

ACT NO. 8153

BILL NO. 32-0308

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2018

An Act amending title 3 Virgin Islands Code, chapter 19 adding sections 339, 339a., and 339b. to establish the Division of Festivals within the Department of Tourism whose function is organizing and executing festivals and to re-establish the Virgin Islands Cultural Heritage Institute within the Department of Tourism; amending title 33 Virgin Islands Code, subtitle 3, chapter 111, section 3088 to re-name the "Carnival and Festival Committee Revolving Fund" as the "Division of Festivals Revolving Fund"; and repealing title 3 Virgin Islands Code, chapter 22, section 408

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 3 Virgin Islands Code, chapter 19 is amended by inserting sections 339, 339a., and 339b. to read as follows:

"§339 Declaration of findings, purpose:

The Legislature finds and declares that:

- (a) The heart of the festival arts celebrated in the Virgin Islands today are the Virgin Islands Carnival, the Crucian Christmas Festival, and the St. John Celebration;
- (b) The festival arts have deep rooted West Indian traditions and expressions associated with our Amerindian, African, European and Caribbean people, history, spirituality, and culture;
- (c) The Virgin Islands ethnic complexion as well as its dynamic economic, political and social history are the ingredients of its festival arts;
- (d) The festival arts are derived from the combining of European pre and post-Lenten, Christmas, and Emancipation festivities and observances with traditional African and Creole masquerading traditions. Religion, costumes, musical traditions, foodways, and history all

contribute to the dates on which festival celebrations occur, their themes, social and satirical commentary, and the forms, color, and music they celebrate;

(e) In years 1912 and 1914 members of the community decided to organize and celebrate Carnival in the Territory;

(f) As a result of World War I, economic hardships, and the sale of the islands to the United States of America, Carnival was suspended;

(g) In 1952 members of the St. Thomas community organized and revived Virgin Islands Carnival in the Territory;

(h) In 1953 members of the St. Croix community organized the Crucian Christmas Festival;

(i) In 1954 members of the St. John community organized the St. John Celebration;

(j) In 1992 the Virgin Islands Cultural Heritage Institute was created under the Office of the Governor to create, preserve, promote, revitalize, and disseminate Virgin Islands culture;

(k) In 2007 the Virgin Islands Cultural Heritage Institute was transferred to the Department of Planning and Natural Resource;

(l) Although the Department of Planning and Natural Resources is mandated under 3 V.I.C. §401(b) (9) to promote the diffusion of culture through expositions, fairs, concerts, festivals and theatrical performances; by 2012 the Virgin Islands Cultural Heritage Institute was closed;

(m) Although the Legislature has appropriated funding for the Institute, it continues to languish in dysfunction;

(n) The Legislature finds that another department of the Government may be better equipped for the promotion of the cultural heritage of the Virgin Islands;

(o) One of the functions of the Department of Tourism is to promote Virgin Islands culture as part of the tourism experience; and

(p) Therefore, the Legislature declares that given the role of the Department of Tourism in the promotion and advertisement of our festival arts and cultural heritage tourism product, a Division of Festivals and the fiduciary function of the Virgin Islands Cultural Heritage Institute should be placed under the Department of Tourism.

§339a. Division of festivals *established*

(a) The Division of Festivals is established within the Department of Tourism and is headed by a director. The Commissioner of Tourism, with the approval of the Governor, shall appoint the director and three assistant directors; one for each island, St. Croix, St. Thomas, and St. John. The Director of Tourism shall choose the director of the Division of Festivals on the basis of knowledge of and familiarity with coordinating incentives for, and planning and promoting festivals. The director of the Division of Festivals shall serve under the direction and control of the Commissioner

of Tourism. The Commissioner of Tourism may employ such other persons as may be necessary to administer this section efficiently.

(b) The Division of Festivals, in collaboration with the Virgin Islands Cultural Heritage Institute, have the powers and duties to:

- (1) Organize and execute festival art events;
- (2) Execute a timeline and workplan for the management of festivals arts and ensure that the festivals operate smoothly and that deadlines are met;
- (3) Establish, if necessary, an ad hoc team of volunteers to execute festival arts;
- (4) Recruit and supervise staff, interns, and volunteers;
- (5) Create and oversee the programming for festival arts events;
- (6) Build and maintain professional relationships with promoters;
- (7) Provide for and oversee the coordination of guest artists, including arranging travel and local transportation, and ensure a positive experience for visitors;
- (8) Execute fundraising efforts that includes sponsorships, memberships, individual and business donations, ad sales, and fundraising events;
- (9) Make contracts and execute all instruments necessary or convenient in the exercise of any of its powers;
- (10) Maintain and manage all corporate sponsorships;
- (11) Organize and secure the resources necessary for all festival art events;
- (12) Develop an overall marketing plan and oversee development of an aggressive marketing campaign;
- (13) Work in collaboration with stakeholders in both the public and private sectors to promote festival arts and all other matters pertaining to festival arts; and
- (14) Perform other duties and responsibilities as it pertains to festival arts.

