| Committee on Finance

Legislature USVI

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0:00:00 Thank you for joining us. We'll be right back. Thank you. Thank you. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. Thank you. Thank you. We'll be right back. Thank you. Thank you. We are now. Thank you. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. Thank you. We'll be right back. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. Fresh We'll be right back. We'll be right back. Thank you. Thank you. Thank you. Thank you. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you. Oh, oh, oh. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. We'll be right back. Thank you. Thank you. Thank you.

0:41:26 We'll see you next time. We'll be right back. Thank you. [3 such phrases repeated 22 times · standby audio before the proceeding, transcribed by the recogniser as speech]

0:52:26 The Committee of Finance is hereby call to order. Madam Clerk, may I have a roll call, please. Senator Marvin A. Blyden. Senator Blyden, present.

0:52:58 Senator Samuel Carrion. Senator Carrion, present. Senator Dwayne M. DeGraff. Senator DeGraff, present. Senator Donna A. Fred Gregory. Senator Fred Gregory, present. Senator Javon E. James Sr. Senator James Sr., present. Senator Janelle K. Sereau. Senator Sereau, absent. Senator Kurt A. Vialet.

0:53:32 Here. Senator Vialet, present. Mr. Chair, you have six present, one absent. Thank you, Madam Clerk, any correspondence? No, Mr. Chair. Thank you, Madam Clerk. I wanna thank Senator Noble Francis, also welcome Senator Francis for being here and mark Senator Saro as present so we have a full complement. So good morning to the people of the Virgin Islands, good morning colleagues, good morning to the testifiers. Madam Clerk, may you proceed and read agenda into the record.

0:54:13 The Committee on Finance for Tuesday, March 15th, 2022, in the Fritz E. Louet Legislative Conference Room, Christianstead St. Croix, U.S. Virgin Islands. The Committee on Finance will consider the following bills. Bill number 34-0191, an act amending title 22 Virgin Islands Code chapter 55 relating to captive insurance companies to clarify the purpose of the chapter and to prohibit the organization within the virgin islands of a special category of multi-state insurers that may not be required to comply with the accreditation standards established by the national association of insurance commissioners and adopted by the territory as a naic accredited jurisdiction proposed by senator donna a fred gregory invited testifier glendina p matthew esquire acting director office of the lieutenant governor bill number 34-0204 an act amending the virgin islands Code, Title 22, Chapter 58, relating to self-insurance, and Title 29, Chapter 10, Section 543, relating to the powers of the Port Authority to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks, proposed by Senator Kurt A. VLA invited testifiers Carlton Dow executive director Virgin Islands Port Authority Glendina P Matthew Esquire acting director office of the lieutenant governor mr. chair this concludes the reading of today's agenda thank you

0:56:16 madam clerk colleagues you have a easy day today just two measures so I think we'll have a very easy and early day. The first bill, bill number 34-0191, who speaks to this bill? Senator Donna Fred Gregory, you're recognized. Thank you, Mr. Chair.

0:56:44 Good morning, colleagues. Good morning to the listening and viewing audience, and good morning to the testifiers. This morning I offer bill number 34-0191 by request of the Governor. Bill number 34-0191, an act amending Title 22, Virgin Islands Code, Chapter 55 relating to captive insurance. The bill seeks to define and clarify the purpose of the chapter to limit any insurers other than multi-state insurers from being licensed as captive insurance under this chapter. State insurers may only be licensed in the territory as captive insurers which will be subject to the accreditation standards of the NAIC. With these safeguards in place, the measure will strengthen the regulatory oversight of the Division of Banking and Insurance over the captive insurance program and secure reaccreditation of the Division of Banking and Insurance.

0:57:49 The legal counsel of the Division of Banking and Insurance identified some concerns as well as the legislature's legal counsel. With a bill, an amendment will be brought and filed in the Committee on Rules as we traverse the landscape of this significant piece of legislation. Thank you, Mr. Chair, for the time. Thank you Senator Fred Gregory. Attorney Matthew, I'll give you a chance to put your name on the record, and also the two individuals who are here with you, and what a difference to be back live and watching you.

0:58:27 Today's a good feeling. First finance meeting in a while that we're back live. So you may put your name on the record. Good morning, Attorney Glendina Matthew, Acting Director for the Division of Banking, Insurance and Financial Regulation under the Office of Lieutenant Governor. Next, Council. Good morning, Suzette Richards, Legal Counsel for the Division of Banking, Insurance and Financial Regulation in the Office of the Lieutenant Governor. Thank you. Next. Good morning, Ashton Bertrand, Chief of the Financial Services, Division of Banking, Insurance Financial Regulation in the Office of the Lieutenant Governor.

0:59:04 Thank you so much. You may proceed with your testimony. Good morning, Committee. Good morning Chairman Honourable Kurt Aviale and Honourable Members of the 24th Legislature of the Virgin Islands Committee on Finance and other senators present today as well as a viewing and listening audience. I am Glendina Matthew, Interim Director of the Division of Banking, Insurance and Financial Regulation within the Office of Lieutenant Governor and Commissioner of Insurance Honourable Tregenza A. Roach, Esquire. I most respectfully appear before you today to provide testimony on bill number 34-0191, an act to amend Title 22, Chapter 55 of the Virgin Islands Code by clarifying the purpose of the chapter so as to prohibit the organization within the U.S. Virgin Islands of a special category of multi-state insurers that may not be required to comply with accreditation standards established by the National Association of Insurance Commissioners, NAIC, and adopted by the territory as a NAIC accreditation jurisdiction. I am accompanied by attorney Suzette Richards, the divisions legal Council, Attorney Dolace McLean, legal counsel for the lieutenant governor and general counsel for the entire lieutenant governor's office and Mr.

1:00:41 Ashton Bertrand, the divisions chief of other financial services. We most respectfully inform you that the officer lieutenant governor division of banking insurance and financial regulation fully supports bill number 34-0191 with some additional amendments. The bill as currently drafted aims to, among other things, change the name of the Title 22, Chapter 55 of the Virgin Islands Code, currently known as Virgin Islands International Insurers Act, to Virgin Islands Captive Insurers Act.

