

Senator Louis P. Hill  
BR#12-1455

**BILL NO.** \_\_\_\_\_

**Twenty-Ninth Legislature of the Virgin Islands**

\_\_\_\_\_

An Act amending Virgin Islands Code title 3, chapter 22 relating to the duties of the State Historic Preservation Officer; title 29, chapter 17, providing for the mandatory restoration and rehabilitation of historic properties, establishing a grant program for rehabilitation of historic properties and other incentives, and amending title 33, chapter 81 establishing property tax exemptions for preservation of historic properties and providing for other related purposes

**PROPOSED BY:** Senators Louis Patrick Hill

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

2           **SECTION 1.** This Act may be cited as “The Antiquities Preservation and  
3 Historic Properties Act”.

4           **SECTION 2.** Title 3 Virgin Islands Code, chapter 22, section 404 is amended by  
5 designating the existing language as subsection (a) and adding subsections (b) and (c) to  
6 read as follows:

7           “(b) It is declared to be the public policy of the Government of the Virgin  
8 Islands in furtherance of its responsibility to promote and preserve the health, prosperity,  
9 and general welfare of the people of the Virgin Islands, to encourage the preservation of  
10 historic properties and antiquities that have historical, cultural, and archeological  
11 significance to the Territory.

1 (c) In addition to the powers granted in subsection (a) the State Preservation  
2 Officer shall:

3 (1) Seek the advice, assistance, and cooperation of, and cooperate  
4 with, federal government agencies, departments and instrumentalities of the  
5 government of the Virgin Islands, individuals, groups or agencies, public and  
6 private, with respect to programs or projects related to the conservation or  
7 preservation of historical or cultural assets;

8 (2) Seek federal funding, participate in federal financial aid programs,  
9 and accept grants and public and private gifts, devises and bequests for historic  
10 preservation purposes;

11 (3) Make grants and loans, as funds are available, to any private or  
12 public organization, corporation or individual for the preservation of historic  
13 properties and antiquities;

14 (4) Conduct public awareness programs to inform private and public  
15 organizations and individuals about the availability of federal and local assistance  
16 for preservation of historic properties;

17 (5) Identify dilapidated historic properties in need of preservation and  
18 protection;

19 (6) Prepare comprehensive Territory-wide antiquities and historic  
20 preservation plans;

21 (7) Provide technical assistance to the several departments, agencies,  
22 and instrumentalities of the Government for preservation of government-owned  
23 historic properties;

24 (8) Cooperate with agencies of the federal government, other agencies  
25 of the Virgin Islands, private organizations, and individuals, in order that

1 antiquities and historic properties are taken into consideration at all levels of  
2 planning and development;

3 (9) Propose programs and activities to protect, preserve, and  
4 encourage the preservation of antiquities and historic properties in Virgin Islands;

5 (10) Administer or assist with the programs of financial and technical  
6 assistance for historic preservation projects, including all grants made under  
7 authority of this section, and specify the terms and conditions under which any  
8 grants of funds are made or used;

9 (11) Make recommendations on the certification and eligibility of  
10 historic properties for tax incentives and other programs of public benefit or  
11 assistance;

12 (12) Hold and enforce preservation interests in antiquities and historic  
13 properties; and

14 (13) Perform such other duties as prescribed by law.”

15 **SECTION 3.** Title 29 Virgin Islands Code, chapter 3, subchapter III is amended  
16 in the following instances:

17 (a) Section 285 is amended by inserting at the beginning of subsection (c) a  
18 phrase that reads as follows: “Subject to section 972 (b) of this title”;

19 (b) Section 286 is amended at the end of subsection (c) by adding an  
20 exception clause that reads as follows: “except that the Commissioner may impose  
21 reasonable conditions in the building permit to ensure the preservation of the historic  
22 property or antiquities and that the work authorized by the permit is consistent with the  
23 requirements of this subchapter”; and

24 (c) Section 286a is added and reads as follows:  
25

1           **“§286a [Demolitions]**

2           (a)     Before the Commissioner issues a permit to demolish a historic landmark  
3 or a building or structure in a Historic and Architectural Control District, the Commission  
4 shall review the permit application in accordance with this section and place notice of the  
5 application in a newspaper of general circulation in the district in which the property is  
6 located, under the procedures prescribed in section 238 (g) of this title.

7           (b)     After a public hearing, the Commission shall make the finding required by  
8 subsection (d) of this section; except, that the Commission may make such finding  
9 without a public hearing in the case of a building or structure in an Historic and  
10 Architectural Control District or on the site of an historic landmark upon the  
11 Commission’s determination that the building or structure does not contribute to the  
12 Historic and Architectural Control District.

13          (c)     If the Commission recommends against granting the permit, the  
14 Commission shall promptly notify the applicant in writing of its recommendation and the  
15 reasons for its recommendation, as provided in section 286 (c).

16          (d)     No permit may be issued unless the Commission finds that issuance of the  
17 permit is necessary and in the public interest, or that failure to issue a permit will result in  
18 unreasonable economic hardship to the property owner.

19          (e)     The property owner shall submit at the hearing such information as is  
20 relevant and necessary to support the owner’s application.

21          (f) (1) If the property owner files a claim of unreasonable economic hardship, the  
22 property owner shall submit an affidavit to the Commission at least 20 days before the  
23 public hearing, containing at least the following information:

24                 (A)     For all property:

1 (i) The amount paid for the property, the date of purchase, and  
2 the person from whom it was purchased, including a description of the  
3 relationship, if any, between the owner and the person from whom the  
4 property was purchased;

5 (ii) The assessed value of the land and improvements thereon  
6 according to the most recent assessment;

7 (iii) Real property taxes for the previous four years;

8 (iv) Annual debt service, if any, for the previous two years;

9 (v) All appraisals obtained within the previous two years by  
10 the owner or applicant in connection with the purchase, financing or  
11 ownership of the property;

12 (vi) Any listing of the property for sale or rent, price asked, and  
13 offers received, if any; and

14 (vii) Any consideration by the owner as to profitable adaptive  
15 uses for the property;

16 (viii) Evidence demonstrating that the property owner has  
17 investigated the option of rehabilitation and demonstrating that  
18 rehabilitation cannot be accomplished without the property owner's  
19 incurring economic hardship; and

20 (B) For income-producing property:

21 (i) Annual gross income from the property for the previous  
22 two years;

23 (ii) Itemized operating and maintenance expenses for the  
24 previous two years; and

25 (iii) Annual cash flow, if any, for the previous two years.

1           (2)    The Commission may require that an applicant furnish such additional  
2 information as the Commission believes is relevant to its determination of unreasonable  
3 economic hardship and may provide in appropriate instances that such additional  
4 information be furnished under seal. If any of the required information is not reasonably  
5 available to the applicant and cannot be obtained by the applicant, the applicant shall file  
6 with the affidavit a statement of the information that cannot be obtained and shall  
7 describe the reasons why the information cannot be obtained.

8           (g)    In those cases in which the Commission finds that the demolition is  
9 necessary to allow the construction of a project of special merit, no demolition permit  
10 may be issued unless a permit for new construction is issued simultaneously under  
11 section 294 of this title, and the owner demonstrates the ability to complete the project.”

12           **SECTION 4.** Title 29 Virgin Islands Code, chapter 5 is amended by adding  
13 section 312a to read as follows:

14           “**§312a** (a) The Commissioner may cause the repair or removal of, or may  
15 remove any structure that becomes unsafe or dangerous.

16           (b)    The Commissioner may cause the rehabilitation of or may rehabilitate any  
17 abandoned property.

