

**BILL NO. \_\_\_\_\_**

**Twenty-Ninth Legislature Of The Virgin Islands**

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An Act to establish the Unified Constitutional Revision Convention

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**PROPOSED BY:** Senator Ronald E. Russell, Esq.

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1       **WHEREAS**, the American Law Division of the Library of Congress found, in response to  
2 inquiries from concerned officials, that the congressional authorization to draft a United States Virgin  
3 Islands constitution granted by federal law is a general grant of authority which did not expire when the  
4 prior conventions failed to secure a constitution, and that the Virgin Islands could continue in its pursuit  
5 of a constitution under the same conditions as were described in Public Law 94-584 without need for  
6 further Congressional action; and

7       **WHEREAS**, the United States Congress authorized the United States Virgin Islands to establish  
8 a constitutional convention, and the rights, duties and obligations of the convention, as established for  
9 the drafting of a proposed constitution, as set forth in Public Law No. 94-584, approved by Congress on  
10 October 12, 1976, was fully exercised except for certain issues raised by the President of the United  
11 States and the Congress of the United States; and

1           **WHEREAS**, the Fifth Constitutional Convention completed a draft document that was sent to  
2 the Governor of the United States Virgin Islands, which was forwarded to the President of the United  
3 Sates and passed on to the United States Congress for review; and

4           **WHEREAS**, Congress and President Obama returned the draft document for revisions for  
5 reasons contained in a Memorandum dated February 23, 2010, by the U.S. Department of Justice Office  
6 of the Assistant Attorney General, for the Office of Management and Budget;

7           **WHEREAS**, the U.S. Department of Justice's Memorandum, as published on the Department's  
8 website, analyzes several features of the proposed constitution of the United States Virgin Islands  
9 including: "(1) the absence of an express recognition of United States sovereignty and the supremacy of  
10 federal law; (2) provisions for a special election on the USVI's territorial status; (3) provisions  
11 conferring legal advantages on certain groups defined by place and timing of birth, timing of residency,  
12 or ancestry; (4) residence requirements for certain offices; (5) provisions guaranteeing legislative  
13 representation of certain geographic areas; (6) provisions addressing territorial waters and marine  
14 resources; (7) imprecise language in certain provisions of the proposed constitution's bill of rights; (8)  
15 the possible need to repeal certain federal laws if the proposed USVI constitution is adopted; and (9) the  
16 effect of congressional action or inaction on the proposed constitution"; and

17           **WHEREAS**, the guidelines for drafting and completing the proposed revised constitution, as set  
18 forth in Public Law No. 94-584 were collectively modified when Congress and President Obama  
19 returned the draft document for revisions; and

20           **WHEREAS**, the United States Virgin Islands is experiencing a fiscal crisis that challenges the  
21 resources available to continue the work started by the Fifth Constitutional Convention, and provisions  
22 should be made to modify the law that established the Fifth Constitutional Convention; and

23           **WHEREAS**, the resources of the 29th Legislature of the United States Virgin Islands are  
24 available for use, integration and collaboration, without additional costs or fees for the completion of a

1 final draft constitutional document to be returned to President Obama and the United States Congress;  
2 and

3       **WHEREAS**, the 29th Legislature, representing the people of the United States Virgin Islands,  
4 continues to favor the adoption of a constitution for the Territory as a significant step toward greater  
5 self-determination and autonomy in the Territory's relationship with the United States Government, and  
6 that a modification to the law creating the Fifth Constitutional Convention is needed; Now, Therefore,  
7 *Be it enacted by the Legislature of the Virgin Islands:*

8       **SECTION 1.** (a) Notwithstanding any other law or any of the provisions of Act 6688 and the  
9 amendments thereto, the 29th Legislature of the United States Virgin Islands provides the following  
10 modifications, amendments, and revisions to Act. No. 6688, the law establishing and convening the  
11 Fifth Constitutional Convention.

