declared a commercial zone pursuant to a proclamation or executive order issued by the Governor or pursuant to a resolution issued by the Enterprise Zone Commission approved by the Governor, and which includes a detail legal description of the area to be included in the specific Commercial Zone.

SECTION 3 Title 29 Virgin Islands Code, chapter 19, subchapter II is amended

In section 1014, paragraph (10)(a) by striking “Department of Public Works” and replacing with the “Department of Planning and Natural Resources.”

§ 1015 vacant

SECTION 4 Title 29 VIC, chapter 19 is amended by adding subchapter III, to read as follows:

“SUBCHAPTER III DESIGNATION OF ENTERPRISE ZONES”

§1016. Savanne-Down Street and Garden Street-Upstreet in Charlotte Amalie, St. Thomas and the Towns of Christiansted and Frederiksted in St. Croix are designated as Enterprise Zones, as defined in section 1003 (11) of this title.

(a) The boundary of the Savanne-Down Street Enterprise Zone begins at the eastern end of Trompeter Gade where it intersects Nye Gade, thence west along Trompeter Gade crossing Raadets Gade and continuing to Snegle Gade, thence west along Snegle Gade to Bjerger

Gade, Dronningens Quarter, thence north along Bjerger Gade to the pedestrian alley, thence west along the pedestrian alley to Nordsidevei, thence north along Nordsidevei to the southeast property line of 16 Agnes Fancy, thence north along the west property line of 16 Agnes Fancy, thence west along the north property lines of 2 & 1 Inte Gade, 26E & 26D Vester Gade, thence south along Vester Gade to Antony Strade, thence across the gut to Jessegors Gade, thence west along Jessegors Gade to Larke Gade, thence south along Larke Gade to Savanne Street, thence west along Savanne Street to Gyllings Street, thence north along Gyllings Street to Hill Street, thence south along Hill Street to Gamble Nordsidevei, thence south along Gamble Nordsidevei to Prindsesse Gade, thence west along Prindsesse Gade to Nye Nordsidevei, thence north along Nye Nordsidevei to Haabets Gade that runs west to east, thence west along Haabets Gade to Haabets Gade south to north, thence south to the north east corner of Anna's Fancy 1, thence west along the north property lines of 1, 6, 7, 8, 14, 15A, 20 21, 24, 25, 28, and 29 Anna's Fancy, thence south along the west property line of 29 Anna's Fancy, thence east along Harwood Highway and Kronprindsens Gade to Strand Strade, thence south along Strand Strade to Curacao Gade, thence east along Curacao Gade to Guttets Gade, thence north along Guttets Gade to Wimmelskafts Gade, thence east along the north side of Wimmelskafts Gade to Nye Gade, thence north along Nye Gade to the point of beginning.

(b) The boundary of the Garden Street-Upstreet Enterprise Zone begins at the southeast corner of 24DDD Norre Gade, thence along the eastern property line of 24DDD Norre Gade, thence continuing along the western side of Frederiksberg Gade, thence across Norre Gade to the southwestern corner of 1 Frederiksberg Gade, thence north along the western property line of 1 Frederiksberg Gade, continuing north along the western property line of 1A Kongens Gade, thence east along the north property line of 1A Kongens Gade, thence north along the west