18           (c) (1) Whenever a building inspector or other authorized officer files with the  
19 Department a statement in writing that any structure, is unsafe or dangerous, or is  
20 abandoned property, the Commissioner by order shall fix a time and place at which the  
21 property owner, the property owner's agent, any lien holder of record and any occupant of  
22 such structure may appear and show cause why the structure should not be condemned  
23 and ordered repaired or demolished, in the case of unsafe or dangerous structures, or  
24 rehabilitated in the case of abandoned property. In the case of a historic property as  
25 defined in section 971 of this title, the repair, demolition or rehabilitation must be

1 addressed pursuant to chapter 17 subchapter II of this title.

2 (2) A notice of hearing must be published in a newspaper of general circulation  
3 in the district in which the structure is located at least once each week for two  
4 consecutive weeks on the same day of each week. At least 30 days must elapse between  
5 the last publication and the date set for the hearing. The Commissioner shall mail a copy  
6 of the notice of hearing by certified mail within three days after its first publication to  
7 each such owner, agent, lien holder and occupant, at the last known address, and the  
8 envelope for the order must be marked "deliver to addressee only."

9 (d)(1) On the date fixed for hearing the Commissioner or the Commissioner's  
10 designee shall hear all evidence submitted by the owner, the owner's agent, lien holders  
11 of record and occupants having an interest in such structure, as well as evidence  
12 submitted by the building inspector or other person filing the statement and shall make  
13 written findings. If the Commissioner finds that the structure is unsafe or dangerous, the  
14 Commissioner's order must direct that the structure be repaired or removed and the  
15 premises made safe and secure. If the Commissioner finds that the structure is  
16 abandoned property, the Commissioner may authorize the rehabilitation of the property  
17 as provided in subsection (b).

18 (2) The Order must be published once in a newspaper of general circulation in  
19 the district in which the property is located and a copy mailed to the owners, agents, lien  
20 holders of record and occupants in the same manner provided for the notice of hearing.  
21 The order must fix a reasonable time within which the repair or removal of the structure  
22 must be commenced and a statement that if the owner of the structure fails to commence  
23 the repair or removal of the structure within the time stated, or fails to prosecute the  
24 repair or removal diligently until the work is completed, the Commissioner shall cause

1 the structure to be repaired or razed and removed, in the case of unsafe or dangerous  
2 structures, or rehabilitated in the case of abandoned property.

3 (3) When in the opinion of the Commissioner, any structure is in such  
4 condition as to constitute an immediate hazard requiring immediate action to protect the  
5 public, the Commissioner may erect barricades or cause the property to be vacated, taken  
6 down, repaired, shored or otherwise made safe, without delay and such action may, under  
7 such circumstances, be taken without prior notice to or hearing of the owners, lien  
8 holders or occupants. The Commissioner shall assess the cost of any such action against  
9 the property owner and shall enforce any such assessment through an action brought by  
10 the Attorney General.”

11 **SECTION 5.** Title 29 Virgin Islands Code, chapter 17, section 964, is amended  
12 at the end of subsection (c) by inserting after “chapter” the following: “, including the  
13 implementation of the Historic Preservation Grant Program established in section 982”.

14 **SECTION 6.** Title 29 Virgin Islands Code, chapter 17 is amended by  
15 designating the existing provisions as subchapter I and adding subchapter II and  
16 subchapter III to read as follows:

17 **“Subchapter II. [VIRGIN ISLANDS HISTORIC PROPERTIES PRESERVATION**  
18 **AND REHABILITATION]**

19 **§ 971. [Definitions]**

20 As used in this subchapter,

21 (a) “Acknowledgement” means a statement executed by the owner of a  
22 dilapidated historic property demonstrating that the property owner has received a  
23 Notice-of-Violation and information on federal and local tax incentives available for the  
24 rehabilitation of the dilapidated historic property.



1 (b) "Appropriate Commission Committee" means the Commission  
2 Committee in the district that has jurisdiction over the particular matter.

3 (c) "Commission" means the Virgin Islands Historic Preservation  
4 Commission, established under title 3 Virgin Islands Code, chapter 22, section 403.

5 (d) "Commissioner" means the Commissioner of the Department of Planning  
6 and Natural Resources.

7 (e) "Commission Committee" means the Virgin Islands Historic Preservation  
8 Commission Committee for the district in which the historic property is located as  
9 prescribed under title 3 Virgin Islands Code, chapter 22, section 403, subsection (d).

10 (f) "Building" means as defined in section 225(b) (19) of this title.

11 (g) "Dilapidated historic building" means a historic property building that  
12 through neglect or injury lacks necessary repairs or otherwise is in a state of decay,  
13 deterioration or has fallen into partial disuse or ruin to such an extent that the building is  
14 a hazard to the health, safety, or welfare of the general public and because of age,  
15 architecture, history or significance is worthy of preservation.

16 (h) "Historic property" means any building or part of a building, object,  
17 structure, monument, or collection of such properties considered of importance to the  
18 history, architecture, or culture of the Virgin Islands, as determined by the Historic  
19 Preservation Officer or the Historic Preservation Commission, or buildings, objects,  
20 structures, monuments, or collections of such properties on existing national, or territorial  
21 historic registers or official inventories, such as the National Register of Historic Places  
22 and the Virgin Islands Registry of Historic Buildings, Sites, and Places.

23 (i) "Historic rehabilitation" or "rehabilitate an historic property" means the  
24 reconstruction, restoration, renovation, or structural repair of the interiors or exteriors of  
25 historic properties or their relocation for the purposes of restoring or preserving their

1 historical or architectural significance or authenticity, preventing their deterioration, or  
2 destruction, continuing their use, providing for their feasible reuse, or providing for the  
3 safety of the occupants or the public, including the repairing of architectural facades ,or  
4 ornamentation; removal of inappropriate additions or materials; replacement of facades,  
5 ornamentation, or architectural elements previously removed; repairing of roofs,  
6 foundations, and other essential structural elements, or any other work in order to comply  
7 with rehabilitation standards and requirements under this subchapter. The term does not  
8 include the purchase, installation, or restoration of furnishings.

9 (j) "Notice-of-Violation" means the written complaint issued to a property  
10 owner by the Commission Committee for the district in which the historic property is  
11 located, stating that the owner of the historic property is in violation of this subchapter, a  
12 regulation, an order, or a condition of a rehabilitation permit and ordering corrective  
13 action, or assessing a penalty, or both ordering corrective action and assessing a penalty.

14 (k) "Permittee" means a property owner or the property owner's agent who  
15 has been issued a rehabilitation permit under this subchapter.

16 (l) "Property owner" or "owner" means an individual or entity that holds a  
17 fee interest of other legal or beneficial interest in historic real property.

18 (m) "Qualified Holder", has the meaning defined in section 992 c) of  
19 subchapter III of this title.

20 (n) "Reasonable efforts" means diligent efforts that if completed are likely to  
21 achieve the objectives set forth in section 972 .

22 (o) "Rehabilitated Historic Property" means historic property that meets the  
23 following conditions:

24 (1) Rehabilitation of the historic property commenced after the  
25 effective date of this subchapter;

1           (2)    The rehabilitation work is certified by the SHPO as appropriate  
2           for the historic property and historic district in which it is located, and the  
3           property owner has obtained a rehabilitation permit from the appropriate  
4           Commission Committee; and

5           (3)    Within three months from the issuance of a rehabilitation permit,  
6           the property owner commences the rehabilitation of the historic property.