1:01:23 any reference to the term international insurers and insert in its place captive insurers wherever it appears in chapter 55 of title 22 virgin islands code clearly define what is a captive insurer which is an insurance company created and wholly owned by one or more non-insurance companies to ensure the risk of its owner and parent corporation, essentially a form of self-insurance whereby the insurer is owned wholly by the insured and typically established to meet the risk management needs of its owners or members and whose primary jurisdiction is known as its domicile clearly establish the purpose of the chapter which is to allow for the statutory organization of a captive insurance company which may be classified as any single parent captive insurance company association captive insurance company or industrial insured captive insurance company or any branch exempt captive insurer licensed under the provisions of this chapter to underwrite risk situated exclusively outside of the virgin islands prohibit the licensure of international insurers under the captive program and prohibit a captive insurer from converting to or being licensed in its jurisdiction as a traditional multi-state insurer i will begin my presentation by explaining further what a captive insurer also known as a captive insurance company is and common reasons for its formation as defined in section 1401 of this bill a captive insurer is essentially an insurance company created and wholly owned by

1:03:30 one or more non-insurance companies to insure the risk of its owner or parent corporation. A captive insurance company may be formed if the parent company cannot find an insurer to insure them against particular business risk, if the premium paid to the captive insurer create tax savings if the insurer provided is more affordable or if it offers better coverage for the parent company's risk the new definition of captive insurer in this bill aims to not only classify the different types of captive insurers that may be organized in the territory as provided in section 1401 t of title 22 virgin island code but to clearly define what a captive insurer is it should be noted from the outset unlike traditional self-insured entities that are generally not a licensed insurance entity captive insurers and branch captives are licensed in u.s Virgin Islands and cannot underwrite its own risk situated in the territory. I emphasize that, cannot underwrite its own risk situated in the territory.

1:04:53 Captives in the territory may only underwrite risks situated exclusively outside of the Virgin Islands pursuant to Section 1401 . By way of background, the Virgin Island Captive Insurance Program was first established by Act number 4900 and codified in Title 22, Chapter 55 on March 7, 1984. Since then, Act number 4900 followed by Act number 7025, the Alternative Market and International Reinsurance Act, as codified in Title 22, Chapter 54, were repealed.

1:05:36 Act No. 7569, the Virgin Islands International Insurance Act, as codified in Title 22, Chapter 4 and 55 of the Virgin Islands Code, is one of two acts governing the Virgin Islands Captive Insurance Program. Program. Chapter 4 of the Act created within the Office of Lieutenant Governor the Division of Alternative Market and International Reinsurance, and granted the Superintendent of Alternative Market, also known as the SAM, the authority to license and regulate captive insurers and the Alternative Market Program under Chapter 55 and 66 and applicable rules and regulations respectively. Chapter 55 of this Act created the requirements for the licensure and regulation of traditional captive insurers including protective cell. And Chapter 66 also known as the Alternative Market Act created a framework for the licensure and regulation of alternative securitization insurance entities which are entities formed under this chapter that purchases portfolio of assets and uses debt obligations and other legal forms to transact business.

1:07:00 Besides the licensure and regulation of captive insurance program under Title 22 pursuant to Title 13 Chapter 14 of the Virgin Islands Code, any captive insurer seeking a tax exempt company status was required to apply to the division for a certificate for an exempt status and tax incentive benefits. Why is bill number 34.019 important? As this legislative body is aware, prior to the division becoming accredited for the full five-year period by the NAIC in December 2021. The division was conditionally accredited in December 2019, subject to a two-year review. To achieve full accreditation, the division had to endure a series of reviews to demonstrate to the accreditation review team that the division had enacted the required NAIC model laws and the division was conducting its examination analyses of its domestic insurance companies in accordance with the NAIC standards. Meaning that the division was required to prove to the NAIC all domestic multi-state insurers are subjected to the same baseline standards. Any appearance that the division has created a category of multi-state insurers not subject to the accreditation standards could result in the division losing its accredited status.

1:08:44 The division would like to again thank this legislature for their enactment of the required NAIC model laws and the staff for their hard work in the regulatory oversight of all domestic companies which enable the division to become accredited. However, we are reminded that accreditation of the division is only for a five-year period. Every five years, a review team will perform an on-site review and assessment of the division to determine, one, if the required NAIC model laws are in place, and two, if the division continues to maintain the baseline standards. The Division's next accreditation review will be conducted in year 2024.

1:09:38 As discussed before, the purpose of the NEIC accreditation program is to develop and maintain standards to promote effective insurance company financial solvency regulation. All accredited states are required to maintain a baseline level of effective financial oversight of its domestic multi-state companies. This is particularly important since non-domestic states rely on accredited domestic states to apply the appropriate NAIC standards in the regulation of multi-state insurers. The failure of a state to maintain the NAIC standards may result in the state accreditation being suspended. During the accreditation review process, the NAIC raised a few concerns.

1:10:36 One of the issues raised was whether Title 22, Chapter 55 of the Virgin Islands Code, currently known as the Virgin Islands International Insurers Act, allows for the organization of a special category of multi-state insurers which may not be subject to the NAIC accreditation standard. The NAIC raised this issue when it learned the term international insurer was being used by another jurisdiction to create a special category of insurers that were not subject to the NAIC accreditation standard. Whenever the NAIC investigates issues that relate to accreditation, that information is kept confidential and the jurisdiction is not identified. In its review of our insurance code, the NAIC noted Title 22 of the Virgin Islands Code also had an insurance licensing category called International Insurers.

1:11:44 We impressed upon the NAIC in several correspondence that the term international insurer or international insurance company, as used in the Virgin Islands Code, has traditionally been used in the context of the Virgin Islands Captive Insurance Program, and the term international insurer or international insurance company is synonymous with the term captive insurer or captive insurance company. Notwithstanding, as the usage of the term international insurer or international insurance company in the territory's captive law has created some confusion in the industry, This bill seeks to address the concerns noted by the NAIC by changing the name of Title 22, Chapter 55 of the Virgin Islands Captive Insurers Act, stating clearly the purpose of the chapter, Chapter 55, defining what a captive insurer is and insuring anywhere where international insurer or international insurance company appears in the Virgin Islands code including title 22 chapter 4 chapter 55 and chapter 66 and title 13 chapter 14 the term is deleted and the term captive insurer or captive insurance company is inserted in its place respectively, and also deleting the term international in the terms cited in subsection D below.