property line of Kongens Gade 1A continuing to Dronningens Gade, thence east along the northern side of Dronningens Gade to the south east corner of 74 Dronningens Gade, thence north to Hospital Line, thence west along the north side of Hospital Line to the southeast corner of 15 Hospital Ground, thence north along the eastern property lines of 15, 16, 17 18, 19, and 20 Hospital Ground, thence west along the northern property lines of 20, 26, 29 Hospital Ground, The Winston Raymo Center, and the north west corner of the Lionel Robert Stadium, thence south along the west side property line of the Lionel Roberts Stadium, thence west along the northern property lines of 109, 110, 128, 127, 126, 125, 124, and 123 Hospital Ground, thence south along the west property lines of 123 and 122 Hospital Ground, thence north westerly along the northern side of Louisenhoj Road (Maud Proudfoot Drive) to Alexander Gade, thence west along Alexander Gade to Adel Gade, thence north along Adel Gade to the southeast corner of 8L Lytons Fancy, thence west along the south property lines of 8L, 8E, 8D, 8B, and 8A Lytons Fancy, thence west along Catherineberg Road to Hyacinth Strade, thence east along Hyacinth Strade to Murphy Gade, thence the south along Murphy Gade to the southwest corner of 16 Murphy Gade, thence east to Nye Gade, thence south along Nye Gade to Lille Gronne Gade, thence east along Lille Gronne Gade to Commandant Gade OV, thence east across Commandant Gade O.V., thence north along Commandant Gade to the Dronningens Gade Step Street, thence east along Dronningens Gade Step Street to the southeast corner of 8 Commandant Gade, thence north along the east property line of 9A, 10A, 11A, 12A, 13B, and 13A Commandant Gade, thence east along the south property lines of 13BB Commandant Gade, thence north along the east property line of 13BB Commandant Gade to Louisenhoj Road (Maud Proudfoot Drive), thence east along the southern side of Louisenhoj Road (Maud Proudfoot Drive) to Lille Taarne Gade, thence south along Lille Taarne Gade to Dronningens Gade Step Street, thence east along

Dronningens Gade Step Street to Hospital Gade, thence south along Hospital Gade to Kongens Gade, thence east along Kongens Gade to the bridge that crosses Kanal Gade "Major Gut," thence south along Kanal Gade to Norre Gade, thence east along Norre Gade to Bjerger Gade, thence south along Bjerger Gade to the point of beginning.

(c) The boundary of the Frederiksted Town Enterprise Zone begins at the northwest corner of the ball park, known as Paul E. Joseph Stadium, thence east along the La Grange Road to Princes Street, thence south along Princess Street to Custom House Street, thence south along New Street to King Cross Street, thence east along King Cross Street to East Street, thence south along East Street to Fisher Street, continuing across Fisher Street along the west property lines of Wheel of Fortune Folio No., Mars Hill Folio 237 and Parcel of Stony Ground Folio 226, thence west along Center Line Road to the southwest corner of 107 Two Brothers, thence north along the west property lines of 107, 96, 95, 94, 93, 92, 91, 89, 88, 87, 86B and 85 Two Brothers, thence east along the north property line of 85 Two Brothers to the southwest corner of 53 Two Brothers, thence north along the west property lines of 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70 Two Brothers, thence east along the north property line of 70 Two Brothers to the southwest corner of 71-F Two Brothers, thence north along the west property line of 71-F and 71-E Two Brothers to the north west corner of 71-E Two Brothers, thence west along the north properties lines of 171, 147, 132, and 97A to the northwest corner of 97A Two Brothers, thence north along Route 71 Veterans Shore Drive to Fisher Street, thence west along Fisher Street to the shoreline, thence north along the shoreline to Custom House Street, thence east along Custom House Street to King Street, thence north along King Street Route 7025 to the point of beginning.

(d) The boundary of the Christiansted Town enterprise Zone begins at the North Eastern corner of No. 2 Garden Street, the Line runs: South along the West boundary of

Mount Welcome to the South East corner of Old Hospital Grounds; thence West along the South boundary of Old Hospital Ground, to South West corner of Old Hospital Ground; thence in a Northerly direction along the West boundary of Old Hospital Ground to the South East corner of No. 14 Little Hospital Street; thence in a Westerly direction along the old town limits situated on the North boundary of Recovery Hill and Peter's Farm to the North West Corner of Peter's Farm and the South West corner of the Public Cemetery; thence along the North boundary of St. Catherines and Contentment, and the South boundary of Friedensthal to the South East corner of Parcel No. 1 Matr. No. 1-ab of Contentment; thence along the South boundary of Parcel No. 1 of Contentment to the center line of Public Road; thence in a Northerly direction along the Center Line Road to the intersection of said Road, Sobotkers Lane and the North side Road; thence Westerly along the North side Road to the existing hard surfaced road leading to the former Richmond Jail; thence Southeasterly along the South Wall of the former Richmond Jail to the South East corner of the Jail; thence in a Northerly direction along the road designating the West boundary of the Holger Dansk Hotel to the Water front, thence in an Easterly direction along the water front to the North East corner of No. 2 Garden Street.

