

ECONOMIC Development Authority's ENTERPRISE ZONE COMMISSION LAW

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*** Statutes current through Act 7616 of the 2014 Regular Session, Excludes Acts 7579 and 7611 ***

TITLE TWENTY-NINE Public Planning and Development Chapter 19. Enterprise Zone Program Act Subchapter I. Enterprise and Commercial zone program

§ 1001. Legislative findings

The Legislature hereby finds and declares that:

(a) there exists in localities throughout the territory, areas of historical significance that once experienced commercial and trade activity, but due to the general economic downturn are in need of economic and physical revitalization;

(b) these areas having been proclaimed by Executive Order as Enterprise Zones include blighted areas (as defined in section 1003 of this Title) that have displayed high levels of unemployment, physical deterioration, and economic disinvestment;

(c) the existence of such areas tarnishes the image and reputation of the territory in the eyes of its residents and visitors alike, reduces the desirability of these areas as places to visit, work and live, and substantially impairs the sound growth of communities and business enterprises within these areas;

(d) the revitalization and redevelopment of these areas for the ultimate benefit of its residents and the territory as a whole is of critical importance;

(e) the resources of the Government alone, without the aid provided in this chapter, are insufficient and often inappropriate, to successfully undertake the massive task of restoring the social and economic productivity of such areas;

(f) the revitalization of these areas can only occur if the private sector can be induced to invest its own resources in productive enterprises that will ultimately rebuild the commercial viability of these areas and provide jobs for their residents;

(g) in order to provide the private sector with the necessary incentives to invest in these blighted areas, the Government should seek ways to relax or eliminate fiscal and regulatory constraints and should seek to identify supportive actions that facilitate business investment in these blighted areas;

(h) the elimination of conditions of blight is vital to the economic and physical rehabilitation of these Enterprise Zones; and

(i) all powers conferred by this chapter are for public uses and purposes for which public money may be expended and such other powers exercised, and the necessity in public interest for the provisions of this chapter is declared as a matter of legislative determination.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1002. Policy and purpose

(a) It is the policy of the territory to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed Enterprise Zone areas and to provide jobs for the residents of such areas. In achieving this objective, the territory will seek to provide appropriate investments, tax benefits, and regulatory relief of sufficient importance to encourage the business community to commit its financial participation.

(b) The purpose of this chapter is to establish a process that provides incentives by the Government to induce private investment in Enterprise Zone areas by removing unnecessary governmental regulatory barriers to economic growth, and to provide tax incentives and economic development program benefits.

(c) The Legislature, therefore, declares the revitalization of Enterprise Zone areas, through the concerted efforts of Government and the private sector, to be a public purpose.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1003. Definitions

As used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Area of Operation" or "Enterprise Zone" means the total area within the Territory that has been declared an enterprise zone as designated by law or pursuant to a proclamation or executive order issued by the Governor, which proclamation or order shall include a detailed legal description of the additional area to be included in the specific Area of Operation or Enterprise Zone. The Area of Operation or Enterprise Zone includes areas that have been so designated prior to the effective date of this legislation.

(2) "Blighted Area" means that portion of an Enterprise Zone that is determined by the Enterprise Zone Commission to be a social or an economic liability to such Enterprise Zone because of one or more of the following conditions:

(a) Dwellings therein that are substandard, unsafe, unsanitary, dilapidated or obsolescent, or are so lacking in light, air or space, as to be conducive to unwholesome living;

(b) Buildings therein that were previously used for commercial, manufacturing or industrial-purposes are no longer being used for such purposes and have been either abandoned or have fallen into such a great state of disrepair as to be untenable;

(c) Unimproved vacant land therein that has been unimproved for a minimum period of 10 years prior to the date of the resolution as provided in section 1010 of this title herein and is not likely to be developed through private capital by reason of its (1) location, (2) remoteness from developed sections of such Enterprise Zone, (3) lack of means of access to such other parts thereof, (4) topography, or (5) nature of the soil;

(d) Areas that are detrimental to the safety, health, morals, or welfare of the residents of, persons working in, or visitors to the Enterprise Zone because of the existence of buildings that are dilapidated, obsolete, deteriorated, overcrowded, have faulty designs, have inadequate accessibility, lack ventilation, light or sanitary facilities, have excessive land coverage, demonstrate deleterious land use, have an obsolete layout, have a defective or inadequate street layout, or have a combination of these factors;

(e) Potentially useful areas are not properly productive to serve the public health, safety and welfare, in whole or in part, because of title issues, diverse ownership of the real property therein; the existence of property tax or special assessment delinquencies that exceed the fair market value of the land, or the existence of conditions (including fire hazards) that endanger life or property.

(f) Substantial property tax arrearages exist for commercial or residential structures.

(g) Substantial losses of businesses or jobs have occurred.

(3) "Community" means any neighborhood within the enterprise zone.

(4) "Conservation" means the preservation of an area or section of community and supervision and care of such area or section to prevent the occurrence or spread of conditions of blight.

(5) "Enterprise Zone Business" means any individual, partnership, corporation, limited liability company, proprietorship or other business granted benefits pursuant to this chapter.

(6) "Enterprise Zone Commission" means a public body created pursuant to section 1004 of this title.

