

ACT NO. 8041

BILL NO. 32-0168

THIRTY-SECOND LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2018

An act amending title 22 Virgin Islands Code, chapter 39 designating current sections 951 through 983 subchapter I, section 984 as subchapter II, and by adding a subchapter III entitled "The Standard Nonforfeiture Law of 2018 for Life Insurance," which meets the accreditation standards established by the National Association of Insurance Commissioners in its model laws and updates the insurance laws of the Virgin Islands of the United States placing them on par with other United States jurisdictions thereby affording greater and more effective protection to the policyholders in the Virgin Islands

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WHEREAS, the laws governing the insurance industry in the Virgin Islands of the United States are outdated as many of the laws were enacted in 1968 and have not been updated; and

WHEREAS, the laws governing the insurance industry in the Virgin Islands do not grant to the Commissioner of Insurance of the Virgin Islands all of the necessary authority to effectively regulate the solvency of the multi-state domestic insurance industry in the Virgin Islands; and

WHEREAS, all other United States jurisdictions have periodically updated their insurance laws commensurate with the ever-evolving insurance industry; and

WHEREAS, the National Association of Insurance Commissioners ("NAIC") has established core accreditation standards and a comprehensive set of laws, known as the Model Laws and Regulations, in order to assist United States jurisdictions in their regulation of the solvency of their multi-state domestic insurance industry thereby affording greater protection to the policyholders in the United States; and

WHEREAS, all of the 50 United States and the Commonwealth of Puerto have adopted the NAIC Model Laws and Regulations and the accreditation requirements and are now in substantial compliance with the NAIC accreditation standards; and

WHEREAS, the Virgin Islands has not adopted most of the NAIC Model Laws and Regulations that are necessary to obtain substantial compliance with the NAIC accreditation standards and is therefore not in compliance with the NAIC accreditation standards; and

WHEREAS, the enactment of the Standard Nonforfeiture Law of 2018 for Life Insurance will place the Virgin Islands on par with other United States jurisdictions and will satisfy one of the NAIC requirements for bringing the Virgin Islands into compliance with the NAIC accreditation standards; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 22 Virgin Islands Code, chapter 39 is amended as follows:

- (a) by designating sections 951 through 983 as subchapter I;
- (b) by designating section 984 as subchapter II; and
- (c) by adding a subchapter III entitled "the Standard Nonforfeiture Law of 2018 for Life Insurance" to read as follows:

"Subchapter III. Standard Nonforfeiture Law of 2018 for Life Insurance

§ 991. Short Title. This subchapter shall be known as "the Standard Nonforfeiture Law of 2018 for Life Insurance."

§ 992. Definitions

The term "operative date of the valuation manual" means January 1st of the first calendar year that the valuation manual as defined in the Standard Valuation Law of 2018 is effective.

§ 993. Applicability of Prior Law

Notwithstanding any other requirements provided in the subchapter, the Standard Nonforfeiture Law adopted on March 29, 1968 and codified in section 984 of title 22 of the Virgin Islands Code, is applicable to nonforfeiture benefits under all life insurance policies issued before the effective date of this subchapter.

§ 994. Nonforfeiture Benefits

(a) No life insurance policy issued on or after the effective date of this subchapter, except as stated in section 1000a, shall be delivered or issued for delivery in the Virgin Islands unless it contains in substance the provisions in paragraphs (1) through (6), or corresponding provisions which in the opinion of the Commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified in this subchapter and are essentially in compliance with section 1000.

(1) In the event of default in any premium payment, the company shall grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of such amount as may be specified in this subchapter. Instead of the stipulated paid-up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) Upon surrender of the policy not later than 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company shall pay, instead of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be specified in this subchapter.

(3) A specified paid-up nonforfeiture benefit becomes effective as specified in the policy unless the person entitled to make the election elects another available option not later than 60 days after the due date of the premium in default.

(4) If the policy becomes paid-up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit that became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company shall pay, upon surrender of the policy not later than 30 days after any policy anniversary, a cash surrender value of such amounts as may be specified.

(5) For policies that cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate and method used in calculating cash surrender values and the paid-up nonforfeiture benefits available under the policy. For all other policies, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated, a statement that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and a paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which values and benefits are consecutively shown in the policy.

(b) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(c) The company reserves the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

§ 995. Computation of Cash Surrender Value

(a) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by section 994, is an amount not less than the excess, if any, of the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of:

(1) The then present value of the adjusted premiums as defined in section 997, corresponding to premiums which would have fallen due on and after the anniversary; and

(2) The amount of any indebtedness to the company on the policy.

