



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

**Charlotte Amalie, V.I. 00802
340-774-0001**

November 20, 2013

VIA HAND DELIVERY

Honorable Shawn-Michael Malone
President
Thirtieth Legislature of the Virgin Islands
Capitol Building
St. Thomas, V.I. 00802

RE: Legislative Proposals to Amend Title 29 pertaining to the Industrial Development Program; To Amend Title 29 pertaining to the Enterprise Zone Program; To Amend Title 11 and 29 pertaining to the Government Development Bank and the Small Business Development Agency; To Amend Title 29 pertaining to the Sustainable Tourism Through Arts-Based Revenue Stream Production

Dear Senator Malone:

In accordance with Section 11 of the Revised Organic Act of the Virgin Islands of 1954, as amended, I submit to the Thirtieth Legislature the enclosed proposed measures intended to amend the language in the Virgin Islands Code pertaining to the Economic Development Commission, the Government Development Bank & Small Business Development Agency, the Enterprise Zone & Commercial Zone, and the Sustainable Tourism Through Arts-Based Revenue Stream Production ("STARS") Act. The approval of these bills will go a long way towards giving us the tools to capitalize on the opportunities to create jobs, expand business creation and ensure the competitiveness of the U.S. Virgin Islands.

A. The Economic Development Commission

The original Industrial Development Program Law was enacted in 1972. While there have been numerous amendments to that law adding new industries and refining benefits, there has not been a comprehensive revision to address the changing nature of business models and industry practices or recognition of advancements in technology. In 2001, the Virgin Islands

Economic Development Authority was created to serve as a master unified vehicle for economic development in the Territory. As part of this reorganization, the then Industrial Development Commission was re-named the Economic Development Commission, the principal vehicle for business attraction and consideration for tax incentives. Given the volatile economics of today and the evolution of global competition for economic development opportunities, the time is right for a comprehensive revision of our Economic Development Law. These amendments have been developed after a thorough analysis of the current law and what is required to be competitive with other jurisdictions.

These amendments will update those areas of the current law that for today's purposes are outdated, cumbersome and are no longer competitive. Section 1 of the attached proposal renames the program to more accurately reflect the function of the organization. Section 2 revises outdated and administratively burdensome sections in addition to updating the program to better reflect the current economic and business climate. Benefit periods are increased to be responsive to competitive factors to attract and retain firms in today's business and financial environment and the review and approval stages are made more efficient to provide timely decisions in a streamlined manner. Section 3 revises the Virgin Islands Economic Development Authority structure to create a more responsive, effective and efficient administration. The various subsidiary agencies of the Authority are returned to their original commission status, thus removing the additional layer of evaluation, which will expedite the approval process. Sections 4 and 5 rename the Industrial Park Development law and corporation as the Economic Development Park law and corporation for purposes of consistency and integrity.

B. The Enterprise Zone & Commercial Zone.

The Enterprise Zone Program, administered through Enterprise Zone Commission, is a more recent enactment, having been established in 1999. Experience with the program and changing economic conditions necessitate the program be updated. In 2012, I approved an expansion of the designated enterprise zones to include Christiansted, Frederiksted, Savanne & Downstreet and Garden Street & Upstreet. During fiscal years 2010 through 2013, approximately 23 beneficiaries of the program have made a collective investment of over \$10 million. This bill will further modernize and enhance the Enterprise Zone Program so that it can be better utilized to revitalize our blighted, unproductive and under-utilized areas.

The purpose for the establishment of the Commercial Zone is to establish a process to provide tax and other incentives to induce private investment in Commercial Zone areas by removing unnecessary governmental regulatory barriers to economic growth. The program works similar to the Enterprise Zone but is not limited by poverty level and stacked benefits will be utilized to encourage specific types of development within the designated Commercial Zones.

Areas exist in localities throughout the Territory which once were active with commercial and trade activity. However, due to the general economic downturn, these locations are in dire need of our focused attention for economic and physical revitalization. The physical deterioration and economic disinvestment exhibited has led to high levels of unemployment, thereby negating the potential for investment and negatively impacting the quality of life for the residents. The existence of such areas has a range of impacts, such as reducing the desirability of these areas as places to visit and work, diminishing the tax base from which our economy is sustained and substantially impairing the sound growth of business enterprises within these neighborhoods. The revitalization and redevelopment of these areas for the ultimate benefit of the Territory as a whole is of critical importance. With the incentives provided in this chapter, coupled with Government resources, we will be able to successfully accomplish the massive task of restoring the social and economic life of such areas by providing the owners and potential investors with the required vehicles. The revitalization of these areas will only occur with private sector resources in productive enterprises to ultimately rebuild commercial viability and provide stable and long-term jobs.

Recent initiatives we have in the pipeline for furthering these programs are contained within the Christiansted Town Plan, the Frederiksted Town Plan and the Charlotte Amalie Town Blueprint, which will all be further strengthened for implementation by these amendments.

C. The Government Development Bank & Small Business Development Agency.

Research and experience have made clear that the name *Government Development Bank* is inappropriate to the true mission of the organization. The Bank is an integral component of the Virgin Islands Economic Development Authority (with six funding programs) and the purpose for which the Bank was formed is to accelerate the economic development of the Territory by providing financial assistance to industrial and commercial enterprises. The proposed name change to the 'Economic Development Bank' is a truer representation of the bank and its mission.

The purpose of the bill is to combine the functions of the Government Development Bank and the Small Business Development Agency. Both agencies are under the Economic Development Authority, operate with the same governing board members, share overlapping staff responsibilities and have similar lending and technical assistance missions. As noted above, the purpose for which the Bank was formed is to accelerate the economic development of the United States Virgin Islands by providing financial and technical assistance to industrial and commercial enterprises. The purpose for which the SBDA was formed is to provide financial and technical assistance and management training to small industrial and commercial enterprises and to create a Small Business Incubator Program with entrepreneurial training. The proposed merger would place all of the functions and personnel under the new Economic Development

Bank, thus eliminating duplication of efforts, reducing administrative overhead and allowing for better loan servicing, technical assistance and collection efforts.

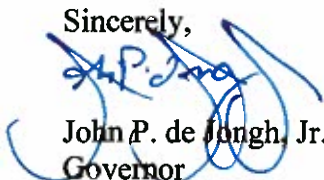
D. Sustainable Tourism Through Arts-Based Revenue Stream Production (STARS) Act.

The STARS measure (Act No. 7344) as enacted contains some conflicting sections and a convoluted interaction between the Virgin Islands Economic Development Authority and the Department of Tourism, as well as by having created a new unfunded department in the Virgin Islands Economic Development Authority headed by an employee of the Department of Tourism.

This amendment will clear the conflicts and allow the Department of Tourism to devote its time and energy to doing what it does best - promoting the program - without the distraction and additional duties of administering tax incentives. The Economic Development Commission will be allowed to carry out its statutory purpose - administer tax incentive programs.

As always, members of my Administration as well as the staff at the Virgin Islands Economic Development Authority and the Department of Tourism are available to address any matters relative to these proposals. I look forward to working with you and other members of the Thirtieth Legislature in the prompt consideration and approval of these important measures.

Sincerely,



John P. de Jongh, Jr.
Governor

Enclosures

BILL NO. 30-_____

THIRTIETH LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS

An Act amending Title 29, Chapters 12 and 21 to Rename the Industrial Development Program as the Economic Development Program; and update the Economic Development Program Law.

PROPOSED BY: GOVERNOR

1 *Be It Enacted by the Legislature of the Virgin Islands*

2 **SECTION 1.** Title 29, Chapter 12, is amended by deleting the words “Industrial
3 Development” and replacing it with “Economic Development” wherever they appear.

4 **SECTION 2.** Title 29 Virgin Islands Code, Chapter 12 is amended in the
5 following instances:

6 (a) In Section 704(f) and (g) delete the word “appointive”.

7 (b) In Section 704(f) delete “\$50.00” and replace with “\$150.00”.