1:13:40 The Division believes that there is a need for additional language for the intent of the bill to be clearly understood. As such, to fully effectuate the purpose of the bill, the following suggested amendments are also needed. Question 1 should read, the Virgin Islands Code Title 22, Chapter 4, Chapter 55 and 66 and Title 13, Chapter 14 are amended in the following instances. On page 3, line 11, insert an international insurance company or international insurance companies after international insurers and before as the case may be on page 3 line 12 insert and captive insurance company or captive insurance companies after captive insurer and before as appropriate the amendment should read as follows the term international insurer or international insurers and international insurance company or international insurance companies as the case may be are stricken wherever they appear in the chapters and captive insurer or captive insurers and captive insurance company or captive insurance companies as appropriate inserted in its place. On page 3 line 15 the definition of captive insurer is amended by inserting after captive and before means also known as captive insurance company.

1:15:30 The definition of international insurance company as defined by Title 22, Chapter 55, 1401T, is deleted. Any reference to Exempt International Company or Exempt International Companies and Exempt international insurer or exempt international insurers, branch exempt international insurer or branch exempt international insurers, an international reinsurer or international reinsurers, an international reinsurance, an international reinsurance business or international and reinsurance businesses, an international support business or international support businesses, an international insurer support business or international support businesses in Chapter 4, Chapter 55 and Chapter 66 of Title 22 of the Virgin Islands Code and Chapter 14 of Title 13 Virgin Islands Code. So it would be stricken an exempt captive company or exempt captive companies, an exempt captive insurer or exempt captive insurers, branch exempt captive insurer or branch exempt captive insurers, and captive reinsurer or captive reinsurers and captive reinsurance and captive reinsurance business or captive

1:17:24 reinsurance businesses and captive support business or captive support businesses and captive insurer support business or captive insurer support business, inserted in its place respectively. Chairman Honorable Kurt Av Cadaver and members of the committee and other Senators present. This concludes my testimony on bill number 34-0191. We thank you and the members of this Committee on Finance for the opportunity to appear before you. Moreover, we greatly appreciate your support of our endeavors to continue to update Title 22 of the Virgin Islands Code, commonly known as the Virgin Island's insurance code. We are prepared to respond to your questions on this bill.

1:18:22 Thank you. Thank you for your testimony, and the bill is kind of straightforward because it's just really deleting international and replacing it with captive. So we're going to go to a three-minute round, colleagues. I think that should be sufficient, and we'll start with Senator Blyton. you so much mr. chair good morning to my colleagues viewing listening audiences central staff good morning to the testifiers and attorney Matthew thank you for so much for that testimony testimony was clear on point and I understand exactly what they intend to include the amendments basically it's clarifying the definition it addresses the NAIC concerns to include the industry you know to clear out confusion I just stated and assure that title 22 of the Virgin Islands code is clear so let me actually another question in respect to the captive insurance is that a type of self-insurance can you clarify for me it is a type of self-insurance however there are limitations as it relates the captive insurer a captive insurer is usually an one based on title 22 section 1401 in the entity that is providing captive insurer insurance cannot underwrite its own business in the territory a captive insurance the whole purpose of a captive insurance is

1:20:09 that companies appearing companies as well as their affiliates they're able to underwrite their own risk for the business. So in cases like for instance where someone may have liability requesting or wanting liability insurance they can underwrite their own risk of the parent companies or their affiliate companies. And that's why you emphasize the risk but outside of the territory correct that's that's that's the critical part right there one minute okay right thank you so much for your sponsors mr chair i have no more questions thank you so much for your testimony thank you senator blight and i also want to welcome senator carla joseph thank you for coming um senator the graph uh good morning colleagues good morning testifiers all of you and listen i'm present so we're changing the name international the captive and the intent of it and um definition the definition is different but as the intent of what's already in the bill the law the same the intent of captive insurance remains the same as it was previously written in title 22 however because of the term that's being used this is where what created the confusion the term international insurer but the intent of the bill as it is it is in the Virgin Islands code remains the same in the Virgin Islands code you see the word international insurer associated with as as describing a captive saying it's an association captive it's uh describing different type of captives however there wasn't a clear definition stated in the uh title 22. however this bill seeks to not only describe what a captive the different type of captives but also include the definition

1:22:20 of captive. Okay and finally captives in the territory may only underwrite risk situated exclusively outside the Virgin Islands pursuant to section 1401 t. Correct. Give me an example of what a captive insurance company is or yeah what is one? There are a lot of captives captives that are currently licensed in the Virgin Islands, I don't know what you're saying. Name one.

1:22:55 You could name one, is it? Yeah, UPNSCO would be one. I do understand what you're saying. UPNSCO would be a name of a captive that was licensed as previously. One minute. They would cover the risk, the health component of the employees of UPS. Okay, so with that company, the definition changing from international to captive, because they already exist in the territory, does their company have to change anything?

1:23:29 No. What they would be doing, they would be covering the risk, particularly health insurance, for individuals outside of the territory so they cannot do any business here in terms of covering risk associated with the employees. Senator I want to make sure we're clear on there isn't any impact this bill doesn't in any way impact any companies that are currently licensed it's just a matter of changing the name that we traditionally use in the code which says international insurer a captive insurer or captive insurance company but it doesn't affect any um current um persons or entities that are licensed in the territory okay thank you for that uh thank you for the time mr chair thank you senator degraf senator carrion you're recognized good morning mr chair good morning uh to my colleagues good morning to the testifiers morning and the viewing and listening audience buenos dias um i don't really have much to say i think this is a good proposal legislation because what you're doing is clearing up the language within our codes which is necessary and it's something that um we're seeing that we have to do more and more and in your case to avoid any confusion which in the industry the language is being cleared up um so i i just want to thank everyone who was involved the sponsor of the bills and and the team for recognizing the need for this and of course it was brought up because of the accreditation agency and to avoid any confusion in industry now I let me ask how many how many captive insurance insurers we have in the territory thank you for the question senator we have two

1:25:21 captive insurance companies right now how many two two it's just two okay is is there an uh have you received requests uh for any more kept insurance insurance companies yes center we have um free pending applications that we have sent out three that are pending okay very well um no further questions i think this is good there's a lot of things we have to clear up within our codes that we haven't revisited in a long time so uh good work thank you thank you Thank you, Senator Ariong.

