



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

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

January 20, 2017

VIA MESSENGER

The Honorable Myron Jackson
Senate President
Thirty Second Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Governor's Action on Bills numbered 31-0184, 31-0263, 31-0353, 31-0369, 31-0391, 31-0392, 31-0398, 31-0442, 31-0443, 31-0445, 31-0446, 31-0460, 31-0486, 31-0489, 31-0490, 31-0492, 31-0493, 31-0495, 31-0496, 31-0500, 31-0501, 31-0502, 31-0503, 31-0504, 31-0505, 31-0506, 31-0507, 31-0508, Resolution Nos. 1837 and 1838.¹

Dear Mr. President:

I write to advise you that, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954 as amended, I have today acted on the following bills:

I have approved Bill No. 31-0184, an act amending Title 15, Virgin Islands Code adding Article V, Parts 1 through 4 enacting "The Virgin Islands Uniform Guardianship and Protective Proceedings Act" and Part 4A enacting "The Uniform Adult Guardianship and Protective Proceedings Act" and repealing Title 15, Virgin Islands Code, chapter 51 and amending Title 34, Virgin Islands Code by adding chapter 17 providing for the protection of communication rights of incapacitated persons. This measure overhauls and updates guardianship proceedings in the Territory and provides reciprocity of guardianships in other states who have adopted similar legislation. This bill is thorough, comprehensive and complete in protecting the rights and interests of incapacitated individuals as well as guardians of such persons. I commend the authors and proponents of this measure whose hard work and diligence has seen this bill through to fruition.

¹ My action taken today are on bills from the final session of the 31st Legislature of the Virgin Islands held on December 20 and 21, 2016, and which were delivered to me on January 9, 2017 after the 31st Legislature had adjourned *Sine Die*.

I have approved Bill No. 31-0263, an act to amend Title 17, Virgin Islands Code, section 485(a) relating to the membership of the Board of Directors of the University of the Virgin Islands Research and Technology Park Corporation.

I have approved Bill No. 31-0369, an act repealing and reenacting Title 9, Virgin Islands Code, chapter 17A regarding the establishment of credit unions and their oversight. This measure affords greater protections for individuals in the Territory who utilize credit unions by requiring credit unions in the Virgin Islands to be federally chartered and regulated by the National Credit Union Administration. Moreover, it requires that the shares held by members of credit unions be insured by the National Credit Union Shares Insurance Fund.

I have approved Bill No. 31-0392, an act amending Title 34, Virgin Islands Code to add Chapter 16 to institute the "Silver Alert System" in the Virgin Islands within the Virgin Islands Territorial Emergency Management Agency. This measure provides the framework to alert first responders and public safety organizations when an adult with serious illnesses or memory impairments go missing and help is needed to locate them.

I have approved Bill No. 31-0442, an act amending the Virgin Islands Code, Titles 3, 9, and 22 to update the Insurance Laws of the Territory and to adopt the core standards and Model Laws and Regulations as established by the National Association of Insurance Commissioners for purposes of obtaining accreditation with the NAIC, placing the Territory on par with other U.S. jurisdictions and attaining greater and more effective protection to the policyholders of the Territory.

I have approved Bill No. 31-0443, an act amending Title 22, Virgin Islands Code adding chapter 20 to enact "The Virgin Islands Risk-Based Capital for Insurers Act". This measure updates insurance laws which have been on our books for almost fifty years. By approving this bill the Territory will now be able to adequately regulate the solvency of its multi-state domestic insurance industry thereby affording greater protections for policyholder and will further satisfy one of the NAIC requirements for bringing the Territory into compliance with the NAIC accreditation standards.

I have approved Bill No. 31-0445, an act repealing and reenacting Title 22, Virgin Islands Code, chapter 31 to enact the "Virgin Islands Producer and Adjuster Licensing Act." The Territory has not fully adopted the AIC Model Laws and Regulations; however, this measure will allow the Territory to obtain substantial compliance with the NAIC accreditation standards.

I have approved Bill No. 31-0446, an act amending Title 22, Virgin Islands Code, adding a chapter 60 to enact the Virgin Islands Third Party Administrators Act, updating the insurance laws of the Virgin Islands to reflect the licensing requirements contained in the model laws of the NAIC. This measure closes a void in our laws, which if left unaddressed, the licensure and regulations of third party administrators in the Territory would remain absent.

I have approved Bill No. 31-0460, an act amending Title 19, Virgin Islands Code, § 243 relating to the membership of the Governing Board of the Government Hospitals and Health Facilities Corporation to eliminate the requirement that nurses and physicians members not be employed by the health facility.

I have approved Bill No. 31-0486, an Act amending Act No. 7695 to change the real property conveyed to the Enrique Romero Nieves American Legion Post 102, Inc. from Plot 184 Estate Anna's Hope to Plot No. 29 Estate Anna's Hope.

I have approved Bill No. 31-0489, an Act amending Title 9, Virgin Islands Code, chapters 1 and 25, relating to the International Banking Center Regulatory Act and Title 29, chapter 12, providing for benefits for international financial services entities. I am hopeful that we can now begin licensing International Banking Entities in the Territory.

