

COMMITTEE ON PLANNING AND ENVIRONMENTAL
PROTECTION

BILL NO. 29-0358

Twenty-Ninth Legislature of the Virgin Islands

July 10, 2012

Senator Louis P. Hill
Reed. 7.13.12 CDM.

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 Historic
3 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 read
6 as follows:

7 “(b) It is declared to be the public policy of the Government of the Virgin Islands
8 in furtherance of its responsibility to promote and preserve the health, prosperity, and general
9 welfare of the people of the Virgin Islands, to encourage the preservation of historic

1 properties and antiquities that have historical, cultural, and archeological significance to the
2 Territory.

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

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

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

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

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

19 (5) Identify dilapidated historic properties in need of preservation and
20 protection;

21 (6) Prepare comprehensive Territory-wide antiquities and historic
22 preservation plans;

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

1 (8) Cooperate with agencies of the federal government, other agencies of
2 the Virgin Islands, private organizations, and individuals, in order that antiquities and
3 historic properties are taken into consideration at all levels of planning and
4 development;

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

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

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

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

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

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

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

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

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

1 **“§286a [Demolitions]**

2 (a) Before the Commissioner issues a permit to demolish a historic landmark or a
3 building or structure in a Historic and Architectural Control District, the Commission shall
4 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 without a
9 public hearing in the case of a building or structure in an Historic and Architectural Control
10 District or on the site of an historic landmark upon the Commission’s determination that the
11 building or structure does not contribute to the Historic and Architectural Control District.

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

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

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

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

23 (A) For all property:

24 (i) The amount paid for the property, the date of purchase, and the
25 person from whom it was purchased, including a description of the

1 relationship, if any, between the owner and the person from whom the
2 property was purchased;

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

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

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

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

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

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

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

18 (B) For income-producing property:

19 (i) Annual gross income from the property for the previous two
20 years;

21 (ii) Itemized operating and maintenance expenses for the previous
22 two years; and

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

24 (2) The Commission may require that an applicant furnish such additional
25 information as the Commission believes is relevant to its determination of unreasonable

1 economic hardship and may provide in appropriate instances that such additional information
2 be furnished under seal. If any of the required information is not reasonably available to the
3 applicant and cannot be obtained by the applicant, the applicant shall file with the affidavit a
4 statement of the information that cannot be obtained and shall describe the reasons why the
5 information cannot be obtained.

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

10 **SECTION 4.** Title 29 Virgin Islands Code, chapter 5 is amended by adding section
11 312a to read as follows:

12 “§312a (a) The Commissioner may cause the repair or removal of, or may remove
13 any structure that becomes unsafe or dangerous.

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

16 (c) (1) Whenever a building inspector or other authorized officer files with the
17 Department a statement in writing that any structure, is unsafe or dangerous, or is abandoned
18 property, the Commissioner by order shall fix a time and place at which the property owner,
19 the property owner's agent, any lien holder of record and any occupant of such structure may
20 appear and show cause why the structure should not be condemned and ordered repaired or
21 demolished, in the case of unsafe or dangerous structures, or rehabilitated in the case of
22 abandoned property. In the case of a historic property as defined in section 971 of this title,
23 the repair, demolition or rehabilitation must be addressed pursuant to chapter 17 subchapter
24 II of this title.

25 (2) A notice of hearing must be published in a newspaper of general circulation in the

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

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

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

24 (3) When in the opinion of the Commissioner, any structure is in such condition
25 as to constitute an immediate hazard requiring immediate action to protect the public, the

1 Commissioner may erect barricades or cause the property to be vacated, taken down,
2 repaired, shored or otherwise made safe, without delay and such action may, under such
3 circumstances, be taken without prior notice to or hearing of the owners, agents, lien holders
4 or occupants. The Commissioner shall assess the cost of any such action against the property
5 owner and shall enforce any such assessment through an action brought by the Attorney
6 General.”

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

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

13 **“Subchapter II. [VIRGIN ISLANDS HISTORIC PROPERTIES PRESERVATION**
14 **AND REHABILITATION]**

15 **§ 971. [Definitions]**

16 As used in this subchapter,

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

21 (b) “Appropriate Commission Committee” means the Commission Committee in
22 the district that has jurisdiction over the particular matter.

