

OVERRIDDEN

DATE 03/08/10

Sections 17&25

ACT NO. 7149

BILL NO. 28-0162

TWENTY-EIGHT LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2009

The Fiscal Year 2010 Omnibus Authorization Act

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*Be it enacted by the Legislature of the Virgin Islands:*

**SECTION 1.** This Act may be cited as "The 2010 Omnibus Authorization Act".

**SECTION 2.** Title 3 Virgin Islands Code, chapter 7, section 93 is amended in the following instances:

(a) The first and second sentences in subsection (a) are amended by inserting "one Dean of Students for each high school at a salary range between ~~"\$55,000 and \$65,000"~~ after "Superintendents"; and

(b) Subsection (c) is added to read as follows:

"(c) The Deans of Students:

(1) must have a masters degree and seven years in the field of education;

(2) shall resolve discipline problems in the public high schools in their respective districts;

(3) shall work with community and government agencies on problems relating to violence, drug abuse and other behavioral problems in the public high schools and truancy from school;

(4) shall assist in developing and administering practices addressing campus control and security; and

(5) shall confer with parents, teachers, counselors, support service personnel, and students on matters of discipline and welfare; Perform such other duties as the Commissioner may prescribe.”; and

(6) Shall perform such other duties as the Commissioner may prescribe.

**SECTION 3.** Title 3 Virgin Islands Code, chapter 11, section 177, subsection (a), paragraph (5) is amended after the first occurrence of the word, “checks”, by inserting “including electronic checks”.

**SECTION 4.** Title 3 Virgin Islands Code, chapter 20, section 359 (d) (5) is amended by inserting “, employment” after “protection

**SECTION 5.** Title 3 Virgin Islands Code, chapter 28A, section 754, subsections (c), (e) and (f) (2) are amended after the first occurrence of the words, “police officer”, by inserting “eligible employee with the Virgin Islands Water and Power Authority, eligible employee working with chlorine, sewage or carcinogens”.

~~**SECTION 6.** Title 5 Virgin Islands Code, subtitle 4, chapter 505 of the Uniform Interstate and International Procedure Act is repealed and reenacted with amendments that read as follows:~~

~~**“SUBTITLE 4, CHAPTER 505, VIRGIN ISLANDS UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY”**~~

~~**§4921. Short Title.** This subtitle may be cited as the Virgin Islands Uniform Interstate Depositions and Discovery Act.~~

~~**§4922. DEFINITIONS.** In this chapter:~~

~~(1) “Foreign jurisdiction” means a state or territory other than the Virgin Islands.~~

~~(2) “Foreign subpoena” means a subpoena issued under authority of a court of record of a foreign jurisdiction.~~

~~(3) “Person” means an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.~~

~~(4) “State” means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.~~

~~(5) “Subpoena” means a document, however denominated, issued under authority of a court of record requiring a person to:~~

- ~~(A) Attend and give testimony at a deposition;—~~
- ~~(B) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or—~~
- ~~(C) Permit inspection of premises under the control of the person.~~

~~§4923. Issuance of subpoena.—~~

~~(a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the district in which discovery is sought to be conducted in this Territory. A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of Virgin Islands.—~~

~~(b) When a party submits a foreign subpoena to a clerk of court in the Virgin Islands, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.~~

~~(c) A subpoena under subsection (b) must:—~~

~~(A) Incorporate the terms used in the foreign subpoena; and—~~

~~(B) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.—~~

~~§4924. Service of subpoena.— A subpoena issued by a clerk of court under section 4903 must be served in compliance with Rule 45 of the Federal Rules of Civil Procedure.—~~

~~§4925. Deposition, production, and inspection.— Rule 45 of the Federal Rules of Civil Procedure applies to subpoenas issued under section 4903.—~~

~~§4926. UNIFORMITY OF APPLICATION AND CONSTRUCTION.— In applying and construing this subtitle, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.—~~

~~§4927. APPLICATION TO PENDING ACTIONS.— This chapter applies to requests for discovery in cases pending on the effective date of this subtitle.”—~~

