

The Virgin Islands Consortium

Sen. Graham Explains How STARS Act Benefits Territory

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ST. CROIX – Since the Sustainable Tourism through Art-based Revenue Stream bill became law on March 27, the bill's main sponsor – Sen. Clifford Graham – says its benefits to the territory can be far-reaching.

However, Gov. Kenneth Mapp said the bill has semantic errors that could potentially lead to unnecessary litigation.

The STARS law seeks to enhance the V.I. economy by offering tax incentives and rebates for film and media projects produced in the territory.

To receive tax credit between 10 and 17 percent of compensation related to media projects, the applicant must meet the following criteria among others:

- Be licensed to do business in the Virgin Island
- Spend at least \$250,000 on each locally-produced media project that has been approved by the Economic Development Authority and the Office of Film and Music Promotion of the Department of Tourism
- Employ Virgin Islanders, who must make up at least 20 percent of the production team
- Cast spotlight on the Virgin Islands in the credits with branding such as "Made in the Virgin Islands" or "Portions Made in the Virgin Islands"
- Be willing to pass on knowledge about the media industry to school and university students when directed to do so by Economic Development Authority leaders

Rebates of up to 9 percent on project-related expenditures are also available for eligible applicants. Additional rebates of 10 percent are available if the project promotes the Virgin Islands in a prominent way or if production activities take place on St. Croix. The law also makes provision for reduced hotel tax rates as low as 1.5 percent.

In a press release issued on March 30, Graham said the timing was right for the new measure, [Act No. 7728](#), since he believes it will put the territory on equal footing with 39 states and Puerto Rico.

"With the expansion of the film industry in the U.S., and the fact that the Virgin Islands' year-long offering of sunny weather, natural beauty and that no passport is required makes it an ideal destination for the movie industry; the timing is right for the Virgin Islands to get its fair share of the industry's production dollars," Graham said. "The major component missing to make the Virgin Islands a viable option for the industry was an offering of incentives comparable to those offered in 39 states and Puerto Rico."

The veteran senator added that he's looking forward to seeing local government agencies utilize the law to signal production companies here and abroad that the territory is open for business.

These agencies include the Economic Development Authority, the Department of Tourism, the Bureau of Internal Revenue and the Department of Licensing and Consumer Affairs.

While the STARS received the support of the 31st Legislature with a total of about 10 sponsors and co-sponsors and while it received Gov. Mapp's ink of approval, the governor still listed a myriad of discrepancies with the measure through a [transmittal letter](#) to Senate President Neville James, dated March 27, that revealed action he took on 7 bills.

Below are some of the concerns the governor has with STARS:

1: The bill refers to tax credits and tax rebates applicable to a participant's tax liabilities. According to Mapp, this is flawed language as such a definition would include payroll taxes, which a tax credit against FICA, unemployment, workmen's compensation and such other taxes is not legal nor permissible.

2: The bill also adds a new sub chapter IV, which offers additional tax credits and tax rebates for the film industry on top of what is already in place. The governor questioned whether it was the senate's intent to double down on tax credits and rebates, and expressed concern that the government could find itself in a position of having to provide 100 percent subsidy of the cost of producing a filming event, television program or music video.

3: The bill creates an additional office within the Virgin Islands Economic Development Authority ("VIEDA") where the STARS Act already creates one, and further, the two created offices have primarily identical functions, according to Mapp.

4: The bill also addresses caps on incentives. According to the governor, it appears that a cap would only apply to resident production companies and not to non-resident production companies. He urged the Senate to apply the cap to all production companies.

"The Legislature would not seek to dis-incentivize Resident Production Companies and view the construction of the language as an error," Mapp said.

5: This bill, as constructed, also creates a conflict in the applicability of the hotel waiver tax, Mapp added. In the current STARS Act, such waivers only apply to Non-Resident Production Companies, while in the bill before me such hotel tax waivers apply to both Resident and Non-Resident Production Companies. This could create significant legal issues and spur unnecessary litigation challenging what is applicable and what the value of each incentive awarded under this section should be, the governor said.

Mapp has called upon the Senate to rectify these issues so that his administration can start promoting the measure in earnest.