(b) Any policy issued on or after the operative date of section 997, which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in subsection (a) must be an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without the rider or supplemental policy provision and the cash surrender value as defined in subsection (a) for a policy which provides only the benefits otherwise provided by such rider or supplemental policy provision.

(c) Any family policy issued on or after the operative date of this subchapter, which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse's age 71, the cash surrender value referred to in subsection (a) is for an amount not less than the sum of the cash surrender value for an otherwise similar policy issued at the same age without term insurance on the life of the spouse and the cash surrender value as defined in subsection (a) for a policy which provides only the benefits otherwise provided by term insurance on the life of the spouse.

(d) Any cash surrender value available not later than 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by section 994, is an amount not less than the present value, on the anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

§ 996. Computation of Paid-up Nonforfeiture Benefits

Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary is such that its present value as of the anniversary is at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this subchapter in the absence of the condition that premiums are paid for at least a specified period.

§ 997. Calculations of Adjusted Premiums by the Nonforfeiture Net Level Premium Method

(a) This section applies to all policies issued on or after the effective date of this section. Except as provided in section subsection (h), the adjusted premiums for any policy is calculated on an annual basis and must be an uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums is equal to the sum of:

(1) The then present value of the future guaranteed benefits provided for by the policy;

(2) One percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(3) One hundred twenty-five percent of the nonforfeiture net level premium as hereinafter defined.

(b) In applying the percentage specified in subsection (a)(3), no nonforfeiture net level premium is considered to exceed four percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years. The date of issue of a policy for the purpose of this section is the date which the rated age of the insured is determined.

(c) The nonforfeiture net level premium is equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

(d) Policies that cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums, other than a change to a new policy, the adjusted premiums and present values are initially calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any change in the benefits or premiums, the future adjusted premiums, nonforfeiture net level premiums and present values are recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(e) Except as otherwise provided in subsection (h), the recalculated future adjusted premiums for any policy is the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to

be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums is equal to the excess of:

(1) The sum of

(A) The then present value of the then future guaranteed benefits provided for by the policy, and

(B) The additional expense allowance, if any, over

(2) The then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under this policy.

(f) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, is the sum of:

(1) One percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first 10 policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first 10 policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(2) One hundred twenty-five percent of the increase, if positive, in the nonforfeiture net level premium.

(g) The recalculated nonforfeiture net level premium is equal to the result obtained by dividing (1) by (2) where

(1) Equals the sum of

(A) The nonforfeiture net level premium applicable before the change times the present value of an annuity of one per dollar annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

(B) The present value of the increase in future guaranteed benefits provided for by the policy, and

(2) Equals the present value of an annuity of one dollar per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(h) Notwithstanding any other provisions of this section to the contrary, for a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amount of

insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide higher uniform amounts of insurance on the standard basis.

(i) All adjusted premiums and present values referred to in this subchapter are calculated for all policies of ordinary insurance on the basis of the Commissioners 1980 Standard Ordinary Mortality Table; or, at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors. All policies of industrial insurance are calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table. All policies issued in a particular calendar year are calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section, for policies issued in that calendar year. But:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year.

(2) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by section 994, are calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

(3) A company may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

(4) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

(5) For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

(6) For policies issued before the operative date of the valuation manual, any Commissioners Standard ordinary mortality tables adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table.

(7) For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be submitted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten-Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard ordinary mortality table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(8) For policies issued before the operative date of the valuation manual, any Commissioners Standard Industrial Mortality Tables adopted after 1980 by the National Association of Insurance Commissioners that are approved by regulation promulgated by the Commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(9) For policies issued on or after the operative date of the valuation manual, the valuation manual must provide the Commissioners Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table. If the Commissioner approves by regulation any Commissioners Standard Industrial Mortality Table adopted by the National Association of Insurance Commissioners for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual.

(j) The nonforfeiture interest rate is defined as follows:

(1) For policies issued prior to the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year is equal to one hundred and twenty-five percent of the calendar year statutory valuation interest rate for such policy as defined in the applicable Standard Valuation Law, rounded to the nearer one quarter of one percent, but the nonforfeiture interest rate may not be less than four percent.

(2) For policies issued on and after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year is provided by the valuation manual.

(k) Notwithstanding any other provision in this Code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table

used to compute nonforfeiture values does not require refiling of any other provisions of that policy form.

(I) After the effective date of this subchapter, any company may file with the Commissioner a written notice of its election to comply with this section after a specified date no more than 90 days after the effective date of this subchapter, which becomes the effective date of this section for the company. If a company makes no election, the effective date of this section for the company is 90 days after the effective date of this subchapter.