12       (b) The Unified Constitutional Revision Convention (the "UCRC") is hereby established to  
13 revise, modify and amend the draft Virgin Islands Constitution created by the Fifth Constitutional  
14 Convention, and is called to convene at the Earle B. Ottley Legislative Hall, Charlotte Amalie, St.  
15 Thomas. Delegates elected to the Fifth Constitutional Convention and the elected officials identified in  
16 subsection (c) shall convene at the call of the President of the 29th Legislature to ratify and approve the  
17 final revised constitution drafted by the legal team assembled to revise the document drafted by the Fifth  
18 Constitutional Convention.

19       (c) The UCRC shall be comprised of 45 members to include all Fifth Constitutional Convention  
20 delegates, the United States Virgin Islands Delegate to Congress and the fifteen elected Senators of the  
21 29th Legislature, except the At-Large Senator who is an elected delegate to the Fifth Constitutional  
22 Convention.

1 (d) Powers and duties of the UCRC members are plenary concerning any revisions,  
2 modifications, substitutions and deletions to any draft document prepared by prior constitutional  
3 conventions, including the Fifth Constitutional Convention.

4 (e) The UCRC shall have a legal team available and shall for all legal matters use the Chief  
5 Legal Counsel of the 29th Legislature and two Assistant Legislative Legal Counsel designated by the  
6 Chief Legal Counsel. The UCRC legal team may also include two private attorneys and one  
7 government attorney designated by the President of the 29th Legislature, provided that they shall serve  
8 as part of the UCRC legal team *pro bono*, and shall be subject to the supervision of the Chief Legal  
9 Counsel of the 29th Legislature.

10 (f) The UCRC legal team shall be responsible for all modifications, revisions, legal review and  
11 legal analysis of: all prior drafts of the United States Virgin Islands Constitution including the draft  
12 produced by the Fifth Constitutional Convention; and any revisions, modifications, substitutions and  
13 deletions deemed necessary as were recommended by Congress, President Obama, and the United States  
14 Department of Justice. The legal team may conduct any further research, utilize other constitutions  
15 and/or expert opinions as the legal team deems helpful in completing a draft document for review by the  
16 UCRC.

17 (g) The UCRC legal team shall first review and revise provisions of the draft Fifth Constitutional  
18 Convention document that were identified by President Obama and Congress as problematic, to make  
19 that document consistent with the mandate of Congress and the concerns raised. Upon completion of  
20 those revisions and any other revisions it deems appropriate, the Chief Legal Counsel shall provide the  
21 revised document to the President of the 29th Legislature for distribution to UCRC members and the  
22 public for review, comments and further suggested revisions, modifications, substitutions and deletions  
23 as approved by a majority of the members of the UCRC. The UCRC legal team shall complete a revised

1 draft Constitution of the Virgin Islands for the public and the UCRC within sixty (60) days of the  
2 enactment of this law.

3 (h) The President of the 29th Legislature of the United States Virgin Islands shall preside over  
4 the UCRC as its Chairman. Upon presentation of a final revised draft of the Virgin Islands Constitution  
5 for adoption, the President of the Fifth Constitutional Convention shall assume the role of Co-Chair of  
6 the UCRC.

7 (i) To assist this process until completion and provide all needed resources, the President of the  
8 29th Legislature may appoint special committees of the UCRC or 29th Legislature as may be needed to  
9 assist the Territory with the adoption of a constitution.

10 (j) All decisions of the UCRC shall be by affirmative vote of a majority of those voting.

11 (k) A quorum of the UCRC shall be 23 members. No UCRC business shall be conducted in the  
12 absence of a quorum.

13 (l) If at any time during the proceedings of the UCRC any member dies, resigns, relocates  
14 outside of the Territory, or otherwise becomes disqualified, or is unable to serve, the vacancy shall  
15 automatically be filled by the unelected senatorial candidate that received the next highest number of  
16 votes in the 2010 general election in the district that produced the vacancy, provided that he or she is  
17 willing to serve.