8 (c) In Section 705(e) delete “the Director of the Bureau of Audit and Control” and replaced
9 with “the Director of the Internal Revenue Bureau and the Director of the Office of the
10 Inspector General”

11 (d) In Section 707(i), (j) and (k) Insert before “Corporation” the phrase: “the Economic
12 Development Park”

13 (e) Section 708(a) is deleted in its entirety and replaced with the following:

14 “ (1) Invest at least \$100,000, exclusive of inventory, in an approved industry or business that
15 the Commission has determined to advance the economic well-being of the Virgin Islands and
16 its people. The approved industries or businesses and their established categories shall be:

17
18
19
20 **Category I – Legacy Virgin Islands Industries - including Rum Production,**

1 Milk/Dairy Production, Watch and Jewelry Manufacturing and Assembly.

2
3 **Category II** – Product Assembly, Manufacturing, Repair and Maintenance and/or
4 Export Operations (other than Historic VI industries) - including but not
5 limited to Agriculture/Mariculture and Food Processing, Marine and Aircraft
6 Industry, Machine and Heavy Equipment, and Bottling and Packing.

7
8 **Category III** – Facilities, Tourism and Communications Developments -
9 including Hotel/Guesthouses, Health Care, Recreation and Retirement
10 Facilities, Transportation, Utilities (including Alternative Energy Industry)
11 and Telecommunication.

12
13 **Category IV** – Designated Services Businesses - as defined in Section 703(g) of
14 this Chapter.

15
16 (2) The Commission shall have the discretion to approve other such industries or
17 businesses as may be deemed appropriate by the Commission which a finding by
18 the Commission has determined will advance the economic well-being of the
19 Virgin Islands and its people and the applicant of such industry or business has
20 agreed to the investment and employment requirements along with any other such
21 special conditions as agreed between the applicant and the Commission.

22
23 (3) Any application that qualifies in two categories, however, under the provisions
24 of this subsection, shall be considered in the highest payment fee and term
25 category for the purpose of this chapter and an applicant may apply in more than
26 one approved industry or business.

27
28 (4) Provided that two categories may not be combined in one certificate unless the
29 businesses are integral to each other.

30
31 (5) In determining the amount of the investment undertaken by the applicant for
32 purposes of this subsection (1) the assessed value of land and previously existing
33 buildings (as assessed for tax purposes) used in the industry or business shall be
34 included only to the extent that it does not exceed twenty (20%) percent of the
35 investment undertaken; however, this provision shall not apply to an industry or
36 business of a nature in which investment in land and alteration and/or
37 improvement thereof represents its primary investment factor. (2) The fair market
38 value of all equipment leased for a term of at least five years shall be included in
39 determining compliance with the investment requirement. (3) The minimum
40 investment required by this section may be reduced, if the Commission finds that
41 the proposed industry or business will provide extraordinary employment to
42 justify the lower investment.”

43
44 (f) In Section 708a rename “Category IIA” as “Category IV” and reformat as appropriate.

45
46 (g) In Section 713a(b) is deleted in its entirety and replaced with:

1 “Each approved applicant eligible for benefits provided under this section shall be
2 granted benefits as follows:

3 (1) St. Thomas/St. John District approved applicants shall be granted 100% benefits for
4 a period of 20 years if they remain in compliance with all the requirements of this
5 chapter.

6 (2) St. Croix District approved applicants shall be granted 100% benefits for a period of
7 30 years if they remain in compliance with all the requirements of this chapter.

8 (3) Approved applicants, or Board approved wholly owned affiliates, that make an
9 initial investment in the beneficiary business, in infrastructure, new construction, or
10 refurbishment greater than Ten Million Dollars shall be granted 100% benefits for an
11 additional period of 10 years if they remain in compliance with all the requirements of
12 this chapter.

13 (4) Approved applicants, or Board approved wholly owned affiliates, that make an
14 initial investment in the beneficiary business, in infrastructure, new construction, or
15 refurbishment greater than One Million Dollars but less than Ten Million Dollars, upon a
16 finding by the Board of good cause, may be granted 100% benefits for an additional
17 period of 5 years if they remain in compliance with all the requirements of this chapter.

18 (5) Beneficiaries that remain in compliance with all the requirements of this chapter
19 and their certificate shall be eligible for one 10 year extension at 100% of benefits. This
20 extension shall be recommended by the Commission and approved by the Governor but
21 shall not require a public hearing. “

22
23 (h) Section 713a(d) is deleted in its entirety and replaced with:

24 “(d) Existing beneficiaries may apply for a modification to take advantage of
25 longer benefit period. Any modification of benefit period, when added to
26 current period used, could not exceed the maximum period as if granted at
27 time of initial approval. Any modifications shall be at the beneficiary’s
28 existing benefit level. Any increased benefits shall only be prospective with
29 no retroactive benefits increase.”

30
31 (i) In Section 713f(b) delete “EDC beneficiaries” wherever it appears and replace with
32 “companies and/or developers”

33 (j) Section 714(g) is deleted in its entirety.

34 (k) Section 714(a) is deleted in its entirety and each succeeding subsection is respectively
35 renumbered.

36 (l) In renumbered Section 714(a) delete all language following the words “commence at”
37 and replace with: “a date certain, but in no event shall the commencement of benefits
38 occur later than one (1) year after the date of the Governor’s approval of benefits. The

1 Commission may extend the time for commencement of benefits to a time certain
2 beyond one (1) year after the date of the Governor’s approval of benefits upon good
3 cause and a finding that the benefits would be a nullity to the beneficiary if commenced
4 prior to one (1) year after the date of the Governor’s approval of benefits.”

5 (m) Renumbered Sections 714b and 714c are deleted in their entirety and each succeeding
6 subsection is respectively renumbered.

7 (n) In Section 715

8 1) 715(a) delete the words “extension,” and “or renewal”.

9 2) 715(c) delete the words “extensions or”.

10 (o) In Section 715 delete in its entirety subsection (a)(2).

11 (p) Re-number sections 715(a)(3) and (4) as 715(a)(2) and (3).

12 (q) Sections 715(b) is deleted in its entirety and sections 715(c) and (d) are renumbered as
13 715(b) and 715(c).

14 (r) In Section 717(b) add a third sentence following after the word “application.” to read
15 “Should an application be disapproved, the applicant or beneficiary may petition the
16 Commission, through a written petition to the Commission, in accordance with Rules &
17 Regulations of the EDC, for reconsideration of action within ten (10) calendar days,
18 excluding Sundays and holidays, from the date the disapproval is received by the
19 applicant.”

20 (s) In Section 717a at the end of Section 717a(c) insert “Provided, if the Governor has
21 concerns with a recommendation of benefits, the Governor shall have the option of
22 returning a recommendation package to the EDC for reconsideration and thus stop the
23 60 day requirement above. Upon a resubmission after reconsideration a new sixty (60)

1 day period shall commence.”

2 (t) In Section 718(a)(4) delete the following language “which date may be retroactive to
3 the first date of investment by the beneficiary in the industry or business granted the
4 certificate, but such date shall not be before the effective date of this chapter.” and
5 replace with “at some point no later than one year after the date of the Governor’s
6 approval of benefits. Credit for capital investment only, may be retroactive to a date
7 certain, but in no event more than one (1) year prior to the date of the Governor’s
8 approval of benefits.”

9 (u) Section 719 is re-titled as: “Transferability and Voluntary Termination”

10 (v) Re-letter the current language of section 719 as “(a)” and insert “entity,” after “person”
11 wherever it appears

12 (w) Add a new Section 719(b) to read as follows:

13 “(b) Requests by the beneficiary to terminate benefits prior to the expiration of
14 benefits agreed to within the certificate must be put in writing to the Commission.
15 The Commission may:

- 16
- 17 (1) Release the beneficiary from its stated monetary and/or contractual
18 obligations to the EDC and the U.S. Virgin Islands; or
 - 19
 - 20 (2) Any other reasonable action within the authority of the
21 Commission as stated within this chapter.
 - 22

23 Any of the above actions by the Commission does not release the EDC
24 beneficiary from any other obligations, contractual agreements, laws, statutes or
25 rules and regulations related to its activities with any other federal or local
26 governmental entity or its obligation contractual or otherwise with other entities.