(7) "Real property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or sued in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(8) "Rehabilitation" means the reconstruction, alteration or repair of improvements, structures and buildings, in accordance with the requirements of the Virgin Islands Building Code, and other laws and rules or regulations pertaining to building, fire prevention, health, housing, and zoning and also the use of land, and the use and occupancy of buildings and improvements.

(9) "Resident of the Virgin Islands" means:

(a) any United States citizen currently domiciled in the Virgin Islands for one (1) year or more; or

(b) the holder of an alien registration receipt card (United States Department of Justice Form No. 1-151) domiciled in the Virgin Islands for one (1) year or more.

(i) A person shall demonstrate that he has been a resident for one (1) year or more for the purposes of this chapter using the date of issuance information from a W-2 form, a voter registration card, a permanent resident card, a Virgin Islands driver's license. or other methods as provided by the Economic Zone Commission pursuant to its authority under section 1007(i) of this title hereof.

(c) A person who has attended a school in the Virgin Islands for at least five years or more, or is a graduate of a Virgin Islands high school, or of the University of the Virgin Islands, and is registered to vote in the Virgin Islands.

(10) "Enterprise Zone Commission Staff" means the staff of the Enterprise Zone Commission to assist with the promotion, marketing, and development of enterprises within the Enterprise Zone.

(11) "Commercial Zone" means the total area within the Territory which has been declared a commercial zone pursuant to a proclamation or executive order issued by the Governor or pursuant to a resolution issued by the Enterprise Zone Commission approved by the Governor, and which includes a detail legal description of the area to be included in the specific Commercial Zone.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88; amended Sept. 20, 2010, No. 7197, § 1(a), Sess. L. 2010, p. 181; amended May 16, 2014, No. 7589, § 3, Sess. L. 2014, p. --.

§ 1004. Creation of the Enterprise Zone Commission

(1) There is created a public body to be known as the Enterprise Zone Commission. The Commission shall be within, and shall constitute a subsidiary entity wholly administered and operated by the Economic Development Authority established in title 29, chapter 21, Virgin Islands Code; and

(2) The Commission shall be organized as a committee of the Economic Development Authority and shall be composed of five members of the Economic Development Authority Board of Directors established under this title as appointed by the Chairman of the Economic Development Authority.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88; amended Feb. 21, 2002, No. 6503, § 8, Sess. L. 2002, p. 270.

§ 1005. Compensation; traveling expenses

Appointed members of the Commission shall receive compensation of \$ 75 per day while attending Commission meetings, plus necessary expenses incurred thereby. However, only one payment of \$ 75 per day will be made when an appointed member attends meetings of both the Historic Preservation Commission and the Enterprise Zone Commission. Each commissioner shall hold office until a successor has been appointed and has been qualified.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88; amended Sept. 20, 2010, No. 7197, § 1(b), Sess. L. 2010, p. 181.

§ 1006. Quorum; meetings; qualifications for appointment as commissioner

Four (4) of the commissioners shall constitute a quorum of the Commission for the purpose of conducting business and exercising the powers of the Commission and for all other purposes. The Board may act upon a vote of a majority of the commissioners present, unless the bylaws or rules and regulations of the Commission shall require a larger number. The Board shall promulgate bylaws for its operations.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1007. Powers and duties of the Commission

The Commission, either directly, or through its staff, shall have the following powers and duties:

(a) Develop application procedures for demonstrating compliance with section 1011 of this chapter and for obtaining the benefits set out under section 1012 of this chapter, which may or may not include mandatory public hearings at the discretion of the Commission;

(b) Review all applications (including financial records) for benefits as provided in section

1014 of this chapter, and grant the necessary certificates;

(c) Oversee and monitor the implementation of this chapter;

(d) Determine compliance of the beneficiaries with the provisions of this chapter and all regulations promulgated hereunder, and report such findings at least annually to the Governor;

(e) Actively promote and publicize the Enterprise Zone Program, including preparing, purchasing, and distributing by mail, the internet, or other means, materials concerning Enterprise Zones;

(f) Provide technical and business assistance related to tax incentives and the development of alternative revenue sources to businesses and residents within each Enterprise Zone;

(g) Coordinate Federal and Territorial business assistance programs and streamline permit or license application procedures for businesses located in Enterprise Zones in cooperation with the appropriate Federal and Territorial departments or agencies;

(h) Work with the appropriate Federal and Territorial departments or agencies to coordinate the Enterprise Zone Program with other programs carried out in the territory, including without limitation, housing and economic development programs, programs providing financial and other assistance to small businesses, programs providing transportation assistance, and job training programs;

(i) Apply (or work with beneficiaries of the Enterprise Zone Program to apply) for Federal and Territorial grants, loans, and services that can benefit businesses in an Enterprise Zone;

(j) Monitor enterprises that are established in or relocate to an Enterprise Zone and that qualify for the incentives provided for in section 1014 of this chapter;

(k) Prepare and promulgate such rules and regulations as may be necessary to complement the provisions of this chapter, such rules and regulations shall have the force and effect of law upon approval by the Governor; and

(l) Perform such other acts and functions appurtenant to its authority as may be required by the Governor.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1008. Annual report

At the beginning of each fiscal year, the Commission shall file with the Governor and the Legislature a detailed report of its activities for the preceding fiscal year and make any

recommendations with reference to any additional legislation or other action that may be necessary in order to carry out this chapter. In the preparation of the annual report, the Commission shall utilize the staffs and resources of the Historic Preservation Commission and the Bureau of Economic Research to the extent necessary. The written report shall set forth:

- (a) Its operations and accomplishments during the preceding fiscal year;
- (b) The progress of the implementation of the strategic plan;
- (c) The number and type of businesses assisted, located and retained in the Enterprise Zones;
- (d) The number of jobs created within the Enterprise Zones during the preceding fiscal year;
- (e) The usage and revenue impact of incentives granted during the preceding calendar year;
- (f) An evaluation of additional incentives that could be offered by the Government to revitalize the Enterprise Zones;
- (g) A review of local resources that are available and could be targeted toward revitalizing economic conditions of the Enterprise Zones;
- (h) The dollar value of Enterprise Zone tax credits that are claimed each year by Enterprise Zone businesses;
- (i) A cost benefit analysis of the Enterprise Zone Incentive Program; and
- (j) Any other relevant action by the commission as it may deem necessary.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1009. Findings of necessity

(1) The Commission shall, at least annually, make a determination as to whether one or more blighted areas exist in an Enterprise Zone and whether the rehabilitation, conservation, re-development, or a combination thereof of the area or areas is necessary in the interest of the public health, safety, morals, or welfare of the residents, and the economic viability of such Enterprise Zone or Zones specifically and the Territory of the Virgin Islands generally.

(2) Upon such a determination, the Commission shall report and recommend to the Attorney General that the area or areas be condemned and/or rehabilitated in accordance

with the provisions of Title 28, chapters 19 and 20, Virgin Islands Code, or such other action consistent with the goals of this chapter.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88

§ 1010. Resolutions

The Commission shall not adopt a resolution pursuant to section 1009 this chapter unless it finds that one or more blighted areas as defined in section 1003 of this chapter exist in one or more Enterprise Zones, and the re-development of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents, and the economic viability of such community.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1011. Specific requirements for granting of benefits

(1) In order to qualify and remain eligible for benefits provided under this chapter, an applicant must fulfill the following specific qualifications and requirements:

(a) Establish or continue to maintain a business with a valid business or project in the case of an owner-occupied residence license or be an owner-occupied residence within an Enterprise Zone;

(b) Invest at least \$ 10,000, or invest an additional amount of \$ 10,000, in a business or project in the case of an owner-occupied residence that will advance the economic well being of the Enterprise Zone. The fair market value of all equipment leased for a term of at least five years shall be included in determining compliance with the investment requirement. In determining the amount of the investment undertaken by the applicant for purposes of this subsection, the assessed value of land and previously existing buildings (as assessed for tax purposes) used in the business shall be included only to the extent that it does not exceed twenty percent (20%) of the investment undertaken; however, this provision shall not apply to any business of a nature in which investment in land and alteration and/or improvement thereof represents its primary investment factor. The minimum investment required by this section may be reduced, if the Commission finds that the proposed business will provide sufficient employment or Justify the lower investment.

(c) In the case of a natural person be a resident of the Virgin Islands as defined in section 1003(g) of this chapter.

(d) Be the actual investor in the Enterprise Zone and not a contractor, subcontractor, person or corporation acting as an agent or representative in a similar capacity to the investor;

(e) Meet such standards of ecological compatibility as may be established by Federal

and/or Territorial law.

(f) Employ at least two (2) residents of the Virgin Islands in such business directly or through subcontractors or, for existing businesses, add at least two (2) new employees who are residents of the Virgin Islands. The Commission may waive this requirement upon a demonstration to the Commission that the employment of this number of persons in this particular enterprise would not be economically feasible or practical, and upon a further finding by the Commission that the desirability of the proposed enterprise outweighs the fact that it will not provide employment for a least two residents, or for two additional residents, as appropriate.

(g) Comply with all Federal and Territorial laws, including anti-discrimination and wrongful discharge laws.

(h) For any applicant who proposes to do business on land adjoining any beach or shoreline of the Virgin Islands, agree to grant to the Government of the Virgin Islands a perpetual easement upon and across such land to the beach or shoreline to provide free and unrestricted access thereto to the public, which easement shall be duly recorded in the Recorder of Deeds upon the designation of the business as an Enterprise Zone Business.

(i) Agree in writing to notify the Virgin Islands Employment Service in writing as to the availability of employment by the business or its subcontractors, the number of employees required, the occupational classification of such workers, and the applicable wage rate.

(j) File copies of gross receipts tax returns, property tax returns, and income tax returns with the Enterprise Zone Commission, which returns shall be confidential information and shall not be released by the Enterprise Zone Commission except as provided under Title 33, Chapter 21, section 822, Virgin Islands Code, for gross receipts and property tax returns, and under section 6103 of the Internal Revenue Code of 1986, as amended, as applicable to the Virgin Islands, for income tax returns.

(2) In the case of a Virgin Islands or foreign corporation, partnership, limited liability company, or other entity, be in compliance with any applicable Federal and Territorial statutes and any rules or regulations promulgated under this chapter.

(3) The Commission may not require an applicant to meet qualifications or requirements in addition to the requirements set out in this subsection as a condition of designating the applicant as an Enterprise Zone Business.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88; amended Sept. 20, 2010, No. 7197, § 1(c), (d), Sess. L. 2010, p. 181.

§ 1012. Hiring of VI residents; competitive bidding procedures

(1) Any business granted benefits pursuant to this chapter shall agree in writing to employ, and to require all contractors retained by the business to employ persons who are residents of the Virgin Islands.