18 (m) All UCRC members, except Senators, the Delegate to Congress, and members subject to  
19 sub-section (n), may receive compensation of seventy-five dollars (\$75.00) per day or a fraction of a day  
20 as approved by the chairman or his designee, not to exceed a total of twenty (20) days depending on the  
21 availability of funds, while attending public hearings or meetings called by the UCRC chairman or an  
22 appointed committee chair.

23 (n) Any UCRC member who is an employee of the Government of the Virgin Islands shall  
24 receive, in lieu of the compensation provided in subsection (m), his ordinary and regular government

1 compensation for those days and for such times as he or she is certified by the UCRC Chairman or his  
2 designee as being in attendance at one of its meetings or hearings.

3 (o) Any employer, other than the Government of the Virgin Islands, that permits a member  
4 employed by the employer to attend UCRC meetings or hearings without interruption or lessening of his  
5 regular pay or the amount that the member would receive had he not been attending a UCRC meeting or  
6 hearing, may be reimbursed not more than seventy-five dollars (\$75.00) per day for each day or part  
7 thereof in which the employee is certified by the Chairman of the UCRC or his designee as being in  
8 attendance at a UCRC meeting or hearing. No member whose employer qualifies under this subsection  
9 shall receive the compensation provided in subsection (m).

10 (p) The UCRC members who are away from their island of residence shall have the 29th  
11 Legislature of the Virgin Islands transportation services available to them for transport to and from  
12 UCRC meetings and hearings. Members who are away from the island of their residence shall receive,  
13 in addition to their compensation, all reasonable and necessary expenses for lodging and transportation.

14 (q) The UCRC shall use for UCRC business, as is practicable, designated staff of the Chairman  
15 and the UCRC members who are Senators. Purchase of supplies and use of technical and media services  
16 shall be the responsibility of the 29th Legislature of the Virgin Islands. The Commissioner of Property  
17 and Procurement shall, to the fullest extent, provide assistance to the UCRC by allowing the UCRC to  
18 use such government property and supplies, to include vehicles, as it may request, subject to the  
19 availability of the property and supplies.

20 (r) The UCRC shall adopt a proposed revised Virgin Islands Constitution no later than December  
21 31, 2011. When the UCRC, by a majority vote of all the members, has agreed upon a proposed revised  
22 draft of the Virgin Islands Constitution, the Co-Chairs of the UCRC shall submit it to the Governor of  
23 the Virgin Islands, in compliance with the provisions of Public Law 94-584, section 4. Within ten (10)

1 days of submission to the Governor of the Virgin Islands, the proposed revised Virgin Islands  
2 Constitution shall be submitted by the Governor to the President of the United States.

3 (s) The UCRC shall go into recess pending action by the President and Congress, as required by  
4 Public Law 94-584, section 5. If the proposed revised Virgin Islands Constitution is approved by  
5 Congress on or before September 6, 2012, a territory-wide referendum shall be placed on the general  
6 election ballot/machine for the purpose of adopting or rejecting the proposed revised Virgin Islands  
7 Constitution by a vote of not less than a majority of the voters participating in the general election held  
8 on the first Tuesday in November, 2012. If the proposed revised Virgin Islands Constitution is approved  
9 by Congress after September 6, 2012, the UCRC shall reconvene for the purpose of prescribing the date  
10 of the referendum. The form of the referendum ballot, including the question presented to the voters,  
11 shall be "Are you in favor of the Proposed Revised Virgin Islands Constitution". The options of "Yes"  
12 and "NO" shall be provided. The ballots/machines for the referendum shall be available in English and  
13 with Spanish translation available on request. Timely notice of the referendum shall be broadcast and  
14 published by the 29th Legislature of the Virgin Islands and the Virgin Islands Board of Elections.  
15 Except as otherwise provided for in this Act, the referendum shall be governed by title 18 of the Virgin  
16 Islands Code, and all penalties provided by the law shall apply to the referendum.

17 (t) If the proposed revised Virgin Islands Constitution is approved by not less than a majority of  
18 the voters participating in the referendum, the Virgin Islands Constitution shall become effective as  
19 approved by the public within ninety (90) days from the date of the referendum.