I have approved Bill No. 31-0490, an Act amending Official Zoning Map No. SJZ-3 by rezoning Parcel No. 10A Estate Emmaus, No. 2 Coral Bay Quarter, St. John, U.S. Virgin Islands, from R-2 (Residential-Low Density, One and Two-Family), W-1 (Waterfront—Pleasure and Density) and W-2 (Waterfront—Industrial) to W-1 (Waterfront—Pleasure).

I have approved Bill No. 31-0492, an Act granting a zoning variance for Parcels No. 19-2-101 and 19-2-102 Estate Smith Bay, Nos. 1, 2 & 3 East End Quarter, St. Thomas, U.S. Virgin Islands, to allow for a business office space.

I have approved Bill No. 31-0493, an Act to rezone Parcel No. 2C Estate Contant, No. 7A Southside Quarter, St. Thomas, U.S. Virgin Islands, from B-2 (Business Secondary/Neighborhood) to C (Commercial).

I have approved Bill No. 31-0500, an Act to rezone Parcel No. 2C Estate Contant, No. 7A Southside Quarter, St. Thomas, U.S. Virgin Islands, from B-2 (Business Secondary/Neighborhood) to C (Commercial).

I have approved Bill No. 31-0501, an Act amending Official Zoning Map No. SJZ-1, rezoning Parcel No. 29 Estate Susannaberg, No. 17A Cruz Bay Quarter, St. John from R-1 (Residential—Low Density) to B-2 (Business—Secondary/Neighborhood).

I have approved Bill No. 31-0502, an Act granting a conditional use variance to Plot No. 115-A Estate Green Cay, St. Croix, U.S. Virgin Islands, from R-1 (Residential—Low Density), for the operation of a veterinary medical clinic.

I have approved Bill No. 31-0503, an Act granting a zoning use variance for Plot No. 43-B Estate La Grande Princess, Company Quarter, St. Croix, U.S. Virgin Islands, to allow for a restaurant and retail use.

I have approved Bill No. 31-0504, an Act granting a zoning variance use for Parcel No. 125 Estate Smith Bay, Nos. 1, 2 & 3 East End Quarter, St. Thomas, U.S. Virgin Islands, to allow for a feed shop and associated storage.

I have approved Bill No. 31-0505, an Act amending Section 1, subsection (B) of Act No. 7697, reprogramming funds from the Home-Based Frail Senior Citizen Pilot Program to reduce amounts owed by the Virgin Islands Government to Sea View Nursing Home. However, let me state for the record that I have been advised that the Government of the Virgin Islands is current on its payments to Sea View Nursing Home. I approve this measure and view it as a contingency funding source for the Government to pay its additional share at 45% of prior year invoices when CMS reconciles those invoices and approves a recapture payment for services at a higher costs.

I have approved Bill No. 31-0506, an Act designating January 25, 2017 as "Legendary Rhythm & Blues Cruz Bay, St. John Day" and providing for the assistance of the Department of Tourism in organizing events and tourism activities.

I have approved Bill No. 31-0507, An Act amending the Virgin Islands Code, Title 29, Section 228 to include car washes as a permitted use in the B-3 zoning district.

I have approved Bill No. 31-0508, an act amending Title 33, Virgin Islands Code , Chapter 3, § 58 relating to the emergency services surcharge. The measure increases the emergency services surcharge from \$1.00 to \$2.00 and provides for a distribution of the proceeds from the funding to the VITEMA, the Department of Health for Emergency Medical Services Unit, and Fire Service.

I have approved Bill No. 31-0496, an Act which reallocates the sum of one million dollars (\$1,000,000) to fund essential equipment for the Juan F. Luis Hospital and Medical Center ("JFLH"), specifically, to address JFLH's heating and cooling systems and other infrastructure and essential capital project needs as areas of improvement as cited by a report issued by CMS to retain Joint Accreditation Commission status for the JFLH. I note that this measure also includes a number of amendments appropriating funds for various projects.

However, I line-item veto the following sections for the noted reasons below:

Section 18 appropriating the sum of \$250,000.00 from the Education Initiative Fund to the Department of Education to be used for the continued development of the Virgin Islands Social Studies and History Workbook Project. I must veto this section because this project is slated for funding Fiscal Year 2018, and this can be more properly addressed in that 2018 budget.

Section 30 appropriates the sum of \$250,000.00 from the Children's Trust Fund, in the Fiscal Year ending September 30, 2017, to the Youth Alternative Education Fund established by section 29 of Bill No. 31-0496. While I have approved the creation of the Youth Alternative Education Fund, I must line-item veto the appropriation because no funds have ever been released

to the Children's Trust Fund.

