

ACT NO. 7154

BILL NO. 28-0208

TWENTY-EIGHTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2010

An Act authorizing the Tax Assessor of the Virgin Islands to issue real property tax bills at the 1998 rate and assessment level; amending Act No. 7064 relating to notice to the Legislature in connection with government revenue matters; amending 29 V.I.C., §231 relating to the maximum height of buildings constructed under the Affordable Housing Program; amending Act No. 7063 relating to monitoring of ARRA Funds; prohibiting the levying of penalties and interests for property tax years 2006, 2007 and 2008; and relating to other purposes

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WHEREAS, the Government of the Virgin Islands real property taxation system remains subject to continuing litigation in the matter captioned as *Berne Corp., et al. v. Government of the Virgin Islands, et al.*, District Court of the Virgin Islands, Division of St. Thomas and St. John, Civil No. 2000-141 ("*Berne case*"); and

WHEREAS, the Tax Assessor has been unable to successfully issue Real Property tax bills and collect Real Property taxes since the issuance of the 2005 tax bills, which represents a forty-five million dollar loss in annual revenue for the Government of the Virgin Islands; and

WHEREAS, the collection of these taxes correlates to the Territorial Government's ability to provide much needed services to its residents and meet its payroll requirements as the largest employer in the Virgin Islands; and

WHEREAS, on May 12, 2003, in the *Berne case* the District Court enjoined the Government of the Virgin Islands from assessing and collecting property taxes until the property tax system has been revamped and the requisite conditions certified by a Special Master; and

WHEREAS, as a consequence of the injunction, the Legislature subsequently passed Act No. 6586, which allowed the Government to issue tax bills and collect taxes at the 1998 assessment level for all classes of real property for tax years 1999 through 2004; and

WHEREAS, as a result of the passage of Act No. 6586 and on motion of the Government requesting a modification of the May 12, 2003, Decree, the District Court on August 13, 2003, modified its injunction to allow the Government to collect property taxes from all property owners, except the plaintiffs in the *Berne case*, based on the 1998 assessments level; and

WHEREAS, on June 26, 2009, the Government filed a motion to modify or vacate the non-vacated portion of the May 12, 2003 Injunction and subsequently notified the Court that as of December 14, 2009, the Board of Tax Review has no pending appeals; and

WHEREAS, the District Court on February 17, 2010, denied the Government's June 26, 2009, motion to modify or vacate the injunction to allow it to assess and collect real property taxes at a rate other than the 1998 rate; and

WHEREAS, the Government is in a severe financial crisis and has not collected property taxes for 2006, 2007 and 2008, the total value of which is approximately One Hundred Thirty-Five Million dollars in revenue; and

WHEREAS, the Government wishes to alleviate the potential tax burden on taxpayers due to the accumulation of several years' property taxes that may all become due over a short period of time, if property tax bills are not issued; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Notwithstanding title 33 Virgin Islands Code, chapters 85 and 89, the Tax Assessor, pursuant to the District Court's August 13, 2003, order in *Bern corp. et al. v. Government of the Virgin Islands*, Civil No. 2000-14 which modified the May 12, 2003, Decree, for all classes of real property, including, commercial and non-commercial real property, may issue real property tax bills and collect taxes at the 1998 rate and assessment level for tax years 2006, 2007, 2008, 2009 and for future tax years, or until such time as the District Court vacates the May 12, 2003, Injunction or permits the Tax Assessor to collect property taxes at a rate other than that set forth in the Court's August 13, 2003 Order.

SECTION 2. Act No. 7103(Bill No. 28-0109), section 2 Miscellaneous is amended in CC/CNTR M3001, "Lt. Gov's Office – Address the issues regarding Real Property tax values on the island of St. John" by adding the following: "and to develop script and reconfigure the system and reprogram data back to the 1998 levels.

SECTION 3. Act No. 7064 (Bill No. 28-0029), the first line in section 1, subsection (c), is deleted and a new language is inserted to read:

"The Governor may not take any action under subsection (a) of this section until the following information is submitted to and reviewed by the Legislature of the Virgin Islands:".

SECTION 4. Title 29 Virgin Islands Code, chapter 3, section 231 (a) (12) (C) is amended by striking "chapter 3" and inserting in lieu thereof "chapter 16".

SECTION 5. No interests or penalties may be levied on any assessment for the property tax years 2006, 2007 and 2008.

SECTION 6. Act No. 7063 (Bill No. 28-0028) is amended in the following instances:

- (1) In Section 5, insert a new sentence at the end thereof that reads:

“The detailed reports are due June 30 and December 30 annually until such time as the availability and use of AARA Funds have been completed”; and

(2) In Section 7, strike subsections (a) and (b) in their entirety, renumber the current subsection (c) as subsection (b) and insert a new subsection (a) that reads:

“(a) The Legislature’s Committee of the Whole shall review, investigate and monitor actions undertaken with ARRA funding.”

Thus passed by the Legislature of the Virgin Islands on March 9, 2010.

Witnessed our Hands and Seal of the Legislature of the Virgin Islands this 10th Day of March, A.D., 2010.



Louis Patrick Hill

Louis Patrick Hill
President

Samuel Sanes

Samuel Sanes
Legislative Secretary

Bill No. 28-0208 is hereby approved.



Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 22nd day of March, A.D., 2010.

John P. de Jongh, Jr.

John P. de Jongh, Jr.
Governor