(2) Any business granted benefits pursuant to this chapter shall similarly agree, and must require all contractors retained by the business to agree, to contract for services with and purchase goods, materials and supplies from those persons who are residents of the Virgin Islands and those entities that are incorporated or registered 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 at least one year prior to the initial date of any such purchase, contract, or subcontract, provided that the bid of such resident or entity does not exceed the bid of any nonresident person or entity by more than fifteen percent (15%). Each Enterprise Zone business and all contractors and subcontractors of such business must invite competitive bidding for all services, goods, and materials pursuant to the publication requirements of Title 31, Chapter 23, section 236, Virgin Islands Code, and must apprise each bidder in writing of the name of the successful bidder and the amount of his bid within thirty (30) days after awarding the bid.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

§ 1013. Industrial development benefits beneficiary exclusion

(1) Beneficiaries of the Industrial Development Program in Title 29, Chapter 12, Virgin Islands Code, shall not be eligible to be designated as Enterprise Zone Businesses nor to receive benefits authorized pursuant to the provisions of this chapter.

(2) An individual or entity that was formerly a beneficiary of the Industrial Development Program can, however, apply for benefits as an Enterprise Zone Business, and a current beneficiary of the Industrial Development Program can apply for benefits as an Enterprise Zone Business and terminate its benefits under the Industrial Development Program as of the effective date of its benefits as an Enterprise Zone Business.

(3) An Enterprise Zone Business can similarly apply for benefits under the Industrial Development Program and, upon the receipt of such benefits, elect to terminate its benefits under the Enterprise Zone Program as of the effective date of its benefits under the Industrial Development Program.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88.

Subchapter II. Enterprise zone benefits

§ 1014. Tax credits; tax benefits; benefit options

(1) Each Enterprise Zone Business shall qualify for the following tax credits and tax benefits:

(a) A nonrefundable gross receipts tax credit or an income tax credit equal to twenty-five percent (25%) of the actual value expended within a fiscal year for construction of a new building within the Enterprise Zone;

(b) A nonrefundable gross receipts tax credit or an income tax credit equal to twenty-five percent (25%) of the actual value expended within a fiscal year for rehabilitation of buildings or other real property within the Enterprise Zone;

(c) A nonrefundable gross receipts tax credit or an income tax credit equal to ten percent (10%) of the expenditures within a fiscal year for investment in machinery and equipment for exclusive use by the Enterprise Zone Business;

(d) A gross receipts tax rate of three percent (3%) for gross receipts derived by the Enterprise Zone Business, pursuant to Title 33, Chapter 3, section 43, Virgin Islands Code;

(e) A one-time nonrefundable \$ 500 income tax credit for every job created within the Enterprise Zone for which a resident of the Virgin Islands as defined in section 1003 herein is hired, which credit shall be taken for the fiscal year in which the resident is hired;

(f) A property tax credit against taxes imposed pursuant to, Title 33, Chapter 81, section 2301, Virgin Islands Code, equal to the increase in property taxes assessed due to renovation, rehabilitation, or construction of property within the Enterprise Zone.

(2) (a) Each enterprise zone business may qualify for the following nonrenewable tax benefits for a period of five years for eligible activities based on the town plan adopted by the Enterprise Zone Commission for the respective Enterprise Zone:

(1) An income tax credit of 90 percent;

(2) An exemption from gross receipts of 100 percent; and

(3) An exemption from property taxes of 100 percent.

(b) To qualify and remain eligible for benefits under this paragraph, the applicant must agree in writing to or continue to maintain a business within an Enterprise Zone for a period of ten years from the first date of receipt of benefits under this paragraph.

(c) The benefits program under this paragraph expires eight years from the date the Commission adopts the town plans.

(3) The Enterprise Zone Business must indicate for the fiscal year that an expenditure is made whether it is taking the gross receipts or the income tax credit pursuant to subsections (a), (b), and (c) for such expenditure.

(4) Any credit derived by an entity that is not taxable at the entity level, such as a limited liability company, partnership, or Subchapter S corporation, shall flow through to its owners as long as they are residents of the Virgin Islands as defined in section 1003 herein.

(5) Only expenditures incurred over a consecutive five-year period can give rise to tax credits under this chapter, and each Enterprise Zone Business can elect the commencement date of such five-year period. An Enterprise Zone Business can elect a commencement date for expenditures of up to two years prior to the date that the Enterprise Zone Business has been granted benefits under this chapter. The benefits can be taken over a period (Benefit Period) of up to ten years.

(6) The property tax benefit and the reduced gross receipts tax rate will apply for the benefit period.

(7) Each Enterprise Zone Business must obtain and maintain a valid license to conduct business in the territory for each year in which it receives tax benefits under this section, and if for any reason an Enterprise Zone Business does not have a valid license in place for one or more years, it will not be entitled to the tax benefits under this section without further action on the part of the Enterprise Zone Commission.

(8) Any duly licensed bank or other financial institution doing business in the territory shall be entitled to a reduction in its income tax liability for up to five years per loan, equivalent to the percentages set forth in the table in subsection (9) of this section, of the income taxes incurred to the Virgin Islands by such duly licensed bank or other financial institution that are attributable to interest received on loans granted to Enterprise Zone Businesses at below-market rates. The proceeds of such loans must be utilized exclusively by the Enterprise Zone Business within one or more Enterprise Zones, and the Enterprise Zone Business must so represent in writing to the bank or other financial institution as a condition for receipt of the loan. If a loan is extended for more than five years to an Enterprise Zone Business, the benefits of this subsection shall apply only to interest received in those years that the borrower is an Enterprise Zone Business within the meaning of section 1003(5) of this chapter.

