

**BILL NO. 30-\_\_\_\_\_**

**THIRTIETH LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS**

An Act amending Title 29, 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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**PROPOSED BY: GOVERNOR**

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1 *Be It Enacted by the Legislature of the Virgin Islands*

2       **SECTION 1.**       Title 29, Chapter 12, is amended by deleting the words “Industrial  
3 Development” and replacing it with “Economic Development” wherever they appear.

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

6       (a) In Section 704(f) and (g) delete the word “appointive”.

7       (b) In Section 704(f) delete “\$50.00” and replace with “\$150.00”.

8       (c) In Section 705(e) delete “the Director of the Bureau of Audit and Control” and replaced  
9 with “the Director of the Internal Revenue Bureau and the Director of the Office of the  
10 Inspector General”

11       (d) In Section 707(i), (j) and (k) Insert before “Corporation” the phrase: “the Economic  
12 Development Park”

13       (e) Section 708(a) is deleted in its entirety and replaced with the following:

14       “ (1) Invest at least \$100,000, exclusive of inventory, in an approved industry or business that  
15 the Commission has determined to advance the economic well-being of the Virgin Islands and  
16 its people. The approved industries or businesses and their established categories shall be:

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18  
19       **Category I** – Legacy Virgin Islands Industries - including Rum Production,  
20

1 Milk/Dairy Production, Watch and Jewelry Manufacturing and Assembly.

2  
3 **Category II** – Product Assembly, Manufacturing, Repair and Maintenance and/or  
4 Export Operations (other than Historic VI industries) - including but not  
5 limited to Agriculture/Mariculture and Food Processing, Marine and Aircraft  
6 Industry, Machine and Heavy Equipment, and Bottling and Packing.

7  
8 **Category III** – Facilities, Tourism and Communications Developments -  
9 including Hotel/Guesthouses, Health Care, Recreation and Retirement  
10 Facilities, Transportation, Utilities (including Alternative Energy Industry)  
11 and Telecommunication.

12  
13 **Category IV** – Designated Services Businesses - as defined in Section 703(g) of  
14 this Chapter.

15  
16 (2) The Commission shall have the discretion to approve other such industries or  
17 businesses as may be deemed appropriate by the Commission which a finding by  
18 the Commission has determined will advance the economic well-being of the  
19 Virgin Islands and its people and the applicant of such industry or business has  
20 agreed to the investment and employment requirements along with any other such  
21 special conditions as agreed between the applicant and the Commission.

22  
23 (3) Any application that qualifies in two categories, however, under the provisions  
24 of this subsection, shall be considered in the highest payment fee and term  
25 category for the purpose of this chapter and an applicant may apply in more than  
26 one approved industry or business.

27  
28 (4) Provided that two categories may not be combined in one certificate unless the  
29 businesses are integral to each other.

30  
31 (5) In determining the amount of the investment undertaken by the applicant for  
32 purposes of this subsection (1) the assessed value of land and previously existing  
33 buildings (as assessed for tax purposes) used in the industry or business shall be  
34 included only to the extent that it does not exceed twenty (20%) percent of the  
35 investment undertaken; however, this provision shall not apply to an industry or  
36 business of a nature in which investment in land and alteration and/or  
37 improvement thereof represents its primary investment factor. (2) The fair market  
38 value of all equipment leased for a term of at least five years shall be included in  
39 determining compliance with the investment requirement. (3) The minimum  
40 investment required by this section may be reduced, if the Commission finds that  
41 the benefits of the proposed industry or business will ~~provide extraordinary~~  
42 ~~employment to~~ justify the lower investment.”

43  
44 (f) In Section 708a rename “Category IIA” as “Category IV” and reformat as appropriate.

45  
46 (g) In Section 713a(b) is deleted in its entirety and replaced with:

1 “Each approved applicant eligible for benefits provided under this section shall be  
2 granted benefits as follows:

3 (1) St. Thomas/St. John District approved applicants shall be granted 100% benefits for  
4 a period of 20 years if they remain in compliance with all the requirements of this  
5 chapter.