23 (c) “Commission” means the Virgin Islands Historic Preservation Commission,
24 established under title 3 Virgin Islands Code, chapter 22, section 403.

1 (d) “Commissioner” means the Commissioner of the Department of Planning and
2 Natural Resources.

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

6 (f) “Building” means as defined in section 225(b) (19) of this title.

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

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

19 (i) “Historic rehabilitation” or “rehabilitate an historic property” means the
20 reconstruction, restoration, renovation, or structural repair of the interiors or exteriors of
21 historic properties or their relocation for the purposes of restoring or preserving their
22 historical or architectural significance or authenticity, preventing their deterioration, or
23 destruction, continuing their use, providing for their feasible reuse, or providing for the safety
24 of the occupants or the public, including the repairing of architectural facades ,or
25 ornamentation; removal of inappropriate additions or materials; replacement of facades,

1 ornamentation, or architectural elements previously removed; repairing of roofs, foundations,
2 and other essential structural elements, or any other work in order to comply with
3 rehabilitation standards and requirements under this subchapter. The term does not include
4 the purchase, installation, or restoration of furnishings.

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

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

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

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

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

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

20 (1) Rehabilitation of the historic property commenced after the effective
21 date of this subchapter;

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

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

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

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

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

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

19 (b) The preservation of the historic structure must include all interior and exterior
20 portions of the structure which if not restored, rehabilitated, repaired or maintained will
21 damage the historic characteristics of the property, or will cause the interior and exterior
22 portions of the historic property to deteriorate or fall into a state of disrepair.

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

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

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

7 **§ 973. [Exceptions]**

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

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

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

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

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

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

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

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

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

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

19 (c) No later than 90 days after the execution of the Acknowledgement, the
20 property owner found to be in violation of this subchapter shall present to the appropriate
21 Commission Committee an application for a rehabilitation permit, accompanied by a
22 rehabilitation plan for the dilapidated historic property and a reasonable fee, as determined by
23 regulation.

24 (d) The rehabilitation plan must include proposed measures demonstrating that
25 the historic property will be rehabilitated in a manner suitable to preserve the historic

1 characteristics of the historic property and will be consistent, where applicable, with the
2 Secretary of the Interior's Standards for Rehabilitation and the Commission's standards
3 established by regulations. The rehabilitation plan must also include a budget for the project
4 and a work schedule.

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

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

17 (g) The Commission Committee shall review the permit application and
18 rehabilitation plan and in accordance with the procedures prescribed in subsections (a) and
19 (b) of section 286 of this title, issue a decision on the rehabilitation permit application and
20 notify the applicant within the time specified in section 286. A rehabilitation permit must be
21 issued not later than fifteen days after the rehabilitation plan is approved either by decision or
22 default. In either case the Commission Committee shall impose reasonable conditions to
23 ensure compliance with the standards and other requirements of this chapter and other
24 applicable law.

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

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

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

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

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

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

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

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

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

16 (9) A statement that the rehabilitation of the dilapidated historic property
17 must begin within three months from the date such permit becomes effective and
18 must be continuous until completion, and that failure to so commence work within
19 such period and continuously construct thereafter until the completion of
20 construction, may cause the permit to terminate automatically and render it void,
21 unless the Permittee requests an extension in writing and demonstrates to the
22 satisfaction of the Commission Committee that good cause exists for granting the
23 extension;

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

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

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

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

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

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

17 **§ 975. [Duration of rehabilitation permit; renewal; modification; final**
18 **inspection]**

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

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

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

4 (d) Each permit renewal application must include:

5 (1) A statement explaining the specific actions the property owner has
6 taken in order to rehabilitate the dilapidated property in accordance with the
7 rehabilitation permit;

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

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

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

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

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

20 (g) The date by which the rehabilitation project must be completed may be
21 extended upon the written request of the Permittee and written consent of the appropriate
22 Commission Committee, if the Commission Committee finds that the property owner is
23 using reasonable efforts to rehabilitate the dilapidated historic property pursuant to the
24 rehabilitation permit, and if the extension of time is necessary for the preservation of the

1 historic characteristics of the dilapidated property or if the Permittee satisfies the
2 Commission Committee that other good cause for the extension exists.

