

**OVERRIDDEN**

DATE: 06/29/2016

ACT NO. 7893 **VETOED**  
JUN 21 2016

BILL NO. 31-0332

**GOVERNOR**

**THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS**

**Regular Session**

**2016**

VALERIE M. HILL  
OFFICE OF LEGISLATION  
ST. THOMAS, VI.

2016 JUN 22 AM 10:17

Act granting an exclusive franchise to Transportation Services of St. John, Inc. and Varlack Ventures, Inc. to operate all public marine transportation between Red Hook, St. Thomas and Cruz Bay, St. John and between downtown Charlotte Amalie and Cruz Bay

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**WHEREAS**, it is in the public interest that an exclusive franchise for the operation of all public marine passenger transportation between Red Hook, St. Thomas and Cruz Bay, St. John and between downtown Charlotte Amalie, St. Thomas and Cruz Bay, St. John be granted; and

**WHEREAS**, Act No. 3906, enacted November 18, 1976, and amended by Act No. 5168 approved on June 11, 1986, and further amended by Act No. 5999, adopted in 1994, granted and expanded the exclusive franchise given to Transportation Services of St. John and Varlack Ventures, Inc. to operate all public marine transportation between Red Hook, Charlotte Amalie, and Cruz Bay; and

**WHEREAS**, Transportation Services of St. John and Varlack Ventures, Inc. have provided marine transportation services for more than 30 years between Red Hook, Charlotte Amalie and Cruz Bay; and

**WHEREAS**, the residents of St. John and St. Thomas depend upon the service for carriage between their homes and jobs; and

**WHEREAS**, the residents of St. John also rely upon this essential service to ferry groceries and merchandise from St. Thomas to St. John and for other life necessities, including traveling to St. Thomas for medical care and other necessary services; and

**WHEREAS**, the public ferry system is a mode of safe and reliable transportation between St. Thomas and St. John which benefits visitors to the Virgin Islands and the tourism sector of the Virgin Islands economy; and

Legislature. If one of the joint Franchisees ceases doing business or otherwise defaults on its obligations under the terms of the franchise, the franchise shall continue with the sole remaining Franchisee. Additionally, this franchise does not prohibit a Franchisee from transferring stock to a Franchisee's family member either by assignment or bequest, so long as the Franchisee continues to fulfill the terms of the franchise.

**SECTION 6.** To be valid, the Franchisees must accept this franchise in writing and file the acceptance with the Commission within 30 days from the effective date of this Act.

**SECTION 7.** (a) The Virgin Islands Port Authority, or a subsequently established authority as designated, has jurisdiction of the administration of this franchise as it relates to the use of publicly-owned facilities, fees for such use, and the rules governing the use by passenger and freight services.

(b) The Commission, or subsequently established authority as designated, has jurisdiction of the administration of this franchise as it relates to the adherence of the terms herein, including passenger schedules, passenger and commuter fees, fees for school children, deviation from the franchise terms, and for the maintenance of the vessels and other equipment, except insofar as these terms are fixed by the terms of a lease of a vessel between the Government of the Virgin Islands and the Franchisees or as determined by Coast Guard regulations or law.

(c) In any matter involving a lease of a vessel by the Government of the Virgin Islands to a Franchisee, the Virgin Islands Department of Public Works or the Department of Property and Procurement shall determine the terms of the lease and its enforcement.

**SECTION 8.** Notwithstanding any provision of law, the schedules, fees, and rules and regulations adopted under previous PSC orders remain in effect unless amended. Amended orders are an integral part of this franchise.

**SECTION 9.** (a) The Franchisees are public utilities and, in addition to the specific terms of this franchise, are subject to the provisions of title 30 Virgin Islands Code, chapter 1 and any additional rules and regulations promulgated by the PSC.

(b) Notwithstanding title 30 Virgin Islands Code, section 23 (b) and any other provision of law, in setting the rate of return for the Franchisees, the PSC is guided by the following:

The Commission must provide a rate of return of not less than 8% nor more than 10% on the current fair value of applied assets prudently acquired for and devoted to the public use, unless the Commission makes a special finding that a different return is imperative, so as to be fair to the consumer interest and to be fair to the investor interest by providing a return commensurate with returns in other enterprises having corresponding risks, and which will assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

**SECTION 10.** The terms, conditions, fares, fees, schedules, and rules governing this franchise are public records and must be displayed aboard each vessel and at each terminal.

**SECTION 11.** No scheduled voyage shall be canceled for lack of a minimum number of passengers, if any person desires passage on such voyage.

**SECTION 12.** The Government of the Virgin Islands expressly reserves the right to commence judicial action for default against the Franchisees, their successors or assignees for failure to perform the conditions and obligations, including nonuse, misuse or abandonment of the franchise. An action for default must be brought before the Public Services Commission by the Attorney General of the Virgin Islands on behalf of the Government of the Virgin Islands. If the Commission finds that the Franchisees have materially breached the conditions and obligations imposed under this franchise, the Commission may enter an order finding that the Franchisees have materially breach the terms of the franchise and terminate the franchise.

Thus passed by the Legislature of the Virgin Islands on June 2, 2016.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 8<sup>TH</sup> Day of June, A.D., 2016.



  
Janelle Millin Young  
Acting President

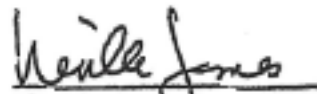
  
Myron D. Jackson  
Legislative Secretary

**LEGISLATURE OF THE VIRGIN ISLANDS**

**CERTIFICATE OF ENACTMENT  
NOTWITHSTANDING THE GOVERNOR'S VETO**

**THIS IS TO CERTIFY THAT**, Bill No. 31-0332 - An Act granting an exclusive franchise to Transportation Services of St. John, Inc. and Varlack Ventures, Inc. to operate all public marine transportation between Red Hook, St. Thomas and Cruz Bay, St. John and between downtown Charlotte Amalie and Cruz Bay, enacted by the Thirty-first Legislature at its regular session held on June 2, 2016, (a copy of which is attached hereto) and vetoed by the Governor on June 21, 2016, was duly enacted, by override by the Thirty-first Legislature at its regular session on June 29, 2016, pursuant to section 9(d) of the Revised Organic Act of the Virgin Islands, 48 U.S.C. §1575 (d), notwithstanding the Governor's veto and has become law.

DATED: 07/19/2016

  
Neville A. James  
President



ATTEST:

  
Myron D. Jackson  
Legislative Secretary