SECTION 5 Title 29 VIC, chapter 19 is amended by adding a new subchapter IV, to read as follows:

"SUBCHAPTER IV COMMERCIAL ZONE"

§1017. Purpose The purpose of this subchapter is to establish a process that provides incentives by the Government to induce private investment in Commercial Zone areas by removing unnecessary governmental regulatory barriers to economic growth, and providing tax incentive benefits.

§ 1018. Definitions: As used in this subchapter:

- (1) "Commercial Zone" means that total area within the Territory that has been declared a commercial zone pursuant to title 29 Virgin Islands Code, Chapter 19, Subchapter I, Section 1003 (11).
- (2) "Commercial Zone Business" means any individual, partnership, corporation, limited liability company, proprietorship or other business granted benefits pursuant to this subchapter.
- (3) "Commission" means the Enterprise Zone Commission, a public body created pursuant to title 29 Virgin Islands Code, chapter 19 section 1004.

- (4) "Real Property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or sued in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.
- (5) "Rehabilitation" means the reconstruction, alteration or repair of improvements, structures and buildings, in accordance with the requirements of the Virgin Islands Building Code, and other laws and regulations pertaining to building, fire prevention, health, housing, and zoning and also the use of land, and the use and occupancy of buildings and improvements.
- (6) "Resident of the Virgin Islands" has the same meaning as that found in title 29, Virgin Islands Code, chapter 19, section 1003 (9) (a) and (b)

§ 1019 Commercial Zone Program Established.

- (a) There is established in the Virgin Islands a Commercial Zone Program.
- (b) The Program is organized and administered as a committee of the Virgin Islands Enterprise Zone Commission, established pursuant to title 29, Virgin Islands Code, chapter 19, section 1004

§ 1020 Powers and Duties of the Commission

In addition to the powers enumerated in title 29 Virgin Islands Code, chapter 19, section 1007, the Commission shall :

- (1) Develop application procedures for demonstrating compliance with section 1021 of this subchapter and for obtaining the benefits set out under section 1022 of this subchapter, which may include public hearings by the Commission;
- (2) Oversee and monitor the implementation of this subchapter;
- (3) Determine compliance of the beneficiaries with the provisions of this subchapter and all regulations promulgated hereunder;
- (4) Actively promote and publicize the Commercial Zone Program, including, preparing, purchasing, and distributing by mail, the internet, or other means, material concerning Commercial Zones;
- (5) Provide technical and business assistance related to tax incentives and the development of alternative revenue sources to businesses within each Commercial Zone;
- (6) Coordinate Federal and Territorial business assistance programs and in cooperation with the appropriate Federal and Territorial departments or agencies, help streamline permit and license application procedures for businesses located in Commercial zones;
- (7) Work with the appropriate Federal and Territorial departments and agencies to coordinate the Commercial Zone Program with other programs carried out in the territory, including without

limitation, economic development programs, programs providing financial and other assistance to small businesses, programs providing transportation assistance, and job training programs;

- (8) Apply or work with beneficiaries of the Commercial Zone Program to apply for Federal and Territorial grants, loans, and services that benefit businesses in a Commercial Zone;
- (9) Monitor enterprises that are established in or relocated to a Commercial Zone and that qualify for the incentives provided for in section 1025 of this subchapter; and
- (10) Prepare and promulgate such rules and regulations as may be necessary to compliment the provisions of this subchapter. Such rules and regulations shall have the force of law upon approval by the governor and promulgated in accordance with chapter 35 of title 3 Virgin Islands Code.

§ 1021. Specific requirements for granting of benefits.

