



**THE UNITED STATES VIRGIN ISLANDS**

OFFICE OF THE GOVERNOR  
GOVERNMENT HOUSE

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

November 10, 2017

**VIA MESSENGER**

The Honorable Myron D. Jackson  
President  
32<sup>nd</sup> Legislature of the Virgin Islands  
Capitol Building  
St. Thomas, U.S.V.I. 00802

**Re: Governor's Call for Special Session on Tuesday, November 21<sup>st</sup>, 2017**

Dear Mr. President:

Pursuant to Section 7 of the Revised Organic Act of 1954, as amended, for the Virgin Islands of the United States, I hereby call the Thirty-Second Legislature of the Virgin Islands into a Special Session to be held on **Tuesday, November 21<sup>st</sup>, 2017 at 10:00am, at the Legislature's Chambers in Charlotte Amalie, St. Thomas.** I have enclosed for consideration of the Members of the Thirty-Second Legislature of the Virgin Islands several proposed bills and two Coastal Zone Management permits for which immediate action is necessary:

1. a proposed bill (I) to authorize the Government to enter into one or more Federal Emergency Management Agency ("FEMA") Community Disaster Loans for the purpose of financing existing essential functions of the Government's operations, including, but not limited to, the operations of the Juan F. Luis Hospital and Medical Center; the Roy Lester Schneider Regional Medical Center; the Virgin Islands Waste Management Authority; and, the University of the Virgin Islands and (II) to authorize the Government to pledge its full faith and credit and taxing power as security therefor, or such other security as the Governor or the Commissioner of Finance, as the Government's authorized representatives, shall determine is necessary to further secure the Community Disaster Loan Promissory Notes;
2. a proposed bill to enact "The Virgin Islands Source Separation Act" to promote the general health, welfare and safety of the residents of the Virgin Islands, to protect the environment, and to manage the solid waste stream in the Virgin Islands;
3. a proposed bill to establish the "Virgin Islands Beverage Container Recycling Act;"
4. a proposed bill to amend the V.I. Horse Racing Industry Assistance Act of 2010 to include anti-doping provisions, create a territorial horseracing commission and to allocate revenues;

5. a proposed bill to authorize and appropriate the sum of \$9,000,000.00 to fund the completion of Phase II of the Frederiksted Economic Revitalization Project, which includes the Paul E. Joseph Stadium, the Terrance Martin Softball Field, the Crucian Christmas Festival Village and the infrastructure for adequate flood control and drainage to protect the project and persons and property within the town of Frederiksted on St. Croix;
6. Coastal Zone Management Permit CZX-1-17(W) to authorize the maintenance dredging of the Krause Lagoon and Cross Channels to return to an operating depth of -36 ft.; and,
7. Coastal Zone Management Permit CZX-36-16 (L&W) to allow the entire Gallows Bay Marine Terminal building to come into compliance with the CZM Act, and authorizes the demolition and reconstruction of the 3,020 ft<sup>2</sup> arrival building.

### **Governor's Recommended Bill to Authorize the Community Disaster Loans**

As you are well aware, on September 6, 2017, the U.S. Virgin Islands was struck by Hurricane Irma, the strongest storm ever measured in the Atlantic Ocean. With wind speeds in excess of 185 miles per hour, the category 5 hurricane generated catastrophic destruction throughout the Virgin Islands. The islands of St. Thomas, St. John and Water Island were heavily impacted with many residences, several hotels, schools and the sole hospital on St. Thomas sustaining significant damage.

On September 19-20, 2017, the U.S. Virgin Islands was once again ravished by another category 5 storm, Hurricane Maria, causing catastrophic damage to the infrastructure on St. Croix, as well its sole hospital, its schools, hotels, residences, and government buildings, and causing additional damage to St. Thomas, St. John and Water Island.

At my request, the President of the United States declared each island a major disaster area and, due to such declaration, the Government is now eligible to obtain one or more Special Community Disaster Loans from the United States of America, acting through the Federal Emergency Management Agency ("FEMA"), pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, *et seq.* [44 CFR 206.371] (the "Stafford Act"), due to the Government's substantial loss of tax and other revenues as a result of the two hurricanes. The proceeds of the Community Disaster Loans will enable the Government to provide essential municipal services, including the operations of the Juan F. Luis Hospital and Medical Center (the "JFL Hospital") and the Roy Lester Schneider Regional Medical Center (the "RLS Hospital", together with the JFL Hospital, the "Hospitals"); the Virgin Islands Waste Management Authority ("VIWMA"); and, the University of the Virgin Islands ("UVI").