1:25:56 You're inserting the definition captive insurer, so you're inserting it after K in 1401? And then renumbering accordingly? Correct, because I think because we were using the term international insurer, we're deleting that term and then adding captive insurer in its place with the current description that was included in international insurer as well as adding a definition for captive insurer. Okay, I'm just saying so in alphabetical purposes it'll be inserted in and then the next one will be deleted and then renumbered accordingly? Correct.

1:26:46 Should we... I'm looking at the way you wrote the amendment as to whether or not it's clear that that is what you want or were you just seeking to put the definition captive insurance at the end of the particular 1401? No, it would be renumbered in alphabetical order. Okay and then you did not association of Association International Insurance Company you're not gonna delete that?

1:27:23 I don't see you you didn't reference that that's H. Yeah that would also be deleted and we worded to include captive insurer. The amendment doesn't speak to Association International Insurance Company. Yeah that would be included also. So we have to add that in? Correct. Okay, thank you so much. Thank you Mr. Chair.

1:27:59 Could you repeat that again? The Chair asked a question, I'm trying to figure out exactly the specific section. Section 1401, Title 22, Section 1401H, there's a definition there for Association of International insurance company but we won't have an association anymore so yeah is it Association of Virgin Islands no instead of saying Association of international insurance company be Association of captive insurance company correct I just wanted to make sure when you scrub it you made sure that every That was a difficult part, you know, going to the entire code to make sure you pinpoint each area that the term is being used because there was so much variation of the term.

1:29:07 And since we are going to have some time before the Rules Committee, you can do a father scrubbing and if you find any additional areas that need to be amended, if you can, can let us know let the bill sponsor know senator James you recognize good morning to the people of the u.s. Virgin Islands thank you chairman VLA for the time what can you say when everybody already went before you what can you ask however I just want to say congratulations to the office of the lieutenant governor for the Division of Banking Insurance and Financial Regulation for being accredited. I remember when we supported that in the 33rd legislature of the Virgin Islands and we had a lengthy discussion. I think ever since then, you have been doing your due diligence and that is why we're here today. But my question is, ever since that act was passed by this body, how many individuals or companies were able to slip through the cracks based on the discrepancy with the definition?

1:30:14 There wouldn't be no one who's going to slip through the cracks because remember the term, even though we were not using the term captive insurer, the definition and description and the intent of that chapter remain the same. So even though we were using the term international insurer, we know that means captive insurer. We know that means captive insurance company.

1:30:48 We know that means captive insurance support business. It's just a matter, the uses of the term wasn't, and I think that came back. If you look, that's what I referenced, the different acts before it. Because as you will note, in different acts, there was a term that was being used traditionally in the act. where I think the Senate was cleaning up sometimes the code because that term was just being used, international insurer, and we accepted it meaning captive insurer.

1:31:20 The problem came about when other jurisdictions are using that term meaning something different from our intent. And this is where the need to make that revision, not only internally changing the way we use that term, but making that revision in the code itself. Because what I was leading to, and I'm happy that you clarified that, I was trying to find out if we were being proactive or reactive, so I guess we were being proactive. So thank you. That's a compliment you should be happy about.

1:31:55 I see you pushing up your face. Thank you, Senator. Anyway, it's a no-brainer legislation, and I just hope and pray that we continue to be accredited this week. to high standards when we realize that we're up there with the rest 50 states so on that's commendable of the division and like i said no legislation is perfect and today's a great example of even though at the time we thought it was something good at the time we realized you have to come back and revisit it so i'm happy that we're addressing it and thank you mr chair for the time and today's a good day in the borgias when you wake up and hear that the refinery is to be open and they're about to rehire so thank you mr chair for the time thank you senator thank thank you senator james i won't comment on that i'm waiting to see what officially is going on at some point i'm hoping that jurisdiction would be meeting with the members of the legislature so we can know exactly what is going on but we have been working on accreditation legislation for what five years though right yeah uh it was a task because um the components of of accreditation is not only making sure you have all the necessary laws in place but maintaining those laws as naic uh has the other model laws that they add to the purview that they indicate we need to adopt we have to keep on moving so it's a fluid accreditation is a fluid situation not only in related it relates to the laws but how we as um the financial service examiner have to examine the companies and supervise the companies um there's a lot um more that that the division there's a lot more that the division, a lot more support the division will continue to need from the senators because we're going to continually be coming to the legislature with bills as it's required to meet those accreditation standards as we go forward.

1:34:08 Totally understood. Senator Francis, you're recognized. Thank you very much, Mr. Chair. good morning to you and good morning to my colleagues and certainly good morning to the testifiers good morning good morning to the people of the virgin islands it is in fact a good day and um you know it's always good to give thanks and praise just for the fact of waking up in this territory um but i wanted to ask and you know the whole issue of insurance continues to be a very complex issue just just hearing you read um your testimony today as well as to you know going over this this measure you could really see the complexities of um insurance how are we educating the public you know so that they don't be disadvantaged um in this whole insurance industry can you just touch on that for me please well uh our staff continues to do a lot of outreach as you know like everyone else as a result of covet we've um reduced the amount of coverage we've had out there but we will continue to do outreach and we're already planning for uh ag fair which is one of the times that we have tables for the all three days our staff is out there meeting customers uh speaking to customers uh indicating we have brochures educational materials that will be available to customers so that they continue to be informed as the different changes that's happening in the insurance industry. So the term international and captive is really I guess interchangeable and it's semantics you'll say? For us it's interchangeable but remember if other jurisdictions are using it and they're using it in a different format this is where the problem comes in very well and you mentioned that there was two captive insurers on an island

1:36:03 who are they we have um kenfield and we also have um base state usvi branch okay and what about the issue you mentioned about domicile um and and that's that's certainly an issue that we continue to contemplate the whole accreditation process you know domicile continue to pop up are those two companies domiciled here in the Virgin Islands? One has not started operations yet. They have been licensed in November 2017. The other one has been there, I think, since 2008. They are not, well, yes, the answer is yes, but the domicile is through a support business. So the support business in St. Thomas and they are the ones representing those companies.