In order to qualify and remain eligible for benefits provided under this subchapter, an applicant must fulfill the following specific qualifications and requirements:

- (1) Establish or continue to maintain a business with valid licenses and permits within a Commercial Zone;
- (2) Invest at least \$75,000 or invest an additional amount of \$75,000, in the rehabilitation of the building used by a business that will advance the economic well being of the Territory. The fair market value of all equipment leased for a term of at least five years must be included in determining compliance with the investment requirement. The minimum investment required by this section may be reduced, if the Commission finds that the proposed business will provide sufficient employment to justify the lower investment;
- (3) In the case of a natural person, be a resident of the Virgin Islands as defined in Section 1018 (g) of this subchapter;
- (4) Actually invest in the Commercial Zone rather than being a contractor, subcontractor person or corporation acting as an agent or representative in a similar capacity to the investor;
- (5) Meet such standards of ecological compatibility that may be established by Federal or Territorial law;
- (6) Employ at least four residents of the Virgin Islands and one paid apprentice in such business directly or through subcontractors or, for existing businesses, add at least four new employees and one paid apprentice who are residents of the Virgin Islands. The commission may waive this requirement upon a demonstration to the Commission that the employment of the prescribed number of persons in the particular enterprise would not be economically feasible or practical, and upon a further finding by the Commission that the desirability of

the proposed enterprise outweighs the fact that it will not provide employment for at least two residents, or for two additional residents;

- (7) Comply with all Federal and Territorial laws, including anti-discrimination and wrongful discharge laws;
- (8) For any applicant who proposes to do business on land adjoining any beach or shoreline of the Virgin Islands, agree to grant to the Government of the Virgin Islands a perpetual easement upon and across such land to the beach or shoreline to provide free and unrestricted access thereto to the public. The easement s must be duly recorded in the Recorder of Deeds upon the designation of the business as a Commercial Zone Business; and
- (9) Agree in writing to notify the Virgin Islands Employment Service as to the availability of employment by the business or its subcontractors, the number of employees required, the occupational classification of such workers, and the applicable wage rate.

§1022 Hiring of Virgin Islands residents; competitive bidding procedures

- (a) Any business granted benefits under this subchapter shall agree in writing to employ and to require all contractors retained by the business to employ persons who are residents of the Virgin Islands.
- (b) Any business granted benefits pursuant to this subchapter shall require all contractors retained by the business to agree to contract for services with, and purchase goods, materials and supplies from those persons who are residents of the Virgin Islands and those entities that are incorporated or registered under the laws of the Virgin Islands, and who are duly licensed to do business in the Virgin Islands and have been so duly licensed for at least one year prior to the initial date of any such purchase, contract, or subcontract, provided that the bid of such resident or entity does not exceed the bid of any nonresident person or entity by more than fifteen percent (15%). Each Commercial Zone business and all contractors and subcontractors of such business shall invite competitive bidding for all services, goods, and materials pursuant to the publication requirements of title 31 Virgin Islands Code, chapter 23, section 236 and must apprise each bidder in writing of the name of the successful bidder and the amount of his bid within thirty (3) days after awarding the bid.

§ 1023 Economic Development Benefits Exclusion

- (a) Beneficiaries of the Economic Development Program in title 29 Virgin Islands Code, chapter 12 shall not be eligible to be designated as Commercial Zone Businesses nor to receive benefits authorized pursuant to the provisions of this subchapter.
- (b) An individual or entity that was formerly a beneficiary of the Economic Development Program may, however, apply for benefits as a Commercial Zone Business, and a current beneficiary of the Economic Development Program may apply for benefits as a Commercial Zone Business and

terminate its benefits under the Economic Development Program as of the effective date of its benefits as a Commercial Zone Business.

- (c) A commercial Zone Business may apply for benefits under the Economic Development Program and, upon the receipt of such benefits, elect to terminate its benefits under the Commercial Zone Program as of the effective date of its benefits under the Economic Development Program.

§ 1024 Tax credits; tax benefits; benefit options.