7           (p)    “Repair” means nonstructural reconstruction or renewal of any part of an  
8           existing building for the purpose of its maintenance or decoration, including the  
9           replacement or installation of nonstructural components of the building, such as roofing,  
10          siding, windows, storm windows, insulation, drywall or lath and plaster, or any other  
11          replacement that does not alter the structural integrity, alter the occupancy or use of the  
12          building, or affect by rearrangement exit ways or means of egress;

13          (q)    “State Historic Preservation Officer” or “SHPO” means official of the  
14          Government of the Virgin Islands, the Commissioner of the Department of Planning and  
15          Natural Resources, who is appointed or designated pursuant to section 101(b) (1) of the  
16          National Historic Preservation Act to administer the Virgin Islands historic preservation  
17          program, as defined in section 952 (y) of this chapter, or the SHPO’s designee.

18          **§ 972. [Mandatory restoration, rehabilitation, repair or maintenance of**  
19          **historic character, compliance with housing code, building code, and other**  
20          **applicable laws]**

21          (a)    Except as provided in section 973, a property owner shall restore,  
22          rehabilitate, repair or maintain the historic real property in good repair in order that the  
23          property retains its historic characteristics.

24          (b)    The preservation of the historic structure must include all interior and  
25          exterior portions of the structure which if not restored, rehabilitated, repaired or

1 maintained will damage the historic characteristics of the property, or will cause the  
2 interior and exterior portions of the historic property to deteriorate or fall into a state of  
3 disrepair.

4 (c) Repair or rehabilitation of a historic property must conform to all  
5 applicable provisions of the Virgin Islands Building Code, as set forth in chapter 5 of this  
6 title, and all other applicable laws.

7 (d) If any portion of a historic property is used as a dwelling, that portion of  
8 the historic property must conform to the occupancy and maintenance standards of  
9 dwellings, as set forth in section 333 of this title.

10 (e) Nothing in this subchapter may be construed as exempting or waiving  
11 other law requiring that historic properties be maintained and remain in good repair in  
12 order to preserve the historic characteristics of the properties.

13 **§ 973. [Exceptions]**

14 (a) The mandatory restoration, rehabilitation, repair or maintenance  
15 requirements in section 972 do not apply to dilapidated historic property, if the  
16 appropriate Commission Committee from the information presented in the form of an  
17 affidavit by the affected property owner, or after a public hearing in accordance with  
18 section 979 (a) from evidence presented by the affected property owner finds:

19 (1) The restoration, rehabilitation, repair or maintenance of the  
20 dilapidated historic building is financially impracticable or physically infeasible;

21 (2) The restoration, rehabilitation, repair or maintenance of the  
22 dilapidated historic building would violate other federal or Virgin Islands laws;

23 (3) The restoration, rehabilitation, repair or maintenance of the historic  
24 building would adversely affect or threaten the safety or health of the public;

1           (4)       The dilapidated historic property has been adjudged by the  
2 Commission to be unsafe pursuant to section 312a of this title or adjudged a  
3 nuisance pursuant to section 287 of this title and the property owner demonstrates  
4 that the owner will commence rehabilitation of the property or will demolish the  
5 property within three months;

6           (5)       The property owner has been granted a historic property  
7 demolition permit by the appropriate Commission Committee, with concurrence  
8 of the SHPO following notice and public hearing; or

9           (6)       The restoration, rehabilitation, repair or maintenance is governed  
10 by other law.

11       **§974. [Permit; rehabilitation plan review and approval]**

12       (a)       After the effective date of this subchapter in addition to the requirements  
13 with respect to buildings in the historic district regulated under section 285 of this title,  
14 no person may reconstruct, restore, rehabilitate, alter, remove, or demolish any historic  
15 property outside the Historic District, without first applying for and receiving a  
16 rehabilitation permit, in addition to any permit required by other law. However, a permit  
17 is not required under this subchapter for activities related to the repair or maintenance of  
18 an historic property, so long as such activities do not result in an addition to, enlargement  
19 or expansion or structural alteration of the historic property.

20       (b)       The appropriate Commission Committee in connection with an  
21 enforcement action, an application for a grant, loan or tax incentive or under a voluntary  
22 compliance program may issue, deny, revoke, suspend, or modify rehabilitation permits  
23 under this subchapter and pursuant to regulations promulgated by the Commission.

24       (c)       No later than 90 days after the execution of the Acknowledgement, the  
25 property owner found to be in violation of this subchapter shall present to the appropriate

1 Commission Committee an application for a rehabilitation permit, accompanied by a  
2 rehabilitation plan for the dilapidated historic property and a reasonable fee, as  
3 determined by regulation.

4 (d) The rehabilitation plan must include proposed measures demonstrating  
5 that the historic property will be rehabilitated in a manner suitable to preserve the historic  
6 characteristics of the historic property and will be consistent, where applicable, with the  
7 Secretary of the Interior's Standards for Rehabilitation and the Commission's standards  
8 established by regulations. The rehabilitation plan must also include a budget for the  
9 project and a work schedule.

10 (e) The appropriate Commission Committee shall circulate a copy of the  
11 permit application and rehabilitation plan for review and written comments by all  
12 affected departments and agencies of the Government, including the appropriate divisions  
13 of the Department of Planning and Natural Resources and the SHPO, the Department of  
14 Public Works, the Virgin Islands Fire Service. Written comments must be submitted to  
15 the Commission Committee no later than 30 days after the reviewing agencies' receipt of  
16 the permit application or rehabilitation plan. The Commission Committee may request  
17 changes to the rehabilitation plan arising from the commentary received, as a condition  
18 for approval and may impose reasonable conditions and other requirements, as  
19 established by regulations.

20 (f) The Commission Committee may not issue a rehabilitation permit unless  
21 the applicant demonstrates that the rehabilitation project is consistent with the standards  
22 prescribed by this subchapter and the regulations issued under this subchapter.

23 (g) The Commission Committee shall review the permit application and  
24 rehabilitation plan and in accordance with the procedures prescribed in subsections (a)  
25 and (b) of section 286 of this title, issue a decision on the rehabilitation permit application

1 and notify the applicant within the time specified in section 286. A rehabilitation permit  
2 must be issued not later than fifteen days after the rehabilitation plan is approved either  
3 by decision or default. In either case the Commission Committee shall impose  
4 reasonable conditions to ensure compliance with the standards and other requirements of  
5 this chapter and other applicable law.

6 (h) A rehabilitation permit must include, at a minimum, the following:

7 (1) The name of the Permittee and the address and description of the  
8 historic property to be rehabilitated under the permit;

9 (2) A concise description of rehabilitation project authorized by the  
10 permit;

11 (3) The effective date and term of the permit;

12 (4) A statement that the Permittee shall notify the SHPO five business  
13 days before commencement and five business days before completion of  
14 construction;

15 (5) Reasonable conditions or requirements imposed by the  
16 Commission;

17 (6) A list of the approved plans, drawings, and other documents  
18 incorporated by reference and made a part of the rehabilitation plan which are  
19 required to clarify the terms of the permit, or to facilitate carrying out the intent of  
20 the Commission Committee;

21 (7) A statement that work may not be commenced until all applicable  
22 local and federal permits or authorizations have been issued;

23 (8) A statement that the rehabilitation activities will comply with all  
24 applicable laws and regulations;

1           (9) A statement that the rehabilitation of the dilapidated historic  
2 property must begin within three months from the date such permit becomes  
3 effective and must be continuous until completion, and that failure to so  
4 commence work within such period and continuously construct thereafter until the  
5 completion of construction, may cause the permit to terminate automatically and  
6 render it void, unless the Permittee requests an extension in writing and  
7 demonstrates to the satisfaction of the Commission Committee that good cause  
8 exists for granting the extension;

9           (10) A statement that the plan may not be modified without the written  
10 approval of the appropriate Commission Committee;

11           (11) A statement that the permit may be revoked, suspended, or modified  
12 by the appropriate Committee Commission for violation of a permit condition,  
13 any provision, or regulation issued under this subchapter;

14           (12) A statement that in issuing this permit, the Commission Committee  
15 has relied on the information and data provided by the Permittee and that if, after  
16 the issuance of this permit, such information or data prove to be false or  
17 inaccurate, then the Commission Committee may modify, suspend, or revoke the  
18 permit, in whole or in part, and institute appropriate legal proceedings.