6 (2) St. Croix District approved applicants shall be granted 100% benefits for a period of  
7 30 years if they remain in compliance with all the requirements of this chapter.

8 (3) Approved applicants, or Board approved ~~wholly-owned~~ affiliates, -that make an  
9 ~~initial~~ investment in the beneficiary business, in infrastructure, new construction, or  
10 refurbishment greater than Ten Million Dollars shall be granted 100% benefits for an  
11 additional period of 10 years if they remain in compliance with all the requirements of  
12 this chapter. Approved applicants, or Board approved affiliates, that make an investment  
13 in the beneficiary business, in infrastructure, new construction, or refurbishment greater  
14 than Ten Million Dollars, but that did not initially indicate that they would make such an  
15 investment, can seek a 10 year extension from the Board upon the completion of such  
16 investment, and such extension shall not be unreasonably withheld.

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

22 (5) Beneficiaries that remain in compliance with all the requirements of this chapter  
23 and their certificate shall be eligible for ~~one~~ 10 year extensions at 100% of benefits. ~~Each~~  
24 ~~This~~ extension shall be recommended by the Commission and approved by the Governor  
25 but shall not require a public hearing. “

26  
27 (h) Section 713a(d) is deleted in its entirety and replaced with:

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

34  
35 (i) In Section 713f(b) delete “EDC beneficiaries” wherever it appears and replace with  
36 “companies and/or developers”

37 (j) Section 714(g) is deleted in its entirety.

38 (k) Section 714(a) is deleted in its entirety and each succeeding subsection is respectively  
39 renumbered.

40 (l) In renumbered Section 714(a) delete all language following the words “commence at”

1 and replace with: “a date certain, but in no event shall the commencement of benefits  
2 occur later than one (1) year after the date of the Governor’s approval of benefits. The  
3 Commission may extend the time for commencement of benefits ~~to a time certain~~  
4 beyond one (1) year after the date of the Governor’s approval of benefits upon good  
5 cause and a finding that the benefits would be a nullity to the beneficiary if commenced  
6 prior to one (1) year after the date of the Governor’s approval of benefits.” [Often a  
7 business seeking an extension cannot provide a definite activation date particularly if it  
8 is a capital intensive business such as a hotel also dealing with DPNR/CZM issues.  
9 The goal should be to require an ongoing dialogue so that the EDC understands the  
10 factors involved in not activating.]

11 (m) Renumbered Sections 714b and 714c are deleted in their entirety and each succeeding  
12 subsection is respectively renumbered.

13 (n) In Section 715

14 1) 715(a) delete the words “extension,” and “or renewal”.

15 2) 715(c) delete the words “extensions or”.

16 (o) In Section 715 delete in its entirety subsection (a)(2).

17 (p) Re-number sections 715(a)(3) and (4) as 715(a)(2) and (3).

18 (q) Sections 715(b) is deleted in its entirety and sections 715(c) and (d) are renumbered as  
19 715(b) and 715(c).

20 (r) In Section 717(b) add a third sentence following after the word “application.” to read  
21 “Should an application be disapproved, the applicant or beneficiary may petition the  
22 Commission, through a written petition to the Commission, in accordance with Rules &  
23 Regulations of the EDC, for reconsideration of action within ten (10) calendar days,

1 excluding Sundays and holidays, from the date the disapproval is received by the  
2 applicant.” [Didn’t notice this before – the regulations currently provide for 30  
3 calendar days. Often a significant amount of work is involved in requesting  
4 reconsideration and I don’t see a reason to shorten the period or to make it statutory  
5 rather than regulatory]

6 (s) In Section 717a at the end of Section 717a(c) insert “Provided, if the Governor has  
7 concerns with a recommendation of benefits, the Governor shall have the option of  
8 returning a recommendation package to the EDC for reconsideration and thus stop the  
9 60 day requirement above. Upon a resubmission after reconsideration a new sixty (60)  
10 day period shall commence.”