27

28 (x) In Section 722(5) delete the phrase “addition to the fine and/or”

29 (y) In Section 722 add a new subsection (6) to read: “

30 “(6) The Commission may also suspend or modify the certificate of a
31 beneficiary, or in the case of a corporate beneficiary any officer or member

1 acting on behalf of the corporation or in the case of a partnership any partner
2 acting on behalf of the partnership, that is the subject of federal or local law
3 enforcement charges or investigations connected with the operation of the
4 beneficiary business. Such suspension shall be reviewed by the Commission
5 after resolution of any investigation and/or charges.”

6 **SECTION 3.** Title 29, Chapter 21, is amended in the following instances:

7 (a) Section 1115(a) is hereby deleted in its entirety and replace with:

8 “(a) The Board of Directors of the Authority shall administer the business of its
9 subsidiary entities, the Economic Development Commission (EDC), Government
10 Development Bank (GDB), Small Business Development Agency (SBDA), Small
11 Business Development Center (SBDC), Industrial Development Park Corporation
12 (IDPC) and the Enterprise Zone Commission (EZ). Each subsidiary may act with
13 authority to determine matters concerning personnel, hiring, discipline and discharge
14 and such other administrative matters as may be expressly set forth by the Board; and
15 any matter regarding the policy or the granting, denial, suspension, revocation or
16 alteration of benefits, loans, financing or other substantive functions.”

17
18 (b) Section 1115(d) is hereby deleted in its entirety.

19 **SECTION 4.** Title 29 V.I.C. Chapter 13, Section 802 is hereby amended by
20 deleting "Virgin Islands Industrial Park Development" and replacing with "Virgin Islands
21 Economic Development Park".

22 **SECTION 5.** Wherever it appears in the Virgin Islands Code, "Virgin Islands
23 Industrial Park Development", shall be renamed, replaced with and shall be referred to as
24 "Virgin Islands Economic Development Park" and "Virgin Islands Industrial Park Development
25 Corporation" shall be renamed, replaced with and shall be referred to as "Virgin Islands
26 Economic Development Park Corporation"

1 **BILL SUMMARY**

2 The original Industrial Development Program Law was enacted in 1972. While there
3 have been numerous amendments to add new industries and refine benefits, there has not been a
4 comprehensive revision to address the changing nature of business and industry as well as
5 advancements in technology.

6 Section 1 renames the program from Industrial Development to Economic Development
7 which more accurately reflects the function of the organization.

8 Section 2 revises outdated and administratively burdensome sections and updates the
9 program to better reflect the current economic and business climate. Benefit periods are
10 increased to be more realistic in today's business and financial world. The review and approval
11 stages are made more efficient to provide timely decisions.

12 In 2001 the Economic Development Authority was created to serve as a master unified
13 vehicle for economic development in the Territory. Section 3 revises the Economic Development
14 Authority structure to provide a more responsive, effective and efficient administration. The
15 various subsidiary agencies of the Authority are returned to their prior status of commissions
16 thus removing the additional layer of approvals and speeding up the approval and review
17 process.

18 Sections 4 and 5 rename the Industrial Park Development law and the corporation the
19 Economic Development Park law and corporation to be consistent with current uses.
20 Review of the volatile economics of today and the evolution of global competition for economic
21 development opportunities for jurisdictions, the time is right for a comprehensive revision of our
22 Economic Development Law.

THIRTIETH LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS

REGULAR SESSION

An Act to amend Title 29, V.I.C. Chapter 19 to enhance and update the Enterprise Zone Program and to add a new Subchapter III creating a Commercial Zone Program.

PROPOSED BY: GOVERNOR

1 *Be It Enacted By The Legislature Of The Virgin Islands:*

2
3 SECTION 1: Title 29 is amended by deleting the words “Enterprise Zone Program Act”
4 from the title of Chapter 19 and replacing with “Enterprise Zone and Commercial Zone Program
5 Act.”

6 SECTION 2: Title 29, Section 1003(9) is deleted in its entirety and replaced with the
7 following:

8 “Resident of the Virgin Islands” means:

9 (1) any United States citizen currently domiciled in the Virgin Islands for one (1)
10 year or more; (2) a person who has attended a school in the Virgin Islands for at least five
11 (5) years or is a high school or a University of the Virgin Islands graduate, and is
12 registered to vote in the Virgin Islands; or (3) the holder of an alien registration receipt
13 card (United States Department of Justice Form No. 1 – 151) domiciled in the Virgin
14 Islands for one (1) year or more.

15 (2) (i) A person shall demonstrate that he has been a resident for one (1) year or more
16 for the purposes of this chapter using the date of issuance information from a W-2 form, a
17 voter registration card, a permanent resident card, or a Virgin Islands’ driver’s license.”

1 **SECTION 3:** Title 29, Section 1005 is deleted in its entirety and replaced with the
2 following:

3 “Appointed members of the Commission shall receive compensation of \$75 per day
4 while attending Commission meetings, plus necessary expenses incurred thereby. Each
5 commissioner shall hold office until a successor has been appointed and has been
6 qualified.”

7 **SECTION 4:** Title 29, Section 1014, subsection (2)(b) is amended to insert, after the
8 second occurrence of the word “paragraph” in the sentence, the following:

9 “In order to qualify and remain eligible for benefits, an applicant must fulfil the specific
10 qualifications and requirements under section 1011 herein with the following exceptions:

11 (i) the eligible entity that can would be a building owner alone or in collaboration with a
12 lessee; (ii) the business which occupies the building must be an eligible business in
13 accordance with the Enterprise Zone Commission approved plan for the Zone; and (iii) a
14 business owner can apply on their own if they have a long term lease which indicates that
15 the business owner will be responsible for the rehabilitation and the property taxes.”

16 **SECTION 5:** Title 29, Section 1014, is amended by adding subsection (10) as set forth
17 below and appropriately re-numbering the remaining paragraphs in this Section.

18 “(10) Investment by the property owner will be tiered based on an average of three (3)
19 years projected gross income on the rental of the building as per the chart. The business
20 will also be required to contribute into an Enterprise Zone fund to be used for
21 rehabilitation activities within the specific zone. It will be equal to 10% of actual gross
22 receipts savings annually. Finally, employment requirement by the property owner is two

1 (2) employees and one (1) apprentice and the business shall have one (1) permanent
2 employee.”

3 **SECTION 6:** Title 29, Section 1014, subsection (2)(b) is amended by inserting the
4 following:

5 “Non-renewable benefits are as follows for a period of 10 years: Income tax exemption
6 of ninety percent (90%) and Property tax exemption of ninety percent (90%) for the
7 building owner; and Gross receipt tax exemption of ninety-percent (90%) for the business
8 owner.”

9 **SECTION 7:** Title 29, Section 1014, subsection (2)(c) is amended to delete the word
10 “eight” and replace it with the word “five.”

11 **SECTION 8:** Title 29, Section 1014, subsection (2) is amended by adding the
12 following::

13 “(d) The tax exemptions under this program shall be mutually exclusive of any tax credits
14 for which an applicant may be eligible.”

15 **SECTION 9:** Title 29 is amended by adding a new subchapter “III” entitled
16 “Commercial Zone Program and Benefits”

17 **SECTION 10:** Title 29, subchapter III, is amended by adding the following:

18 “Section 1015. Legislative findings.