- (a) Each Commercial Zone Business shall qualify for the following tax credits and tax benefits:

- (1) A non-refundable gross receipts tax credits or an income tax credit equal to ten percent (10%) of the actual value expended within a fiscal year for construction of a new building within the Commercial zone;
- (2) A non-refundable gross receipts tax credit or an income tax credit equal to ten percent (10%) of the actual value expended within a fiscal year for rehabilitation of buildings or other real property within the Commercial Zone;
- (3) A gross receipts tax rate of 3% for gross receipts derived by the Commercial Zone Business, pursuant to title 33 Virgin Islands Code, chapter 3, section 43;
- (4) A property tax credit against taxes imposed pursuant to title 33 Virgin Islands Code, chapter 81, section 2301 equal to the increase in property taxes assessed due to renovation, rehabilitation, or construction of property within the Commercial zone;

- (b) The Commercial Zone Business shall indicate for the fiscal year that an expenditure is made whether it is taking the gross receipts or income tax credit pursuant to paragraphs (1), (2), (3) and (4) of this section for such expenditures. The credit must be taken on the appropriate tax return for the fiscal year during which the actual value was expended. A Commercial Zone Business that qualifies for more than one of the credits may elect to take one or more credits against income tax but in no case may an expenditure be used in calculating more than one credit.

- (c) Any credit derived by an entity that is not taxable at the entity level, such as a limited liability company, partnership, or Subchapter S corporation, must flow through to its owners as long as they are residents of the Virgin Islands as defined in section 1018 (g) herein.

- (d) Only expenditures incurred over a consecutive five-year period may give rise to tax credits under this chapter, and each Commercial Zone Business may elect the commencement date of such five-year period, the Benefit Period. Each benefit must be used to the extent possible in a five year before any balance is carried forward to the subsequent year with regard to credits and other benefits carried forward. However, a Commercial Zone Business shall make an election at the same time that it elects the commencement date of its benefits and such election cannot be subsequently changed.
- (e) The property tax benefit and the reduced gross receipts tax rate apply only for the benefit period.
- (f) Each Commercial Zone Business must obtain and maintain a valid licenses to conduct business in the territory for each year in which it receives tax benefits under this section and a Commercial Zone Business that does not have a valid license in place for one or more years for any reason is not entitled to the tax benefits under this section without further action on the part of the Enterprise Zone Commission.
- (g) The Virgin Islands Bureau of Internal Revenue shall issue regulations for the administration of paragraphs (a)-(h) of this subsection and the Enterprise Zone Commission shall issue regulations for the administration of subsection (a) of this section.
- (h) The tax exemptions under this program are mutually exclusive of any tax credits for which an applicant may be eligible.

SECTION _____ Enterprise Zone Commission may only award Commercial Zone benefits as set forth on Title 29 Virgin Islands Code, chapter 19, Subchapter III, for a period of five (5) years commencing upon enactment of this Act.

SECTION ____ Title 33, Chapter 111, is amended by adding an appropriately numbered section to read as follows:

“Section ____ Enterprise Zone Fund.

- (a) There is established within the Treasury of the Virgin Islands a separate and distinct fund to be designated and known as the "Enterprise Zone Fund". The Commissioner of Finance shall maintain and provide for the administration of the Fund and no monies shall be made available for expenditure there from, except as provided by law. All monies in the Fund shall remain available until expended.
- (b) The Fund shall consist of all monies appropriated from time to time by the Legislature, all public or private grants, donations, bequests or devises, and fees collected by the Enterprise Zone Commission, or any appropriations transfers thereto.

AMENDMENT SUMMARY

This amendment replaces the main body of Bill No. 30-0153.

It adds subchapters III and IV to title 29 Virgin Islands Code, chapter 19. Subchapter III outlines the demarcation of the towns of Christiansted and Frederiksted on the island of St. Croix where the Commercial Zone enterprise will be established and does the same for certain locations on the island of St. Thomas.

Subchapter IV contains findings of the Legislature and the purpose for the amendment. It also contains regulatory measures for granting benefits to qualifying businesses. It further contains tax incentives for employing Virgin Islands residents and adopts a procurement process beneficial to local vendors of goods supplies and materials.

The amendment also amends title 33 Virgin Islands Code, chapter 111 and establishes the Enterprise Zone Fund to be administered by the Commissioner of Finance.

Amendment No. 30-829/January 30, 2014/AA/Reviewed by MMH