

COMMITTEE ON BUDGET, APPROPRIATIONS AND
FINANCE

11/14/2023-SPECIAL ORDERED TO THE FLOOR

11/07/2023-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 35-0191

Thirty-Fifth Legislature of the Virgin Islands

October 27, 2023

An Act appropriating the sum of \$17,000,000.00, or so much of that sum as is necessary, in the fiscal year ending September 30, 2024, from the excess of funds contained in the Debt Service Reserve Fund for the Gross Receipts Taxes Revenue Bonds to the Virgin Islands Port Authority for the dredging of the Charlotte Amalie Harbor and establishing reporting requirements for the expended funds

PROPOSED BY: Senators Novelle E. Francis, Jr., Marvin A. Blyden,
Dwayne M. DeGraff and Donna A. Frett-Gregory by Request of the
Governor

1 **WHEREAS**, the Virgin Islands Public Finance Authority (the "Authority") has
2 issued, on behalf of the Government of the Virgin Islands (the "Government"), its (i) Virgin
3 Islands Public Finance Authority Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan
4 Note), Series 2006; (ii) Virgin Islands Public Finance Authority Revenue Refunding Bonds
5 (Virgin Islands Gross Receipts Taxes Loan Note), Series 2012A, (Working Capital
6 Refinancing/Tax-Exempt); (iii) Virgin Islands Public Finance Authority Revenue Refunding
7 Bonds (Virgin Islands Gross Receipts Taxes Loan), Series 2012B, (Broadband Project
8 Refinancing/Federally Taxable); (iv) Virgin Islands Public Finance Authority Revenue Bonds
9 (Virgin Islands Gross Receipts Taxes Loan Note), Series 2012C, (Capital Projects/Tax

Exempt); (v) Virgin Islands Public Finance Authority Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note), Series 2014A, (Working Capital); (vi) Virgin Islands Public Finance Authority Revenue and Revenue Refunding Bonds (Virgin Islands Gross Receipt Taxes Loan Note), Series 2014C, (Tax-Exempt); and (vii) Virgin Islands Public Finance Authority Revenue Bonds (Virgin Islands Gross Receipts Taxes Loan Note), Series 2014D (Federally Taxable); under and pursuant to an Indenture of Trust, dated as of November 1, 1999, as supplemented and amended (the "Indenture"), by and between the Authority and The Bank of New York Mellon Trust Company, N. A., as trustee (the "Trustee"); and

WHEREAS, the Gross Receipt Taxes Bonds are secured, in part, by a debt service reserve fund established under the Indenture (the "Debt Service Reserve Fund"); and

WHEREAS, the Authority has been advised by the Trustee that as of March 3, 2023, the Debt Service Reserve Fund contains excess funds derived from partial repayment, in the ordinary course, of principal of such Gross Receipts Taxes Revenue Bonds, as well as investments earnings, in the aggregate amount of \$18,767,003.22 (the "Excess Funds"), which sum, is subject to variation of valuation; and

WHEREAS, the Authority and the Government have reviewed the pressing needs of the Virgin Islands Port Authority and have determined that the Excess Funds, minus a cushion of approximately 9.42% or \$1,767,003.22 ("the Cushion") of the debt service reserve requirement to protect the value of the investments in the Debt Service Reserve Fund in the event of interest rate changes, in the amount of \$17,000,000.00 may be used to fund certain urgently needed harbor dredging capital projects across the Territory, which project includes: dredging of Charlotte Amalie Harbor Channel and Turning Basin, St. Thomas (the "Approved Project"); and

1 **WHEREAS**, by Resolution 22-025, dated July 15, 2022, the Authority authorized
2 the use of \$17,000,000 from the Authority’s Debt Service Reserve Fund for the Gross
3 Receipt Taxes Loan Notes to fund costs associated with the dredging of the Charlotte
4 Amalie Harbor and Turning Basin; Now, Therefore,

5 *Be it enacted by the Legislature of the Virgin Islands:*

6 **SECTION 1.** The sum of \$17,000,000.00, or so much of that sum as is necessary,
7 is appropriated in the fiscal year ending September 30, 2024, from the excess of funds
8 contained in the Debt Service Reserve Fund for the Gross Receipts Taxes Revenue Bonds
9 to the Virgin Islands Port Authority for the dredging of the Charlotte Amalie Harbor,
10 inclusive of the WICO Berth, Turning Basin, and Entrance Channel on St. Thomas. No
11 portion of this sum may be used for any other or ancillary purpose, and only such funds as
12 are required for the dredging of the Charlotte Amalie Harbor may be released.

13 **SECTION 2.** No later than 30 days after the enactment of this act, the Virgin Islands
14 Port Authority shall submit to the Legislature of the Virgin Islands a timeline and a budget
15 report that indicates the specific use of the funds appropriated for the project. Thereafter, the
16 Virgin Islands Port Authority shall submit bi-monthly project reports and updates to the
17 Legislature, including detailed accounting records of all funds utilized for the project.

18 **SECTION 3.** The sum appropriated in section 1 remains available until expended.

19 BILL SUMMARY

Section 1 of this bill appropriates \$17,000,000.00 from the excess funds in the Debt Service Reserve Fund to the Virgin Islands Port Authority (“VIPA”) for the dredging of approximately 149,000 cubic yards of material from the Charlotte Amalie Harbor. The WICO Turning Basin within the Charlotte Amalie Harbor will be dredged to a depth of 38 feet below MLLW. The project encompasses dredge activities for the turning basin located off the southwestern end of the WICO dock to the end of the Charlotte Amalie Channel between Hassel Island and Rupert’s Rock. The dredging will provide additional keel to sea floor clearance in the channel, turning basin, and alongside the berthing dock. The dredging will enable new-generation cruise vessels to safely navigate into the harbor and

1 berth at the WICO dock. While at the dock, the additional clearance from keel to sea floor
2 will reduce the amount of sediment drawn into sea-to-sea cooling intake valves on existing
3 and new generation ships. Accommodating the larger cruise vessels will ensure that the
4 Virgin Islands retains ports of call, with a directly associated benefit to businesses that rely
5 on cruise passenger traffic. Section 2 of this bill requires the VIPA, not later than 30 days after
6 the enactment of this act, to submit to the Legislature a timeline and a budget report that
7 indicates the specific use of the funds appropriated for the project and requires the VIPA to
8 submit bi-monthly project reports and updates to the Legislature. Section 3 of this bill
9 authorizes the money appropriated in section 1 to remain available until expended.

10 **BR23-0848/October 23, 2023/GC**

11 **G35-025**