~~SECTION 7. Section 6 takes effect 90 days after enactment.—~~

~~SECTION 8. Title 5 Virgin Islands Code, section 695, The Uniform Foreign Depositions Act, is repealed.—~~

~~SECTION 9. Title 17 Virgin Islands Code, chapter 5, section 41, subsection (c) is amended by adding paragraph (6) to read:—~~

~~“(6) Swimming and water safety for at least one school year, one hour per week taught by instructors with American Red Cross Water Safety Instruction Certification.”~~

**SECTION 10.** Title 19 Virgin Islands Code, part 1, chapter 3 is amended by designating the existing provisions as subchapter I and adding subchapter II to read as follows:

***“Subchapter II***

§51. (a) There is established in the Department of Health the Bureau of Epidemiology, staffed with an epidemiologist, a communicable disease field supervisor, a disease surveillance officer for St. Croix, a disease surveillance officer for St. Thomas and St. John and a data entry manager.

(b) The Bureau of Epidemiology shall, in addition to all other powers and duties imposed upon it by law,

(1) develop and maintain a system for detecting, conducting surveillance of communicable diseases within the Virgin islands and investigating determining the epidemiology of those conditions which contribute to the diseases; and

(c) establish and operate a central coordinating center for receipt and cataloguing of all surveillance reports.

~~**SECTION 11.** Title 20 Virgin Islands Code, chapter 1, section 1 is amended at the end of subsection (d) by adding two sentences that read as follows:~~

~~“The Commissioner shall mark the pavement adjacent to each roadway intersection with prominent arrows in contrasting colors indicating the direction in which the traffic must flow. Additional arrows must be marked on the pavement to ensure that an arrow appears at intervals of one quarter mile or less.”~~

**SECTION 12.** Title 23 Virgin Islands Code, chapter 19, section 1525 is amended by striking “or federal active duty” at the end of the first sentence and by striking the second sentence in its entirety.

**SECTION 13.** Title 24 Virgin Islands Code, chapter 14, section 371 (b) is amended after “prison guards” by inserting “harbor pilots”.

**SECTION 14.** (a) **WHEREAS**, the St. Croix economy has been stagnant, with few major airlines landing at the newly expanded Henry Rohlsen Airport for years, few regularly scheduled cruise visits at the Ann Abramson Pier in Frederiksted in more than four years, and no new hotels build on the island for more than 20 years; and

**WHEREAS**, in order for the St. Croix economy to recover from its economic crisis and unemployment, new hotel rooms must be constructed, the cruise industry must restart regular

visits; small business development must be encouraged, and regular air landings must resume at pre-Hurricane Hugo levels; and

**WHEREAS**, the construction industry must also be given additional incentives to invest in the local labor pool, to encourage the training of the local labor force in the trades area, and to maintain a low cost of construction for new investors to encourage hotel development in the Virgin Islands, especially on the island of St. Croix; Now, Therefore,

(b). Title 29 Virgin Islands Code chapter 12 is amended by adding section 713f to read as follows”

“§713f (a) There is established in the Virgin Islands Building Contractors Incentive Program to encourage local employment, to encourage investors to build more hotel rooms on the island of St. Croix, and to stimulate the Virgin Islands economy.

(b) A building contractor, subcontractor, hotel developer, supplier, or vendor providing construction services, building materials, supplies or related services to EDC beneficiaries that have invested in major hotel developments are eligible to participate in the Building Contractors Incentive Program. To qualify and remain eligible for benefits under this section:

(1) An applicant shall complete and submit to the Director an application for participation in the Program and provide the information requested by the Director.

(2) An applicant must be in compliance with all tax, licensing and other applicable laws of the Virgin Islands. The applicant shall provide certification from the Internal Revenue Bureau and Department of Finance that the applicant has filed and paid all taxes, penalties and interest and from the Office of the Lieutenant Governor that the applicant has filed its required annual report or has satisfactorily made agreement to pay the taxes or file the required reports.

