



GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS

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DEPARTMENT OF PLANNING AND NATURAL RESOURCES

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Office of the Commissioner

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The Honorable Milton E. Potter
Chair
Committee on Disaster Recovery, Infrastructure and Planning
35th Legislature of the Virgin Islands

**RE: Testimony on Bill No. 35-0172
An Act Amending Title 29 of the Virgin Islands Building Codes**

Good day Chair Potter, other members of the 35th Legislature's Committee on Disaster Recovery, Infrastructure, and Planning; non-committee members and legislative staff present, and members of the viewing and listening public. My name is Jean-Pierre L. Oriol, Commissioner for the Department of Planning and Natural Resources (DPNR), and I am accompanied by Ms. Amanda Jackson-Acosta, Director of DPNR's Division of Permits (Permits). We are here today in support of Bill No. 35-0172: An Act amending Title 29, Chapter 5 of the Virgin Islands Code to provide for adoption of nationally recognized consensus-based codes, standards and amendments to such codes that are in the best interests of the territory, and to provide for clarifications to the Virgin Islands Building Code.

The Department acknowledges the need for updates to our Code so that we may improve the implementation of code enforcement in building a more resilient territory. Changes within the construction industry necessitate the requested changes in order to create consistency with the codes that we have adopted and national building standards. For example, the US Virgin Islands is a participating community for the International Code Council (ICC), as well as the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA). Both of these programs update periodically, particularly after major impact events; however, the USVI has not formally updated our building code since 2010.

After Hurricanes Irma and Maria in 2017, FEMA deployed a mitigation assessment team to the territory, joining the USVI in assessing and evaluating the damage caused by the storms. The team also identified both successful and unsuccessful construction practices within our territory. Soon after, an evaluation of 29 VIC Chapter 5 was conducted and several instances where amendments to improve the Code were highlighted. These amendments include suggestions on improving the administration of the Code, subsequent adoption (or auto-adoption), and some technical provisions related to wind design, flood hazard areas, and energy conversation.

In 2018 the USVI also underwent its first Community Assessment Visit by the NFIP and again, areas of the Code where amendments would be necessary to be compliant as a participation community were identified. As a result, in 2020 DPNR began the process of updating our Floodplain Regulations, first hiring a contractor to assist with the technical amendments,

then hosting several virtual town hall meetings and public comment periods. On February 17, 2021, the Honorable Albert Bryan Jr. approved the final regulations, successfully completing our first amendment since beginning our participation in the NFIP in 1980, bringing us significantly closer to being a “compliant” practicing community partner. These regulations are extremely technical and in multiple sections of the Code; therefore, the Department created a reference guide for the community that can be found on our website ([Flood Plain Information and Advisory Maps - VI DPNR](#)).

Although DPNR has completed the process of updating our Floodplain Regulations, there are still some technical edits of the Code, specifically in Title 29 Chapter 5, that require revision in order to: a) be consistent with federal requirements (such as requirements for record keeping policies); b) clearly identify administrative policies; and c) provide for adjustments to address areas that may be unique to the territory. One good example of the requested updates relates to the National Flood Rate Insurance Map (FIRM). The NFIP is currently using FIRM maps developed in 2018 for participating communities; however, because there is no auto-adoption clause in our Code for our flood regulations, the territory’s official FIRM map is the 2007 map. Since 2007, there have been significant improvements in data collection and modeling, which has led FEMA to develop different tools to identify more precisely Base Flood Elevations and Special Flood Hazard Areas, which have led to much improved FIRM maps being developed. Our Amendments passed in 2021 reference the 2018 Advisory Maps as the best available data; however, as regulations cannot supersede code, it is necessary to include language that will adopt the 2018 Advisory Maps and subsequent updates through regulations.

One final point to make about the benefits of updating our Building and Flood Code is the opportunities it provides to us. The Biden Administration has made an unprecedented amount of funding available to states and territories under FEMA’s Building Resilient Infrastructure and Communities (BRIC) program. FEMA has a national rating system called the “Building Codes Effectiveness Grading Schedule (BCGES)” which tracks participating communities that have adopted the most updated codes and are enforcing them. Communities with higher BCGES ratings score higher on proposals and receive the higher portions of funding under the BRIC program. Similarly, communities with updated flood regulations receive higher flood mitigation funds following disasters, lower interest loans under the Small Business Administration (SBA) program, and insurance premiums are generally lower for communities participating in the NFIP.

In conclusion, I would like to thank the Sponsor for putting forth Bill No. 35-0172. DPNR’s Division of Permits is the entity responsible for ensuring the safety of our residents through the effective enforcement of our building codes and flood regulations. If we think back to 30 years ago when Hurricane Marilyn was bearing down on these islands, the standards required that we consider wind speeds of 110 mph. Over the last six years, since the devastation of Hurricanes Irma and Maria, there have been 27 Category 3 or higher storms in the Atlantic, which means sustained winds of 111 mph or higher. Recognizing the changing climate, it was important for us to adopt a higher wind standard of 165 mph for our structures. With respect to our flood prone areas, it is important for us to adopt more enforceable standards and reduce the repetitive loss we have in these areas. By having higher standards and more enforceable policies, it allows us to ensure that we are building more resilient communities for our current and future residents.

Again, thank you for the opportunity to testify on Bill 35-0172, which DPNR fully supports. Amanda and I are here to answer your questions to the best of our abilities.