(9) The reduction in income tax liability established for duly licensed banks and other financial institutions described in subsection (8) of this section shall be as follows:

| | |
|----------------------|-----|
| (A) Year one | 90% |
| (B) Year two | 70% |
| (C) Year three | 50% |
| (D) Year four | 30% |
| (E) Year five | 10% |

(10) (a) The owner of real property located within a designated Blighted Area that is reconstructed, rehabilitated or upgraded to accommodate either a business or a residence shall receive a property tax credit of 100% of the property taxes authorized under title 33, chapter 81, of this code, beginning on the date of finance closing and shall continue for one and one half (1 1/2) the financing period, not to exceed a total of five (5) years. In the event the reconstruction, rehabilitation or upgrading is not completed within five (5) years, except where the delay is caused by an act of God, the owner shall become liable for all property tax credits which were received

If the reconstruction, rehabilitation or upgrading is fully funded by the property owner, the tax credit shall commence on the date a Certificate of Occupancy is issued by the Department of Planning and Natural Resources.

(b) At the expiration of the initial property tax credit period, the owner shall be eligible to receive a property tax credit of 25% of the property taxes paid for an additional five (5) years if the property continues to be maintained in a habitable condition.

(11) The Virgin Islands Bureau of Internal Revenue shall issue rules and regulations for the administration of subsections (1)(a) through (e), (3), (4), (5), (7), (8), and (9) of this section; and, the Office of the Tax Assessor shall issue rules and regulations for the administration of subsections (1)(f) and (10) of this section.

HISTORY: --Added Sept. 14, 1999, No. 6294, § 2, Sess. L. 1999, p. 88; amended Oct. 6, 2000, No. 6360, § 19, Sess. L. 2000, p. 132; Sept. 20, 2010, No. 7197, § 1(e)(1)-(3), (f), Sess. L. 2010, pp. 181, 182; amended May 16, 2014, No. 7589, § 4, Sess. L. 2014, p. --.

Subchapter III. Designation of Enterprise Zones

§ 1016. Savanne-Down Street and Garden Street-Upstreet

Savanne-Down Street and Garden Street-Upstreet in Charlotte Amalie, St. Thomas and the Towns of Christiansted and Frederiksted in St. Croix are designated as Enterprise Zones, as defined in section 1003 (11) of this title.

(a) The boundary of the Savanne-Down Street Enterprise Zone begins at the eastern end of Trompeter Gade where it intersects Nye Gade, thence west along Trompeter Gade crossing Raadets Gade and continuing to Snegle Gade, thence west along Snegle Gade to Bjerger Gade, Dronningens Quarter, thence north along Bjerger Gade to the pedestrian alley, thence west along the pedestrian alley to Nordsidevei, thence north along Nordsidevei to the southeast property line of 16 Agnes Fancy, thence north along the west property line of 16 Agnes Fancy, thence west along the north property lines of 2 & 1 Inte Gade, 26E & 26D Vester Gade, thence south along Vester Gade to Antony Strade, thence across the gut to Jessegors Gade, thence west along Jessegors Gade to Larke Gade, thence south along Larke Gade to Savanne Street, thence west along Savanne Street to Gyllings Street, thence north

along Gyllings Street to Hill Street, thence south along Hill Street to Gamble Nordsidevei, thence south along Gamble Nordsidevei to Prindsesse Gade, thence west along Prindsesse Gade to Nye Nordsidevei, thence north along Nye Nordsidevei to Haabets Gade that runs west to east, thence west along Haabets Gade to Haabets Gade south to north, thence south to the north east corner of Anna's Fancy 1, thence west along the north property lines of 1, 6, 7, 8, 14, 15A, 20 21, 24, 25, 28, and 29 Anna's Fancy, thence south along the west property line of 29 Anna's Fancy, thence east along Harwood Highway and Kronprindsens Gade to Strand Strade, thence south along Strand Strade to Curacao Gade, thence east along Curacao Gade to Guttets Gade, thence north along Guttets Gade to Wimmelskafts Gade, thence east along the north side of Wimmelskafts Gade to Nye Gade, thence north along Nye Gade to the point of beginning.