(3) An applicant must, in the case of a natural person, be a bona fide resident of the Virgin Islands with his principal place of business in the Virgin Islands and a citizen or legal resident of the United States; in the case of a partnership, limited liability company, trust or similar entity, be a partnership, limited liability company, trust or similar entity within the meaning of that term under the laws of the Virgin Islands with its principal place of business in the Virgin Islands; in the case of a corporation, be either incorporated under the laws of the Virgin Islands with its principal place of business in the Virgin Islands or under the laws of the United States, a state, territory, or commonwealth thereof, or a foreign country, and be duly registered to conduct business in the Virgin Islands.

(4) An applicant must agree in writing to comply with all the applicable requirements of this chapter, and agree in writing, as applicable to the applicant’s business, to employ or contract, and to require all contractors retained by him to employ or subcontract, for services and to purchase goods, materials and supplies with and from those persons, firms and corporations who are residents of the Virgin Islands, or

incorporated under the laws of the Virgin Islands, and who are duly licensed to do business in the Virgin Islands and have been so duly licensed for one year or more prior to the initial date of any such employment, contract, subcontract, or purchase, agree, where applicable to provide training in the applicant's trade, and agree to comply with any regulations promulgated under this section and conditions imposed in the certificate of tax exemption.

(c) Notwithstanding any other provision of this chapter to the contrary, in order to carry out the purposes of the Building Contractors Incentive Program, every approved building contractor, subcontractor, hotel developer, supplier and vendor providing construction services, supplies, equipment and related services to EDC beneficiaries that are developing hotels in the Territory are entitled to an exemption from payment of the following taxes:

(1) all gross receipts taxes related to receipts, cash or accrued, derived from or directly connected with the development of hotels;

(2) all excise taxes on building materials, articles, supplies, goods, merchandise, tools manufactured or brought into the Virgin Islands on or to be used or employed exclusively in the production of hotel units under the section; and

(3) all customs duties in excess of a 1% handling charge on all materials, goods, tools, equipment, articles and commodities imported into the Virgin Islands to be used exclusively for the development of hotels.

(d) In addition to the exemptions provided in subsection (a), every building contractor, subcontractor, hotel developer, supplier and vendor qualifying under this section, shall have all corporate and individual income tax liability reduced to zero for a period equal to the period in which the beneficiary under this section provides services or supplies to a hotel development, or such other period as the Commission by regulation may determine.

(e) Any person entitled to the tax benefits conferred under this section shall apply to the Director under this chapter for an appropriate certificate of tax exemption. Certificates must be approved or disapproved by the Commission and the Governor in accordance with rules and regulations promulgated by the Commission.

(f) Subject to the approval of the Governor, the Commission shall issue rules and regulations, consistent with this section as may be necessary and appropriate to implement the Building Contractors Incentive Program.

**SECTION 15.** Section 14 takes effect 30 days after enactment and expires at midnight on February 28, 2015.

**SECTION 16.** Title 30 Virgin Islands Code, chapter 5, section 126 is amended by striking the first sentence in its entirety.

**SECTION 17.** ~~Title 33 Virgin Islands Code, chapter 111, section 3057, subsection (a) is amended by striking "solid waste collection and disposal".~~

**SECTION 18.** Title 33 Virgin Islands Code, section 3095, subsection (a) is amended after "Christiansted" by inserting "Historic District".

**SECTION 19.** Title 33 Virgin Islands Code section 3023 (a) is amended by striking "on Finance" and inserting "of jurisdiction".

**SECTION 20.** (a) Act No. 7071(Bill No. 28-0032), Section 4, is amended in the following instances: by striking the word "grant" where it appears and inserting "subsidy" in its place; and

(b) By designating the existing paragraph as subsection (a) and adding subsection (b) to read as follows: "(b) The sums referenced in subsection (a) remain available until expended."

**SECTION 21.** Act No. 6003 (Bill No. 20-0286), section 2, is amended by striking the sum "\$4,000" and inserting in lieu "\$8,000".