19 The Legislature hereby finds and declares that:

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

1 (b) these areas have displayed high levels of unemployment, physical deterioration, and
2 economic disinvestment;

3 (c) the existence of such areas tarnishes the image and reputation of the territory in the
4 eyes of its residents and visitors alike, reduces the desirability of these areas as places to visit and
5 work, and substantially impairs the sound growth of business enterprises within these areas;

6 (d) the revitalization and redevelopment of these areas for the ultimate benefit of the
7 territory as a whole is of critical importance;

8 (e) the resources of the Government alone, without the aid provided in this chapter, are
9 insufficient and often inappropriate, to successfully undertake the massive task of restoring the
10 social and economic productivity of such areas;

11 (f) the revitalization of these areas can only occur if the private sector can be induced to
12 invest its own resources in productive enterprises that will ultimately rebuild the commercial
13 viability of these areas and provide jobs;

14 (g) in order to provide the private sector with the necessary incentives to invest in these
15 areas, the Government should seek ways to facilitate and expedite fiscal and regulatory
16 requirements and should seek to identify supportive actions that facilitate business investment in
17 these areas; and

18 (h) all powers conferred by this chapter are for public uses and purposes for which public
19 money may be expended and such other powers exercised, and the necessity in public interest for
20 the provisions of this chapter is declared as a matter of legislative determination.”

21 **SECTION 11:** Title 29, subchapter III, is amended by adding the following:

22 “Section 1016. Policy and purpose.

1 (a) It is the policy of the territory to provide the necessary means to assist the private
2 sector in creating the proper economic and social environment to induce the investment of
3 private resources in productive business enterprises located in severely distressed Commercial
4 Zone areas and to provide jobs. In achieving this objective, the territory will seek to provide
5 appropriate investments, tax benefits, and regulatory relief of sufficient importance to encourage
6 the business community to commit its financial participation.

7 (b) The purpose of this chapter is to establish a process that provides incentives by the
8 Government to induce private investment in Commercial Zone areas by removing unnecessary
9 governmental regulatory barriers to economic growth, and to provide tax incentive benefits.

10 (c) The Legislature, therefore, declares the revitalization of Commercial Zone areas, through the
11 concerted efforts of Government and the private sector, to be a public purpose.”

12 **SECTION 12:** Title 29, subchapter III, is amended by adding the following:

13 “Section 1017. Definitions.

14 (a) "Commercial Zone" means the total area within the Territory that has been declared a
15 commercial zone pursuant to a resolution issued by the Enterprise Zone Commission, which
16 resolution shall include a detailed legal description of the area to be included in the specific
17 Commercial Zone.

18 (b) "Commercial Zone Business" means any individual, partnership, corporation, limited
19 liability company, proprietorship or other business granted benefits pursuant to this chapter.

20 (c) "Commission" means the Enterprise Zone Commission.

21 (d) "Enterprise Zone Commission" means a public body created pursuant to section 1004
22 of this title.

1 (e) "Real property" includes all lands, including improvements and fixtures thereon, and
2 property of any nature appurtenant thereto or sued in connection therewith, and every estate,
3 interest and right, legal or equitable, therein, including terms for years and liens by way of
4 judgment, mortgage or otherwise and the indebtedness secured by such liens.

5 (f) "Rehabilitation" means the reconstruction, alteration or repair of improvements,
6 structures and buildings, in accordance with the requirements of the Virgin Islands Building
7 Code, and other laws and rules or regulations pertaining to building, fire prevention, health,
8 housing, and zoning and also the use of land, and the use and occupancy of buildings and
9 improvements.

10 (g) "Resident of the Virgin Islands" means:

11 (1) any United States citizen currently domiciled in the Virgin Islands for one (1)
12 year or more;

13 (2) a person who attended a school in the Virgin Islands for at least five (5) years,
14 was born in the United States Virgin Islands, is the offspring of a person born in the
15 United States Virgin Islands, or is a high school or University of the Virgin Islands
16 graduate and who is registered to vote in the Virgin Islands; or

17 (3) the holder of an alien registration receipt card (United States Department of
18 Justice Form No. 1-151) domiciled in the Virgin Islands for one (1) year or more. A
19 person shall demonstrate that he has been a resident for one (1) year or more for the
20 purposes of this chapter using the date of issuance information from a W-2 form, a voter
21 registration card, a permanent resident card, or a Virgin Islands driver's license."

22 **SECTION 13:** Title 29, subchapter III, is amended by adding the following:

23 "Section 1018. Commercial Zone Program Established.

1 (a) There is established the United States Virgin Islands Commercial Zone Program.

2 (b) The Program shall be organized and administered as a committee of the Virgin
3 Islands Enterprise Zone Commission, established under Section 1004 of this Title.”

4 **SECTION 14:** Title 29, subchapter III, is amended by adding the following:

5 “Section 1019. Powers and Duties of the Commission.

6 The Commission, either directly, or through its staff, shall have the following powers and
7 duties:

8 (a) Develop application procedures for demonstrating compliance with section 1020 of
9 this chapter and for obtaining the benefits set out under section 1023 of this chapter, which may
10 or may not include mandatory public hearings at the discretion of the Commission;

11 (b) Review all applications (including financial records) for benefits, and grant the
12 necessary certificates;

13 (c) Oversee and monitor the implementation of this chapter;

14 (d) Determine compliance of the beneficiaries with the provisions of this chapter and all
15 regulations promulgated hereunder;

16 (e) Actively promote and publicize the Commercial Zone Program, including preparing,
17 purchasing, and distributing by mail, the internet, or other means, materials concerning
18 Commercial Zones;

19 (f) Provide technical and business assistance related to tax incentives and the
20 development of alternative revenue sources to businesses within each Commercial Zone;

21 (g) Coordinate Federal and Territorial business assistance programs and in cooperation
22 with the appropriate Federal and Territorial departments or agencies, help streamline permit or
23 license application procedures for businesses located in Commercial Zones;

1 (h) Work with the appropriate Federal and Territorial departments or agencies to
2 coordinate the Commercial Zone Program with other programs carried out in the territory,
3 including without limitation, economic development programs, programs providing financial and
4 other assistance to small businesses, programs providing transportation assistance, and job
5 training programs;

6 (i) Apply or work with beneficiaries of the Commercial Zone Program to apply for
7 Federal and Territorial grants, loans, and services that can benefit businesses in a Commercial
8 Zone;

9 (j) Monitor enterprises that are established in or relocate to a Commercial Zone and that
10 qualify for the incentives provided for in section 1023 of this chapter;

11 (k) Prepare and promulgate such rules and regulations as may be necessary to
12 complement the provisions of this chapter, such rules and regulations shall have the force and
13 effect of law upon approval by the Governor; and

14 (l) Perform such other acts and functions appurtenant to its authority as may be required.”

15 **SECTION 15:** Title 29, subchapter III, is amended by adding the following:

16 “Section 1020. Specific requirements for granting of benefits.

17 (1) In order to qualify and remain eligible for benefits provided under this chapter, an
18 applicant must fulfill the following specific qualifications and requirements:

19 (a) Establish or continue to maintain a business with valid licenses and permits
20 within a Commercial Zone;

21 (b) Invest at least \$75,000, or invest an additional amount of \$75,000, in the
22 rehabilitation of the building used by a business that will advance the economic well being of the
23 Territory. The fair market value of all equipment leased for a term of at least five years shall be

1 included in determining compliance with the investment requirement. The minimum investment
2 required by this section may be reduced, if the Commission finds that the proposed business will
3 provide sufficient employment or justify the lower investment.

4 (c) In the case of a natural person, be a resident of the Virgin Islands as defined in section
5 1017(10) of this chapter.

6 (d) Be the actual investor in the Commercial Zone and not a contractor, subcontractor,
7 person or corporation acting as an agent or representative in a similar capacity to the investor;

8 (e) Meet such standards of ecological compatibility as may be established by Federal
9 and/or Territorial law.

10 (f) Employ at least four (4) residents of the Virgin Islands and one (1) paid apprentice in
11 such business directly or through subcontractors or, for existing businesses, add at least four (4)
12 new employees and one (1) paid apprentice who are residents of the Virgin Islands. The
13 Commission may waive this requirement upon a demonstration to the Commission that the
14 employment of this number of persons in this particular enterprise would not be economically
15 feasible or practical, and upon a further finding by the Commission that the desirability of the
16 proposed enterprise outweighs the fact that it will not provide employment for a least two
17 residents, or for two additional residents, as appropriate.

18 (g) Comply with all Federal and Territorial laws, including anti-discrimination and
19 wrongful discharge laws.