11 (t) In Section 718(a)(4) delete the following language “which date may be retroactive to  
12 the first date of investment by the beneficiary in the industry or business granted the  
13 certificate, but such date shall not be before the effective date of this chapter.” and  
14 replace with “at some point no later than one year after the date of the Governor’s  
15 approval of benefits. Credit for capital investment only, may be retroactive to a date  
16 certain, but in no event more than one (1) year prior to the date of the Governor’s  
17 approval of benefits.”

18 (u) Section 719 is re-titled as: “Transferability and Voluntary Termination”

19 (v) Re-letter the current language of section 719 as “(a)” and insert “entity,” after “person”  
20 wherever it appears

21 (w) Add a new Section 719(b) to read as follows:

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

25 (1) Release the beneficiary from its stated monetary and/or contractual

1 obligations to the EDC and the U.S. Virgin Islands; or

2 (2) Any other reasonable action within the authority of the Commission as  
3 stated within this chapter.

4  
5 Any of the above actions by the Commission does not release the EDC  
6 beneficiary from any other obligations, contractual agreements, laws, statutes or  
7 rules and regulations related to its activities with any other federal or local  
8 governmental entity or its obligation contractual or otherwise with other entities.

9  
10 (x) In Section 722(5) delete the phrase “addition to the fine and/or”

11 (y) In Section 722 add a new subsection (6) to read: “

12 “(6) The Commission may also suspend or modify the certificate of a  
13 beneficiary, or in the case of a corporate beneficiary any officer or member  
14 acting on behalf of the corporation or in the case of a partnership any partner  
15 acting on behalf of the partnership, that is the subject of federal or local law  
16 enforcement charges or investigations connected with the operation of the  
17 beneficiary business. Such suspension shall be reviewed by the Commission  
18 after resolution of any investigation and/or charges.”

19  
20 **SECTION 3.** Title 29, Chapter 21, is amended in the following instances:

21 (a) Section 1115(a) is hereby deleted in its entirety and replace with:

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

31  
32 (b) Section 1115(d) is hereby deleted in its entirety.

33 **SECTION 4.** Title 29 V.I.C. Chapter 13, Section 802 is hereby amended by  
34 deleting “Virgin Islands Industrial Park Development” and replacing with “Virgin Islands

1 Economic Development Park”.

2           **SECTION 5.**           Wherever it appears in the Virgin Islands Code, "Virgin Islands  
3 Industrial Park Development”, shall be renamed, replaced with and shall be referred to as  
4 "Virgin Islands Economic Development Park" and "Virgin Islands Industrial Park Development  
5 Corporation” shall be renamed, replaced with and shall be referred to as "Virgin Islands  
6 Economic Development Park Corporation"

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8

**BILL SUMMARY**

9 The original Industrial Development Program Law was enacted in 1972. While there have been  
10 numerous amendments to add new industries and refine benefits, there has not been a  
11 comprehensive revision to address the changing nature of business and industry as well as  
12 advancements in technology.

13 Section 1 renames the program from Industrial Development to Economic Development which  
14 more accurately reflects the function of the organization.

15 Section 2 revises outdated and administratively burdensome sections and updates the program to  
16 better reflect the current economic and business climate. Benefit periods are increased to be  
17 more realistic in today’s business and financial world. The review and approval stages are made  
18 more efficient to provide timely decisions.

19 In 2001 the Economic Development Authority was created to serve as a master unified vehicle  
20 for economic development in the Territory. Section 3 revises the Economic Development  
21 Authority structure to provide a more responsive, effective and efficient administration. The  
22 various subsidiary agencies of the Authority are returned to their prior status of commissions  
23 thus removing the additional layer of approvals and speeding up the approval and review

1 process.

2 Sections 4 and 5 rename the Industrial Park Development law and the corporation the Economic

3 Development Park law and corporation to be consistent with current uses.

4 Review of the volatile economics of today and the evolution of global competition for economic

5 development opportunities for jurisdictions, the time is right for a comprehensive revision of our

6 Economic Development Law.