~~**SECTION 22.** The sum of \$62,806.44 is appropriated in the fiscal year ending September 30, 2010, from the Internal Revenue Matching Fund to O'Reilly Plumbing and Construction Co. for services rendered to the Department of Education.~~

~~**SECTION 23.** The sum of \$50,000 is appropriated from the General Fund in the fiscal year ending September 30, 2010, to the Department of Justice for the Civil Rights Commission for enforcement of the sexual harassment law.~~

~~**SECTION 24.** The sum of \$20,000 is appropriated in the fiscal year ending September 30, 2010, from the General Fund to the Virgin Islands National Guard, divided equally between the district of St. Croix and the district of St. Thomas and St. John, for the operation of the Iraqi Freedom/Operation Enduring Freedom.~~

~~**SECTION 25.** Title 29 Virgin Islands Code, chapter 3, section 275 (b) (5) is amended by striking the period at the end and inserting "provided there are public water lines operated by the Virgin Islands Water and Power Authority or any other entity within one hundred feet of any boundary of the subdivision and public water lines are otherwise reasonably accessible to the sub divider".~~

~~**SECTION 26.** Title 29 Virgin Islands Code, chapter 3, section 231 (a) (12) as amended by Act No. 7129, (Bill No. 28-0038) is amended by striking paragraph (C).~~

~~**SECTION 27.** Title 29 Virgin Islands Code, chapter 16, section 940 (a) (2) is amended by striking the semicolon at the end and adding "except that no housing unit developed under this paragraph may exceed three stories in height~~

Thus passed by the Legislature of the Virgin Islands on December 22, 2009.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 19  
Day of January, A.D., 2010.



A handwritten signature in black ink, appearing to read "Louis Patrick Hill".

Louis Patrick Hill  
President

A handwritten signature in black ink, appearing to read "Samuel Sanes".

Samuel Sanes  
Legislative Secretary





## THE UNITED STATES VIRGIN ISLANDS

OFFICE OF THE GOVERNOR  
GOVERNMENT HOUSE

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

### THE GOVERNOR'S OBJECTIONS

Bill No. 28-0162 is hereby approved with the exception of the following items, part or parts, portion or portions thereof, which are hereby objected to (and deleted and disapproved in full) pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954, as amended:

#### SECTION 2.

at a salary range between "\$55,000 and \$65,000"

**SECTION 6.** Title 5 Virgin Islands Code, subtitle 4, chapter 505 of the Uniform Interstate and International Procedure Act is repealed and reenacted with amendments that read as follows:

#### ***"SUBTITLE 4, CHAPTER 505, VIRGIN ISLANDS UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY***

**§4921. Short Title.** This subtitle may be cited as the Virgin Islands Uniform Interstate Depositions and Discovery Act.

**§4922. DEFINITIONS.** In this chapter:

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- (2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.
- (3) "Person" means an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.
- (4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(5) “Subpoena” means a document, however denominated, issued under authority of a court of record requiring a person to:

- (A) Attend and give testimony at a deposition;
- (B) produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or
- (C) Permit inspection of premises under the control of the person.

**§4923. Issuance of subpoena.**

(a) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the district in which discovery is sought to be conducted in this Territory. A request for the issuance of a subpoena under this chapter does not constitute an appearance in the courts of Virgin Islands.

(b) When a party submits a foreign subpoena to a clerk of court in the Virgin Islands, the clerk, in accordance with that court’s procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(c) A subpoena under subsection (b) must:

(A) Incorporate the terms used in the foreign subpoena; and

(B) Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

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“(6) Swimming and water safety for at least one school year, one hour per week taught by instructors with American Red Cross Water Safety Instruction Certification.”

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“The Commissioner shall mark the pavement adjacent to each roadway intersection with prominent arrows in contrasting colors indicating the direction in which the traffic must flow. Additional arrows must be marked on the pavement to ensure that an arrow appears at intervals of one quarter mile or less.”

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boundary of the subdivision and public water lines are otherwise reasonably accessible to the sub-divider”.

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Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, Virgin Islands, this 2<sup>nd</sup> day of February, A.D., 2010.



  
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John P. de Jongh, Jr.  
Governor