



THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE

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

May 1, 2018

VIA MESSENGER

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

Re: Governor's Action on Bills numbered 32-0009, 32-0024, 32-0026, 32-0028, 32-0030, 32-0065, 32-0130, 32-0142, 32-0147, 32-0153, 32-0154, 32-0168, 32-0172, 32-0175, 32-0181, 32-0182, 32-0187, 32-0188 and Resolution No. 1843 (Bill No. 32-0178)

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 legislative bills.

I have approved Bill No. 32-0009, an Act amending title 29 Virgin Islands Code, chapter 12 as it relates to investment requirements for an Economic Development Authority Certificate.

I have approved Bill No. 32-0026, an Act amending title 27 Virgin Islands Code, chapter 3 by establishing the Virgin Islands Veterinary Practice Act; repealing title 3 Virgin Islands Code, section 415a; and for other related purposes.

I have approved Bill No. 32-0028, an Act amending title 23 Virgin Islands Code, chapter 19, subchapter I, section 1508 relating to the duties of the Adjutant General requiring the Adjutant General to administer the Youth About Face and the Adult Forward March programs.

I have approved Bill No. 32-0030, an Act amending 33 Virgin Islands Code, chapter 81 relating to real property tax credits and chapter 85, section 2402 relating to the Tax Assessor's duties to assess commercial property, to amend the definition of commercial property to include apartments with five or more units and relating to the Tax Assessor's duty to grant tax credits to property owners in historic districts to Charlotte Amalie to the historic districts in which tax credits are available.

Governor Kenneth E. Mapp's Letter to Senate President Myron D. Jackson

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I have approved Bill No. 32-0065, an Act to appropriate the sum of \$500,000, to the Economic Development Authority for the purpose of "energy efficient" retrofitting of the Industrial Park on the island of St. Croix.

I have approved Bill No. 32-0130, an Act amending the Virgin Islands Code, title 14 adding chapter 124 to enact "The Virgin Islands Criminal Street Gang Prevention Act" and title 33, chapter 111, adding section 3100bb (stated purpose is incorrect) establishing the "Crime and Gang Prevention Fund."

I have approved Bill No. 32-0142, an Act to rezone Parcel No. 13AA Estate Contant, No. 2 Cruz Bay Quarter St. John from R-2 (Residential-Low Density-One and Two Family) to R-4 (Residential-Medium Density).

I have approved Bill No. 32-0153, an Act ratifying Minor Coastal Zone Permit No. CZJ-20-11 issued to David McDaniel and Cheryl McDaniel for the use and occupancy of a rectangular-shaped floating dock with 153ft² of water area during the months of November through May, seaward of Parcel No. 200-C-2A Estate Fish Bay, St. John, Virgin Islands.

I have approved Bill No. 32-0154, an Act ratifying Major Coastal Zone Permit No. CZT-2-16 (L&W) issued to DUN RUN GOLF, LLC for the continued use and occupancy of the existing reverse osmosis plant with 12" diameter, 140 feet intake line and 12 inch, 650 feet long outfall line located at Plot No. C-2-Q Estate Lovenlund, St. Thomas, Virgin Islands.

I have approved Bill No. 32-0168, an Act amending title 22 Virgin Islands Code, chapter 39 designating current sections 951 through 983 subchapter I, section 984 as subchapter II, and by adding a subchapter III entitled "The Standard Nonforfeiture Law of 2018 for Life Insurance," which meets the accreditation standards established by the National Association of Insurance Commissioners in its model laws and updates the insurance laws of the Virgin Islands of the United States placing them on par with other United States jurisdictions thereby affording greater and more effective protection to the policyholders in the Virgin Islands.

I have approved Bill No. 32-0172, an Act to provide that the Thirty-Second Legislature of the Virgin Islands shall commence the 2018 Regular Session of the Legislature on January 22, 2018.

I have approved Bill No. 32-0181, an Act granting a zoning use variance for Parcel No. 171 Estate Contant-Enighed, Cruz Bay, St. John Virgin Islands, to allow for the operation of a car rental business.

I have approved Bill No. 32-0182, an Act to rezone Parcel No. 4-A Estate Cruz Bay Town, Cruz Bay Quarter, St. John, from B-3 (Business-Scattered) to B2 (Business-Secondary/Neighborhood).

I have approved Bill No. 32-0187, an Act rezoning Parcel No. 6D Estate Thomas, New Quarter, St. Thomas from R-3 (Residential Medium Density) to B-2 (Business secondary Neighborhood) and from the B-2 zoning designation granting a use variance.

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I have approved Bill No. 32-0188, an Act appropriating \$3,500,000 from the St. Croix Capital Improvement Fund for maintenance dredging of the Schooner Bay Channel. The St. Croix Capital Improvement Fund is tapped for many projects. I believe we have convinced the U.S. Department of Housing and Urban Development that for our economic development use of CBDG-DR funds, dredging our harbors and channels to accommodate Quantum and Oasis Class vessels will provide a long lasting and significant boost to our private sector businesses. Accordingly, I have included \$30M in our plan and proposed a first draw of funds. Once HUD's approval of these projects is received, the sum appropriated here, if available, may be used for other projects.

I have vetoed Bill No. 32-0024, an Act amending title 3 Virgin Islands Code, chapter 1, section 1 to provide for the position of Curator and amending title 31 Virgin Islands Code to add a chapter 42 establishing the Preservation of Historic Government Collections Act and for other purposes. Although the stated of purpose of Bill No. 32-0024 is to amend titles 3 and 31 of the Virgin Islands Code, the bill actually amends title 29 Virgin Islands Code, chapter 17 by adding a new subchapter entitled "Preservation of Historic Government Collections Act" within the Department of Planning and Natural Resources. I agree with cataloging and preservation of our cultural resources. For Government House, I have hired a Chief Conservator to inventory, oversee and care for the antiques and works of art under the Offices of the Governor.