19           (13) Such additional restrictions and conditions as necessary to preserve  
20 the historic characteristics of the property and ensure the health and safety of the  
21 public.

22           (14) The signatures of the chairperson of the appropriate Commission  
23 Committee the SHPO and the Permittee; such other additional restrictions and  
24 conditions as necessary to preserve the historic characteristics of the property and  
25 ensure the health and safety of the public; and



1           (15) Such other contents as the Committee Commission considers  
2 appropriate.

3           **§ 975. [Duration of rehabilitation permit; renewal; modification; final**  
4 **inspection]**

5           (a) An initial rehabilitation permit expires three years from the date of  
6 issuance.

7           (b) If the rehabilitation work is not completed before the expiration of the  
8 rehabilitation permit, a Permittee may apply to the appropriate Commission Committee  
9 on forms provided by the Committee no later than thirty days before the expiration of the  
10 rehabilitation permit for a renewal of the rehabilitation permit.

11           (c) The appropriate Commission Committee shall renew a rehabilitation  
12 permit, if the application is filed timely and the Permittee demonstrates compliance with  
13 requirements prescribed in this subchapter and by regulations promulgated under this  
14 subchapter.

15           (d) Each permit renewal application must include:

16               (1) A statement explaining the specific actions the property owner has  
17 taken in order to rehabilitate the dilapidated property in accordance with the  
18 rehabilitation permit;

19               (2) An explanation of the reasons that the project has not been  
20 completed within the term of the initial permit, or any subsequent permit;

21               (3) Photographs of the work completed to date; and

22               (4) An updated work schedule and project budget of the work  
23 necessary to complete the rehabilitation plan.

1           (e)     No later than 30 days after its receipt of a permit renewal application, the  
2 appropriate Commission Committee shall hold a hearing on the application and issue its  
3 written decision no later than 20 days after completion of the hearing.

4           (f)     If the Commission Committee denies the application, the Commission  
5 Committee shall issue a written explanation of the reasons for the denial. The permit  
6 renewal request is deemed approved if the Commission fails to hear and decide the matter  
7 in the time specified in subsection (e).

8           (g)     The date by which the rehabilitation project must be completed may be  
9 extended upon the written request of the Permittee and written consent of the appropriate  
10 Commission Committee, if the Commission Committee finds that the property owner is  
11 using reasonable efforts to rehabilitate the dilapidated historic property pursuant to the  
12 rehabilitation permit, and if the extension of time is necessary for the preservation of the  
13 historic characteristics of the dilapidated property or if the Permittee satisfies the  
14 Commission Committee that other good cause for the extension exists.

15           (h)     The Permittee may request from the appropriate Commission Committee a  
16 modification of the terms and conditions of the rehabilitation permit. No modification of  
17 a rehabilitation permit may be granted unless the modification application includes the  
18 following:

19                   (1)     A statement explaining the specific actions the Permittee has taken  
20                   in order to rehabilitate the historic property in accordance with the rehabilitation  
21                   permit;

22                   (2)     A statement of the status of the rehabilitation work and the date the  
23                   rehabilitation work is to be completed;

24                   (3)     Photographs of the work completed to date;

1           (4)    An updated schedule of work required to complete the  
2           rehabilitation and an updated project budget; and

3           (5)    Such additional information as may be prescribed by the  
4           Commission's regulations.

5           (i)    The Commission Committee may not grant an application for  
6           modification unless the Commission Committee determines that the Permittee has  
7           demonstrated that :

8                 (1)    The modification is necessary to ensure the preservation of the  
9                 historic characteristics of the property, and

10                (2)    Reasonable efforts have been used to rehabilitate the dilapidated  
11                historic property in accordance with the rehabilitation permit.

12           (j)    No later than 30 days after completion of the rehabilitation of the  
13           dilapidated historic property, the property owner shall request of the appropriate  
14           Commission Committee a final inspection. The final inspection must be conducted not  
15           later than 20 days after the request.

16           (k)    Seven days after the completion of the final inspection, the Commission  
17           Committee shall issue a report to the Commission and the SHPO which must include:

18                 (1)    A determination on whether any violations under this subchapter  
19                 have been corrected to the satisfaction of the Commission Committee; and

20                 (2)    Certification that of whether the rehabilitation work has been  
21                 executed in compliance with the terms and conditions of the rehabilitation permit.

22           (l)    Seven days after receiving the report of the Commission Committee, the  
23           Commission may annul or reduce any penalties assessed against historic property owner,  
24           if the Commission determines that the property owner used reasonable efforts in the

1 rehabilitation of the dilapidated historic property, whether or not the efforts were  
2 effective in the preservation of the historic characteristics of the property.

3       **§ 976. [Demolition of historic property being considered for placement on**  
4 **the Virgin Islands Registry of Historic Buildings, Sites and Places]**

5       If at the time an application is filed for demolition of an historic property under  
6 this subchapter, the SHPO is considering the subject historic property for placement on  
7 the Virgin Islands Registry of Historic Buildings, Sites and Places, the appropriate  
8 Commission Committee shall review the application and follow the procedures  
9 established in section 286a of this title.

10       **§ 977. [Government's authority to acquire dilapidated historic properties]**

11       If all efforts by the Commission and the SHPO to preserve a historic property fail,  
12 or if the SHPO determines that Government ownership is needed to preserve the historic  
13 property, and that Government ownership is in the public interest, the Governor, upon  
14 recommendation of the SHPO and the Commission, may purchase the historic property  
15 using public funds, public or private gifts, donations, grants, proceeds from the issuance  
16 of bonds, or may acquire the property by eminent domain pursuant to title 28, chapter 10  
17 of the Virgin Islands Code, under the condition that the Government proves it has  
18 sufficient funding to complete the rehabilitation of the historic property within 18 months  
19 after its acquisition.

20       **§978 [Inspection of historic properties for compliance; Notice-of-Violation;**  
21 **Acknowledgement]**

22       (a) No later than 14 days after a request by any member of the Commission, the  
23 Commission Committee, an abutting property owner, the SHPO, a Qualified Holder, as  
24 defined in section 992 (c), or upon the petition of at least 10 citizens, the Commissioner,  
25 or the Commissioner's designee, and a member of the Commission or its designee, shall

1 conduct an inspection of a historic property to ascertain compliance with this subchapter.  
2 In conducting the inspection, the inspecting parties may enter, at reasonable times upon  
3 the historic property in question to conduct the inspection.

4 (b) No later than 14 days after the inspection, the inspecting parties shall provide  
5 a written report to the Commission and relevant Commission Committee which must  
6 include a determination of whether the property is in compliance with the requirements of  
7 this subchapter.

8 (c) Real property may not be inspected more frequently than once every 180  
9 days.

10 (d) **[Notice-of-Violation; Notice-of-Acknowledgement]**

11 (1) No later than 30 days after the Commission Committee's  
12 inspection, or after receiving a report from the SHPO, or a Qualified Holder  
13 stating that the historic property is in violation of the requirements of section 972,  
14 the appropriate Commission Committee shall hand deliver or mail by certified  
15 mail, return receipt requested, a Notice-of-Violation to the last known address of  
16 the property owner. If the owner is not found at the last known address, the  
17 Notice-of-Violation must be posted in a conspicuous location on the historic  
18 property and published in a newspaper as prescribed in paragraph (2).

19 (2) The Commission Committee shall publish a copy of the Notice-of-  
20 Violation for two consecutive weeks in a newspaper of general circulation in the  
21 district in which the historic property is located.