Our applications for our first draw of funds under the Community Disaster loans have been approved thus far as follows; The Roy Lester Schneider Hospital, \$24,000,000; the Governor Juan Luis Hospital and Medical Center, \$22,000,000; the Virgin Islands Water & Power Authority, \$75,000,000 and the General Fund of the Government of the Virgin Islands, up to \$300,000,000. We also anticipate additional first draws of funds for the Virgin Islands Port Authority, the Virgin Islands Waste Management Authority, and the University of the Virgin Islands.

The Government would be executing one or more Community Disaster Loan Promissory Notes with the United States of America, acting through FEMA (the "Community Disaster Loan Promissory Notes"), in such amounts as may be approved by FEMA, and as security therefor, FEMA will require the general obligation pledge of the Government's full faith and credit and taxing power, or such other security as the Governor or the Commissioner of Finance shall determine is necessary. Please note that the Community Disaster Loan Promissory Notes shall be subordinate to all existing Government general obligation debts.

The proceeds of the Community Disaster Loans will provide funds (i) for essential governmental functions, as authorized under the Community Disaster Loans, to the Government and will be in such principal amounts as shall be approved by FEMA pursuant to the Stafford Act, including any amounts approved for the JFL Hospital, the RLS Hospital, the VIWMA and UVI.

As evidence of its obligation to repay the Community Disaster Loans, the Government will be required to enter into one or more Community Disaster Loan Promissory Notes in favor of FEMA, acting on behalf of the United States of America, together with such other documents and agreements necessary or advisable in connection with the issuance of the Community Disaster Loan Promissory Notes.

The proposed bill further provides that any Community Disaster Loan Promissory Notes shall bear interest at a rate not to exceed the interest rates required pursuant to the Stafford Act, and in no event will such interest rate exceed eight percent (8%), with a maximum maturity not to exceed twenty-five (25) years from the date of issuance of such Community Disaster Loan Promissory Note.

The authorization of such borrowing will permit the Government to expeditiously enter into such Community Disaster Loans to ensure the continued delivery of essential services to the Territory.

### **Governor's Recommended Bills to Provide for Recycling, Waste Reduction and Source Separation**

Enclosed are two (2) bills I am resubmitting to the 32<sup>nd</sup> Legislature of the Virgin Islands to provide for (1) Establishment of a Comprehensive Waste Reduction, Recycling, and Composting Program; and (2) Establishing Source Separation to protect the environment and to manage the solid waste stream in the Territory.

On January 11, 2017, I previously submitted these proposed bills for legislative review and action; however, no action was taken by the Legislature. Had we begun the process of source separation over two years ago; the mountains of household waste now accumulating across the Territory would be more manageable and to some extent, exportable. Each bill focuses on a different aspect of solid waste recycling which will allow the Territory to move forward with viable alternatives to our current solid waste management strategy and ultimately encourage waste minimization. While the proposed bills vary from the original bills I proposed and submitted to the 31<sup>st</sup> Legislature, what I submitted in January and is before you again today is the collective

work of my Administration and discussions regarding concerns voiced at the committee hearings that took place before the 31<sup>st</sup> Legislature. After initial committee hearings, my Administration made certain amendments to the proposed bill taking into account the concerns voiced at the committee hearings. Those amendments were submitted, approved and passed by the Committee before being forwarded on to the Committee on Rules and Judiciary. The proposed bills before you are those bills, with the exception of hard dates removed and replaced with "enactment deadlines." I am open and proposing that this new law not take effect before July 1, 2018.

To that end, the proposed pieces of legislation contain a public education component. It is recognized that in order for us to transition from what has been accepted as the standard to something that will be beneficial to the Territory in every respect, we will need to utilize various avenues of communication to raise public awareness as well as to foster a spirit of cooperation.

The Source Separation bill, in particular, focuses on a comprehensive overhaul of our solid waste management and disposal practices. It will require a level of effort on everyone's part to segregate our various waste streams and divert recyclables from the landfills so that recycling is fully achieved.