1:36:49 Okay. And again, complexities of this whole discussion, right? And then you spoke about that the fact that they cannot underwrite this own risk situated in the territory. Can you expand that a little bit for me? The current law is written provides that a captive insurer cannot underwrite its own risk in the territory, meaning in order to, it's a company that is domiciled here, but they're generally underwriting risk elsewhere for instance like he uh mr burton gave the example of up uh up in school their uh uh their coverage covers ups um the ups just uh facilities outside of the territory and not those within so is there mr chief i just may conclude real quickly so is there any benefit to them do they pay um you know banking insurance for for some registration licensure or whatever or what is what is the benefit of having um them here besides of course they're covering the ups employees what is the benefit of having them here in terms of um you know revenues that comes into the territory well there is um registration requirement and i'll have mr bertrand well the main thing is they have the the tax incentive benefits if you look at the section in the code, if you're domiciled in St. Croix, you get 100% of a whole slew of benefits. In St. Thomas, it's 80%, and I think that was done to attract more business in St. Croix.

1:38:23 But the main advantage, if you look at the benefits section, it's a whole slew of benefits that they get being a captive. Like I said, it's 80% in St. Thomas and 100% in St. Croix. Very well. Thank you. Thank you very much for your responses. continue to educate the public on this particular issue thank you mr chair for the time thank you so much senator francis senator saru you recognize thank you and good morning um attorney can you hear me i have a feedback over here we're hearing you can i be heard yes okay um So Attorney Matthews basically answered some of the concerns that I had and I'll be a bit redundant but I'm looking at the code now and I'm doing a comparison with the legislation and so when we strike international insurance does the amendment define an international insurance company because I'm looking at the code now and if we strike that do we intend to define an international insurance company, Mr. Matthew?

1:39:34 Keep in mind the purpose of the bill and the amendment is that we're no longer going to be using the term international insurer, we're going to be using the term captive insurer, and there is a definition in the bill that has been submitted for captive insurer. The descriptions that were used for international insurer, that has been carried over into not only the definition for captive insurer, but those descriptions are listed there.

1:40:14 Okay. So excuse my ignorance here. So an international insurance company, that verbiage would not exist in the court after today? Correct. International insurer, international insurance company, international support business, all the reference to international would say captive in its place. So the term international in regards to title 22 and chapter, title 13, chapter 14 would refer to captive in the place of insurer or insurance company. ah okay because because the legislation does not I guess an amendment would be forthcoming but the legislation did not um the title that the section were um citing and the changes that we're making it's not applicable throughout and that was that was a question I had correct I understand what you're saying now okay okay excuse my ignorance on the topic I but thank you thank you for asking many questions thank you senator the time thank you senator sir one there is an amendment that will be um it's not completed yet but we can send you a copy of the amendment that would make some of those corrections that you just cited the only question though we redefining captive insurer right is defined in in section one I'm looking to see if we deleted or you deleted in the amendment I think you deleted T right did you yes okay so remember we're gonna renumber work right so that is where the

1:42:03 confusion is because amendment deletes T so the amendment deletes the definition of international insurance company because you have the definition of captive insurance correct okay for consistency they want to leave captive insurer insurance company or captive insurer this is why in my recommendation I said captive insurer means also known as captive insurance company so that because there is so much areas where it's referenced that it's hard to unless you're going to change every place that it says international insurance captive insurance company to captive insurer it's referenced throughout the code in different fashion because of the legis because i think what happens is every time an act is created some says insurer some says insurance company although it means the same it's referenced differently and as a result throughout the code it's referenced differently okay so we just want to make sure wherever we say captive insurer means also known as captive insurance company okay senator Joseph you recognize a pleasant good day mr. chairman colleagues testifiers my people of the Virgin Islands and attorney Matthew kindly accept my thanks to you and your team for your drive to assure that the Virgin Islands have now achieved National Association of Insurance Commissioners accreditation and I

1:43:52 understand clearly what the purpose of this legislation is is to assure that we maintain that level of high standards to promote effective insurance company financial solvency as you stated in your presentation. Now let me ask you where if we do not pass this legislation will we be we will be at risk for losing our accreditation with this national insurance standard company correct yes because I'm keep in mind we're all only here for a time we we can argue every time that we go for accreditation which is every five years what accreditate what international insurer means but at any point in time and myself is not here attorney Richards aren't here there is someone who's gonna have to come before that accreditation team and make the same argument so we want to make sure that every five years we're not having the same discussion regarding the term international insurer and having to make that argument to the NAIC accreditation team one okay great and so thank you now I wanted to ask you have any of your local state holders those two companies who are captive insurance insurers in the Virgin Islands had any input on this legislation no but I remember for I'm sure before we brought this legislation, most of you would say you weren't even familiar with that term. Because you would say you were familiar with captive insurer, but you haven't been familiar with international insurer.

1:46:10 But if I may, if I may, Attorney Matthew, because does this have any far-reaching effect on those two companies who are currently captive insurance companies and those who are in the pipeline and being considered for, to be a captive insurance company or insurer? time this legislation have any effect on their pending process and those who are currently have those certifications no it does not the intent of the legislature was that international insurance insurance international insurer runs company are acting as in the capacity of captive and that is a captive insurance program so there's no impact on any of the captive currently licensed or future persons or entities seeking to be licensed under the captive program okay thank you kindly you have answered my question thank you Senator Joseph and all is doing is cleaning up the language to to comply with NAIC standards so in fact it is good it is not going to affect us in any way negative is going to be a positive effect because it is clear that what the international insurance companies were doing were actually captive insurance so we're just clearing it up and allowing them to be able to function in the Virgin Islands Senator Fred Gregory you recognize thank you mr.

1:48:03 here so we are basically doing some cleanup language today however I think what's important for all of us to understand is what does NAIC certification mean to the Virgin Islands to the Division of Banking and Insurance what What does it mean?

1:48:32 Why is it necessary for us to want to have this discussion to make these amendments to the law? What about it? NAIC, National Association of Insurance Commissioners, is an organization that is created that all commissioners of all jurisdictions and territories are included. Within that, there is an accreditation standard that was created for all states to follow.