22 (3) The Commission Committee shall transmit a copy of the Notice-  
23 of-Violation to the SHPO no later than 10 days after its issuance.

24 (e) The Notice-of-Violation must include:

25 (1) A statement of the facts that indicate a violation of this subchapter;

1           (2)    A reference to the provisions of the subchapter, regulation, order or  
2           permit violated;

3           (3)    A listing or assessment of all fines and penalties incurred or to be  
4           incurred on the dilapidated property and the date for payment of the fines;

5           (4)    An order that corrective action must be taken within a reasonable  
6           time, as specified in the Notice;

7           (5)    A listing of any federal and territorial grants, loans, incentives, tax  
8           exemptions, tax credits, or other financial assistance programs that are available  
9           to the property owner for the rehabilitation of the historic property;

10          (6)    A statement that the property owner is entitled to a hearing; and

11          (7)    A copy of the regulations governing the Commission's  
12          proceedings.

13          (f)    No later than 30 days after a property owner's receipt of the Notice-of-  
14          Violation, the property owner shall sign an Acknowledgement. Signing the  
15          Acknowledgement does not constitute an admission of the allegations contained in the  
16          Notice-of-Violation.

17                **§ 979 [Conduct of Hearings In Response to a Notice of Violation]**

18          (a)    The Commission and the Commission Committees shall hold public  
19          hearings pursuant to this subchapter and regulations establishing procedures that at a  
20          minimum provide:

21                (1)    Timely and adequate notice;

22                (2)    An opportunity to confront adverse witnesses and present evidence  
23                on the respondent's own behalf;

24                (3)    The right to be accompanied, represented and advised by counsel or  
25                other representative;

1           (4) A determination or decision based solely on the record and which  
2 identifies the evidence relied upon and specifies the reasons for the decision; and

3           (5) An impartial decision maker.

4           (b) Upon signing the Acknowledgement, a property owner may petition for a  
5 hearing before the Commission, who shall schedule a hearing not later than 60 days from  
6 receipt of the petition.

7           (c) Based on evidence presented at the hearing, the Commission no later 14  
8 days after the completion of the hearing shall issue a written decision, including findings  
9 and conclusions.

10          (d) If the historic property is found in violation of this subchapter, the  
11 property owner shall file an application for a rehabilitation permit in accordance with  
12 section 974 (c) and pay the penalty, if ordered in the Notice of Violation, within the  
13 time frame specified in the Commission's written decision.

14          (e) If the Commission determines that the historic property is not in violation  
15 of any provision of this chapter, any penalties accruing up to the date of the decision of  
16 the Commission on the real property must be annulled, and the complaint against the  
17 property owner dismissed.

18           **§980. [Enforcement, fines and penalties]**

19          (a) It is unlawful for any person to rehabilitate, alter, reconstruct, remove or  
20 demolish historic property without a permit, or to violate this chapter, any regulation,  
21 standard, permit order, or directive of the Commission, Commission Committee, or the  
22 SHPO.

23          (b) The appropriate Commission Committee, the SHPO, or a Qualified Holder  
24 may enter at reasonable times upon any historic property, and the property owner shall  
25 permit such entry for the purpose of inspecting, ascertaining compliance or investigating

1 a complaint of violation with this subchapter,

2 (c) (1) Any person who violates any provision of this chapter or of any  
3 permit, regulation, standard, order or directive issued or promulgated under this  
4 subchapter is subject to a civil penalty for each day that the violation was not abated after  
5 the date specified in the notice by which the owner was required to abate the violation,  
6 of:

7 (A) not more than \$1000 per day if the property is nonresidential  
8 property; or

9 (B) not more than \$300 a day if the property is residential property.

10 (2) Civil penalties assessed under this subsection may be assessed  
11 administratively by the appropriate Commission Committee, if the person charged has  
12 been given an opportunity to have a hearing, and the Commission Committee has made  
13 findings of fact and conclusions of law in making the civil assessment.

14 (d) The appropriate Commission Committee may, after holding a hearing in  
15 accordance with the procedures set forth in section 979 may revoke, or suspend an  
16 historic preservation rehabilitation permit, if the Commission Committee determines any  
17 of the following:

18 (1) The permit was obtained by a material misrepresentation or failure  
19 to disclose relevant factual information.

20 (2) The Permittee during the 12 months before being cited with a  
21 violation, had been issued a final order for one or more violations of this  
22 subchapter, regulations adopted pursuant to this subchapter, or the terms and  
23 conditions of the permit, and the violation met any of the following criteria:

24 (A) The violation demonstrated a chronic recurring pattern of  
25 noncompliance that posed, or might pose, a significant risk to the



1 preservation of the historic property, public health, public safety, or  
2 environment;

3 (B) The violation had not been corrected or reasonable progress  
4 toward correction had not been achieved; or

5 (C) The Permittee failed to pay in full any monetary penalty  
6 imposed pursuant to this subchapter within 90 days from the date when the  
7 penalty was required to be paid, and after the expiration of the period for  
8 the Permittee to appeal the ruling, or after the denial of the Permittee's  
9 timely appeal up to, and including, an appeal to the superior court.

10 (e) In addition to any other remedy provided in this subchapter, or in law or  
11 equity, the Attorney General, the Commission, the SHPO or a Qualified Holder may  
12 institute a civil action in the Superior Court of the Virgin Islands for an injunction or  
13 other appropriate relief, including revocation of a permit issued under this subchapter, or  
14 the issuance of an order to prevent any person from violating the provisions of this  
15 subchapter, or to enforce any cease and desist order, penalty assessment, or any  
16 regulation promulgated under this subchapter.

17 (f) In Addition to the remedies established in this section, the Commission  
18 shall pursuant to regulations establish programs for voluntary compliance with the  
19 requirements of this subchapter, including regulations implementing the establishment of  
20 preservation agreements.

21 **§ 981. [Appeals from the Commission Committee to the Commission]**

22 Any person aggrieved by a determination of the Commission Committee or the  
23 Commission may, no later than 30 days after receiving notice of the determination, file a  
24 written notice of appeal with the Board of Land Use Appeals in accordance with the  
25 procedure set forth in section 295 of this title,

1           **§982. [Historic Preservation Grant Program]**

2           (a)     There is established in the State Historic Preservation Office the Historic  
3     Preservation Grant Program, to make grants of moneys appropriated by the Legislature,  
4     and moneys contributed from any other source for financial assistance to rehabilitate  
5     dilapidated historic property.

6           (b)     The SHPO may conduct and carry out a program of historic preservation  
7     grants, including matching grants, to any department, agency or instrumentality of the  
8     Government, corporation, partnership, organization, whether public or private, or whether  
9     or not for profit, or to any individual for projects having as their purpose the  
10    identification, acquisition, protection, preservation, rehabilitation, restoration, or  
11    construction of historic sites and properties, or the planning of such activities, and to any  
12    qualified owner of dilapidated historic property for the rehabilitation of the historic  
13    property. All moneys received from any source as appropriations, deposits, or  
14    contributions to this Program must be paid and credited to the Archaeological  
15    Preservation Fund established in section 964 of this chapter.

16          (c)     All grants of government funds to assist in the preservation of historic  
17    properties must be made from the Archaeological Preservation Fund and may be awarded  
18    only pursuant to applications for assistance made to the SHPO. The Commission shall  
19    review each application for an historic preservation grant and make recommendations to  
20    the SHPO. The Commission shall submit annually to the SHPO for approval lists of all  
21    applications that are recommended by the Commission for grant awards, arranged in  
22    order of priority.

23          (d)     The Commission shall give priority to property the Commission  
24    determines to be endangered by demolition, neglect, underuse, looting, vandalism, or  
25    other threat to the property.

