

**ACT NO. 7651**  
**BILL NO. 30-0300**

**THIRTIETH LEGISLATURE OF THE VIRGIN ISLANDS**

**Regular Session**

**2014**

An Act amending Title 29 Virgin Islands Code, chapters 12 and 21 to rename the Industrial Development Program as the Economic Development Program; and update the Economic Development Program Law

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

**SECTION 1.** Title 29 Virgin Islands Code, chapter 12, is amended by striking the words “Industrial Development” wherever they appear and inserting “Economic Development”.

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

(a) in section 703, subsection (g) after the second occurrence of “business” by inserting the following: “other than a Knowledge-Based Business or E-Commerce Business, as set forth in Section 716(c) unless properly referred to the Commission as set forth therein and by striking all of the paragraphs after the introductory clause and inserting a new paragraphs that reads as follows”:

- “(1) Commercial Distribution and Trading Services;
- (2) Public Relations Services ,including but not limited to publicity, mail order firms;
- (3) International Banking and Insurance entities that has been duly licensed under Title 9 and Title 22, Chapter 9, respectively of the VI Code;
- (4) Business and Management Consulting Services (including but not limited to strategic accounting, economic, scientific services);
- (5) Investment Managers and Advisors;

- (6) Call Centers;
- (7) Family Offices;
- (8) Venture Capital Management and Investment;
- (9) Investment Banking and Financial Services;
- (10) Film and Print Industry Activities (including news syndicate, still and motion pictures);
- (11) Computer, Data, High Technology, E-Commerce and Call Services Center Businesses;
- (12) Development/Engineering of Software, Blueprints, Intellectual Property;
- (13) Medical (including Dental, Optical and Ophthalmological) laboratories and specialty medical services; and
- (14) Any other businesses serving clients located outside the Virgin Islands deemed appropriate by the Commission.”

(b) In Section 704(f) and (g) by striking the word “appointive” and inserting “Non-government appointed”.

(c) In Section 704(f) by striking “\$50.00” and inserting “\$150.00”.

(d) In Section 705(e) by striking “the Director of the Bureau of Audit and Control” and inserting “the Director of the Internal Revenue Bureau and the Director of the Office of the Inspector General”.

(e) In Section 707(i), (j) and (k) by inserting “the Economic Development Park” before the word “Corporation”.

(f) By striking all of the language after “people” in section 708(a) and inserting new language that reads as follows:

“The approved industries or businesses and their established categories are:

**Category I** – Legacy Virgin Islands Industries - including Rum Production, Milk/Dairy Production, Watch and Jewelry Manufacturing and Assembly.

**Category II** – Product Assembly, Manufacturing, Repair and Maintenance and/or Export Operations (other than Historic VI industries) - including but not limited to

Agriculture/Mariculture and Food Processing, Marine and Aircraft Industry, Machine and Heavy Equipment, and Bottling and Packing.

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

**Category IV** – Designated Services Businesses - as defined in Section 703(g).

(1) The Commission may approve other such industries or businesses as may be considered appropriate by the Commission and which a finding by the Commission has determined will advance the economic well-being of the Virgin Islands and its people, and the applicant of such industry or business has agreed to the investment and employment requirements along with any other such special conditions as agreed between the applicant and the Commission.

(2) Any application that qualifies in two categories under this section, however, must be considered to be in the highest payment fee and term category for the purpose of this chapter. An applicant may apply in more than one approved industry or business, but two categories may not be combined in one certificate unless the businesses are integral to each other.

(3) In determining the amount of the investment undertaken by the applicant for purposes of this section:

(A) The assessed value of land and previously existing buildings (as assessed for tax purposes) used in the industry or business shall be included only to the extent that it does not exceed twenty (20%) percent of the investment undertaken; however, this provision does not apply to an industry or business of a nature in which investment in land and alteration or improvement thereof represents its primary investment factor.

(B) The fair market value of all equipment leased for a term of at least five years must be included in determining compliance with the investment requirement.

(C) The minimum investment required by this section may be reduced, if the Commission finds that the proposed industry or business will provide sufficient additional investment in workforce development and/or public educational projects, Enterprise Zone community redevelopment and revitalization projects, or community based organizations to justify the lower investment.”

(g) In Section 708a re-designate “Category IIA” as “Category IV” and renumber as appropriate.

(h) By striking section 713a, subsection (b) in its entirety and inserting a new subsection (b) that reads as follows:

“(b) The Commission shall grant each approved applicant eligible for benefits provided under this section as follows:

(1) St. Thomas/St. John District approved applicants are entitled to 100% benefits for a period of 20 years if they remain in compliance with all the requirements of this chapter.

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

(3) Approved applicants, or Board approved affiliates that make an initial or additional investment in the beneficiary business, in infrastructure, new construction, or refurbishment greater than Ten Million Dollars are entitled to 100% benefits for an additional period of 10 years if they remain in compliance with all the requirements of this chapter.