1:49:08 The division until recently was not accredited, meaning when we do an examination of an insurance company, no other state would have relied on our examinations. No, because we're accredited, we can do an examination of all domestic companies that are doing business in other jurisdictions, and those jurisdictions rely on our examination, which would encourage more companies to come here and become domicile here, because they're not going to be subjected to two different examinations, one in our jurisdiction and one in another jurisdiction wherever they are a non-domicilary state thank you for your response I think that was very important information to be placed on a record but let me ask you very quickly because I don't really have a lot of questions myself but let me ask you one minute so a a corporation that wishes to offer captive insurance this captive insurance program are they required to have a certain number of employees is there any requirements around that as the statute is written they do not require to have I'm a certain number of employees per se but they are required to have a support business in the territory in order to operate so and a company in Vermont for example cannot just say we are doing business the Virgin Islands they either have to be

1:50:54 domiciled here or they have to have a support business who will act on their behalf okay so they I don't have to be domiciled here or what did you say domiciled here physically yes act for a support business who would be a service provider in the Virgin Islands okay that's important information I think you've already explained to us the significance of striking international and replacing with virgin islands captive insurance so this this act will be now called if this is approved will be now called the virgin islands captive insurance act time correct and what was it called before what is it currently called it's currently called virgin islands international insurance act okay thank you I have no further questions thank you mr. chair for the time thank you senator Gregory mr. Bertrand you when you spoke about benefits that the companies are a possibly able to receive 80% in Thomas 100% St. Croix that is under the EDC no it's on if you look at them separate yeah section 1415 of the Act tells you exactly what the tax rates and the applicable benefits to the international insurance company, well now after the legislature has done what they intend to do, to be captive insurance.

1:52:26 On the 14-15 that's where the benefits come, if you're really careful you'll see that if you're established or licensed or domiciled in St. Thomas then you'll get 80% and it has a whole slew of it has property and taxes it has also income taxes and some of the other taxes on the section 1415 and also there is title 13 chapter 14 which speaks the exempt companies and one captive insurer can be exempt company under Title 13 Chapter 14 of the Virgin Islands Code.

1:53:06 Okay, I'm seeing it on international. It'll be a captive insurance company is exempt from any other taxes imposed by the Virgin Islands including without limitation real property tax use in the business of the captive insurance company, gross receipt taxes, excise taxes, and premium tax. Yes. So we're back to the last, the previous senator question should we have some provisions in there whether it's a support company or domicile company in reference to limited number of individuals that are hired in order to receive the benefits you you need X amount of employees or if it's a support company the support company should expand by X amount of employees in order to receive the benefits does it think you're just your viewpoint. You're asking for yes or no?

1:54:01 Well you could explain if you want to explain. We were given some benefits right? I mean the idea is that we want to really get insurance companies to come but should there be any other tie-in to receiving those benefits that could potentially impact the Virgin Islands? We can look at that, Senator. I know relative to the captive law, you tend to look at the other jurisdiction also to see what is being offered in other jurisdictions to be competitive. So we would have to look at other jurisdictions to see how their captive law is written if it does include those type of additional requirements also and and we can consider it but we can we can look at it and and and see how other jurisdictions um deal with with that okay thank you so much yeah if i may say um i have attended a couple of conferences and also we have a informal captive regulators association um probably close to So between 45 and 47 of the regulators have a meeting list where we go back and forth.

1:55:21 And I might be wrong, but I don't know any of the states that have an employee or number of employees mandate. And if that may be the case, like Assistant Director Matthew said, that's a good thing to look at. But if none of the states are doing it, which I don't think they are, because we speak on a regular basis, then that would hinder us in terms of having captives coming. But I'm pretty sure that none of the other domiciles are doing that. Okay, thank you so much. Just inquiring, any opportunity we have to expand employment, I think, that we need to look at.

1:56:01 Colleagues, anybody else has a question? Any other burning concerns? So that is no. We have received a copy of what was filed or what was recommended, and it's in the testimony in reference to the amendments that were recommended by Attorney Matthew Collie. So those amendments have been submitted to legal counsel, and the amendments will be offered at the next meeting, which will be the next juncture, which will be when it goes to the Rules and Judiciary Committee. So at this time, I'm asking for a motion.

1:56:49 Motion, Senator Gregory. Thank you, Mr. Chair. I move that Bill 34-0191, an Act Amending Title 22, Virgin Islands Code, Chapter 55, relating to captive insurance companies to clarify the purpose of the chapter and to prohibit the organization within the Virgin Islands of a special category of multi-state insurance that may not be required to comply with the accreditation standards established by the National Association of Insurance Commissioners and adopted by the territory as a NAIC accredited jurisdiction be favorably approved by this committee and forwarded to the rules committee for further consideration iso move motion made by senator fred gregory seconded by senator jameson as a blyton roll call senator marvin a blyton senator blyton yay senator samuel carillon senator carillon absent senator duane m de graf senator de graf yay senator donna a fred gregory senator fred gregory yay senator javon e james senior senator james senior yay senator janelle Kay Saro?

1:58:20 Yes. Senator Saro? Yay. Senator Kurt A. Vialet? Yes. Senator Vialet? Yay. Mr. Chair, you have six yays, one absent. Thank you, Madam Clerk. Bill number 34. Who's absent? Bill No. 34-0191, and I commend in Title 22, Virgin Islands Code, Chapter 55, related to captive insurance company to clarify the purpose of this chapter to prohibit the organization within the Virgin Islands of a special category of multi-state insurers that may not be required to comply with accreditation standards established by the National Association of Insurance commissioners and adapted by the territory as a naic accredited jurisdiction has received a favorable vote in this committee and will be sent to the committee of rules and judiciary for further consideration the committee of finance will take a two-minute recess I am so, I am so, I am so, I am so, I am so. We'll be right back. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. Thank you. Thank you. We'll be right back. Thank you. We'll be right back. Thank you. Thank you. Thank you. Thank you. Thank you.

2:15:07 We are back on the record. Madam Clerk, can you read the next item on today's agenda, please? Bill number 34-0204, an act amending the Virgin Islands Code, Title 22, Chapter 58, relating to self-insurance, and Title 29, Chapter 10, Section 543, relating to the powers of the Port Authority to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks. Proposed by Senator Kurt A. Viale.