(c) For the purposes of this section, the term “festival” means carnivals, music festivals, film festivals, food festivals, and other organized community and cultural celebrations and social events.

(d) For purposes of this section, the term “festival arts” means all components of special events, celebrations, programs, performances, exhibitions, entertainment and other activities centering on and celebrating unique aspects community, folklife culture, tradition, visual arts, theatre, film, music, agriculture, food and culinary arts, costume-making, masquerading, pageantry, and other forms of expression.

(e) Notwithstanding title 31 V.I.C. chapter 23, contracts for artists, vendors, material, services, supplies, equipment, and all other festival-related procurements made pursuant to this section which do not exceed \$150,000.00, may be procured under the process set forth in this subsection. The Division of Festivals shall:

- (1) Develop written specifications sufficient to permit an eligible vendor to respond;
- (2) Identify at least 3 eligible vendors to provide products or services and solicit quotes;
- (3) Evaluate bidder's responses with specifications; and
- (4) Determine the most responsible and responsive bidder with the lowest price.

(f) For purposes of subsection, (d), "eligible" means the potential vendor meets the required licensing or certification requirements.

(g) The Commissioner of Tourism shall retain any monies obtained from private donations or sponsorships in an escrow account established for each island: St. Croix, St. Thomas, and St. John. The director of the Division of Festivals may withdraw monies in the escrow accounts or the production and promotion of festivals on the respective island.

(h) The Commissioner of Tourism shall promulgate regulations for the administration of the Division of Festivals.

§339b. Virgin Islands Cultural Heritage Institute

(a) The Legislature of the Virgin Islands finds and declares that:

(1) The people of the Virgin Islands have a unique culture that is defined by their customs, values, traditions, arts, skills, speech, and mannerisms, which have been practiced for many generations.

(2) The Virgin Islands culture has been a source of strength and a sense of identity for its people.

(3) The diverse ethnicity of the Virgin Islands people, which includes Amerindian, African, European, and Caribbean/West Indian heritages, has contributed to their spiritual well-being and cultural richness.

(4) The culture of the Virgin Islands has been recognized and documented as unique, authentic, and laudatory by Virgin Islands scholars and the Center for Folklife Programs & Cultural Studies of the Smithsonian Institution in Washington, D.C.

(5) Culture has a fundamental influence on the desires, needs and character of a people, particularly youth and children.

(6) The preservation and promotion of a peoples' cultural heritage can be an affirmation of their existence that has a strong positive effect on their political, vocational and social structures.

(7) The Virgin Islands culture is replete with heroes and heroines, particularly of African descent, whose personal contributions and sacrifices and their insistence on human rights and justice ignited the torch of Virgin Islands liberty.

(8) A society that fails to preserve and promote its culture may lose its identity, its structural fabric and, ultimately, its reason for being.

(9) Each generation has an obligation to pass on to its children and youth the cultural identity that is the root of its existence.

(10) It is appropriate and necessary to preserve, protect, and promote Virgin Islands culture in order to contribute to an understanding of the complex problems of our society, to encourage unity and economic viability of all of the Territory's people, to respect the tradition bearers and their lasting contributions, and to celebrate the Virgin Islands example throughout the Caribbean as a people of strong belief in freedom and self-development.

(11) In order to best preserve, promote, revitalize and disseminate Virgin Islands culture, there should be established a Virgin Islands Cultural Institute.

(b) As used in this section, the following definitions apply:

(1) "Institute" means the Virgin Islands Cultural Heritage Institute.

(2) "Virgin Islands culture" means the traditional customs, folkways, belief systems, music, dances, stories, dress, food, sayings, language, art forms, occupations, crafts and other expressions of the spirit of the people of the Virgin Islands. The term includes, but is not limited to:

(A) *folkways*, which refers to storytelling, Anansi stories, riddles and greetings;

(B) *belief systems*, which refers to superstitions, cultural ceremonies associated with holiday observances, funerals and burials, bush baths, obeah, hurricane supplication day;

(C) *music*, which refers to instrumental and vocal forms such as cariso, "fungi" or scratch band, calypso and steel pan;

(D) *dances*, which refers to the bamboula, quadrille and calypso style;

(E) *food*, which refers to recipes and ways of cooking pate, fry fish and johnny cakes, red pea soup, kalaloo, mafe, whelks, conch, souse, salt fish, fungi, tarts, black cake, vienna cake, sweet bread and jawbone;

(F) *sayings*, which refers to “Today fo' yo', tomorrow fo' me”, “Monkey know wha tree to climb” and the like;

(G) *language*, which refers to the local dialect “Ah come, yo ah come” and to the Dutch Creole;

(H) *art forms*, which refers to needlecraft such as crochet, embroidery, hardanger and tatting;

(I) *occupations*, which refers to masonry, joinery, cabinet making, fishing, farming, dressmaking and tailoring; and

(J) *crafts and other expressions*, which refers to basketry, broom making, furniture designing, kite making, fish pot making, mocko jumbies, carnival clowns and other creative expressions of the spirit of the people.