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

(5) Beneficiaries that remain in compliance with all the requirements of this chapter and their certificate are eligible for one 10-year extension at 100% of benefits. This extension must be recommended by the Commission and approved by the Governor, but does not require a public hearing.

(6) The Commission may consider and approve a lesser percentage of benefits and/or term of benefits, upon the request of the applicant.”

(i) By striking subsection (d), Section 713a in its entirety and inserting a new subsection (d) that reads as follows:

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

(j) In Section 713f by striking the term, “EDC beneficiaries” wherever it appears and inserting “companies and developers”

(k) In section 714, subsection (b) by striking all language after the phrase “commence at” and inserting new language that reads as follows: “a date certain, but in no event may the commencement of benefits occur later than one year after the date of the Governor’s approval of benefits. The Commission may extend the time for commencement of benefits to a time certain beyond one year after the date of the Governor’s approval of benefits upon good cause and a finding that the benefits would be a nullity to the beneficiary if commenced prior to one year

after the date of the Governor's approval of benefits."

(l) In section 714 by striking subsections (a), (b), (c) and (g) in their entirety and re-designating the remaining subsections.

(m) In Section 715, subsection (a) by striking the words "extension," and "or renewal" and by striking paragraph (2) and renumbering the remaining paragraphs, in subsection (c) by striking the words "extensions or" and by striking subsection (b) and re-designating the remaining subsections.

(n) In Section 717, subsection (b) by adding a sentence at the end that reads: "If an application is disapproved, the applicant or beneficiary may petition the Commission, through a written petition to the Commission, in accordance with Rules & Regulations of the EDC, for reconsideration of action within 10 calendar days, excluding Sundays and holidays, from the date the disapproval is received by the applicant."

(o) In section 717a, at the end of subsection (c) by inserting the following sentence: "However, if the Governor has concerns with a recommendation of benefits, the Governor has the option of returning a recommendation package to the EDC for reconsideration and thus stop the 60-day time limit in subsection (c). Upon a resubmission after reconsideration a new 60-day period commences."

(p) In Section 718(a) by striking paragraph (4) and inserting a new paragraph (4) that reads as follows: "(4) The beneficiary may receive credit for capital investments that occur no earlier than the date the beneficiaries EDC application is deemed complete by the EDC."

(q) In the title of Section 719 by striking "of certificates" and inserting "Voluntary Termination", by designating the existing language as subsection (a) and adding subsections (b) and (c) that reads as follows:

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

(1) Release the beneficiary from its stated monetary or contractual obligations to the EDC and the Islands; or

(2) Take any other reasonable action within the authority of the Commission as authorized in this chapter.

(c) Any of the action in subsection (a) by the Commission does not release the EDC beneficiary from any other obligations, contractual agreements, laws, or regulations related to the beneficiary's activities with any other federal or local governmental entity or its obligation contractual or otherwise with other entities."

(r) In Section 722 in paragraph (5) by

(1) striking "addition to the fine and/or"; and

(2) Designating the existing provisions as subparagraph (A) and adding subsection (B) to reads as follows:

“(B) The Commission may also suspend or modify the certificate of a beneficiary, or in the case of a corporate beneficiary, any officer or member acting on behalf of the corporation or in the case of a partnership any partner acting on behalf of the partnership, that is the subject of federal or local law enforcement charges or investigations connected with the operation of the beneficiary business. Such suspension must be reviewed by the Commission after resolution of any investigation or charges.”

**SECTION 3.** Title 29 Virgin Islands Code, Chapter 21 is amended in section 1115 by striking subsection (a) in its entirety and inserting a new subsection (a) that reads as follows:

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

**SECTION 4.** Title 29 Virgin Islands Code, chapter 13, Section 802 is amended by striking “Virgin Islands Industrial Park Development” and inserting “Virgin Islands Economic Development Park”.

**SECTION 5.** The Virgin Islands Code is amended by striking “Virgin Islands Industrial Park Development” wherever it appears in the Code and inserting “Virgin Islands Economic Development Park” and by striking “Virgin Islands Industrial Park Development Corporation” wherever it appears in the Code and inserting “Virgin Islands Economic Development Park Corporation”.

Thus passed by the Legislature of the Virgin Islands on September 25, 2014.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 30<sup>th</sup> Day of September, A.D., 2014.



Shawn-Michael Malone  
President



Janette Millin Young  
Legislative Secretary





Bill No. 30-0300 is hereby approved.

Witness my hand and the Seal of the  
Government of the United States  
Virgin Islands at Charlotte Amalie,  
St. Thomas, this 13<sup>th</sup> day of October  
A.D., 2014.

  
John P. de Jongh, Jr.  
Governor