20 (h) For any applicant who proposes to do business on land adjoining any beach or
21 shoreline of the Virgin Islands, agree to grant to the Government of the Virgin Islands a
22 perpetual easement upon and across such land to the beach or shoreline to provide free and

1 unrestricted access thereto to the public, which easement shall be duly recorded in the Recorder
2 of Deeds upon the designation of the business as a Commercial Zone Business.

3 (i) Agree in writing to notify the Virgin Islands Employment Service in writing as to the
4 availability of employment by the business or its subcontractors, the number of employees
5 required, the occupational classification of such workers, and the applicable wage rate.

6 (j) Stamped copies of gross receipts tax returns, property tax returns, and income tax
7 returns with the Enterprise Zone Commission, which returns shall be confidential information
8 and shall not be released by the Enterprise Zone Commission except as provided under Title 33,
9 Chapter 21, section 822, Virgin Islands Code, for gross receipts and property tax returns, and
10 under *section 6103 of the Internal Revenue Code of 1986*, as amended, as applicable to the
11 Virgin Islands, for income tax returns.

12 (k) In the case of a Virgin Islands or foreign corporation, partnership, limited liability
13 company, or other entity, be in compliance with all applicable Federal and Territorial statutes
14 and any rules or regulations promulgated under this chapter.

15 (l) Such other requirements, not inconsistent with this chapter, deemed in the interest of
16 the Program by the Commission.”

17 **SECTION 16:** Title 29, subchapter III, is amended by adding the following:

18 “Section 1021. Hiring of VI residents; competitive bidding procedures.

19 (1) Any business granted benefits pursuant to this chapter shall agree in writing to
20 employ, and to require all contractors retained by the business to employ persons who are
21 residents of the Virgin Islands.

22 (2) Any business granted benefits pursuant to this chapter shall similarly agree, and must
23 require all contractors retained by the business to agree, to contract for services with and

1 purchase goods, materials and supplies from those persons who are residents of the Virgin
2 Islands and those entities that are incorporated or registered under the laws of the Virgin Islands,
3 and who are duly licensed to do business in the Virgin Islands and have been so duly licensed for
4 at least one year prior to the initial date of any such purchase, contract, or subcontract, provided
5 that the bid of such resident or entity does not exceed the bid of any nonresident person or entity
6 by more than fifteen percent (15%). Each Commercial Zone business and all contractors and
7 subcontractors of such business must invite competitive bidding for all services, goods, and
8 materials pursuant to the publication requirements of Title 31, Chapter 23, section 236, Virgin
9 Islands Code, and must apprise each bidder in writing of the name of the successful bidder and
10 the amount of his bid within thirty (30) days after awarding the bid.”

11 **SECTION 17:** Title 29, subchapter III, is amended by adding the following:

12 “Section 1022. Economic Development Benefits Beneficiary Exclusion.

13 (1) Beneficiaries of the Economic Development Program in Title 29, Chapter 12, Virgin
14 Islands Code, shall not be eligible to be designated as Commercial Zone Businesses nor to
15 receive benefits authorized pursuant to the provisions of this Chapter.

16 (2) An individual or entity that was formerly a beneficiary of the Economic Development
17 Program can, however, apply for benefits as a Commercial Zone Business, and a current
18 beneficiary of the Economic Development Program can apply for benefits as a Commercial Zone
19 Business and terminate its benefits under the Economic Development Program as of the effective
20 date of its benefits as a Commercial Zone Business.

21 (3) A Commercial Zone Business can similarly apply for benefits under the Economic
22 Development Program and, upon the receipt of such benefits, elect to terminate its benefits under

1 the Commercial Zone Program as of the effective date of its benefits under the Economic
2 Development Program.”

3 **SECTION 18:** Title 29, subchapter III, is amended by adding the following:

4 “Section 1023. Tax credits; tax benefits; benefit options.

5 (1) Each Commercial Zone Business shall qualify for the following tax credits and tax
6 benefits:

7 (a) A non-refundable gross receipts tax credit or an income tax credit equal to ten
8 percent (10%) of the actual value expended within a fiscal year for construction of a new
9 building within the Commercial Zone;

10 (b) A non-refundable gross receipts tax credit or an income tax credit equal to ten
11 percent (10%) of the actual value expended within a fiscal year for rehabilitation of buildings or
12 other real property within the Commercial Zone. For the following activities the additional
13 percentages indicated may be stacked, but in no event may benefits exceed 35%.

14 1) Off Street Parking

15 Level 1 (10-30 parking spaces) – 5%

16 Level 2 (31-50 parking spaces) – 10%

17 Level 3 (51+ parking spaces) – 15%

18 2) Entertainment

19 Restaurant – 5%

20 Center for Live Entertainment – 5%

21 3) New Residential – 10%

22 4) Retail establishments that carry predominantly cultural or locally made
23 products – 10%

1 (c) A gross receipts tax rate of three percent (3%) for gross receipts derived by the
2 Commercial Zone Business, pursuant to Title 33, Chapter 3, section 43, Virgin Islands Code;

3 (d) A property tax credit against taxes imposed pursuant to, Title 33, Chapter 81,
4 section 2301, Virgin Islands Code, equal to the increase in property taxes assessed due to
5 renovation, rehabilitation, or construction of property within the Commercial Zone.

6 (2) The Commercial Zone Business must indicate for the fiscal year that an expenditure is
7 made whether it is taking the gross receipts or the income tax credit pursuant to subsections (a),
8 (b), and (c) for such expenditure, and the credit must be taken on the appropriate tax return for
9 the fiscal year during which the actual value was expended. A Commercial Zone Business that
10 qualifies for more than one of the credits can elect to take one or more credits against income tax
11 (for example, for new construction and another credit against gross receipts tax), but in no case
12 can an expenditure be used in calculating more than one credit.

13 (3) Any credit derived by an entity that is not taxable at the entity level, such as a limited
14 liability company, partnership, or Subchapter S corporation, shall flow through to its owners as
15 long as they are residents of the Virgin Islands as defined in section 1017 herein.

16 (4) Only expenditures incurred over a consecutive five-year period can give rise to tax
17 credits under this chapter, and each Commercial Zone Business can elect the commencement
18 date of such five-year period (the "Benefit Period"). Each benefit must be utilized to the extent
19 possible in a year before any balance is carried forward to the subsequent year with regard to
20 credits and other benefits carried forward. However, a Commercial Zone Business shall make an
21 election at the same time that it elects the commencement date of its benefits and such election
22 cannot be subsequently changed.

1 (5) The property tax benefit and the reduced gross receipts tax rate will apply only for the
2 benefit period.

3 (6) Each Commercial Zone Business must obtain and maintain a valid license to conduct
4 business in the territory for each year in which it receives tax benefits under this section, and if
5 for any reason Commercial Zone Business does not have a valid license in place for one or more
6 years, it will not be entitled to the tax benefits under this section without further action on the
7 part of the Enterprise Zone Commission.

8 (7) The Virgin Islands Bureau of Internal Revenue shall issues rules and regulations for
9 the administration of subsections (1)(a) through (e), (2), (3), (4), (6), and (7) of this section; and,
10 the Department of Finance shall issue rules and regulations for the administration of subsection
11 (1) of this section.”

12 **SECTION 19:** The Enterprise Zone Commission may only award Commercial
13 Zone benefits as set forth in Title 29 Virgin Islands Code, Chapter 19, Subchapter III, for a
14 period of five (5) years commencing upon enactment of this legislation.

15 **BILL SUMMARY**

16 The Enterprise Zone Program was enacted into law in 1999. Experience with the
17 program and changing economic conditions require the program to be updated. This bill will
18 update and enhance the Enterprise Zone Program so that it can be better utilized to revitalize our
19 blighted and under or un-utilized areas.