3 (h) The Permittee may request from the appropriate Commission Committee a
4 modification of the terms and conditions of the rehabilitation permit. No modification of a
5 rehabilitation permit may be granted unless the modification application includes the
6 following:

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

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

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

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

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

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

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

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

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

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

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

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

7 (l) Seven days after receiving the report of the Commission Committee, the
8 Commission may annul or reduce any penalties assessed against historic property owner, if
9 the Commission determines that the property owner used reasonable efforts in the
10 rehabilitation of the dilapidated historic property, whether or not the efforts were effective in
11 the preservation of the historic characteristics of the property.

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

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

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

20 If all efforts by the Commission and the SHPO to preserve a historic property fail, or
21 if the SHPO determines that Government ownership is needed to preserve the historic
22 property, and that Government ownership is in the public interest, the Governor, upon
23 recommendation of the SHPO and the Commission, may purchase the historic property using
24 public funds, public or private gifts, donations, grants, proceeds from the issuance of bonds,
25 or may acquire the property by eminent domain pursuant to title 28, chapter 10 of the Virgin

1 Islands Code, under the condition that the Government proves it has sufficient funding to
2 complete the rehabilitation of the historic property within 18 months after its acquisition.

3 **§978 [Inspection of historic properties for compliance; Notice-of-Violation;**
4 **Acknowledgement]**

5 (a) No later than 14 days after a request by any member of the Commission, the
6 Commission Committee, an abutting property owner, the SHPO, a Qualified Holder, as
7 defined in section 992 (c), or upon the petition of at least 10 citizens, the Commissioner, or
8 the Commissioner's designee, and a member of the Commission or its designee, shall
9 conduct an inspection of a historic property to ascertain compliance with this subchapter. In
10 conducting the inspection, the inspecting parties may enter, at reasonable times upon the
11 historic property in question to conduct the inspection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 **§ 979 [Conduct of Hearings In Response to a Notice of Violation]**

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

4 (1) Timely and adequate notice;

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

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

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

11 (5) An impartial decision maker.

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

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

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

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

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

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

6 (b) The appropriate Commission Committee, the SHPO, or a Qualified Holder
7 may enter at reasonable times upon any historic property, and the property owner shall
8 permit such entry for the purpose of inspecting, ascertaining compliance or investigating a
9 complaint of violation with this subchapter,

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

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

15 or

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

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

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

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

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

7 (A) The violation demonstrated a chronic recurring pattern of
8 noncompliance that posed, or might pose, a significant risk to the preservation
9 of the historic property, public health, public safety, or environment;

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

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

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

24 (f) In Addition to the remedies established in this section, the Commission shall
25 pursuant to regulations establish programs for voluntary compliance with the requirements of

1 this subchapter, including regulations implementing the establishment of preservation
2 agreements.

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

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

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

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

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

23 (c) All grants of government funds to assist in the preservation of historic
24 properties must be made from the Archaeological Preservation Fund and may be awarded
25 only pursuant to applications for assistance made to the SHPO. The Commission shall

1 review each application for an historic preservation grant and make recommendations to the
2 SHPO. The Commission shall submit annually to the SHPO for approval lists of all
3 applications that are recommended by the Commission for grant awards, arranged in order of
4 priority.

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

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

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

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

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

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

6 (2) Criteria for certification of property as eligible for historic preservation
7 tax incentives;

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

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

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

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

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

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

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

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

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

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

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

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

25 **§ 984 [Regulations.]**

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

4 ***SUBCHAPTER III HISTORIC PROPERTY PRESERVATION INTEREST***

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

7 §992. [Definitions] As used in this subchapter, the following terms have the
8 meaning prescribed in this section.

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

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

21 (c) “Qualified Holder” means:

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

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

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

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

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

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

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

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

25 (b) No right or duty in favor of or against a Qualified Holder and no right in favor

1 of a person having a third-party right of enforcement arises under a Historic Property
2 Preservation Interest before its acceptance by the Holder and a recordation of the acceptance.

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

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

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

- 10 (1) an owner of an interest in the real property burdened by the Historic
11 Property Preservation Interest;
- 12 (2) a Qualified Holder of the Historic Property Preservation Interest;
- 13 (3) a person having a third-party right of enforcement; or
- 14 (4) a person authorized by other law.