(3) “Material culture” means the flora and fauna, including, but not limited to, seaside grape, mahogany, flambouyant, soursop, mango, and herbs, such as chivel, congo root, man-better-man, turpentine, black wattle, lemon grass, anise, maubi bark and flowers, such as yellow cedar, hibiscus, bougainvillea, and fauna such as iguana, yellow breast, woodslaves and ground lizards, and architectural structures, such as windmills, forts, Great houses, wattle and daub, and vernacular structures.

(4) “Tradition bearer” means any person whose practice of Virgin Islands culture in a specific form is or was renowned and exemplary.

(c) The Virgin Islands Cultural Heritage Institute established under the Department of Planning and Natural Resources is continued under the Department of Tourism. The Commissioner of the Department of Tourism shall include monies to fund the operation of the Institute in the Department of Tourism’s annual budget. The Institute consists of nine members, appointed by the Governor. Four members shall reside on St. Croix. Four members shall reside on St. Thomas, and one member on St. John. In making nominations to the Institute, the Governor shall give due consideration to the recommendations of representative Virgin Islands cultural organizations, such as the Friends of the Virgin Islands Institute of Culture. Appointed members of the Institute must be individuals who, by their experience, participation, creativity and interest embody Virgin Islands culture.

(d) Appointed members of the Institute shall serve terms of three years. A member may serve until the member’s successor is qualified. A member of the Institute who is not an employee of the Government of the Virgin Islands is entitled to receive a per diem of \$75 for each day the member attends a meeting of the Institute plus any necessary and authorized travel and other expenses incurred in the discharge of the duties of members of the Institute. The Institute shall elect a chairperson and such other officers as it considers necessary. The chairperson may appoint such staff as may be necessary to execute the powers and duties of the Institute; but the expenses of the Institute, including staff salaries, may not exceed the amounts available for such expenses.

(e) The Institute shall:

- (1) Preserve, protect, promote, support, revitalize and disseminate Virgin Islands culture;
- (2) Award educational grants and scholarships to persons studying Virgin Islands culture and/or training other persons in such culture;
- (3) Organize and produce workshops, performances, festivals, exhibits or other means of displaying Virgin Islands culture;
- (4) Establish and maintain an archive for Virgin Islands culture, and procure, receive, purchase and collect all manner of materials therefor;
- (5) Provide educational materials on Virgin Islands culture for use in Virgin Islands schools;
- (6) Prepare pamphlets, periodicals, or other forms of reference materials on Virgin Islands culture for general circulation and use;
- (7) Receive donations, gifts and bequests for the purpose of executing its powers and duties;
- (8) Cooperate with government or private entities in the promotion, preservation, protection and revitalization of Virgin Islands culture;
- (9) Identify, by recognition, commemoration, or other appropriate means the tradition bearers of Virgin Islands culture;
- (10) Determine, by democratic vote of the Institute, what constitutes Virgin Islands culture and material culture; but no item listed as a part of the Virgin Islands culture by law may be eliminated by the Institute; and
- (11) Report, not more than 60 days after the last day of each fiscal year, to the Governor and the Legislature its activities and programs including a complete accounting of its expenditures, revenues received and obligations."

SECTION 2. Title 33 Virgin Islands Code, subtitle 3, chapter 111, section 3088 is amended in the following instances:

(a) Subsection (a) is amended by striking "Carnival and Festival Committee Revolving Fund" and inserting "Division of Festivals Revolving Fund", and by striking "Carnival and Festival Committees on each island" and inserting "Division of Festivals established under 3 V.I.C. §339a."

(b) Subsection (b) is amended by striking "Carnival and Festival Committee Revolving Fund" and inserting "Division of Festivals Revolving Fund".

(c) Subsection (c) is amended by striking "annual Carnival, Christmas Festival, and Fourth of July Celebrations" and inserting "festival events organized by the Division of Festivals".

(d) Subsection (d) is amended by striking "respective committees" and inserting "Commissioner of Tourism", and by striking "each carnival and festival committee" and inserting "the Division of Festivals".

SECTION 3. Title 3 Virgin Islands Code, chapter 22, section 408 is repealed.

SECTION 4. The Department of Tourism shall perform the administrative function of the Division of Festivals for the 2018 Crucian Christmas Festival, the 2019 Virgin Islands Carnival, and the 2019 St. John Festival. The Division of Festivals shall assume full responsibility of its duties commencing with the 2019 Crucian Christmas Festival. The Department of Tourism is not precluded, however, from coordinating and implementing other festivals before 2020.

Thus passed by the Legislature of the Virgin Islands on December 28, 2018.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 4th Day of January, A.D., 2019.



Myron D. Jackson
Myron D. Jackson
President

Jean A. Forde
Jean A. Forde
Legislative Secretary

Bill No. 32-0308 is hereby approved

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 6th, day of January, 2019 A.D.

Kenneth E. Mapp
Kenneth E. Mapp
Governor