(b) The boundary of the Garden Street-Upstreet Enterprise Zone begins at the southeast corner of 24DDD Norre Gade, thence along the eastern property line of 24DDD Norre Gade, thence continuing along the western side of Frederiksberg Gade, thence across Norre Gade to the southwestern corner of 1 Frederiksberg Gade, thence north along the western property line of 1 Frederiksberg Gade, continuing north along the western property line of 1A Kongens Gade, thence east along the north property line of 1A Kongens Gade, thence north along the west property line of Kongens Gade 1A continuing to Dronningens Gade, thence east along the northern side of Dronningens Gade to the south east corner of 74 Dronningens Gade, thence north to Hospital Line, thence west along the north side of Hospital Line to the southeast corner of 15 Hospital Ground, thence north along the eastern property lines of 15, 16, 17 18, 19, and 20 Hospital Ground, thence west along the northern property lines of 20, 26, 29 Hospital Ground, The Winston Raymo Center, and the north west corner of the Lionel Robert Stadium, thence south along the west side property line of the Lionel Roberts Stadium, thence west along the northern property lines of 109, 110, 128, 127, 126, 125, 124, and 123 Hospital Ground, thence south along the west property lines of 123 and 122 Hospital Ground, thence north westerly along the northern side of Louisenhoj Road (Maud Proudfoot Drive) to Alexander Gade, thence west along Alexander Gade to Adel Gade, thence north along Adel Gade to the southeast corner of 8L Lytons Fancy, thence west along the south property lines of 8L, 8E, 8D, 8B, and 8A Lytons Fancy, thence west along Catherineberg Road to Hyacinth Strade, thence east along Hyacinth Strade to Murphy Gade, thence the south along Murphy Gade to the southwest corner of 16 Murphy Gade, thence east to Nye Gade, thence south along Nye Gade to Lille Gronne Gade, thence east along Lille Gronne Gade to Commandant Gade OV, thence east across Commandant Gade O.V., thence north along Commandant Gade to the Dronningens Gade Step Street, thence east along Dronningens Gade Step Street to the southeast corner of 8 Commandant Gade, thence north along the east property line of 9A, 10A, 11A, 12A, 13B, and 13A Commandant Gade, thence east along the south property lines of 13BB Commandant Gade, thence north along the east property line of 13BB Commandant Gade to Louisenhoj Road (Maud Proudfoot Drive), thence east along the southern side of Louisenhoj Road (Maud Proudfoot Drive) to Lille Taarne Gade, thence south along Lille Taarne Gade to Dronningens Gade Step Street, thence east along Dronningens Gade Step Street to Hospital Gade, thence south along Hospital Gade to Kongens Gade, thence east along Kongens Gade to the bridge that

crosses Kanal Gade "Major Gut," thence south along Kanal Gade to Norre Gade, thence east along Norre Gade to Bjerge Gade, thence south along Bjerge Gade to the point of beginning.

(c) The boundary of the Frederiksted Town Enterprise Zone begins at the northwest corner of the ball park, known as Paul E. Joseph Stadium, thence east along the La Grange Road to Princes Street, thence south along Princess Street to Custom House Street, thence south along New Street to King Cross Street, thence east along King Cross Street to East Street, thence south along East Street to Fisher Street, continuing across Fisher Street along the west property lines of Wheel of Fortune Folio No., Mars Hill Folio 237 and Parcel of Stony Ground Folio 226, thence west along Center Line Road to the southwest corner of 107 Two Brothers, thence north along the west property lines of 107, 96, 95, 94, 93, 92, 91, 89, 88, 87, 86B and 85 Two Brothers, thence east along the north property line of 85 Two Brothers to the southwest corner of 53 Two Brothers, thence north along the west property lines of 53, 54, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, and 70 Two Brothers, thence east along the north property line of 70 Two Brothers to the southwest corner of 71-F Two Brothers, thence north along the west property line of 71-F and 71-E Two Brothers to the north west corner of 71-E Two Brothers, thence west along the north properties lines of 171, 147, 132, and 97A to the northwest corner of 97A Two Brothers, thence north along Route 71 Veterans Shore Drive to Fisher Street, thence west along Fisher Street to the shoreline, thence north along the shoreline to Custom House Street, thence east along Custom House Street to King Street, thence north along King Street Route 7025 to the point of beginning.

(d) The boundary of the Christiansted Town enterprise Zone begins at the North Eastern corner of No. 2 Garden Street, the Line runs: South along the West boundary of Mount Welcome to the South East corner of Old Hospital Grounds; thence West along the South boundary of Old Hospital Ground, to South West corner of Old Hospital Ground; thence in a Northerly direction along the West boundary of Old Hospital Ground to the South East corner of No. 14 Little Hospital Street; thence in a Westerly direction along the old town limits situated on the North boundary of Recovery Hill and Peter's Farm to the North West corner of Peter's Farm and the South West corner of the Public Cemetery; thence along the North boundary of St. Catherines and Contentment, and the South boundary of Friedensthal to the South East corner of Parcel No. 1 Matr. No. 1-ab of Contentment; thence along the South boundary of Parcel No. 1 of Contentment to the center line of Public Road; thence in a Northerly direction along the Center Line Road to the intersection of said Road, Sobotkers Lane and the North side Road; thence Westerly along the North side Road to the existing hard surfaced road leading to the former Richmond Jail; thence Southeasterly along the South Wall of the former Richmond Jail to the South East corner of the Jail; thence in a Northerly direction along the road designating the West boundary of the Holger Dansk Hotel to the Water front, thence in an Easterly direction along the water front to the North East corner of No. 2 Garden Street.

HISTORY: --Added May 16, 2014, No. 7589, § 5, Sess. L. 2014, p. --.

Subchapter IV. Commercial Zone

§ 1017. Purpose

The purpose of this subchapter is to establish a process that provides incentives by the Government to induce private investment in Commercial Zone areas by removing unnecessary governmental regulatory barriers to economic growth, and providing tax incentive benefits.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017a. Definitions

As used in this subchapter:

(1) "Commercial Zone" means that total area within the Territory that has been declared a commercial zone pursuant to title 29 Virgin Islands Code, Chapter 19, Subchapter I, Section 1003(11).