§ 998. Nonforfeiture Benefits for Indeterminate Premium Plans

Any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on estimates of future experience or for any plan of life insurance which is of such a nature that minimum values cannot be determined by the methods described in sections 994, 995, 996 or 997, then:

(1) The Commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by sections 994, 995, 996 or 997;

(2) The Commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not such as to mislead prospective policyholders or insureds; and

(3) The cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this Standard Nonforfeiture Law for 2018 for Life Insurance, as determined by regulations promulgated by the Commissioner.

§ 999. Proration of Values; Net Value of Paid-Up Additions

Any cash surrender value and any paid up nonforfeiture benefit, valuable under the policy in the event of default in a premium payment due at any time other than the policy anniversary, are calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in sections 995, 996, and 997 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term addition may not be less than the amounts used to provide such additions. Notwithstanding section 995, additional benefits payable:

(1) In the event of death or dismemberment by accident or accidental means;

(2) In the event of total and permanent disability;

(3) As reversionary annuity or deferred reversionary annuity benefits;

(4) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this subchapter would not apply;

(5) As term insurance in the life on a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is twenty-six, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child; and

(6) As other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, are disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this subchapter, and no such additional benefits are required to be included in any paid-up non-forfeiture benefit.

§ 1000 Consistency of Progression of Cash Surrender Values with Increasing Policy Duration

(a) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary is in an amount which does not differ by more than two tenths of one percent of either the amount of insurance at the beginning of each of the first 10 policy years, from the sum of:

(1) The greater of zero and the basic cash value hereinafter specified; and

(2) The present value of any existing paid-up additions less the amount of any indebtedness to the company under the policy.

(b) The basic cash value is equal to present value on the anniversary of the future guaranteed benefits which would have been provided for by the policy excluding any existing paid-up additions and before deduction of any indebtedness to the company if there had been no default less the then present value of the nonforfeiture factors as defined by this subchapter corresponding to premiums which would have fallen due on and after the anniversary. But the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in section 995 are the same as the effects specified in section 995 on the cash surrender values defined in that section.

(c) The nonforfeiture factor for each policy year is an amount equal to a percentage of the adjusted premium for the policy year, as defined in section 997. Except as is required by the next succeeding sentence of this section, the percentage:

(1) Must be the same percentage for each policy between the second policy anniversary and the later of:

(A) The fifth policy anniversary; and

(B) The first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid-up additions and before deducting any indebtedness, of at least two tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first 10 policy years; and

(2) Must be such that no percentage after the latter of the two policy anniversaries specified in paragraph (1) may apply to fewer than five consecutive policy years. But no basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in section 997, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(d) All adjusted premiums and present values referred to in this section are calculated for a particular policy on the same morality and interest bases as are used in demonstrating the policy's compliance with the other sections of this law. The cash surrender values referred to in this section include any endowment benefits provided for by the policy.

(e) Any cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment is determined in manners consistent with the manners specified for determining the analogous minimum amounts in sections 994, 995, 996, 997 and 999. The amount of any cash surrender values and of any paid up nonforfeiture benefits granted in connection with additional benefits such as those as section 999(1) through 999(6) must confirm with the principles of this section.

§ 1000a Exceptions

(a) This subchapter does not apply to any of the following:

- (1) Reinsurance;
- (2) Group insurance;
- (3) Pure endowment;
- (4) Annuity or reversionary annuity contract;

(5) A term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(6) A term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in section 997, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial

amount of insurance and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(7) A policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid-up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in sections 995, 996 and 997, exceeds two and one-half percent of the amount of insurance at the beginning of the same policy year; nor

(8) Policy which are delivered outside the Virgin Islands through an agent or other representative of the company issuing the policy.

(b) For purposes of determining the applicability of this subchapter, the age at expiry for a joint term life insurance policy is the age at expiry of the oldest life.

§ 1000b. Approval by Commissioner

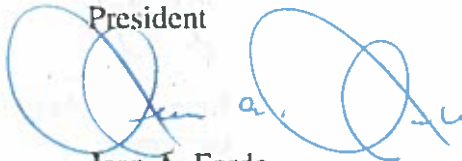
Notwithstanding the requirements set forth in chapter 33, section 810 of this title or the requirement of any other provision in the laws of the Virgin Islands, any policy, contract or certificate providing life insurance under any plan must be affirmatively approved by the Commissioner before it can be marketed, issued, delivered, or used in the Virgin Islands.”

Thus passed by the Legislature of the Virgin Islands on April 4, 2018.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 17th Day of April, A.D., 2018.



Myron D. Jackson
President



Jean A. Forde
Legislative Secretary





Bill No. 32-0168 is hereby approved.

Witness my hand and the Seal of the Government
of the United States Virgin Islands at Charlotte
Amalie, St. Thomas, this 1st day of May
2018, A.D.

Kenneth E. Mapp
Governor