Consistent with the aforementioned bill, the VI Recycling bill imposes requirements on the retailers and distributors of beverage containers that have been perpetually discarded in our landfills. In lieu of disposal, each container will have a redemption value, and retailers will need to allocate funds for the redemption program. A tracking and reporting system will also be developed to ensure that any product entering the Territory will meet the labelling and redemption requirements.

The time for this policy is now. Our recovery will be made better by significantly changing the way we process and manage our solid waste.

**Amendments to the Virgin Islands Horse Racing Industry Assistance Act of 2010:**

On January 11, 2017, and again on May 4, 2017, I forwarded proposed amendments to the Virgin Islands Horse Racing Industry Assistance Act of 2010 to create a single Horse Racing Commission and to criminalize doping of horses racing in the Virgin Islands. I made it clear in my transmittal letter to the Legislature that despite my Administration's efforts to develop a comprehensive approach to modernize and promote the horse racing industry in the U.S. Virgin Islands by identifying a private investor/operator to invest nearly \$30 million in private capital to build modern state-of-the-art racetracks and related facilities on both St. Thomas and St. Croix, the Territory could lose this investment and appurtenant benefits due to the failure to pass this bill.

My proposed bill is a predominant copy of the legislation worked on by Members of the 32<sup>nd</sup> Legislature. I have met with our private partner on our agreement and VIGL is committed to moving forward to implement our agreement and invest and modernize our horse racing facilities. The bill also proposes to create a single regulatory structure by consolidating the two existing District Commissions and establishing one commission within the Department of Sports, Parks

and Recreation, called the Virgin Islands Horse Racing Commission ("Commission"). The Commission would be composed of nine voting members, with four from St. Croix and four from St. Thomas-St. John (with one member from St. John), each appointed by the Governor and confirmed by the Senate, and the Commissioner of Sports, Parks and Recreation will serve as the ninth member.

Second, the proposed bill contained very important and significant provisions requiring a racetrack operator to comply with best practices in the horse racing industry, including compliance with federal and local anti-doping rules, to ensure that horse races in the Virgin Islands are conducted safely and with integrity. These provisions are essential to preserve the \$30 million private sector investment to build new horse racing facilities in the Territory.

Third, the proposed bill contains provisions to make sure that the increase in casino fees from 19 ¼% to 25% is paid into a separate and distinct special fund called the "Horse Racetrack Casino Revenue Fund." The percentages of the distribution of this nearly 30% increase in casino fees were proposed as follows:

- 50% to the General Fund of the Virgin Islands Treasury;
- 30% to the respective horsemen's associations in both island districts, evenly divided;
- 3% to a newly established Thoroughbred Fund for use in the Certified Thoroughbred Program to improve facilities and breeding stock in the horse racing industry;
- 3% to a newly established Hospitality Fund for hospitality training in the tourism industry;
- 5% to the Agriculture Revolving Fund established and administered pursuant to 33 V.I.C. §3018, for the purchase and cultivation of fresh fruits and vegetables for consumption within the Territory;
- 4% to the Department of Agriculture for the treatment of horses who are injured or retirement of horses no longer racing; and,
- 5% to the Department of Sports, Parks and Recreation for the development of youth and sports activities in the Territory.

In preparation of the bills for the Special Session called for May 10<sup>th</sup>, 2017, the Legislature's legal counsel bifurcated my original proposed bill into two bills; Bill No 32-0092 addressing the single Commission and Bill No. 32-0093 containing anti-doping provisions and racino tax distribution percentages. Bill No. 32-0092, I have determined, while some technical changes, it addressed the substance of what I proposed in my original proposed bill. However,

Bill No. 32-0093 substantially differs from my May 4<sup>th</sup>, 2017 proposed bill. Although the 32<sup>nd</sup> Legislature through its Committee process considered these two bills and several amendments were made, in the abundance of caution and to ensure that the amendments I proposed are in conformity with my original submission, I am hereby resubmitting the bill for the Legislature's further consideration.