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

17 **§ 995. [Validity]**

18 A Historic Property Preservation Interest is valid even though:

- 19 (1) It is not appurtenant to an interest in real property;
- 20 (2) It can be or has been assigned to another holder;
- 21 (3) It is not of a character that has been recognized traditionally at
22 common law;
- 23 (4) It imposes a negative burden;
- 24 (5) It imposes affirmative obligations upon the owner of an interest in the
25 burdened property or upon the holder;

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

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

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

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

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

14 **§997. [Scope of interest]**

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

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

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

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

25 (4) Alteration, removal, or destruction of trees, shrubs, or other vegetation,

1 or fixtures, including, ornamental ironwork, walls, walks, hitching posts and fences;
2 or artifacts, including, historic or prehistoric relics, pottery or shards of pottery, tools,
3 bottles or evidence of structural foundations;

4 (5) Dumping or placing of soil or other substance or material as landfill,
5 or dumping or placing of trash, waste or unsightly or offensive materials; 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 Property
9 Preservation Interest, all preservation agreements must be recorded and indexed in the Office
10 of the Recorder of Deeds for the district in which the historic property is located, in the
11 manner of conveyances of interests in property. The preservation agreement must describe
12 the property subject to the preservation interest by adequate legal description, or by reference
13 to a recorded plan showing the subject property's boundaries.

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

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

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

21 **§2306. [Historic preservation tax exemptions]**

22 (a) The tax exemptions set forth in subsection (c) may be granted to eligible real
23 property owners on real property taxes levied against real property that been rehabilitated
24 pursuant to the Tax Incentive Program under the Antiquities Preservation and Historic
25 Properties Act, 29 V.I.C., §983.

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

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

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

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

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

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

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

19 (g) If a taxpayer is disqualified for tax exemptions or credits by revocation of the
20 Certificate by the State Preservation Officer, the amount of the exemption must be treated as an
21 unpaid tax assessment, and in pursuing the repayment of the exemption amount, the Tax
22 Assessor may exercise all available means of collection and enforcement permitted under
23 chapter 89 of this title.

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

BILL SUMMARY

1
2 The purpose of this bill is to provide incentives and enforcements measures preserve
3 historic properties in the Virgin Islands. Section 1 sets forth the title of the proposed act, as
4 "The Antiquities Preservation and Historic Properties Act "
5

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

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

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

32 Section 4 of the bill amends the building code. It adds section 312a, which authorizes
33 the DPNR Commissioner to cause the repair or removal, remove or barricade any structure
34 that becomes unsafe, rehabilitate abandoned property. The section also mandates that the
35 Commissioner publish notice and hold show cause hearings in which property owners must
36 submit evidence against a claim that their property is unsafe or abandoned. After making
37 findings, the Commissioner must issue and publish an order requiring appropriate remedial
38 action and asses against the property owner the costs of any remedial action performed by the
39 Commissioner.
40

41 Section 5 amends chapter 17, section 964 of title 29 of the Virgin Islands Code. That
42 section establishes the Archeological Preservation Fund. Section 5 authorizes the use of the
43 Archeological Preservation Fund for providing historic preservation grants.
44

45 Section 6 of the bill amends chapter 17 of title 29. Chapter 17 addresses antiquities
46 and cultural property.
47

48 Section 6 adds a new subchapter to chapter 17 addressing historic properties
49 preservation and rehabilitation. Generally, the proposed subchapter II establishes a

1 comprehensive program for mandatory restoration, rehabilitation, repair and maintenance of
2 historic properties, a permit program, special requirements for demolition of properties being
3 considered for placement on the Virgin Islands Registry of Historic Buildings, Sites and
4 Places, government acquisition of historic properties for compliance, enforcement procedures
5 and an incentive program.
6

7 Proposed internal section 971, sets forth important definitions that govern the
8 subchapter, including the definition of "historic property, which is intended to be narrower
9 than the term defined in section 952 (m). To meet the definition of "historic property", the
10 building or other structure must be considered of importance to the history, architecture, or
11 culture of the Virgin Islands, as determined by the Historic Preservation Officer, or the
12 Historic Preservation Commission, or as listed on exiting national or territorial historic
13 registers.
14

15 The proposed internal section 972 Second, the bill commands owners of historic
16 properties to keep them in good repair. Internal section 973 sets forth exemptions to the
17 mandatory restoration, rehabilitation, repair or maintenance mandate of section 972. An
18 owner could be exempt from the requirements if the restoration is financially impracticable
19 or physically infeasible, if the restoration would adversely affect public health or safety, or
20 the owner has been issued a demolition permit for the property.
21