1           (e)     As a condition of receiving a grant under this section, the SHPO may  
2 require the grantee to enter into to a preservation agreement conveying a preservation  
3 interest in the historic property to be rehabilitated to the SHPO, or to a non-profit, historic  
4 preservation organization. In addition the property owner shall enter into a preservation  
5 covenant with the SHPO for the rehabilitated property. The covenant must run with the  
6 land and must require that the rehabilitation improvements be maintained in good repair  
7 satisfactory to the SHPO for at least five years after the date on which the grant is fully  
8 disbursed. If the property owner does not maintain the certified rehabilitation  
9 improvements in good repair for any period of time covered by the covenant, the SHPO,  
10 or the Commission may exercise the rights and remedies under the agreement, or take  
11 any enforcement action authorized under this subchapter. Additionally, the SHPO may  
12 require the property owner to repay a portion of the grant as provided by regulations

13           (f)     The Commission shall adopt regulations prescribing qualification and  
14 eligibility requirements of applicants, grant limits, conditions, designation of the type of  
15 preservations projects eligible for funding, the criteria to be applied by the Commission  
16 in recommending applications for the award of grants and regulations providing for the  
17 administration of the other provisions of this section.

18           **§ 983. [Historic preservation tax incentive program]**

19           (a)     The SHPO, except for tax matters under the jurisdiction of the Office of  
20 the Tax Assessor, may establish by regulation all requirements for implementation of the  
21 provisions of this section , including the following:

22                   (1)     Administrative fees to be charged by the SHPO for inspections and  
23 other regulatory expenses;

24                   (2)     Criteria for certification of property as eligible for historic  
25 preservation tax incentives;

1 (3) Household income criteria for applicant eligibility; and

2 (4) Standards for rehabilitation of historic property where those  
3 standards set forth in 36 CFR part 67 are not applicable.

4 (b) The SHPO shall promulgate the application and forms governing  
5 participation in the incentive program.

6 (c) Any person or entity seeking the historic preservation tax incentive set  
7 forth in this subchapter shall apply to the SHPO.

8 (d) As established by regulations, each application for tax incentives must be  
9 accompanied by a non-refundable application fee not to exceed \$500 for each residential  
10 application, or a non-refundable application fee for commercial-use property and mixed-  
11 use property which may not exceed \$1,000. All proceeds from the collection of  
12 application fees must be deposited into the Archeological Preservation Fund.

13 (e) Each applicant shall complete the application, and all other information  
14 requested, in whole, and shall include such drawings, renderings, charts, and photographs  
15 as may be requested by the State Historic Preservation Office.

16 (f) No property owner may qualify for participation in the tax incentive  
17 program unless the property owner invests at least \$5,000 towards the rehabilitation of  
18 the historic property.

19 (g) The SHPO shall, upon consideration of the application and such other  
20 matters as the SHPO considers appropriate, determine whether or not the property  
21 constitutes a certified, historic property qualified for tax incentives. In making the  
22 determination the SHPO shall review, approve, disapprove, or suggest modifications to  
23 any proposed rehabilitation plan to ensure that the objectives of this subchapter are  
24 achieved.

1 (h) No later than 30 days following the completion of the rehabilitation of a  
2 certified historic structure, the owner shall notify the Commission that the rehabilitation  
3 has been completed. The owner shall provide the Commission with documentation of  
4 work performed on the certified historic structure and shall submit certification of the  
5 costs incurred in rehabilitating the certified historic property. The Commission shall  
6 review the rehabilitation and verify its compliance with the rehabilitation plan. After  
7 verifying compliance, the Commission shall issue Certificate of Completion and Tax  
8 Incentive Qualification to the owner rehabilitating the certified historic property.

9 (i) A property owner after receiving three years of tax exemptions or tax  
10 credits for rehabilitated historic property authorized under this subchapter, shall annually  
11 on the date established by regulations submit to the Commission a renewal application  
12 for tax exemption recertification. Based on the results of an inspection of the  
13 rehabilitated historic property, the SHPO shall grant, suspend or revoke certification. All  
14 timely applications must be granted, if the Commission fails to review then within 60  
15 days after their receipt.

16 (j) The SHPO shall revoke a property owner's tax incentive certificate, if the  
17 property owner's failure to maintain or repair the historic property caused a loss in the  
18 characteristic that made the property eligible for certification.

19 (k) The SHPO shall notify the Tax Assessor of all approvals and revocations  
20 of tax incentive certificates no later than ten days after the decision.

21 **§ 984 [Regulations.]**

22 The Commission in conjunction with the State Historic Preservation Office shall  
23 promulgate regulations to carry out the purposes of this subchapter, including the  
24 establishment of reasonable administrative fees.

1 ***SUBCHAPTER III HISTORIC PROPERTY PRESERVATION INTEREST***

2           **§ 991. [Short title.]** This subchapter may be cited as “The Historic Property  
3 Preservation Interest Act.”

4           **§992. [Definitions]** As used in this subchapter, the following terms have the  
5 meaning prescribed in this section.

6           (a)     “Preservation agreement” means a right, whether or not stated in the form  
7 of a restriction, reservation, easement, covenant, servitude, condition or otherwise, in any  
8 deed, will, or other instrument executed by or on behalf of the owner of the historic  
9 property, appropriate for the preservation of a structure or site historically significant for  
10 its architecture, archaeology, historical or cultural associations, to forbid or limit any or  
11 all (i) alteration, (ii) alterations in exterior or interior features of the structure, (iii)  
12 changes in appearance or condition of the site, (iv) uses not historically appropriate, or  
13 (v) other acts or uses supportive of or detrimental to appropriate preservation of the  
14 structure or site.

15           (b)     “Historic Property Preservation Interest” means a nonpossessory interest  
16 of a Qualified Holder in historic real property in a Historic Preservation Agreement,  
17 granting to the Holder the right to control the treatment of historic property so that its  
18 historical integrity is preserved.

19           (c)     “Qualified Holder” means:

20                   (1)     a governmental body empowered to hold an interest in real  
21 property under the laws of this territory or the United States; or

22                   (2)     a charitable corporation, charitable association, or charitable trust,  
23 the purposes or powers of which include retaining or protecting historic,  
24 archeological, architectural and cultural values of real property, or cultural  
25 aspects of real property.

1 (d) "Third-party right of enforcement" means a right provided in an Historic  
2 Property Preservation Agreement to enforce any of its terms granted to a governmental  
3 body, charitable corporation, charitable association, or charitable trust, which, although  
4 eligible to be a Qualified Holder, is not a Holder.

5 **§992a [Applicability]** (a) This subchapter applies to any interest created after  
6 the subchapter's effective date which complies with this subchapter, whether designated  
7 as an historic property preservation easement, a conservation easement, or as a covenant,  
8 equitable servitude, restriction, easement, or otherwise.

9 (b) This subchapter applies to any interest created before its effective date, if  
10 it would have been enforceable had it been created after its effective date unless  
11 retroactive application contravenes the constitution, the Revised Organic Act or laws of  
12 Virgin Islands, or the United States.

13 (c) This subchapter does not invalidate any interest, whether designated as an  
14 historic property preservation interest, a conservation easement, or as a covenant,  
15 equitable servitude, restriction, easement, or otherwise, that is enforceable under other  
16 law of this Territory.

17 **§993. [Creation, conveyance, acceptance and duration]**

18 (a) Except as otherwise provided in this subchapter, a Historic Property  
19 Preservation Interest may be created, conveyed, recorded, assigned, released, modified,  
20 terminated, or otherwise altered or affected in the same manner as other an easement, or  
21 servitude.