**Authorize and Appropriate the sum of \$9,000,000.00 for the Cost of Completion of the Frederiksted Economic Revitalization Project, Phase II**

Again, I submit to you my proposed legislation to authorize and appropriate the sum of \$9,000,000.00 to fund the completion of Phase II of the Frederiksted Economic Revitalization Project, which includes the Paul E. Joseph Stadium, the Terrance Martin Softball Field, the Crucian Christmas Festival Village and the infrastructure for adequate flood control and drainage to protect the project and persons and property within the town of Frederiksted, (the Project") on St. Croix. The project suffered approximately \$300,000 of damages or losses, which are covered by insurance. The project will proceed, and I am pleased to advise you that Crucian Christmas Festival will be held this year from December 22, 2017 through January 6, 2018.

The cost of the Project is \$27,500,000.00 of which the original amount authorized of \$18,650,000.00 remain available. To that end, I am proposing by this transmittal that the Legislature authorize and appropriate the following sums needed to complete all components of the project:

- a. \$6,000,000.00 from the Limetree Bay Terminals bitumen project held in escrow at the Virgin Islands Public Finance Authority;
- b. \$2,000,000.00 in Fiscal Year 2018 from the Community Facilities Trust Account; and
- c. \$1,000,000.00 in Fiscal Year 2018 from the St. Croix Capital Improvement Fund.

As you are aware, the Operating Agreement between the Government of the Virgin Islands and Limetree Bay Terminals, LLC ("Limetree Bay") provided that Limetree Bay would modify or construct one or more bitumen storage tanks at a cost of six million dollars (\$6,000,000.00).

In light of the market conditions and lack of a credible and stable supplier of bitumen; having and using the bitumen tanks at this time is not feasible. The Government of the Virgin Islands, therefore pursuant to Sections 19.7 and 19.12 of the Operating Agreement, agreed to permanently waive the requirement to modify and construct a bitumen tank and accepted from Limetree Bay Terminals the sum of \$6,000,000.00, the estimated cost of the construction of the tank(s).

The Community Facilities Trust Account created through the Diageo Agreement provides that I, as Governor, recommend the use of the funds for community projects. There can be no dispute that the Frederiksted Economic Revitalization Project, Phase II with its component sports fields and facilities are the purposes for which the Community Facilities Trust Account was

created. Upon delivery of the Internal Revenue Matching Funds for FY 2018, a concomitant deposit will be made into the Community Facilities Trust Account.

Finally, the St. Croix Capital Improvement Fund in FY 2018 will also provide the remaining funds to complete the Project.

Authorizing these funds in a timely manner will ensure that the Project proceeds without interruption and add more jobs and economic stimulation to the St. Croix economy.

**Coastal Zone Management Permits CZX-1-17(W) and CZX-36-16(L&W)**

Coastal Zone Management Permit CZX-1-17(W) to authorize the maintenance dredging of the Krause Lagoon and Cross Channels to return to an operating depth of -36 ft. The Permittee will dredge 10,392 yd<sup>3</sup> of material from three (3) areas totalling 1,457 ft<sup>2</sup> along the Krause Lagoon Channel and the Cross Channel located on the south shore of St. Croix. The dredged material will be offloaded at the Gordon A. Finch Molasses Pier and disposed of in a borrow pit to the North of the Henry E. Rohlsen Airport. The development activities will be located seaward to the east of the Wilfred "Bomba" Allick Container Port and Trans-shipment Center, #8 Estate Hope, Christiansted, St. Croix.

Coastal Zone Management Permit CZX-36-16 (L&W) to allow the entire Gallows Bay Marine Terminal building to come into compliance with the CZM Act, and authorizes the demolition and reconstruction of the 3,020 ft<sup>2</sup> arrival building. In addition, this permit supersedes Minor CZM permit No. CZX-13-14W, which authorizes the Permittee to repair 34,642 ft<sup>2</sup> of the existing concrete apron, place 112 linear feet of rip-rap revetment, and occupy 0.06 acres (2,613 ft<sup>2</sup>) of filled submerged land. All above mentioned activities will be take place on and seaward of Plots 2A, 2B and 2C Garden Street, St. Croix.

As always, members of my Administration remain available to discuss any concerns or questions you may have. I thank you and the Members of the Thirty-Second Legislature for their work, and I trust that there will be prompt and swift consideration of these bills and CZM permits so that we can continue in the strategic recovery of the Territory and work in the best interests of the People of the Virgin Islands.

Sincerely,



Kenneth E. Mapp  
Governor

Encls. of proposed bills w/ exception of CZM Permits which have been previously submitted to the Legislature.