20 There exists in localities throughout the territory, areas that once experienced commercial
21 and trade activity, but due to the general economic downturn are in need of economic and
22 physical revitalization. These areas have displayed high levels of unemployment, physical
23 deterioration, and economic disinvestment. The existence of such areas tarnishes the image and

1 reputation of the territory in the eyes of its residents and visitors alike, reduces the desirability of
2 these areas as places to visit and work, and substantially impairs the sound growth of business
3 enterprises within these areas. The revitalization and redevelopment of these areas for the
4 ultimate benefit of the territory as a whole is of critical importance. The resources of the
5 Government alone, without the aid provided in this chapter, are insufficient and often
6 inappropriate, to successfully undertake the massive task of restoring the social and economic
7 productivity of such areas. The revitalization of these areas can only occur if the private sector
8 can be induced to invest its own resources in productive enterprises that will ultimately rebuild
9 the commercial viability of these areas and provide jobs.

10 The purpose of the establishment of the Commercial Zone is to establish a process that
11 provides incentives by the Government to induce private investment in Commercial Zone areas
12 by removing unnecessary governmental regulatory barriers to economic growth, and to provide
13 tax incentive benefits.

BILL NO. 30-_____

THIRTIETH LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS

An Act amending Title 29, Chapter 14 to Rename the Government Development Bank as the Economic Development Bank; and amending Title 11, Chapter 23 to Merge the Government Development Bank and the Small Business Development Agency.

PROPOSED BY: GOVERNOR

1 *Be It Enacted by the Legislature of the Virgin Islands*

2 **SECTION 1.** Title 29, Chapter 14, Section 901(a) is hereby by amended by
3 deleting “The Government Development Bank for the United States Virgin Islands” and
4 replacing with “The Economic Development Bank for the United States Virgin Islands”.

5 **SECTION 2.** Wherever it appears in the Virgin Islands Code, the "Government
6 Development Bank" established in Title 29 Virgin Islands Code, Section 901, shall be renamed,
7 replaced with and shall be referred to as the "Economic Development Bank".

8 **SECTION 3.** Title 29 Virgin Islands Code, Chapter 14 is amended in the
9 following instances:

10 (a) Section 902 is deleted in its entirety and replaced with the following:

11 **“902. Charter**

12 The Charter of the Bank shall be as follows:

13 **CHARTER**

14 **First:** The existence of the Bank shall be perpetual.

15 **Second:** The principal office of the Bank shall be at St. Thomas, Virgin Islands,
16 and no less than one branch on St. Croix.

17 **Third:** The purpose for which the Bank has been formed is to accelerate the

1 economic development of the United States Virgin Islands by providing technical,
2 managerial and financial assistance to industrial and commercial enterprises where
3 such funds are to be used for the following governmental purposes:

4 (A) To provide financial resources including but not limited to loan
5 guarantees, medium and long term credit, and equity infusions to small, minority,
6 medium and large businesses located in the United States Virgin Islands to assist
7 these businesses maintain economic stability and to help these entities grow into
8 mainstream commercial banking customers;

9 (B) To provide financial resources including but not limited to loan
10 guarantees, letters of credit and stand-by letters of credit guarantees, medium and
11 long term credit to maintain the economic stability of small, medium and large
12 businesses located in the United States Virgin Islands;

13 (C) To provide technical and managerial assistance and assist
14 companies that require a performance bond, bid bond, or payment bond to ensure
15 the continued viability of these businesses;

16 (D) To actively monitor the performance and compliance and to
17 provide technical and managerial assistance to ensure the continued viability and
18 growth of these businesses;

19 (E) To encourage large corporate investments, facilitate employment
20 growth opportunities and promote the location of financial services within the
21 United States Virgin Islands;

22 (F) To compile financial, economic, statistical and other related data
23 on the banking industry in the United States Virgin Islands, and to disseminate this

1 information;

2 (G) To invest its funds in readily marketable securities; or other such
3 instruments;

4 (H) To borrow money and contract debts for its corporate purposes
5 upon such terms and conditions as the Bank may from time to time determine, with
6 or without security; to dispose of its obligations evidencing such borrowing; to
7 make, execute and deliver trust indentures and other agreements with respect to any
8 such borrowing, contracting of debt, issuance of bonds, including industrial
9 development bonds, notes, debentures or other obligations; and by the authority of
10 the Government of the United States Virgin Islands, which is hereby granted, to
11 issue its bonds, notes, debentures or other obligations in such form secured in such
12 manner and subject to such terms of redemption with or without premiums, and to
13 sell the name at public or private sale of such price or prices, all as may be
14 determined by its Board of Directors;

15 (I) To serve as fiscal agent or broker for United States Virgin Islands'
16 enterprises seeking to qualify for grants, loans or any other form of financial or
17 other assistance from the Federal Government or any of its departments, agencies or
18 instrumentalities;

19 (J) To exercise all incidental powers as may be necessary to facilitate
20 the purposes of the Bank and the Small Business Development Agency;

21 (K) It will be the policy of the Bank to sell its papers, notes,
22 instruments, mortgages, bonds, debentures or equity shares purchased by the Bank
23 as soon as it seems warranted by the Board of Directors in order to free funds for

1 further economic development projects. The Board of Directors shall determine the
2 length of time upon which equity shares may be held. It shall also be the policy of
3 the Bank to encourage and to enter into joint financing with other GDB/SBDAs
4 chartered or doing business under the Laws of the United States Virgin Islands and
5 any of the states of the United States.

6 (L) It will be the policy of the Bank to sell its papers, notes,
7 instruments, mortgages, bonds, debentures or equity shares purchased by the Bank
8 as soon as it seems warranted by the Board of Directors in order to free funds for
9 further economic development projects. The Board of Directors shall determine the
10 length of time upon which equity shares may be held. It shall also be the policy of
11 the Bank to encourage and to enter into joint financing with other Banks chartered
12 or doing business under the Laws of the United States Virgin Islands and any of the
13 states of the United States.

14 (M) The Bank Board shall administer the Small Business Incubator
15 Program established in Title 11 Virgin Islands Code, Chapter 23, subchapter II and
16 may promulgate rules and regulations and exercise all powers necessary to carry out
17 the purpose of the Program.

18 **Fourth:** The Bank shall have the following powers:

19 (A) To have a common seal and to alter the same from time to time;

20 (B) To acquire property for its corporate purposes by grant, gift,
21 purchase, devise or bequest, and to hold and to exercise the rights of ownership of
22 and to dispose of the same;

23 (C) To acquire any property in settlement or reduction of debts

1 previously contracted or in exchange for investments previously made in the course
2 of its business where such acquisition is necessary to minimize or avoid loss in
3 connection therewith, to hold, deal with, complete, improve, insure, rent, and/or sell
4 for cash or credit upon such terms, conditions and consider for such periods and
5 terms as the Board of Directors may deem advisable, to exercise the rights of
6 ownership of and to dispose of the same;

7 (D) To establish one or more branches, offices or agencies
8 necessary or convenient for the transaction of its business within or without the
9 United States Virgin Islands;

10 (E) To purchase, hold, lease, mortgage and convey real property as
11 follows: (1) a plot whereon there is or may be erected a building suitable for the
12 transaction of its business, from portions of which not required for its own use a
13 revenue may be derived; (2) such real estate as may be conveyed to it in settlement
14 or reduction of debts previously contracted or in exchange for investments
15 previously made in the course of its business; and (3) such as it shall purchase or
16 otherwise acquire at sale under judgments, decrees or mortgages held by it;
17 provided, however, that the Board of Directors shall determine the time period
18 within which that real property purchased or acquired may be sold, except as may
19 be used for the business and transaction of its business.

20 (F) To sue and be sued;

21 (G) To appoint, employ and contract for the services of officers,
22 agents and employees and professional assistants and to pay such compensation for
23 their services as the Bank may determine; and to fix and pay Director's fees;

1 (H) To exercise such other corporate powers, not inconsistent
2 herewith, as are conferred upon corporations by the laws of the United States Virgin
3 Islands and to exercise all its powers within and without the United States Virgin
4 Islands to the same extent as natural persons might or could do.

5 (I) To be exempt from the statute of limitation laws as stated in
6 Virgin Islands Code Title 5, Chapter 3, Section 31. The Bank and/or the Small
7 Business Development Agency may bring an action for default at any time.