(2) "Commercial Zone Business" means any individual, partnership, corporation, limited liability company, proprietorship or other business entity granted benefits pursuant to this subchapter.

(3) "Commission" means the Enterprise Zone Commission, a public body created pursuant to title 29 Virgin Islands Code, chapter 19 section 1004.

(4) "Real Property" includes all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or developed in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise and the indebtedness secured by such liens.

(5) "Rehabilitation" means the reconstruction, alteration or repair of improvements, structures and buildings, in accordance with the requirements of the Virgin Islands Building Code, and other laws and regulations pertaining to building, fire prevention, health, housing, and zoning and also the use of land, and the use and occupancy of buildings and improvements.

(6) "Resident of the Virgin Islands" has the same meaning as that found in title 29, Virgin Islands Code, chapter 19, section 1003 (9)(a) and (b).

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017b. Commercial Zone Program established

(a) There is established in the Virgin Islands a Commercial Zone Program.

(b) The Program is organized and administered as a committee of the Virgin Islands Enterprise Zone Commission, established pursuant to title 29, Virgin Islands Code, chapter 19, section 1004.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017c. Powers and duties of the commission

In addition to the powers enumerated in title 29 Virgin Islands Code, chapter 19, section 1007, the Commission shall:

(1) Develop application procedures for demonstrating compliance with section 1021 of this subchapter and for obtaining the benefits set out under section 1017e of this subchapter, which may include public hearings by the Commission;

(2) Oversee and monitor the implementation of this subchapter;

(3) Determine compliance of the beneficiaries with the provisions of this subchapter and all regulations promulgated hereunder;

(4) Actively promote and publicize the Commercial Zone Program, including, preparing, purchasing, and distributing by mail, the internet, or other means, material concerning Commercial Zones;

(5) Provide technical and business assistance related to tax incentives and the development of alternative revenue sources to businesses within each Commercial Zone;

(6) Coordinate Federal and Territorial business assistance programs and in cooperation with the appropriate Federal and Territorial departments or agencies, help streamline permit and license application procedures for businesses located in Commercial zones;

(7) Work with the appropriate Federal and Territorial departments and agencies to coordinate the Commercial Zone Program with other programs carried out in the territory, including without limitation, economic development programs, programs providing financial and other assistance to small businesses, programs providing transportation assistance, and job training programs;

(8) Apply or work with beneficiaries of the Commercial Zone Program to apply for Federal and Territorial grants, loans, and services that benefit businesses in a Commercial Zone;

(9) Monitor enterprises that are established in or relocated to a Commercial Zone and

that qualify for the incentives provided for in section 1025 of this subchapter; and

(10) Prepare and promulgate such rules and regulations as may be necessary to compliment the provisions of this subchapter. Such rules and regulations shall have the force of law upon approval by the governor and promulgated in accordance with chapter 35 of title 3 Virgin Islands Code.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p.

§ 1017d. Specific requirements for granting of benefits

In order to qualify and remain eligible for benefits provided under this subchapter, an applicant must fulfill the following specific qualifications and requirements:

(1) Establish or continue to maintain a business with valid licenses and permits within a Commercial Zone;

(2) Invest at least \$ 75,000 or invest an additional amount of \$ 75,000, in the rehabilitation of the building used by a business that will advance the economic well being of the Territory. 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. The minimum investment required by this section may be reduced, if the Commission finds that the proposed business will provide sufficient employment to justify the lower investment;

(3) In the case of a natural person, be a resident of the Virgin Islands as defined in section 1017a(6) of this subchapter;

(4) Actually invest in the Commercial Zone rather than being a contractor, subcontractor, person or corporation acting as an agent or representative in a similar capacity to the investor;

(5) Meet such standards of ecological compatibility that may be established by Federal or Territorial law;

(6) Employ at least four residents of the Virgin Islands and one paid apprentice in such business directly or through subcontractors or, for existing businesses, add at least four new employees and one paid apprentice who are residents of the Virgin Islands, either during the construction period, or on a permanent basis in the operation of the business. The commission may waive this requirement upon a demonstration to the Commission that the employment of the prescribed number of persons in the particular enterprise would not be economically feasible or practical, and upon a further finding by the Commission that the desirability of the proposed enterprise outweighs the fact that it will not provide employment for at least two residents, or for two additional residents;

(7) Comply with all Federal and Territorial laws, including anti-discrimination and wrongful discharge laws;

(8) For any applicant who proposes to do business on land adjoining any beach or shoreline of the Virgin Islands, agree to grant to the Government of the Virgin Islands a perpetual easement upon and across such land to the beach or shoreline to provide free and unrestricted access thereto to the public. The easement must be duly recorded in the Recorder of Deeds upon the designation of the business as a Commercial Zone Business; and

(9) Agree in writing to notify the Virgin Islands Employment Service as to the availability of employment by the business or its subcontractors, the number of employees required, the occupational classification of such workers, and the applicable wage rate.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017e. Hiring of Virgin Islands residents; competitive bidding procedures

(a) Any business granted benefits under this subchapter shall agree in writing to employ and to require all contractors retained by the business to employ persons who are residents of the Virgin Islands.