I have vetoed Bill No. 31-0353, an act providing for the disposition of proceeds from the rental or sale of the housing units acquired under the Operating Agreement with Limetree Bay Terminals, LLC, under Act No. 7806, requiring proceeds to be used towards decreasing the Government Employees' Retirement System's unfunded liability. I have vetoed this bill because we believe that the sums from this source slated to the GERS should first be used to pay any missing employer contributions of employees applying for retirement benefits at the GERS, but are unable to access their annuity until such time that GVI remits to the GERS the missing employer contributions. In addition, the remaining 50% of the rental proceeds should be authorized for the maintenance and care of the properties owned by the GVI received through the settlement agreement with HOVENSA, *et al.* I ask that the Legislature revisit this measure and authorized a share of the funds for paying missing employer contributions to the GERS and the remaining share to be used for the maintenance and care of the properties generating the revenues.

I have vetoed Bill No. 31-0391, an act repealing and reenacting with amendments Title 17, Virgin Islands Code, chapter 9, section 84 relating to the instruction of children at home. This measure creates substantial issues that will require further review and revisions to ensure that the intent of the bill comports with the protections of our Territory's students and their educational needs. The measure as written restricts and disallows the Commissioner of the Department of Education, the V.I. Board of Education, and the Department of Education from promulgating rules and regulations to regulate homeschooling in the Territory. Moreover, the requirement that home-schooled students need only satisfy the requirements of four courses does not align with the requirements established by the V.I. Board of Education—a policy that students enrolled in the traditional school setting must satisfy. Additionally, there is nothing in the bill that requires the certification of parents in subject matters and curriculum who endeavor to homeschool their children or to measure the performance of such parents and students. This bill reduces educational integrity of learning and standards and permit the home school person to determine what best to teach and what level of learning the student should achieve. I urge the Members of the Legislature to work with the V.I. Department of Education and other stakeholders to fine-tune and work on passing a realistic comprehensive homeschooling bill that would meet the necessary benchmarks to insure and maintain student achievement.

I have vetoed Bill No. 31-0398, an act amending Title 33 Virgin Islands Code, chapter 12, section 525 relating to the rate of duty on articles shipped from within the U.S. Customs Zone to provide for a duty-free import zone; and further repealing 29 V.I.C. §§ 713c, 713(c), 713f(c)(3), and 806(c) and 33 V.I.C. §§ 42b(d)(2), 526, 527, 531, and 532. The bill further requires the Virgin Islands Bureau of Internal Revenue to submit a report to the Legislature which proposes changes to the excise taxes on imports for evaluating alternatives to custom duties as a revenue source.

While I understand the need for us to ensure that the Territory receives its fair share of customs duties collected, which we have not received, I do not believe that now is the time to put our economy on the "chopping block" to determine whose interpretation of the statute is correct.

The Department of Homeland Security and the Division of Customs and Border Protection advises me that should the lost funds contained in the Virgin Islands Deposit Fund, which are made available through the collection of Customs Duties, are not immediately replaced by an appropriation from the US Congress to cover the cost now being serviced by the (VIDF), CDP will be forced to reduce its services in the Territory. At immediate risk would be the loss of pre-departure clearance of passengers destined to the US mainland at our airports and inspection and clearance of international passengers such as those arriving on cruise ships.

While I agree with the content of this bill, much work must first be done before we adopt this measure as a matter of law. This bill in its current form will have far-reaching implications which may be detrimental to our recovering economy. I met with the US Customs Commissioner early last year, and I will form a small task force, inviting representatives of the Legislature, Members of my Cabinet, representatives of the private sector and invite our Delegate to Congress to work on a strategy whereby the US Government pays for the costs of its operations in the Territory as it is doing in every other region of the nation. In the interim, we must continue to collect US customs duty and bear the burden in the short term for the operations of the US DHS and CBP in the US Virgin Islands.

I have vetoed Bill No. 31-0495, an act to appropriate \$300,000.00 from the Union Arbitration Award ("UAA") and Government Employees Increment Fund to raises at the Virgin Islands Waste Management Authority. The measure before me over-appropriates funds that do not exist as illustrated in the chart below:

UAA Fund Balance (no major revenue stream)	\$1,101,287.76
GEI Fund	82,000.00
Act No. 7919 (Contribution to GF)	-1,000,000.00
Additional Expenditures from PERB to date	-425,541.00
Bill No. 31-0495	-300,000.00
Total	\$(542,253.24)

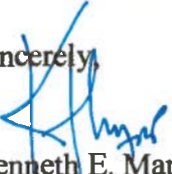
As you can see, before the approval of this measure, the unobligated negative balance of \$242,253.24 currently exist, and therefore, the fund cannot sustain additional appropriations. While I agree that salary increases are important, and necessary, there are simply no funds available from this source.

I acknowledge Resolution No. 1837 (Bill No. 31-0491) urging the Virgin Islands Delegate to Congress to conduct an inquiry into the disparate treatment of Virgin Islands National Guardsmen.

I acknowledge Resolution No. 1838 (Bill No. 31-0079) petitioning the Governor of the Virgin Islands to join with the Legislature of the Virgin Islands in developing a comprehensive program with focus on education and awareness of the contributions of people of African descent throughout the Caribbean.

As always, thank you for your continued work on behalf of the people of the Virgin Islands.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures

Cc: Members of the 32nd Legislature of the Virgin Islands