8 (J) To administer the Small Business Incubator Program established
9 in Title 11 Virgin Islands Code, Chapter 23, subchapter II and may promulgate
10 rules and regulations and exercise all powers necessary to carry out the purpose of
11 the Program.

12 **Fifth:** The affairs of the Bank and the Small Business Development
13 Agency shall be managed and its corporate powers exercised by the Governing
14 Board of the Economic Development Authority.

15 **Sixth:** The Board of Directors, by the affirmative vote of a majority of the
16 whole Board, may adopt, add to, amend, alter or repeal By-Laws of the Bank, not
17 inconsistent herewith or with law, providing for the management of the business of
18 the Bank, the regulation of its affairs, the organization, conduct and meetings of the
19 Board of Directors, notice of meeting of the Board of Directors and waivers of
20 notice, the appointment of committees of the Board of Directors and the power of
21 such committees, the number, titles, qualifications, terms, election or appointment,
22 removal and duties of officers, the form of the seal of the Bank, and the preparation
23 and submission to the Governor, Legislature and the Bank Board of annual and

1 other reports; and provided, however, that the By-Laws shall not be added to,
2 amended or altered, nor shall any By-Law be repealed at any meeting of the Board
3 of Directors unless notice of the proposed addition, amendment, alteration or repeal
4 shall have been delivered or mailed to each director at least one week before such
5 meeting.

6 **Seventh:** The Bank shall not make any loans to its directors, or officers, or to any
7 privately-owned enterprise in which one or more of the directors, or officers, agents
8 or employees own any stock or equitable interest in excess of 25% therein. The
9 Bank shall not make any loans guaranteed by a director, officer, agent or employee,
10 except in each case with the unanimous approval of all the directors, exclusive of
11 any interested director or directors, present at any meeting of the Board of Directors
12 attended by at least 75% of the full Board, exclusive of any interested director or
13 directors, from which meeting such interested director or directors shall be excused
14 during consideration and voting with regard to such loans.

15 **Eighth:** The Bank shall assign or sell at public or private sale, or otherwise
16 dispose of for cash or credit, in its discretion and upon such terms and conditions
17 and for such consideration as the Director shall determine to be reasonable, any
18 evidence of debt, contract, claim, personal property, or security assigned to or held
19 by the Bank in connection with the payment of loans granted under this chapter, and
20 to collect or compromise all obligations assigned to or held by the Bank and all
21 legal or equitable rights accruing to him in connection with the payment of such
22 loans until such time as such obligations may be referred for suit or collection;
23 provided, that any such compromise shall be subject to prior approval of the Board

1 of Directors;

2 **Ninth:** Loans procured from the Bank or the Small Business Development Agency
3 are not subject to the statute of limitations as stated in Virgin Islands Code Title 5,
4 Chapter 3 § 31. The Economic Development Bank or the Small Business
5 Development Agency may bring an action for default against a Loan recipient at
6 any time; as per the rules of civil procedure and the agreement between the parties.

7 **Tenth:** The Economic Development Bank shall pursue to final collection, by way
8 of compromise or otherwise, all claims against third parties assigned to the
9 Economic Development Bank in connection with loans made by the Agency;
10 provided, compromise shall be subject to such policy as set by the Board of
11 Directors from time to time; this shall include authority to obtain deficiency
12 judgments or otherwise in the case of mortgages assigned to the Economic
13 Development Bank. The power to convey and to execute in the name of the
14 Economic Development Bank deeds of conveyance, deeds of release, assignments
15 and satisfaction of mortgages, and any other written instrument relating to real
16 property or any interest therein acquired by the Economic Development Bank
17 pursuant to the provisions of this chapter may be exercised by the Director or by
18 any officer or agent appointed by him with an express delegation of power of
19 attorney;

20 **Eleventh:** The Economic Development Bank shall take any and all action necessary
21 or desirable in making, servicing, compromising, modifying, liquidating, or
22 otherwise dealing with or realizing on loans made under the provisions of this
23 chapter or Title 11 V.I.C. Chapter 23; notwithstanding any law to the contrary may

1 require collateral and/or insurance; provided, that no loan shall be compromised,
2 modified or liquidated without the prior approval of the Board of Directors;

3 **Twelfth:** Out of the net income resulting at the end of the business year, such
4 amount shall be added to the reserve account of the Economic Development Bank
5 as the Board of Directors may consider necessary or pertinent; and the balance of
6 such income may, in whole or in part, be added to the surplus account of the
7 Economic Development Bank or remain in an unassigned income account, as the
8 Board of Directors may determine. From time to time the Board of Directors may
9 in its discretion make transfers from the reserve account and from the surplus
10 account to the capital account of the Bank.

11 **Thirteenth:** The Board of Directors, while acting within the scope of the authority
12 as directors or officers, shall not be subject to any personal or civil liability resulting
13 from the exercise of any of the Bank or Small Business Development Agency's
14 purposes, duties or responsibilities, unless the conduct of the member is determined
15 by a court of competent jurisdiction to constitute willful wrongdoing or gross
16 negligence.

17 (b) Section 915a(a) is amended by adding "appointed by the Board of Directors" after "five
18 members" and deleting: " to include (1) the Director of the Small Business
19 Development Agency, (2) the President/Chief Executive Officer of the Government
20 Development Bank, (3) the Director of the Bureau of Internal Revenue, (4) the Director
21 of the University of the Virgin Islands Small Business Development Center, and (5) the
22 Executive Director of the Industrial Development Commission. Each agency head may
23 designate a representative from that agency to represent him on the Commission."

1 (c) Section 915a(e) is amended by inserting: "determine if in fact assistance is required,
2 feasible and productive" after:"evaluate the business;"

3 (d) Section 915b(a) is amended by inserting " and Small Business Development Agency "
4 after:" Government Development Bank " and adding at the end of the section: " Such
5 employees shall report ultimately to the Chief Executive Officer of the Economic
6 Development Authority as the umbrella agency of the Economic Development Bank
7 and shall maintain all rights privileges and obligations as therein contained.

8 **SECTION 4.** Title 11 Virgin Islands Code, Chapter 23, Subchapter I is amended
9 in the following instances:

10 (a) Section 1253(a) is amended by deleting "the Economic Development Authority" and
11 inserting "the Economic Development Bank".

12 (b) Section 1253(b) is amended by deleting "the Chief Executive Officer of the Authority"
13 and inserting "a Director appointed by the Governing Board of the Economic
14 Development Bank."

15 (c) Sections 1253(d) and 1253(e) are deleted in their entirety.

16 (d) Section 1254 is amended by adding a new section 1254(d) to read as follows: " The
17 Agency and Loans procured from the Small Business Development Agency are not
18 subject to the statute of limitations as stated in Virgin Islands Code Title 5, Chapter 3 §
19 31. The SBDA may bring an action for default against a Loan recipient at any time."

20 (e) Section 1254(7) is amended by inserting after "of this chapter;" the following:
21 "notwithstanding any law to the contrary, may require collateral and/or insurance;"

22 **SECTION 5.** Act 6420 is amended by deleting "(c) The Micro-credit Loan Program
23 shall provide for unsecured loans at an interest rate not to exceed 5%."

1 and allowing for better loan servicing, technical assistance and collection efforts. Section 4
2 amends the SBDA law to be in conformity with the merger into the GDB.

3 Sections 5 and 6 allow for the bank to accept collateral on Micro-Credit Loans which
4 have been a burden upon the bank with regard to collections and delinquencies, as there was
5 never any collateral to secure the debt.

BILL NO. 30-_____

THIRTIETH LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS

REGULAR SESSION

An Act amending Title 29, Chapters 12 Section 747 “Subchapter III [Sustainable Tourism Through Arts-Based Revenue Stream Production] as enacted under Act No. 7344 and repealing Section 4 of Act No. 7344.