22 The proposed internal section 974 establishes a comprehensive rehabilitation permit
23 program. The Historic Preservation Commission Committee will administer the permit
24 program, including reviewing all applications and issuing the permits. The section sets out
25 the items required to be contained in the rehabilitation permits, including a concise
26 description of the rehabilitation project authorized by the permit, a list of the plans, drawings,
27 and other documents submitted and incorporated by reference in the permit to clarify the
28 terms of the permit, and reasonable conditions or requirements imposed by the Commission.
29

30 The proposed internal section 975 establishes the duration of the rehabilitation
31 permits. An initial permit expires three years from the date of issuance. The section also
32 provides for the renewal and modification of permits, the extension of rehabilitation projects
33 and procedures for final inspection of projects.
34

35 The proposed section 977 authorizes the Governor to purchase historic properties
36 with public or private funds, if all other efforts of the Commission, or the SHPO if the
37 Government has sufficient funds to complete the restoration within 18 months after
38 acquisition.
39

40 The proposed internal sections 978 through 981 provide for the enforcement and
41 adjudication of violations of the subchapter. The subchapter provides for compliance
42 inspections of historic properties, reports of the inspection results to the Commission, and the
43 issuance of notices of violation to property owners who are in violation. The notice of
44 violation must include information on grants, loans and other incentives available for the
45 rehabilitation of historic property, a copy of the applicable regulations, an order of corrective
46 action, and a listing or assessment of all fines and penalties incurred or the incurred on the
47 dilapidated property.
48

1 The proposed internal section 979 prescribes the procedures for hearings on
2 violations. The Commission must issue a written decision no later than 14 days after the
3 hearing. If the Commission finds that the owner's property is dilapidated, the owner must file
4 an application for rehabilitation and pay the fine, if any, assessed in the Notice of Violation.
5

6 The proposed section 980 imposes a civil penalty of not more than \$1000 for
7 nonresidential property violations and not more than \$300 per day of violation for residential
8 property violations. A rehabilitation permit is subject to revocation or suspension. Civil
9 action in the Superior Court may also be instituted for enforcement of violations under the
10 subchapter.
11

12 The proposed internal section 981 provides for appeals of the Commission's actions.
13 The appeal may be filed with the Board of Land Use Appeals no later than 30 days after the
14 party's receipt of a notice of determination.
15

16 The proposed section 982 establishes the Historic Preservation Grant Program. The
17 program is established in the State Historic Preservation Office to make grants from available
18 funds to restore historic properties. Priority will be given to property the Commission
19 determines to be endangered by demolition, neglect, underuse, looting, vandalism or other
20 threats. The section provides for preservation agreements and preservation covenants as
21 conditions of receiving grant awards. The section mandates the Commission to adopt
22 regulations prescribing eligibility requirements of applicants, grant limits, conditions, criteria
23 and other elements of program administration.
24

25 The proposed internal section 983 establishes an historic Preservation tax incentive
26 program. Upon successful completion of a rehabilitation project, in which the owner has
27 invested at least \$5000, a property owner will be issued a Certificate of Completion and Tax
28 Incentive Qualification entitling the owner to property tax exemptions or credits.
29

30 The proposed Subchapter III to title 29, chapter 17 provides for a Historic
31 Preservation Property Interest. This a nonpossessory interest of a holder in historic real
32 property created in a Historic Preservation Agreement granting the holder the right to control
33 the treatment of historic real property so that its historic integrity is preserved. It is a
34 servitude. The Historic Preservation Interest entitles the holder to inspect the historic
35 property and enforce compliance with the Act.
36

37 Section 7 of the bill amends title 33 of the Code, chapter 81 to provide for the tax
38 exemptions and credits for rehabilitation of historic properties. Subsection (c) of the sections
39 sets forth the exemptions granted under the section, including a ten-year exemption from real
40 property taxes, or an exemption equal to the cost of the rehabilitation, whichever is less, for
41 owners of owner-occupied property. An owner of rehabilitated property with rehabilitation
42 costs of at least \$500,000 is entitled to 25 years of tax exemptions.
43

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