

BILL NO. 30-0432

Thirtieth Legislature of the Virgin Islands

July 02, 2014

An Act amending title 32 Virgin Islands Code, chapter 21, Article VI relating to casino licensure and providing for casinos within the Christiansted and Frederiksted Enterprise Zones

PROPOSED BY: Senator Nereida Rivera-O'Reilly

1 **WHEREAS**, the Enterprise Zone Program was enacted on October 6, 2000, as an economic
2 incentive program to revitalize targeted geographic areas within the United States Virgin Islands; and

3 **WHEREAS**, the historic towns of Christiansted and Frederiksted in St. Croix, and Savan, in St.
4 Thomas have received designations of Enterprise Zones because of the 'blighted' areas within the
5 respective zones; and

6 **WHEREAS**, the 'blighted' areas are deterrents to investment and redevelopment and require
7 incentives to counter the existence of dilapidated and substandard dwellings, and abandoned or untenable
8 buildings; and

9 **WHEREAS**, the safety, health, and welfare of residents who either live or work in the Enterprise
10 Zones are threatened by the proliferation of abandoned buildings, unemployment, crime and decreased
11 socio-economic opportunities; and

12 **WHEREAS**, the Enterprise Zone Commission was established in 1999 to provide tax incentives
13 and economic development

1 **WHEREAS**, the historic towns of Christiansted and Frederiksted continue to struggle for better
2 economic development and have seen business and commerce almost at a halt; and

3 **WHEREAS**, the island of St. Croix was already facing an economic downturn when Hovensa LLC,
4 announced the closing of its petroleum refinery in January 2012, eliminating 1,200 jobs and more than half
5 of St. Croix's manufacturing sector; and

6 **WHEREAS**, the closure of the refinery also caused the loss of an additional 950 subcontractor
7 jobs; and

8 **WHEREAS**, the aggregate loss of over 2,100 jobs resulted in an estimated \$580 million economic
9 shortfall and caused an increase in the unemployment rate of 5% from 8.7% in January of 2012 to 13.7%
10 by January of 2013 ; and

11 **WHEREAS**, the latest unemployment figures reflect only a slight decrease in the rate which is
12 attributable to a continued decrease in population and/or those persons no longer seeking employment; and

13 **WHEREAS**, a vibrant town with spurred economic activity is the barometer of the growth and
14 progress of a society and leads to greater confidence in the overall economic stability of the Virgin Islands
15 as a whole; and

16 **WHEREAS**, the Virgin Islands Casino and Resort Control Act of 1995 declared St. Croix as the
17 casino zone within the Territory and identified legalized casino gaming as a unique tool for promoting the
18 development of hotels on St. Croix; and

19 **WHEREAS**, the casino industry has been stagnant and only boasts one (1) casino hotel since 2000,
20 the Divi Carina Bay Casino and Resort; and

21 **WHEREAS**, the hotels currently existing in the town of Christiansted on St. Croix are all
22 struggling to survive under current economic conditions and several are in danger of being closed because
23 of financial losses; and

WHEREAS, the creation of a new category of approved hotels in the Virgin Islands Casino and Resort Control Act of 1995 can have the effect of making the revitalization and operation of hotels within the Christiansted and Frederiksted Enterprise Zone economically feasible; and

WHEREAS, any hotel operating a casino within the Enterprise Zone should be required to reinvest a portion of its profits within the Enterprise Zone for a reasonable period following the commencement of operations of the casino;

SECTION 1. Title 32, Chapter 21 of the Virgin Islands Code is amended in the following instances:

(a) Section 435 is amended the beginning of subsection (a) by inserting an exception clause that reads as follows: “Except as provided in section 435a”;

(b) The existing section 435a is re-designated, as section 435b and inserting a new section 435a that reads as follows:

“§435a (a) As used in this section:

(1) “Person controlling the hotel” means the person or persons holding fee simple title to, or a leasehold interest in the hotel.

(2) “Qualifying Enterprise Zone Investments” means the acquisition or renovation of any property located within the Christiansted or Frederiksted Enterprise Zone.

(3) “Net Cash Flow” for any year means the net cash provided by ‘operating activities’, as defined by the Financial Accounting Standards Board, less principal payments on debt and capitalized lease obligations, and less distributions for the satisfaction of tax obligations.

(4) “Consolidated Enterprise Zone Investments” means all of the property within the Enterprise Zone owned or leased by the persons controlling the hotel as of the effective date of this provision, or at any time thereafter.

(5) “Hotel” includes one hotel or more than one hotel under common control, whether or not contiguous, but treated as one hotel for purposes of this chapter.

(b) In addition to the hotel categories designated as approved hotels under section 435, an approved hotel for purposes of this chapter includes a located within the Enterprise Zone of Christiansted or Frederiksted providing a minimum of 75 qualifying sleeping units that have been renovated or newly constructed and a minimum aggregate of 2,500 square feet of qualifying indoor public space, banquet facilities for a minimum of 400 persons, with an onsite casino room with a minimum area of 2,000 square feet subject to the conditions established in subsections (c) and (d).

(c) Persons controlling a hotel in the Enterprise Zone of Christiansted or Frederiksted to qualify and remain eligible for a casino license for an approved hotel under this chapter shall make Qualifying Enterprise Zone Investments in an amount equal to sixty percent of the Net Cash Flow generated by their Consolidated Enterprise Zone Investments during the first ten years following the opening of their casino. If, as of the end of any calendar year, a person controlling a hotel has not made Qualifying Enterprise Zone Investments, on a cumulative basis, in the amount required, the person controlling the hotel shall deposit any shortfall into an interest- bearing escrow account acceptable to the Commission. Sums held in the escrow account may be withdrawn at any time by the person controlling the hotel for the sole purpose of making Qualifying Enterprise Zone Investments.

(d) If any sums remain in the escrow account at the expiration of fifteen years from the opening of the casino, the person controlling the hotel shall remit payment of the sums in the escrow account to the Commission to be used for the Commission's operation, as the Commission considers appropriate."

BILL SUMMARY

The bill amends the Virgin Islands Casino and Resort Control Act to establish a special category of casinos in the Enterprise Zones of Christiansted and Frederiksted. To qualify for an approved hotel in the Enterprise Zone, the applicant must make Qualifying Enterprise Zone Investments in an amount equal to sixty percent of the Net Cash Flow generated by their Consolidated Enterprise Zone Investments during the first ten years following the opening of their casino