PROPOSED BY: GOVERNOR

1 *Be It Enacted by the Legislature of the Virgin Islands*

2 **SECTION 1.** Title 29, Chapter 21, Section 747 is hereby amended as follows:

3 1) Wherever “US Virgin Islands Economic Development Authority (EDA) or “EDA”
4 appears it is replaced with “US Virgin Islands Economic Development Commission
5 (EDC)” or “EDC,” respectively

6 2) Wherever the term “Commissioner” appears it is replaced with “Chairman of the
7 Commission”

8 3) Section 747(3) is deleted in its entirety and replaced with:

9 “(3) "Commission" means the U.S. Virgin Islands Economic Development
10 Commission (EDC).

11 4) Section 747(4) is deleted in its entirety and replaced with:

12 “(4) "Director" means the Assistant Chief Executive Officer of the U.S. Virgin
13 Islands Economic Development Commission (EDC).”

14 5) Section 747 is amended by adding a new Subsection (12) to read:

15 “(11) "Non-U.S. Virgin Islands Production Company" means a production company
16 which does not establish business entities in the U.S. Virgin Islands.”

17 6) Subsection 747(9) is deleted in its entirety and each succeeding subsection is
18 appropriately re-numbered.

19 **SECTION 2.** Title 29, Chapter 12, Section 747a is deleted in its entirety.

20 **SECTION 3.** Title 29, Chapter 12, Section 747b is deleted in its entirety.

21 **SECTION 4.** Title 29, Chapter 12, Section 747c subsections (a) and (b) are deleted in
22 their entirety and subsection (c) is re-designated as subsection (a).

23 **SECTION 5.** Title 29, Chapter 12, Section 747d subsections (a) and (b) are deleted in
24 their entirety and subsection (c) is re-designated as subsection (a).

25 **SECTION 6.** Title 29, Chapter 12, Section 747d(a) is amended by adding a new
26 subsection (5) to read: “(5) Such other requirements as the Commission deems necessary to
27 preserve the integrity of the Economic Development Program.”

28 **SECTION 7.** Title 29, Chapter 12, Section 747d is amended by adding a new
29 subsection (b) to read:

30

31 “(b) Non-U.S. Virgin Islands Production Companies

32

33 (1). In order to qualify and remain eligible for tax incentive benefits and
34 expedited processing under this subchapter, a non-U.S. Virgin Islands production
35 company must:

36

37 (a) Be an entity duly licensed and in good standing in the jurisdiction of its domicile.

38

39 (b) Be in the U.S. Virgin Islands for less than 180 consecutive days in any 12
40 month period.

41

42 (c) Conduct audio recording or mixing in the Virgin Islands at a licensed, local
43 music studio or conduct a film project on location in the Virgin Islands.

44

45 (1) For audio/music projects, at least 50% of the audio data
46 content of the audio recordings for any commercial release to
47 which the tax benefit certificate will apply must be created or
48 recorded at a licensed Virgin Islands local music studio in order
49 to receive the certificate.

50

51 (2) For film projects, at least 50% of the video data content of the

52 film project for any commercial release to which the tax benefit
53 certificate will apply must be filmed on location in the Virgin
54 Islands. Data content percentages must be determined by the
55 applicant for the certificate.
56

57 (d) Agree in writing to make all best efforts to employ local Virgin Islands
58 musicians, recording engineers, filming assistants, or other personnel during
59 the audio recording or filming process, and to notify the Virgin Islands
60 Department of Labor of the availability of employment, the number of
61 employees required, the occupational classification of such workers, and the
62 applicable wage rate.
63

64 (e) Comply with all territorial and federal laws.
65

66 (f) Such other requirements as the Commission deems
67 necessary to preserve the integrity of the Economic
68 Development Program.”
69

70 **SECTION 8.** Title 29, Chapter 12, Section 747e is amended by adding at the beginning
71 a new number (1) to read “(1) Virgin Islands Licensed and Domiciled Companies”

72 **SECTION 9.** Title 29, Chapter 12, Section 747e is amended by adding a new subsection
73 747e(1)(d)(5) to read:

74 “(5) Additional Tax Incentives

75 (A) "Sound Recording Investor Tax Rebate" means a 15% tax credit based
76 on total in-territory expenditures for the production of sound recordings.

77 (B) "Infrastructure Investor Tax Rebate" means a 15% tax credit on sound
78 recording infrastructure development.

79 (C) "Digital Interactive Media Tax Credits" means a tax credit up to 15% of the
80 base investment in digital media production done in the U.S. Virgin Islands,
81 including salary of U.S. Virgin Islands labor.

82 (D) "Live Performance Tax Credit" means a 15% U.S. Virgin Islands tax credit for
83 eligible live productions, including theater, opera, ballet, jazz, comedy revues

84 and variety entertainment on base investment and construction costs with an
85 additional 10% tax credit on payroll for U.S. Virgin Islands residents.

86 **SECTION 10.** Title 29, Chapter 12, Section 747e(6) is re-designated section 747(e)(2)
87 “(2). Non-U.S. Virgin Islands Production Companies”

88 **SECTION 11.** Title 29, Chapter 12, Section 747f is amended as follows:

89 Section 747f (a) is re-formatted to read:

90 “(a) Applications for benefits or extensions of benefits under this subchapter
91 must be filed with the C.E.O. on forms designed, printed and provided by
92 him.

93
94 1) The application must contain such information as prescribed by
95 regulations.

96
97 2) All applications of partnerships shall include a list of the names and
98 addresses of the partners.

99
100 3) All applications from a corporation shall include a statement listing the
101 names and addresses of all persons, firms or corporations owning five or
102 more percent of the stock or equitable interest in the enterprise filing
103 the application, which statement shall specify the percentage of stock
104 or equitable interest owned by each such listed person, firm or
105 corporation and, in the case of such a firm or corporation, shall also
106 specify the names of its directors and principal officers.

107
108 4) All applications of limited liability companies shall include a list of
109 the names and addresses of the members.”

110

111 Section 747f (d) is deleted in its entirety and replaced with:

112 “(d) The Director shall, after receiving a complete application, within thirty (30)
113 days for Virgin Islands Licenses and Domiciled Companies and twenty (20) days for
114 Non-U.S. Virgin Islands Production Companies, submit such application to the
115 Commission Chairman accompanied by a detailed report containing his findings and
116 recommendations with regard to that application. The Director shall, prior to
117 submitting his recommendations, consult with the Virgin Islands Department of
118 Tourism, Office of Film and Music and any other governmental department or
119 agency possessing expertise regarding a particular application, and shall conduct
120 such other investigations or inquiries, as he deems appropriate. The Director may

121 recommend that all benefits available under this chapter be granted or may
122 recommend the certificate be denied outright or until such time as the applicant
123 effects specific changes in his proposals.”

124 Section 747f (f) is deleted in its entirety and replaced with:

125 “(f) The EDC may approve an application and recommend that the Governor
126 approve the Certificate, or the EDC may deny the application outright or until
127 such time as the applicant corrects specific deficiencies. If the EDC recommends
128 approval, the EDC shall notify the applicant of the dates of the approval and its
129 transmittal to the Governor for final approval. If the EDC denies the
130 application, the Director shall transmit to the applicant, no later than ten
131 business days after the denial, a written, detailed explanation of the reasons for
132 denying the application. The EDC's written denial constitutes official notice of
133 denial of benefits.”

134 **SECTION 12.** Section 4 of Act No.7344 is deleted in its entirety.

135 **BILL SUMMARY**

136 Act No 7344, An Act amending Title 29, Chapters 12 Section 747 “Subchapter III
137 [Sustainable Tourism Through Arts-Based Revenue Stream Production] as enacted contains
138 many conflicting sections and convoluted interaction between the Economic Development
139 Authority and the Department of Tourism as well as creating a new unfunded department in the
140 EDA. The VI Economic Development Authority through its VI Economic Development
141 Commission was established to deal with all economic development and tax incentives so as to
142 focus the Territories economic development initiatives, provide one agency for potential
143 investors to the Territory and to avoid conflicts and competition between government agencies.

144 This amendment will clear the conflicts and allow the Department of Tourism to devote
145 its time and energy to doing what it does best, promoting the program, without the distraction
146 and additional duties of learning and administering tax incentives. The VI Economic
147 Development Commission will be allowed to do what it does best and is designed to do which is
148 administer tax incentive programs.