2:16:08 Invited testifiers, Carlton Dow, Executive Director, Virgin Islands Port Authority. Glendina P. Matthew Esquire, Acting Director, Office of the Lieutenant Governor. Thank you, Madam Clerk. Before I go to the sponsor of the bills, to introduce the bill. I see we have Attorney Fraser also on teams. Attorney Fraser, can we have a mic check quickly, please? It's good morning, afternoon. Good afternoon, Attorney Fraser.

2:16:50 And we do have, of course, Attorney Matthews still in the well. Is Senator Dow available? uh no mr dow is out today he had a medical emergency so he won't be available today okay very well okay i apologize sorry for that thank you so much so that really you recognize um for the introduction of your bill thank you so much uh mr cheer uh bill number 34-0204 speaks to the authority or provide an authorization for the port authority to establish a self-insurance program that would cover basic items like vehicles and the buoys and the bollards this in no way gives them the authority to be able to ensure real property is just giving them that authority to self-insure those smaller items in which they're paying a substantial amount of money for right now I mean looking at the analysis if this bill is successful it will save the port authority some five hundred thousand dollars a year because just about every single year we're paying out less than we have paid for the actual cost of the insurance and substantially less before we started the meeting this morning we had opportunity to speak to the office of lieutenant governor attorney Matthews and attorney Richards and we had a discussion as to whether or not the self-insurance portion needed to be embedded under the office of the lieutenant governor in the discussion with the opposite lieutenant governor the two attorneys along with attorney Fraser and along with attorney tops we realized that we do not need to place it under lieutenant governor but we just need to give the port authority authorization under title 29 chapter 10 section 543 so we just need to give them authorization under that particular section and hence we are going to strike all of the language that speaks to um authority being given by the lieutenant governor office or certification or recertification so the components um colleagues of the bill that that would remain is going to be um the definitions which is 1495 the self-insurance authorization a b and c will be striked

2:19:30 1497 insurable assets that will remain 1498 management will remain 1499 speaks to the officer lieutenant governor that entire section will be struck and 1499 a renewal will also be striked. 1499B will change to maintenance of self-insurance and then the word Commissioner would be deleted and replaced by program administrator. There's a lot to cut us but we had spoke with all the senators who were here. I think everybody fully understands so we're going to make those recommended changes so that we can have the port authority immediately begin the self-insurance program that will save the authority some good money in these difficult times of being holding on to cash and the bill speak to maintaining a capitalization of not less than two hundred thousand dollars again and they would be responsible for our liability for those particular areas so colleagues that the amendment is going to be submitted I'm glad that we had a number of senators here today it's going to be submitted so that we can move forward but I'm asking for your support and with the meeting that we had this morning that we're able to move it to the next committee and have those recommendations or those amendments be placed on the table at the next level thank you mr. chair thank you so much senator VLA for that explanation of the bill I see attorney McLean on teams good afternoon

2:21:21 attorney McLean good afternoon senators good afternoon also attorney which is from the lieutenant governor's office good afternoon so I guess we're gonna we begin with um I turn one of information center really thank you so much mr. chair exactly what I said was the recommendation that the attorney really has in her testimony so I'm requesting that all the attorney Fraser provide testimony because it will not it will no longer fall under the opposite lieutenant governor so if you can just go straight attorney freeze and then moving it very well thank you for that point of increase in the graph thank you thank you mr. chair in regards to the way we want to move forward because the bill exists as at standing even though the government put in their point of view and we agreed to move forward with it to do just attorney Fraser's own would be for the same bill or should we just then go ahead to make a motion and just move the bill forward since we agreed to it where do you have to testify and we have the government here and they don't get to stay their side if they agree to it then let's move it forward thank you for the time mr chair sort of really recognized for your point of attorney fraser testimony really explains what the port authority is trying to achieve so it would be important just to get that on the record in terms of um and they gave it he's given a whole background um financially and and what they'll be able to achieve if this bill is passed so it would be good just to have that on the public record as to what they're hoping to achieve point of yes thank you again thank you i was just saying that the bill exists 34-0204 exists so to just have it involves the

2:23:25 government and the government like i said put in there there to send mr attorney fraser put in his own if we agree to move it forward to rules and have it fixed by rules then let's just go straight to that because i say if we can put on what what attorney fraser is going to say he's going to say it in regards to what we are looking to do but what before us is bill 34 0 2 4. okay that's what i was talking about okay senator giraffe i get what you're saying so i believe um uh mr chairman it's not really uh i believe we should just have both testimony on the record of that the case that we the public can hear it and let's move forward okay so attorney fraser you recognize for your testimony thank you thank you mr chairman good afternoon honorable center marvin blyden the presiding chairperson of the committee on finance and the honorable senators of the committee on finance of the 34th legislature all legislative staff and to the viewing and listening audience i am vincent fraser senior staff attorney for the virgin islands port authority i'm testifying on behalf of mr carlton dow the executive director for the virgin islands port authority mr dow sends his apologies for his absence which is due to a medical emergency that he is experiencing today i'm here today to present testimony regarding bill number 34 dash zero two zero four an act amending title 22 of the virgin islands code chapter 58 primarily relating to self-insurance for the virgin islands port authority

2:25:18 this act authorizes the port authority to establish a self-insurance program to cover and manage certain risks it's intended the the self-insurance program will be established was initially designed to uh be done under the critical requirements of title 22 chapter 58 self-insurance uh fund however with the discussions that we had this morning i will simply go to the specific means by which it benefits support authority many the virgin islands many jurisdictions have certain types of uh i'm sorry this man the virgin islands government in under title 22 chapter 58 we have a commercial self-insurance fund but this program under chapter 58 does not authorize a government entity to operate a self-insurance program however our research has shown that other jurisdictions allow certain types of government entities to establish self-insurance programs as a cost-saving measure and to manage their own risk government entities which are permitted to self-insure include such entities as school districts municipal water management entities colleges and universities and municipalities several states and foreign jurisdictions have authorized the creation of several of self-insurance programs on various levels a list of these jurisdictions has been provided

2:27:14 with the statement in order for virgin port authority to set up such a program the legislature must provide virgin port authority with the statutory authority to do so Section 2 of Bill 34-0204 expressly provides the authority for Virgin Islands Port Authority to establish the self-insurance program. Viper is seeking this authority to expand its risk management program.