(b) Any business granted benefits pursuant to this subchapter shall require all contractors retained by the business to agree to contract for services with, and purchase goods, materials and supplies from those persons who are residents of the Virgin Islands and those entities that are incorporated or registered 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 at least one year prior to the initial date of any such purchase, contract, or subcontract, provided that the bid of such resident or entity does not exceed the bid of any nonresident person or entity by more than fifteen percent (15%). Each Commercial Zone business and all contractors and subcontractors of such business shall invite competitive bidding for all services, goods, and materials pursuant to the publication requirements of title 31 Virgin Islands Code, chapter 23, section 236 and must apprise each bidder in writing of the name of the successful bidder and the amount of his bid within thirty (3) days after awarding the bid.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017f. Economic development benefits exclusion

(a) Beneficiaries of the Economic Development Program in title 29 Virgin Islands Code, chapter 12 shall not be eligible to be designated as Commercial Zone Businesses nor to receive benefits authorized pursuant to the provisions of this subchapter.

(b) An individual or entity that was formerly a beneficiary of the Economic Development

Program may, however, apply for benefits as a Commercial Zone Business, and a current beneficiary of the Economic Development Program may apply for benefits as a Commercial Zone Business if such beneficiary terminates its benefits under the Economic Development Program as of the effective date of its benefits as a Commercial Zone Business.

(c) A commercial Zone Business may apply for benefits under the Economic Development Program and upon the receipt of such benefits must elect to terminate its benefits under the Commercial Zone Program as of the effective date of its benefits under the Economic Development Program.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017g. Tax credits; tax benefits; benefit options

(a) Each Commercial Zone Business shall qualify for the following tax credits and tax benefits:

(1) A non-refundable gross receipts tax credits or an income tax credit equal to ten percent (10%) of the actual value expended within a fiscal year for construction of a new building within the Commercial zone;

(2) A non-refundable gross receipts tax credit or an income tax credit equal to ten percent (10%) of the actual value expended within a fiscal year for rehabilitation of buildings or other real property within the Commercial Zone;

For the following activities the additional percentage indicated may be stacked, but in no event may the benefits exceed 35%.

(A) Off Street Parking

Level 1 (10-30 parking spaces) 5%

Level 2 (31-50 parking spaces) 10%

Level 3 (51+ parking spaces) 15%

(B) Entertainment

Restaurant -5%

Center for Live Entertainment 5%

(C) New Residential 10%

(D) Retail establishments that carry predominantly cultural or locally made products 10%

(3) A gross receipts tax rate of 3% for gross receipts derived by the Commercial Zone Business, pursuant to title 33 Virgin Islands Code, chapter 3, section 43;

(4) A property tax credit against taxes imposed pursuant to title 33 Virgin Islands Code, chapter 81, section 2301 equal to the increase in property taxes assessed due to renovation, rehabilitation, or construction of property within the Commercial Zone.

(b) The Commercial Zone Business shall indicate for the fiscal year that expenditure is made whether it is taking the gross receipts or income tax credit pursuant to paragraphs (1), (2), (3) and (4) of this section for such expenditures. The credit must be taken on the appropriate tax return for the fiscal year during which the actual value was expended. A Commercial Zone Business that qualifies for more than one of the credits may elect to take one or more credits against income tax, but in no case may expenditure be used in calculating more than one credit.

(c) Any credit derived by an entity that is not taxable at the entity level, such as a limited liability company, partnership, or Subchapter S corporation, must flow through to its owners as long as they are residents of the Virgin Islands as defined in section 1017a(g) herein.

(d) Only expenditures incurred over a consecutive five-year period may give rise to tax credits under this chapter, and each Commercial Zone Business may elect the commencement date of such five-year period, the Benefit Period. Each benefit must be used to the extent possible in a five year before any balance is carried forward to the subsequent year with regard to credits and other benefits carried forward. However, a Commercial Zone Business shall make an election at the same time that it elects the commencement date of its benefits and such election cannot be subsequently changed.

(e) The property tax benefit and the reduced gross receipts tax rate apply only for the Benefit Period.

(f) Each Commercial Zone Business must obtain and maintain a valid license to conduct business in the territory for each year in which it receives tax benefits under this section and a Commercial Zone Business that does not have a valid license in place for one or more years for any reason is not entitled to the tax benefits under this section without further action on

the part of the Enterprise Zone Commission.

(g) The Virgin Islands Enterprise Zone Commission in consultation with the Virgin Islands Bureau of Internal Revenue shall issue regulations for the administration of paragraphs (a)(1)-(4), (b), (d), (f), and (h) of this section, and the Enterprise Zone Commission in consultation with the Tax Assessor shall issue regulations for the administration of subsection (a)(5) and (e) of this section.

(h) The tax exemptions under this program are mutually exclusive of any tax credits for which an applicant may be eligible.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.

§ 1017h. Enterprise Zone Fund

(a) There is established within the Treasury of the Virgin Islands a separate and distinct fund designated and known as the "Enterprise Zone Fund". The Commissioner of Finance shall maintain and provide for the administration of the Fund, and no monies shall be made available for expenditure there from, except as provided by law. All monies in the Fund remain available until expended.

(b) The Fund consists of all monies appropriated from time to time by the Legislature, all public or private grants, donations, bequests or devises, and fees collected by the Enterprise Zone Commission, or any appropriations transfers thereto.

(c) The Commissioner of Finance shall disburse monies from the Fund as directed by the Enterprise Zone Commission to implement the Enterprise and Commercial Zones Programs.

HISTORY: --Added May 16, 2014, No. 7589, § 6, Sess. L. 2014, p. --.