22 (b) No right or duty in favor of or against a Qualified Holder and no right in  
23 favor of a person having a third-party right of enforcement arises under a Historic  
24 Property Preservation Interest before its acceptance by the Holder and a recordation of  
25 the acceptance.

1 (c) Except as provided in section 994(b), a Historic Property Preservation  
2 Interest is unlimited in duration, unless the instrument creating it provides otherwise.

3 (d) An interest in real property in existence at the time a Historic Property  
4 Preservation Interest is created is not impaired by it, unless the owner of the interest is a  
5 party to the Historic Property Preservation Interest and consents to it.

6 **§ 994. [Judicial actions]** (a) An action affecting a Historic Property  
7 Preservation Easement may be brought by:

8 (1) an owner of an interest in the real property burdened by the  
9 Historic Property Preservation Interest;

10 (2) a Qualified Holder of the Historic Property Preservation Interest;

11 (3) a person having a third-party right of enforcement; or

12 (4) a person authorized by other law.

13 (b) This chapter does not affect the power of a court to modify or terminate a  
14 Historic Property Preservation Interest in accordance with the principles of law and  
15 equity.

16 **§ 995. [Validity]**

17 A Historic Property Preservation Interest is valid even though:

18 (1) It is not appurtenant to an interest in real property;

19 (2) It can be or has been assigned to another holder;

20 (3) It is not of a character that has been recognized traditionally at  
21 common law;

22 (4) It imposes a negative burden;

23 (5) It imposes affirmative obligations upon the owner of an interest in  
24 the burdened property or upon the holder;

25 (6) The benefit does not touch or concern real property; or



1           (7)     There is no privity of estate or of contract.

2           **§996** (a) The Historic Property Preservation Interest entitles representatives of a  
3 Qualified Holder to enter the property in a reasonable manner and at reasonable times to  
4 assure compliance with subchapter II.

5           (b)     The Historic Property Preservation Interest may be enforced by injunction  
6 or other proceeding at law or in equity. No preservation interest may be unenforceable  
7 on account of lack of privity of estate, or contract, or lack of benefit to particular land, or  
8 on account of being assignable, or being assigned to any other qualified holder.

9           (c)     A Historic Property Preservation Interest may be released in whole or in  
10 part by the Qualified Holder for such consideration, if any, as the holder may determine,  
11 in the same manner as the Holder may dispose of any interests in property, subject to the  
12 conditions of the Historic Property Preservation Agreement.

13           **§997. [Scope of interest]**

14           A Historic Property Preservation Interest may forbid, limit or control acts that  
15 affect the historic property's special character or special historical, architectural, or  
16 archaeological value. The acts that may be limited or controlled are as follows:

17           (1)     Exterior alterations of an historic property, including, maintenance,  
18 placement, removal or decoration;

19           (2)     Interior alterations of an historic property, including, maintenance,  
20 renovation, construction, or decoration;

21           (3)     Demolition of historic property, construction, or placing of new  
22 buildings, additions, roads, signs, billboards, or other advertising, utility poles, or  
23 other structures, under, on or above the ground;

24           (4)     Alteration, removal, or destruction of trees, shrubs, or other  
25 vegetation, or fixtures, including, ornamental ironwork, walls, walks, hitching

1 posts and fences; or artifacts, including, historic or prehistoric relics, pottery or  
2 shards of pottery, tools, bottles or evidence of structural foundations;

3 (5) Dumping or placing of soil or other substance or material as  
4 landfill, or dumping or placing of trash, waste or unsightly or offensive materials;  
5 and

6 (6) Any other acts detrimental to the preservation of historic property.

7 **§998 [Recordation]**

8 (a) So that the title to the historic property affected reflects any Historic  
9 Property Preservation Interest, all preservation agreements must be recorded and indexed  
10 in the Office of the Recorder of Deeds for the district in which the historic property is  
11 located, in the manner of conveyances of interests in property. The preservation  
12 agreement must describe the property subject to the preservation interest by adequate  
13 legal description, or by reference to a recorded plan showing the subject property's  
14 boundaries.

15 (b) This section may not be construed to imply that any restriction, easement,  
16 covenant, or condition that does not have the benefit of this subchapter is unenforceable.

17 (c) Nothing in this subchapter may diminish the powers granted by any  
18 general or special law to any governmental department, agency or instrumentality of the  
19 Government to acquire property for public purposes by purchase, gift, eminent domain,  
20 or otherwise.”

21 **SECTION 7.** Title 33 Virgin Islands Code, chapter 81, subchapter I is amended  
22 by adding section 2306 to read as follows:

23 **§2306. [Historic preservation tax exemptions]**

24 (a) The tax exemptions set forth in subsection (c) may be granted to eligible  
25 real property owners on real property taxes levied against real property that been

1 rehabilitated pursuant to the Tax Incentive Program under the Antiquities Preservation  
2 and Historic Properties Act, 29 V.I.C., §983.

3 (b) All claimed exemptions must be accompanied by a Certificate of  
4 Completion and Tax Incentive Qualification issued by the Virgin Islands State Historic  
5 Preservation Office certifying that the exemptions have been earned in compliance with  
6 section 983.

7 (c) (1) An owner of owner-occupied rehabilitated historic property is entitled  
8 to receive ten years of exemptions from real property taxes, or tax exemptions equal to  
9 the cost of the rehabilitation, whichever is less.

10 (2) An owner of income-producing rehabilitated historic property is  
11 entitled to ten years of tax exemptions, or a tax credit that equals not more than  
12 fifty percent of the cost of rehabilitation, whichever is less.

13 (3) An owner of rehabilitated historic property where the cost of the  
14 rehabilitation is \$500,000 or more is entitled to twenty-five years of tax  
15 exemptions.

16 (d) The Commission shall forward to the Office of the Tax Assessor a written  
17 list of all approved properties for which tax exemptions or credits have been granted.

18 (e) Tax exemptions under this section commence after January 1 after the  
19 year in which the rehabilitation was completed.

20 (f) Unexpired portions of the exemptions granted under this section may be  
21 transferred to a subsequent property owner. Any request for a transfer must be  
22 accompanied by a certificate of transfer approval from the State Historic Preservation  
23 Office.

24 (g) If a taxpayer is disqualified for tax exemptions or credits by revocation of  
25 the Certificate by the State Preservation Officer, the amount of the exemption must

1 treated as an unpaid tax assessment, and in pursuing the repayment of the exemption  
 2 amount, the Tax Assessor may exercise all available means of collection and enforcement  
 3 permitted under chapter 89 of this title.

4 (h) If an owner of the historic property becomes disqualified under this  
 5 section, the owner is ineligible for future tax exemptions or credits for the subsequent tax  
 6 years.

### 7 BILL SUMMARY

8 The purpose of this bill is to provide incentives and enforcements measures  
 9 preserve historic properties in the Virgin Islands. Section 1 sets forth the title of the  
 10 proposed act, as “The Antiquities Preservation and Historic Properties Act “.

11  
 12 Section 2 amends title 3, section 404 of the Virgin Islands Code. That section  
 13 designates the Commissioner of the Department of Planning and Natural Resources to  
 14 serve as the State Historic Preservation Officer (SHPO) for the purpose of federal law.  
 15 Section 2 of the bill adds new provisions to section 404 and a declaration that the policy  
 16 of the Government in the furtherance of its responsibility to promote and preserve the  
 17 public health and welfare is to encourage the preservation of historic properties and  
 18 antiquities that have historical, cultural, and archeological significance to the Territory.  
 19 Section 2 also grants broad powers to the SHPO to develop and administer programs for  
 20 the preservation, repair, and rehabilitation of dilapidated historic properties.

