



THE UNITED STATES VIRGIN ISLANDS
OFFICE OF THE GOVERNOR
GOVERNMENT HOUSE
Charlotte Amalie, V.I. 00802
340-774-0001

April 14, 2020

VIA MESSENGER

The Honorable Novelle E. Francis, Jr.
President
Thirty-Third Legislature of the Virgin Islands
Capitol Building
St. Thomas, VI 00802

Re: Governor's Action on Bill Nos. 33-0278, 33-0287, 33-0289, 33-0290, and Resolution No. 1866.

Dear Mr. Senate President:

I write to advise you that, on April 14, 2020, pursuant to Section 9(d) of the Revised Organic Act of the Virgin Islands of 1954, as amended, I have acted on Bills numbered 33-0278, 33-0287, 33-0289, 33-0290, and Resolution No. 1866.

I have signed into law Bill No. 33-0278, which amends Act No. 8178, clarifying and adding additional provisions to enable the closing on the disaster recovery funding-based line of credit. Although I have signed Bill No. 33-0278, I would like bring to your attention that the amendments requested by bond counsel for the Government of the Virgin Islands to effectuate the full intent of this bill, which were submitted to your office on February 27, 2020, are still necessary and advisable, in order to properly structure the borrowing contemplated by the Government of the Virgin Islands to fund the Hurricane Disaster Recovery projects. It is urged that the Legislature expeditiously meet to consider approval of the Amendments as presented which would revise Bill No. 33-278. In addition to the necessary amendments, please be advised that I am exercising my power pursuant to *Title 1 Virgin Islands Code*,

Section 202 to correct a typographical error in this Bill. The error corrected is found in Section 1 (c) of Bill No. 33-0278. In the newly added Section 4 to Act No. 8178, subsection (1), by changing 2(b) to 3(b) as there is no Section 2(b) added to Act No. 8178; and therefore, the correctly intended section was 3(b). I have so corrected.

I also signed into law Bill No. 33-0287, an Act authorizing the Governor to borrow from public funds to offset cash flow problems caused by the COVID-19 Pandemic and to issue Revenue Anticipation Notes (RAN) in the maximum amount of \$120,000,000 to provide funding for government operations. I commend the Legislature for acting promptly on this measure as this Bill will provide substantial liquidity, enable the Government to offset revenue losses due to the impact of COVID-19, and avoid layoffs of government employees.

I must veto Bill No. 33-0289, an Act amending title 27, chapter 1 of the Virgin Islands Code, which attempts to add Doctors of Podiatric Medicine (D.P.M.) to the definition sections under the Board of Medical Examiners and Physician Assistants Licensing provisions. I must also bring to your attention that the amendments requested on February 20, 2020, to correct the improper use of acronyms and other technical errors, in my veto of Bill 33-0251, an almost identical version of this Bill, were still not incorporated in this legislation.

Although the intent of this Bill is to try to expand patient services in the field of Podiatry by including a definition of Podiatrists as physicians allowed to supervise Physician Assistants ("PAs"), as written the current legislation does not accomplish that goal. The two most compelling reasons against enacting this legislation are: 1) CMS regulations and specifically Medicare, do not reimburse for services performed by a PA supervised by a Podiatrist, reimbursement is only available for PA services performed under the supervision of Doctor of Medicine (MD) or Doctor of Osteopathic Medicine (DO), and 2) PAs are trained as Medical Generalist and not specifically trained in Podiatry, and doctors practicing in the field of Podiatry require specialty training beyond general medicine. Doctors in the field of Podiatry and PAs also do not support this legislation. As stated by the American Academy of Physician Assistants ("AAPA"), AAPA policies have never supported supervision of PA's by Podiatrist and this type of legislation has been opposed by 40 states¹. If it is the Legislature's intent to expand the scope of PAs practice in the Territory, I encourage

¹ Only ten states (CA, CO, MI, OH, OR, RI, TN, VA, WV and WI) have provisions authorizing PA practice with podiatrists. And several of these states have efforts underway to remove such authorization.

you to review the legislation passed in other states in this area², which develops how PAs can render services under a Podiatrist. If it the Legislature's intent to expand the availability of Podiatrists in the Territory, I also encourage them to consider enacting Interstate Medical Licensure Compact (IMLC) legislation³, to improve access to care (including Podiatrists) using telemedicine across states and expand license portability for PAs⁴.

I must also veto Bill No. 33-0290, which seeks to amend Title 30, Virgin Islands Code, chapter 5, subchapter V, section 127 by reducing the amount of time that the Virgin Islands Water and Power Authority ("VIWAPA") can "back-bill" customers for errors, and by defining the "billing cycle." The practice of back-billing was already limited to a reasonable period of three months by Act No. 7373. As errors happen in any business, including with VIWAPA, both in favor of or against customers, there needs to be a certain amount of time to rectify an incorrect billing, which often is not identified until two billing cycles have passed. To limit VIWAPA, or any business for that matter, to only one billing cycle or thirty days to correct an error could be crippling. This Bill would also create an inability to bill after disasters like hurricanes and tropical storms, when delayed billing becomes essential. This attempt to further reduce the back-billing ability of VIWAPA is also not taking into consideration the potential interference with its bondholder responsibilities to not change any operating financial terms that could affect the payment of bonds. As I understand this bill to be reactionary to VIWAPA's change in billing cycle, we must also recognize that the current back-billing limitation is restrictive enough.

Finally, I acknowledge receipt of Resolution No. 1866 (Bill No. 33-0288), petitioning the United States Congress to include the U.S. Virgin Islands in all federal aid packages and legislation related to the COVID-19 Pandemic. A copy of the Resolution has been submitted with our request for urgent consideration of multiple financial assists to the Territory.

I thank you and the members of the Thirty-Third Legislature for working cooperatively and expeditiously in order to assist the Territory of the U.S. Virgin

² See California's Physician Assistance Act and Senate Bill No. 697, "[t]he purpose of this chapter is to encourage the effective utilization of the skills of physicians and surgeons, and physicians and surgeons and podiatrists practicing in the same medical group practice, by enabling them to work with qualified physician assistants to provide quality care."

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB697

³ See IMLC legislation: <https://imlcc.org/bylaws-and-policies/>

⁴ See video on how IMLC works: <https://fsmb.wistia.com/medias/i4agksbl5g?autoplay=true>

April 14, 2020

Page 4 of 4

Islands in its response to the State of Emergency during the COVID-19 Pandemic.

Sincerely,



Albert Bryan Jr.
Governor

Enclosures

cc: Senators of the Thirty-Third Legislature.