

The Virgin Islands Consortium

St. Croix Music Producer Testifies Against Proposed Tax Incentive Bill, Graham Agrees To Change Course

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At a Committee on Economic Development, Agriculture and Planning hearing held Monday on St. Thomas, Laurent "Tippy" Alfred, the award-winning St. Croix music producer behind the mega hit, "Virgin Islands Nice" and countless other reggae music successes on the world stage, testified that proposed Bill No. 31-0009, "if passed in its current form, would entirely eliminate the music and audio recording components of the existing STARS Act."

The existing Sustainable Tourism through Arts-based Revenue Streams, [STARS Act](#), was signed into law by former Governor John de Jongh on Feb. 21, 2012 with clearly defined tax incentives for licensed businesses involved in the local film, music and audio

recording industries, as well as for professionals who visit the Virgin Islands to perform or record their work. However, the law has never taken effect and given the chance to "do what it is supposed to do," Alfred told *VI Consortium* in a telephone interview Tuesday. Yet, [Bill No. 31-0009](#) has been introduced by Sen. Clifford Graham with the intent of "repealing and reenacting" the STARS Act to only include incentives for the film and video industries.

But Alfred and other stakeholders in the local film and music industry have pushed back.

"This wholesale elimination of the very industry that spearheaded and championed the original legislation makes absolutely no sense and is unnecessary, counter-productive, and disregarding of the great value that music has had and can continue to have in the economic revival of our Territory," Alfred testified Monday. "It would serve no one's interest to have a promising program that has demonstrated interest from major players in the music industry eliminated before it even has a chance to get off the ground. It certainly does not serve the interests of the people of the Virgin Islands."

As a result of Alfred's testimony, Sen. Graham said Bill No. 31-0009 will be revised to reinstate the music and audio industry components of the existing STARS Act before it passes the Committee. Alfred even expressed his support for the Bill once those changes have been made.

"Finally, we're all on the same accord about that. Music will be reinstated. We're in the process of working with Senator Graham's office to reinstate the music component into the Bill," Alfred said, adding, "When I say reinstate, I don't want anyone to get the impression that we're trying to reinstate it into law, because the STARS Act is current law and it does include music."

The Making of STARS

Alfred, who holds a law degree from Yale Law School and helped draft the existing STARS Act, testified that the law was designed to promote the "unique resources and assets in the Virgin Islands to attract major audio recording and film projects, thereby generating a sustainable engine of buzz that supports and enhances our Territory's most important economic industry: Tourism."

He told *VI Consortium*, "We're trying to rescue the STARS Act from being morphed into something that excludes music." He said that while he is very supportive of the proposed changes in the Bill as it relates to the film and video industry, "we'd like to see some awareness about the tremendous impact that Virgin Islands musicians and artists have had, can have on both our residents and on the tourism industry."

According to Alfred's sworn testimony, a Sept. 2, 2014 teleconference with former Economic Development Authority (EDA) Assistant CEO Jennifer Nugent-Hill, Sen. Graham and his staff, representatives from Sen. Sanes' office, Dept. of Tourism officials, and other stakeholders in the film and music industries brought to light "that both the VIEDA and the USVI Department of Tourism feel that the current law is not appropriate for the film and video industries that typically utilize tax rebates and credits as an incentive structure."

Those tax rebates being proposed in the new Bill can be as lucrative as \$500,000 per film production, and are funded by the Tourism Advertising and Revolving Fund with a total budget for cash rebates appropriated at a minimum of \$2.5 million annually.

But rather than tweaking only the portions of the Act that specifically deals with the film and video industry -- something Alfred says he doesn't oppose, telling *VI Consortium* he understands the way the language is currently written in the existing STARS Act "is not best suited" for the film and video industries -- Graham's proposed Bill had altogether eliminated the music and audio components of the law.

"Instead of adjusting just the video and film components of the law, the replacement bill proposed by Senator Graham completely omitted the music/audio industry components, and was entirely devoted to the film/video industry. This is a classic case of throwing the baby out with the bath water," Alfred testified.

At the Sept. 2 meeting, Graham's proposed Bill No. 30-0417, which eliminated the music component of the STARS Act, was presented to the group for review.

Following objections, the meeting concluded with assurances that "the VIEDA would collaborate with music industry stakeholders and Senator Graham's office on drafting a revision of the Bill that would re-incorporate the audio/music components of the current STARS Act in a workable manner," Alfred testified.

However, that never happened. Bill No. 30-0417 was eventually passed by the 30th Legislature at the body's final session last December without testimony from Alfred and other music industry stakeholders. But, Gov. de Jongh vetoed the Bill before leaving office, "as it unnecessarily eliminates music and audio recording from the program," Alfred testified. The Bill has now been reintroduced as Sen. Graham's Bill No. 31-0009 in the 31st Legislature.

The EDA, under the leadership of CEO Percival Clouden, had been tasked in 2012 with creating regulations and an application process for companies seeking to become beneficiaries of the STARS Act. Yet, the law has not been promulgated.

At Monday's hearing, Sen. Nellie Rivera-O'Reilly asked Clouden why the law had not been allowed to take effect. Clouden said that while the rules and regulations for the law were written and had passed public comment, and were even delivered to Gov. de Jongh, it had remained "hung up."

VI Tax Incentives Program

According to a written document submitted by Erika Kellerhals, the creation of the Virgin Islands tax incentive program was mirrored from successful state incentive programs. The incentives include a transferable tax credit, a straight rebate, and a reduction in taxes where appropriate.

Sen. Jean Forde inquired if a current financial analysis had been conducted to show the benefits to the territory inconclusive of the tax incentives. Clouden said a feasibility study had not been conducted, but noted the Dept. of Tourism would have data from previous years to determine the benefits for fiscal year 2015. Sen. Forde further expressed concern that the territory is giving away tax incentives without "the support of an economic analysis."

In response to a question posed by Sen. Novelle Francis, Launa Wheatley, assistant director of communications and acting film director, said that over the last eight years, about 100 film productions have taken place within the territory. While she could not provide the exact amount of revenues the territory realized from those productions, she estimated it to be at \$15 million.

As a result of Alfred's testimony, Sen. Graham said Bill No. 31-0009 will be revised to include the music and audio industry components of the existing STARS Act before being voted on.

The Bill is being held in Committee until March 2.