Bill No. 32-0024 requires the new curator to obtain approvals from a newly created eight-member "Committee for the Preservation of Government Collections." This will create confusion and administrative delays. Why does a curator need to be supervised and managed by eight (8) persons? The bill is also duplicative and provides no funding for the new positions and committee it creates. The newly hired Chief Conservator will work with the Commissioner of the Department of Planning and Natural Resources who is the statutory Historic Preservation Officer of the Territory to ensure the care and custody of our Territory's cultural resources, arts and artifacts in possession of the Executive Branch.

I have vetoed Bill No. 32-0147, an Act amending title 27 Virgin Islands Code, chapter 1, subchapter I relating to the special restricted licensing of physicians and subchapter IIa relating to the practice of telemedicine; amending title 19, chapter 15, relating to the licensing, inspection and regulation of healthcare facilities and health services; and amending title 33, chapter 3, relating to exemptions from the payment of gross receipts on all Medicaid and Medicare payments. While I agree with the aim of this legislation to promote telemedicine for the benefit of the residents in the Territory, I cannot approve this measure as drafted for several reasons. First and foremost, the bill erroneously removes the definition of "telemedicine" from the statute. This is primary and essential to the interpretation, regulation and implementation of the statute.

Next, the Bill reduces the gross receipts taxes from 5% to 2.5% for a certain group of physicians who accept Medicaid and Medicare insurance. We have done tremendous work to reassure holders of our Gross Receipts Revenue Bonds that their investments are safe and secure. In addition, we are making draws on much needed funds from our authorized Community Disaster Loan from the US Department of Treasury. How do we continue to justify accessing these funds while at the same time reducing our revenue base? Has any serious consideration been given to the administrative nightmare for the Bureau of Internal Revenue to administer this new tax rate?

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If a physician's revenues from Medicaid/Medicare account for less than 5% or 10% of the physician's total gross receipts; does the physician qualify for the 50% reduction in the gross receipt rate? Recently, we were successful in convincing the Congress to provide a historic change in the Territory's share of Medicaid funding to 0% over the next 24 months. With this new increase in federal dollars into our health care system; why would we reduce our revenue base against certain new funds in our healthcare system? I want you to know that I stand ready to work with the sponsors of this legislation to modernize our health care system so telemedicine can become an option for our residents.

I have vetoed Bill No. 32-0175, an Act amending Title 29 V.I.C. Chapter 12 to grant the Economic Development Commission more autonomy. I've discussed the reasons for my veto with the sponsor of this measure and I have agreed to work with the Senator to find a balance in the need to control who is on or off our tax rolls. In addition, this Bill has several serious technical errors. This proposed bill provides a financing mechanism, through the issuance of Hotel Development Notes to encourage the private development of hotel projects. While the intent was to add the creation of a statutory lien to enhance the marketability of the Hotel Development Notes, the failure to adopt precise and correct language defeats the Bill's purpose.

Dangerous and concerning is Section 4 of the bill, the Legislature proposes to, by Legislative fiat grant 10-year extension of benefits at 100% of benefits to existing beneficiaries without the current statute's (29 V.I.C. §713a(b)(5)) requirement that the Commission recommend such an extension and approval of the Governor and without a public hearing. My friends, we do not want to do this. Additionally, Section 5 of the bill allows EDC applicants to apply the tax benefits granted to a date of its choosing even if the applicant does not have a business license in place – only that it has been applied for by the applicant – and regardless whether the applicant has paid taxes or other fees to the Government it owes. This amendment to 29 V.I.C. §713b(a) will now provide that an applicant's tax benefits commence only on the first day of the applicant's taxable year for income tax purposes regardless of what time of year the applicant applied for benefits. The change in the statute is unreasonable to other taxpayers, and alters the fair and reasonable administration of our Economic Development Program.

Bill No. 32-0175 also proposes to remove the approval of the Governor for modifications and renewals of a beneficiaries' certificate, and provides an automatic renewal of benefits applied for within six months from the date of the application's filing date, and not when the application is deemed complete. This means incomplete applications would qualify for tax exemptions on the date they are filed, notwithstanding the applicant's willingness or failure to provide full information to the EDC. This bill exempts international finance services entities from any conditions that the EDC may impose on the granting of tax benefits, and leave the granting of tax benefits to the Banking Board. How would you rate the granting of tax exemption benefits by the RT Park? Who has received benefits? How many employees are employed in the Virgin Islands by these beneficiaries? What is the annual value of tax revenues exempted by the RT Park annually? Let the administration of tax exemption benefits remain within the Economic Development Authority.

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I note Section 14(b) of the bill automatically approves any applications that have not been approved or disapproved by the Governor by December 21[sic], 2017. This is a clear violation of the separation of powers doctrine, of law and an unconstitutional overreach of the Legislature.

Finally, I acknowledge Resolution No. 1843 (Bill No. 32-0178) - A Resolution to honor and commend All Hands and Hearts—Smart Response. I thank this non-profit and the many others who have helped our Territory recover from Hurricanes Irma and Maria.

As always, thank you for your continued work on behalf of the people of the Virgin Islands and look forward to working with you to reach agreement on a number of the Bills submitted.

Sincerely,



Kenneth E. Mapp
Governor

Enclosures