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Fate of Horse Racing-related Legislation Unclear as Decadeslong Exclusivity for One Company Remains Sticking Point

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Members of the 34th Legislature participated in an all-day Committee of the Whole hearing Tuesday to deliberate a bill forwarded to the Senate by Governor Albert Bryan that seeks to settle matters that have stymied horse racing and corresponding gambling in the U.S. Virgin Islands since 2016.

The aforementioned year saw Governor Kenneth Mapp signing what was deemed a landmark agreement with VIGL for horsing racing in the USVI. It was supposed to usher in a new day of enhanced and state-of-the-art gaming and horse racing locally, with VIGL committing to build two world-class facilities on St. Croix and St. Thomas.

But the deal fell apart following a lawsuit brought against the government and VIGL by Southland Gaming of the Virgin Islands, Inc., which claimed that Act [7952](#) violated the contract clause of the United States Constitution when the Legislature granted VIGL authorization to operate slot machines in St. Thomas in contravention of an agreement the GVI had signed with Southland Gaming in 2003. That agreement was amended for extension in 2013 during the administration of former Governor John P. de Jongh, and it lengthened Southland Gaming's St. Thomas-St. John District exclusivity to 2028.

In 2020, the District Court ruled against VIGL and the government, essentially jeopardizing the agreement.

Over the years, several meetings and deliberations appeared to be making little progress toward an eventual solution. However, in June 2020 Governor Albert Bryan said a deal between the parties [was near](#), and earlier this month he announced that an agreement had been reached between the three parties. Accompanying the announcement was legislation aimed at codifying the deal.

Under the agreement, Southland would redevelop the Clinton E. Phipps Racetrack on St. Thomas, including the construction of a facility in the grandstand and provide 50 video lottery terminals, or VLTs. Meanwhile, VIGL would operate the VLT facility and be the promoter of the races at the track, the administration said. However, as it relates to St. Croix, a Government House release spoke to "renovations" to the race track as compared to the complete rebuild [envisioned under the original agreement with VIGL](#).

The new agreement would also give Southland Gaming, which has a powerful lobby in St. Thomas, a 13-year exclusivity extension for operating VLTs in all of St. Thomas — not only exclusive to the race track. This would activate after 2028.

On Tuesday, Senator Kurt Vialet voiced opposition to what would be a decades-long monopoly that would see one company controlling all VLTs in the St. Thomas-St. John District. Mr. Vialet asked Southland Gaming testifiers whether they would agree to an amendment to the bill that would keep the 13-year exclusivity clause for the horse racing operation while eliminating the district-wide exclusivity. Southland Gaming chief operating officer and vice president of compliance, Shaine Gaspard, simply said "no."

Mr. Vialet pounced, "And therein lies the problem. So we're locking St. Thomas up until 2041 where Southland Gaming has the exclusivity argument until 2041. So this isn't about just horse racing alone. It is about gaming in St. Thomas for the next 19 years. So it doesn't matter which Legislature decides they want to change gaming on St. Thomas, whether they want a casino, the same argument exists. And the reality is everything has been held up because of litigation [but] we want to act like litigation is not in place. There's no investor that is going to just develop entities if they don't know whether or not they're going to be able to run, promote and operate that particular facility."

The veteran lawmaker then pointed to VIGL and ran down a list of investments the company made in both districts amounting to millions of dollars as part of the 2016 agreement ratified during the Mapp administration. Mr. Vialet then asked VIGL testifiers to confirm whether the company did those things. For every question, the official responded yes.

"Then speak up for yourself because the whole community thinks you haven't been doing anything," Mr. Vialet stated. "But in fact you have spent millions of dollars and I'm not going to ask you the amount, but you have spent and invested the money."

It was not clear from Tuesday's hearing whether the measure would win approval or fail during a session scheduled for Thursday. Even so, Senate President Donna Frett-Gregory said the Legislature must act. "We have to really think about the decision that we are making," she said. "I am not sitting here today and feeling warm and fussy about all of the decisions we are having. I am not, but we have to figure out as leaders how do we make this work for our citizenry, for our constituents. That is our responsibility, that is why we are elected."

Senator Novelle Francis carved some time out of the daylong discussion to highlight what he said should be a stimulus payment for the territory's horsemen who continue to care for their horses with both physical and financial investments and have not been able to see fruits of their investments.

Office of Management and Budget Director, Jenifer O'Neal, said that while she wasn't aware of any current incentive for the horsemen, "I will be glad to look into it to see if there is a possibility to address the horsemen as we look at doling out the [Premium Pay](#)."

"I think it's only fair in light of all the money they continue to spend over the last five years and have not been able to have one horse race, or they have had to go elsewhere to actually do racing," Mr. Francis said.