21  
 22 Section 3 of the bill amends title 29, chapter 3, subchapter III of the Virgin  
 23 Islands Code. Subchapter III regulates the conservation and preservation of historic and  
 24 cultural assets and governs building and development in the Historic and Architectural  
 25 Control Districts of the Territory. Section 3 authorizes the Commissioner of DPNR to  
 26 impose reasonable conditions in the building permit to ensure the preservation of the  
 27 historic property.

28  
 29 Section 3 adds section 286a, which governs applications for the demolition of  
 30 properties within the Historic and Architectural Control Districts. The Commission will  
 31 review all applications to make a determination that the demolition of the property is in  
 32 the public interest. The proposed section 286a would also require notice of and hearing  
 33 on applications for demolition of historic properties, unless the Commission finds that the  
 34 structure to be demolished does not contribute to the particular Historic and Architectural  
 35 Control District. The section also provides procedures for property owners’ claims of  
 36 unreasonable economic hardship.

37  
 38 Section 4 of the bill amends the building code. It adds section 312a, which  
 39 authorizes the DPNR Commissioner to cause the repair or removal, remove or barricade  
 40 any structure that becomes unsafe, rehabilitate abandoned property. The section also  
 41 mandates that the Commissioner publish notice and hold show cause hearings in which  
 42 property owners must submit evidence against a claim that their property is unsafe or  
 43 abandoned. After making findings, the Commissioner must issue and publish an order

1 requiring appropriate remedial action and asses against the property owner the costs of  
2 any remedial action performed by the Commissioner.

3  
4 Section 5 amends chapter 17, section 964 of title 29 of the Virgin Islands Code.  
5 That section establishes the Archeological Preservation Fund. Section 5 authorizes the  
6 use of the Archeological Preservation Fund for providing historic preservation grants.

7  
8 Section 6 of the bill amends chapter 17 of title 29. Chapter 17 addresses  
9 antiquities and cultural property.

10  
11 Section 6 adds a new subchapter to chapter 17 addressing historic properties  
12 preservation and rehabilitation. Generally, the proposed subchapter II establishes a  
13 comprehensive program for mandatory restoration, rehabilitation, repair and  
14 maintenance of historic properties, a permit program, special requirements for demolition  
15 of properties being considered for placement on the Virgin Islands Registry of Historic  
16 Buildings, Sites and Places, government acquisition of historic properties for compliance,  
17 enforcement procedures and an incentive program.

18  
19 Proposed internal section 971, sets forth important definitions that govern the  
20 subchapter, including the definition of “historic property, which is intended to be  
21 narrower than the term defined in section 952 (m). To meet the definition of “historic  
22 property”, the building or other structure must be considered of importance to the  
23 history, architecture, or culture of the Virgin Islands, as determined by the Historic  
24 Preservation Officer, or the Historic Preservation Commission, or as listed on exiting  
25 national or territorial historic registers.

26  
27 The proposed internal section 972 Second, the bill commands owners of historic  
28 properties to keep them in good repair. Internal section 973 sets forth exemptions to the  
29 mandatory restoration, rehabilitation, repair or maintenance mandate of section 972. An  
30 owner could be exempt from the requirements if the restoration is financially  
31 impracticable or physically infeasible, if the restoration would adversely affect public  
32 health or safety, or the owner has been issued a demolition permit for the property.

33  
34 The proposed internal section 974 establishes a comprehensive rehabilitation  
35 permit program. The Historic Preservation Commission Committee will administer the  
36 permit program, including reviewing all applications and issuing the permits. The section  
37 sets out the items required to be contained in the rehabilitation permits, including a  
38 concise description of the rehabilitation project authorized by the permit, a list of the  
39 plans, drawings, and other documents submitted and incorporated by reference in the  
40 permit to clarify the terms of the permit, and reasonable conditions or requirements  
41 imposed by the Commission.

42  
43 The proposed internal section 975 establishes the duration of the rehabilitation  
44 permits. An initial permit expires three years from the date of issuance. The section also  
45 provides for the renewal and modification of permits, the extension of rehabilitation  
46 projects and procedures for final inspection of projects.

47  
48 The proposed section 977 authorizes the Governor to purchase historic properties  
49 with public or private funds, if all other efforts of the Commission, or the SHPO if the

1 Government has sufficient funds to complete the restoration within 18 months after  
2 acquisition.

3  
4 The proposed internal sections 978 through 981 provide for the enforcement and  
5 adjudication of violations of the subchapter. The subchapter provides for compliance  
6 inspections of historic properties, reports of the inspection results to the Commission, and  
7 the issuance of notices of violation to property owners who are in violation. The notice of  
8 violation must include information on grants, loans and other incentives available for the  
9 rehabilitation of historic property, a copy of the applicable regulations, an order of  
10 corrective action, and a listing or assessment of all fines and penalties incurred or the  
11 incurred on the dilapidated property.

12  
13 The proposed internal section 979 prescribes the procedures for hearings on  
14 violations. The Commission must issue a written decision no later than 14 days after the  
15 hearing. If the Commission finds that the owner's property is dilapidated, the owner must  
16 file an application for rehabilitation and pay the fine, if any, assessed in the Notice of  
17 Violation.

18  
19 The proposed section 980 imposes a civil penalty of not more than \$1000 for  
20 nonresidential property violations and not more than \$300 per day of violation for  
21 residential property violations. A rehabilitation permit is subject to revocation or  
22 suspension. Civil action in the Superior Court may also be instituted for enforcement of  
23 violations under the subchapter.

24  
25 The proposed internal section 981 provides for appeals of the Commission's  
26 actions. The appeal may be filed with the Board of Land Use Appeals no later than 30  
27 days after the party's receipt of a notice of determination.

28  
29 The proposed section 982 establishes the Historic Preservation Grant Program.  
30 The program is established in the State Historic Preservation Office to make grants from  
31 available funds to restore historic properties. Priority will be given to property the  
32 Commission determines to be endangered by demolition, neglect, underuse, looting,  
33 vandalism or other threats. The section provides for preservation agreements and  
34 preservation covenants as conditions of receiving grant awards. The section mandates the  
35 Commission to adopt regulations prescribing eligibility requirements of applicants, grant  
36 limits, conditions, criteria and other elements of program administration.

37  
38 The proposed internal section 983 establishes an historic Preservation tax  
39 incentive program. Upon successful completion of a rehabilitation project, in which the  
40 owner has invested at least \$5000, a property owner will be issued a Certificate of  
41 Completion and Tax Incentive Qualification entitling the owner to property tax  
42 exemptions or credits.

43  
44 The proposed Subchapter III to title 29, chapter 17 provides for a Historic  
45 Preservation Property Interest. This a nonpossessory interest of a holder in historic real  
46 property created in a Historic Preservation Agreement granting the holder the right to  
47 control the treatment of historic real property so that its historic integrity is preserved. It  
48 is a servitude. The Historic Preservation Interest entitles the holder to inspect the historic  
49 property and enforce compliance with the Act.

1  
2 Section 7 of the bill amends title 33 of the Code, chapter 81 to provide for the tax  
3 exemptions and credits for rehabilitation of historic properties. Subsection (c) of the  
4 sections sets forth the exemptions granted under the section, including a ten-year  
5 exemption from real property taxes, or an exemption equal to the cost of the  
6 rehabilitation, whichever is less, for owners of owner-occupied property. An owner of  
7 rehabilitated property with rehabilitation costs of at least \$500,000 is entitled to 25 years  
8 of tax exemptions.  
9

10 \*LEGISLATIVE NOTE TO PUBLISHER: The catchline to each section are bracketed, as they  
11 are not part of the law pursuant to 1 V.I.C., § 45(a) (2), and thereof may be changed by the Publisher.  
12

13 **BR12-1455/Revised by YLT May 14, 2012**  
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