

- (B) the Department was unable, allowing at least twenty (20) working days after receipt of the beneficiary's written request for placement services, to refer any qualified applicants to the beneficiary for employment interviews.
- (C) it shall be the intention of the Beneficiary to train resident employees to replace those non-residents hired due to the lack of skilled or trained residents at the time of hire.

(b) The Commissioner of Labor shall report all violations of the resident employment provisions of this subchapter to the commission and appropriate authorities.

In accordance with Title 24 Section 99, and other applicable Sections, laws or rules and regulations, each beneficiary shall contribute to the Economic Development Commission's, "Labor Administrative and Training Fund" an annual payment of ten thousands dollars (\$10,000) per non-resident employee, for training of job seekers to fill positions held by non-residents or vacant or projected positions within the Economic Development Commission beneficiary firms. The contributions shall be deposited into the special account for the exclusive use of the Department of Labor, Office of the Commissioner, for training of potential employees to fill vacancies or projected positions at Economic Development commission beneficiary firms. The Chief Executive Officer of the Economic Development Commission shall submit a quarterly report of the balance of the Labor Administrative and Training Fund to the Commissioner of Labor on or before the tenth day after the end of each quarter. Each Beneficiary will enter into an agreement with the Economic Development Commission and the Labor Department to develop a training program for the resident employees of the beneficiary firm to provide upward mobility, through training and education, into higher level positions within the firm or another firm.

Each beneficiary, in accordance with Virgin Islands Code Title 27, Section 303b, and Title 29, Section 708 (k), shall file with the Department of Labor, Employment Security Agency, a written notice of Registration of Vacancies and availability of employment within their business, and that of all subcontractors or consultant firms employed by the beneficiary. The notice shall include the number of employees required, the occupational qualification, skills, licenses, or other experience required for such positions, the date employment is to commence, if the position is full time or part time, the respective wage rate, benefits, and other special requirements and conditions of the position. Each beneficiary, their subcontractors or consultant firms, shall not hire any employee unless that candidate was referred to the beneficiary by the Department of Labor or until the Division of Employment Service has been notified of such vacancy and given ten (10) working days in which to refer candidates to fill the position from the unemployed job seekers in the Virgin Islands. In accordance with *The Personal Responsibility and work Opportunity Reconciliation Act of 1996*, all employers have twenty (20) days within which to file a Report of New Hire with the Department of Labor, Bureau of Labor Statistics for each position they fill. Title 16, Chapter 13, Subchapter I, Section 378(g) of the Virgin Islands Code, established a penalty for failure to report all new hires.

The Department of Labor conducts legal and procedural compliance reviews of Economic Development Commission (EDC) beneficiaries. The Department of Labor will conduct continuous review for compliance with residency, employment levels, and reporting on the Employers Quarterly Wage and contribution Report (VIESA) and the Quarterly Affidavit of EDC Beneficiary Regarding Residency of Employees, in accordance with Title 29 VIC 710 (a).

EDC Beneficiary employers shall file their quarterly reports in accordance with the Rules and Regulations of the EDC and the Labor Department. A copy of the Quarterly Wage and Contribution Report and Affidavit of EDC Beneficiary Regarding Residency of Employees and other documents will be provided to the Commissioner of Labor, at the time the Quarterly Reports are filed with the Unemployment Insurance Division and EDC. Failure to file the Quarterly Reports will be cause for the Commissioner of Labor to conduct an investigation and hearing into the non-compliance and issue fines and penalties as determined appropriate by the Commissioner.

Employers shall report employees on the Employers Quarterly Wage and Contribution Report in accordance with law, rules and regulations. Bona fide members of a partnership are not employees of the partnership within the meaning of the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and the collection of Income Tax at Source of Wages (chapters 21, 23, 24, respectively, subtitle C, Internal Revenue Code of 1954). Such a partner who devotes his time and energies in the conduct of the trade or business of the partnership, or in providing services to the partnership as an independent contractor, is, in either event, a self-employed individual rather than an individual who, under the usual common law rules applicable in determining the employer-employee relationship, has the status of an employee unless previously approved as an employee partner by the EDC Board of Governors.. (Sections 1402(a) and 3121(d)(2) of the Code). Remuneration received by a partner from the partnership is not wages with respect to employment and therefore is not subject to the taxes imposed by the Federal Insurance contributions Act and the Federal Unemployment Tax Act, as administered by the United States Virgin Islands Department of Labor.

The Commissioner, as soon as the Department of Labor becomes aware of any violation of the above employment vacancy notification by the beneficiary, shall notify the Economic Development Commission that the beneficiary is not in compliance with this requirement. The Commissioner shall investigate the alleged violations and if it is found that there is a violation the EDC may place the beneficiary into a suspended category until corrective action is taken. If the beneficiary continues to violate this provision of the law or rules and regulations, the Commissioner of Labor shall recommend to the EDC to revoke, suspend or modify the certificate. The Commissioner of Labor shall take other actions to cause the enforcement of those laws, rules and regulations under the jurisdiction of the Labor Department, such as site visits, requests for copies of records, interviews, subpoena of records and persons and other actions necessary to carry out the Department's mandate. The Commissioner shall notify the Economic Development Commission of the cost of investigation and reporting of the findings and recommendations of such investigation of violation of rules and regulations or laws of the United States Virgin Islands. Those costs will be recovered from the violation entity and paid into the specific account for the reimbursement of the Labor Department expenses.

§ 708-4. Jobs Program. Each Beneficiary whose capital investment is in excess of \$500,000.00 shall file with the Commissioner of Labor an affidavit that it has employed at least two individuals from the Human Services Jobs Program. The Commissioner shall notify the EDC if the beneficiary does not comply with this requirement.

REVISIONS TO: § 708-4. EMPLOYMENT PRACTICES

In the case of an applicant or beneficiary whose investment, pursuant to subsection (a) of Section 708 of Title 29 V.I.C., is an excess of \$500,000.00 agree in writing to employ at least