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SENATE

{ REPORT
109-236

REPEAL SECTIONS OF THE MAY 26, 1936 ACT PERTAINING TO THE VIRGIN ISLANDS

APRIL 20, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of April 7, 2006

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany S. 1829]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1829) to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of S. 1829 is to repeal certain sections of the Act of May 26, 1936 (sections 1401–1401e of title 48, of the United States Code), to provide the Government of the United States Virgin Islands the ability to fully regulate real property tax matters in the territory.

BACKGROUND AND NEED

S. 1829 would repeal an outdated 1936 Federal statute which limits the authority of the Virgin Islands Government to assess and collect real property taxes in the Territory. The 1936 statute was enacted to address the tax policies of the Danish-era municipal councils in the Virgin Islands. The 1936 statute was generally thought to have been repealed by the enactment of the Revised Organic Act of 1954, as amended, which abolished the municipal councils and created a comprehensive system of local government

with sufficient legislative powers to resolve local property tax issues without the need for Federal intervention.

A 2004 Third Circuit Court of Appeals Federal court decision, however, has revived the 1936 statute, which requires that all real property be taxed at the same rate without regard to classification or use. The decision, among other things, struck down a local statute capping the amount of any increase in the assessment of residential real property (and therefore any increase in the property tax owed) in any assessment period.

If not now repealed by Congress, the 1936 statute will hinder the exercise of the Government's power, as conferred by the Revised Organic Act, to assess, administer and collect real property taxes in the Virgin Islands. Indeed, by precluding classification of property by use and requiring a uniform rate of tax between residential and commercial property, the 1936 statute puts at risk long-standing Government policies designed to develop the economy, promote social welfare, and protect homeownership in the Virgin Islands.

Without the authority to limit such increases by capping such assessments or similar methods commonly used by other jurisdictions, the now revived 1936 statute may have the anomalous result of pricing land and homeownership beyond the reach of many Virgin Islanders.

The 1936 statute has long outlived its usefulness and now interferes with the Virgin Islands ability to perform an essential governmental function. The assessment and collection of real property taxes is fundamentally a local government issue with no Federal impact. No other State, Territorial or local government is subject to such Federal restrictions. The Revised Organic Act of 1954, as amended, confers upon the people of the Virgin Islands full powers of local self-government. The 1936 statute is an anachronism that needs to be repealed.

LEGISLATIVE HISTORY

S. 1829 was introduced by Senator Domenici (for himself, and Senator Bingaman), by request, on October 6, 2005. The Committee on Energy and Natural Resources held a hearing on October 25, 2003 (S. Hrg. 109-291). At the business meeting on March 15, 2006, the Committee ordered S. 1830, as amended, favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Energy and Natural Resources, in open business session on March 15, 2006, by unanimous voice vote of a quorum present, recommends that the Senate pass S. 1829.

SECTION-BY-SECTION ANALYSIS

Section 1 repeals Sections 1 through 6 of the Act of May 26, 1936 (48 U.S.C. 1401 et seq.), effective July 22, 1954.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

S. 1829—A bill to repeal certain sections of the Act of May 26, 1936, pertaining to the Virgin Islands

S. 1829 would repeal sections 1 through 6 of the 1936 Organic Act of the Virgin Islands, which governs the levying of property taxes in the United States Virgin Islands (a territory of the United States). CBO estimates that enacting S. 1829 would have no impact on the federal budget because it would affect the territory's property taxes and would have no impact on federal revenue.

S. 1829 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enacting this bill would benefit the government of the Virgin Islands by repealing an existing federal preemption and establishing local authority over the territory's property tax. The long-term impact of this change on tax revenues in the territory would depend on local decisions regarding the structure of the property tax. This legislation would impose no costs on any other state, local, or tribal government.

The CBO staff contact for this estimate is Matthew Pickford (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1829. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1829, as ordered reported.