20 (u) The UCRC shall meet at the call of the President of the 29th Legislature after the referendum  
21 election for the purpose of:

- 22 (1) Announcing the outcome of the referendum to the people of the Virgin Islands;  
23 (2) Certifying the results of the referendum to Congress and the President of the United  
24 States;

1 (3) Establishing the date the Constitution of the Virgin Islands will become effective, as  
2 provided under subsection (t); and

3 (4) Adjourning sine die and discharging the members of the UCRC.

4 (v)(1) The sum of \$100,000 is appropriated from the Union Arbitration Award Fund, and the  
5 sum of \$100,000 is appropriated from the Tourism Advertising Revolving fund, for the fiscal year  
6 ending September 30, 1012, to the 29th Legislature of the Virgin Islands to carry out the provisions of  
7 this law and the mandates of the Unified Constitutional Revision Convention.

8 (2) The sum appropriated in subsection (v)(1) shall remain available until expended.  
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#### 10 BILL SUMMARY

11 This bill seeks to establish the Unified Constitutional Revision Convention to revise, modify, and  
12 amend the draft of the Virgin Islands Constitution. Subsection (a) indicates that this bill serves to  
13 modify and amend Act. No. 6688 establishing the Fifth Constitutional Convention. Subsection (b)  
14 establishes the Unified Constitutional Revision Convention (UCRC). Subsection (c) establishes the  
15 composition of the UCRC. Subsection (d) grants plenary powers to the UCRC over revisions and  
16 modifications of the Virgin Islands Constitution. Subsection (e) establishes the UCRC legal team and  
17 provides that the Chief Legal Counsel of the 29th Legislature shall supervise the legal team that may  
18 include private attorneys that work *pro bono*. Subsection (f) defines the responsibilities and scope of the  
19 legal team and their role in adhering to the recommendations of the Department of Justice  
20 Memorandum. Subsection (g) provides the priority for the UCRC legal team, a time certain for the  
21 completion of the first draft of the revised draft constitution and delineates how the revised draft  
22 Constitution of the Virgin Islands is to be presented to the UCRC. Subsection (h) provides for the  
23 President of the 29th Legislature to preside over the UCRC and for co-chairs at the meeting when the  
24 UCRC votes to adopt a document. Subsection (i) authorizes the President of the 29th Legislature to

1 appoint special committees to assist the process and the UCRC. Subsection (j) indicates how decisions  
2 of the UCRC are to be made. Subsection (k) tells how many members of the UCRC establish a quorum.  
3 Subsection (l) provides for replacing UCRC members. Subsection (m) indicates how UCRC members  
4 are to be compensated. Subsection (n) provides for compensation for UCRC members who are  
5 government employees. Subsection (o) provides for the reimbursement of employers who continue to  
6 pay UCRC members as regular when they attend UCRC meetings and hearings. Subsection (p) allows  
7 UCRC members who are away from their island of residence to utilize the 29th Legislature's  
8 transportation services, and be reimbursed for reasonable lodging and transportation expenses.  
9 Subsection (q) allows the UCRC to utilize, as practicable, the staff of the Chairman and the legislative  
10 members of the UCRC. Subsection (r) sets a deadline for the UCRC to adopt a revised Virgin Islands  
11 Constitution. Subsection (s) provides for the UCRC to recess while the revised Virgin Islands  
12 Constitution is considered by Congress and the President of the United States, and for a territory-wide  
13 referendum on the Virgin Islands Constitution if it is approved. Subsection (t) provides for the UCRC to  
14 establish an effective date for the Constitution of the Virgin Islands. Subsection (u) indicates how the  
15 UCRC is to come to a close. Subsection (v) appropriates funding from the Union Arbitration Award  
16 Fund and the Tourism Advertising Fund to the 29th Legislature for the UCRC.

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18 **11-1002/August 16, 2011/ EEM/Reviewed by TF**

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