EXECUTIVE COMMUNICATIONS

At a hearing before the Committee on Energy and Natural Resources on October 25, 2005, the Department of the Interior provided the following testimony with respect to S. 1829:

STATEMENT OF NIKOLAO I. PULA, ACTING DEPUTY ASSISTANT SECRETARY OF THE INTERIOR FOR INSULAR AFFAIRS

Mr. Chairman and Members of the Committee on Energy and Natural Resources, I am pleased to appear before you today to discuss S. 1829. I am Nikolao Pula, Acting Deputy Assistant Secretary of the Interior for Insular Affairs.

S. 1829 would repeal sections 1 through 6 of the 1936 Organic Act of the Virgin Islands of the United States, which deal with property taxation in the territory. In 2004, the Third Circuit Court of Appeals held that the property tax provisions in the 1936 Organic Act, requiring market valuation, were still in effect despite enactment of the Revised Organic Act of 1954. This decision has had the effect

of invalidating local Virgin Islands' statutes that give property tax exemptions to residents such as veterans and seniors.

In a rapidly escalating real estate market, people on limited incomes, including many veterans and seniors, can be forced from their homes due to an inability to pay the increased levies. Adverse social consequences can follow.

For decades, the Department of the Interior has sponsored or backed measures that increase self-government for the territories. S. 1829 advances Virgin Islands citizens' self-government, consistent with Departmental policy. Additionally, it is my understanding that there is no Federal regulation of property taxation in any other state or territory under the American flag.

S. 1829 would return control of the property tax to the Government of the Virgin Islands, and property taxes would be levied as they were prior to the Third Circuit's decision. The Administration supports enactment of S. 1829.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 1829, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF MAY 26, 1936

[Ch. 450, 49 Stat. 1372]

AN ACT To establish an assessed valuation real property tax in the Virgin Islands of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of Congress to equalize and more equitably to distribute existing taxes on real property in the Virgin Islands of the United States and to reduce the burden of taxation now imposed on land in productive use in such islands.

[SEC. 2. For the calendar year 1936 and for all succeeding years all taxes on real property in the Virgin Islands shall be computed on the basis of the actual value of such property and the rate in each municipality of such islands shall be the same for all real property subject to taxation in such municipality whether or not such property is in cultivation and regardless of the use to which such property is put.

[SEC. 3. Until local tax laws conforming to the requirements of this Act are in effect in a municipality the tax on real property in such municipality for any such calendar year shall be at the rate of 1.25 per centum of the assessed value. If the legislative authority of a municipality shall fail to enact laws for the levy, assessment, collection, or enforcement of any tax imposed under authority of this Act within three months after the date of its enactment, the President shall then prescribe regulations for the levy, assess-

ment, collection, and enforcement of such tax, which shall be in effect until the legislative authority of such municipality shall make regulations for such purposes.

【SEC. 4. All taxes so levied and collected shall be deposited in the municipal treasury of the municipality in which such taxes are collected.

【SEC. 5. The Virgin Islands Company shall pay annually into the municipal treasuries of the Virgin Islands in lieu of taxes an amount equal to the amount of taxes which would be payable on the real property in the Virgin Islands owned by the United States and in the possession of the Virgin Islands Company, if such real property were in private ownership and taxable, but the valuation placed upon such property for taxation purposes by the local taxing authorities shall be reduced to a reasonable amount by the Secretary of the Interior if, after investigation, he finds that such valuation is excessive and unreasonable. The Virgin Islands Company shall also pay into the municipal treasuries of the Virgin Islands amounts equal to the amounts of any taxes of general application which a private corporation similarly situated would be required to pay into the said treasuries. Similar payments shall be made with respect to any property owned by the United States in the Virgin Islands which is used for ordinary business or commercial purposes, and the income derived from any property so used shall be available for making such payments.

【SEC. 6. Nothing in this Act shall be construed as altering, amending, or repealing the existing exemptions from taxation of property used for educational, charitable, or religious purposes. Subject to the provisions of this Act, the legislative authority of the respective municipalities is hereby empowered to alter, amend, or repeal, subject to the approval of the Governor, any law now imposing taxes on real and personal property.】