2:27:51 The risk management program is anchored by the $75,000 statutory liability cap that was enacted in Act No. 7574 back in 2013. By having a self-insurance program, Port Authority will attain considerable savings and insurance premiums. At the same time, the public will be protected by having an identifiable fund from which claims can be directly paid. The public is protected also because the authority comes with a mandate that Port Authority must maintain a minimum of $200,000 in a special self-insurance fund.

2:28:40 VIPO's interest in this change in the law allows for a self-managing risk related to third-party coverage, i.e. premises liability, vehicle accidents, vessel accidents, and small asset coverage, marine markers, and marine equipment. will continue to use commercial insurers to ensure and transfer risk of loss with regard to damage or loss of buildings airports seaport terminals and other high-risk assets the self-insurance program will assist port authority to reduce its operating costs particularly in a time when the operating revenues have been significantly affected by COVID-19 pandemic. The self-insurance program will allow us to keep some control of funds that would otherwise be paid out as high premiums and allow Port Authority to put money back into our operations to take care of maintenance repairs and other risk management initiatives that would further mitigate risk since 2020 we have seen our insurance premiums for third-party related risk increase by 31 percent the increases we have seen were impacted by in the insurance market conditions the covet 19 pandemic and by natural inflation for fiscal 2020 virgin island sport authority insurance premiums for coverages other than first party property insurance that is for

2:30:37 buildings and disaster type insurance, the cost was $1,214,437. In 2021, fiscal year, Port Authority paid $774,257.65 in premiums for the same coverage. By introducing a self-insurance program, Viper could see savings of more than 30% of its overall premiums. In 2018-2019 policy year, Port Authority had losses that were less than 50% of the premium costs. These losses were less than $300,000. The final lost amount for the year 2020 to 2021 is currently still being determined.

2:31:42 However, we believe that the ratio will be almost the same. Over the last five years, Port Authority has paid approximately $1,280,949 for premium costs for liability and property damage coverage for our automobile fleet. At the same time, for the same period, five years, WIPA has losses of approximately $500,000. Thus, the board authority paid premiums over losses of over $600,000. On the marine side, we have the same ratio of premium over losses. therefore we are certain that we can save significant dollars by managing our risk through a self-insurance program if the port authority is permitted to establish this self-insurance program as designed in bill number 34-0204 viper can potentially recognize savings of more than 500 000 a year in premiums further the allocated claim reserves that build up in these insurance funds in this insurance fund could be used to capitalize future risk mitigation expenses and the activities within the port authority that currently go unfunded and without and sometimes without funding at all under this under this proposal we have a management system which will is designed in the law that would allow the port authority to designate a uh under the cfo of the virgin islands port authority

2:33:37 who would be the designation of a self-insurance plan administrator who would be responsible for the day-to-day uh operation of the of the fund mr chairman we believe that the port authority would be able to with the assistance of our professional risk management consultants we will be able to manage a self-insurance program that will be viable and provides protection for the public and protection for the assets of the port authority i thank you for this opportunity to present this testimony in support of this legislation that will help improve the financial standing of the virgin islands port authority as a self-sustaining autonomous government agency the port authority must find methods to operate as efficiently as possible and to maximize the use of the revenues generated we appreciate this legislature's favorable consideration of bill number 34 that's zero two zero four which will allow us to accomplish this goal this concludes my testimony and i am available to answer any questions that you may have thank you mr chairman thank you attorney phrasing attorney machu Attorney Richards will speak on behalf of the Division of Banking Insurance.

2:35:08 Okay. Thank you. Good day to the Honourable Kurt VLA, Chairman and Honourable Members of the 34th Legislature of the Virgin Islands Committee on Finance, other senators present as well as the viewing and listening audience. I am Attorney Suzette Richards, legal counsel, appearing on behalf of Attorney Glendina Matthews, Interim Director of the Division of Banking, Insurance and Financial Regulation within the Office of the Lieutenant Governor and Commissioner of Insurance, the Honorable Troganza A. Roach, Esquire. I most respectfully appear before you today to provide testimony on bill number 34-0204 An act amending Virgin Islands Code Title 22, Chapter 58, relating to self-insurance and Title 29, Chapter 10, Section 543, relating to the powers of the Port Authority to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks. I'm accompanied by Attorney Glendina Matthew, Interim Director of the Division, and Attorney Dulles McLean, Legal Counsel for the Lieutenant Governor and General Counsel for the entire Lieutenant Governor's Office. We most respectfully inform this distinguished committee that the Division does not support Bill number 34-0204 as currently written. While the Division does not object to the Port Authority creating a self-insurance program under provisions set out by the Legislature, this should be done in another section of the Virgin Islands Code. The Division would object to the creation of such a program under Title 22 of the Virgin Islands Code, which falls under the jurisdiction of the Commissioner of Insurance. Accordingly, the division does not support the bill for the following reasons.

2:37:18 First, self-insurance funds are generally not regulated. The division has a dual legislative mandate. One, to regulate the banking insurance and financial services industries in the territory, and equally so, second, to protect consumer interest. However, bill number 34-0204 is seeking to establish a self-insurance program for the Virgin Islands Port Authority under Title 22 of the Virgin Islands Code. Most commonly, self-insurance is akin to a trust account in which funds are set aside to pay for potential future losses.

2:38:00 In the insurance industry, self-insurance funds are generally not regulated. While Chapter 58 of Title 22 of the Virgin Islands Code does include statutory provisions that would relate to a commercial self-insurance fund, it is important to note that Section 1480B of that chapter defines a commercial self-insurance fund to mean a group of members operating individually and collectively through an association.

2:38:34 And Section 1480B further specifies the type of associations that would qualify under that section. Accordingly, the provisions in Chapter 58 would be limited to associations that qualify under Section 1480B and would not apply to an individual business or even a government entity like the Virgin Islands Port Authority. It should be noted that section 1496 of the proposed bill provides that the Commissioner of Insurance may waive any requirement that currently appears in Chapter 58 that may not be applicable to the Port Authority as a government instrumentality. However, as the provisions that currently appear in Chapter 58 would not be applicable to a government instrumentality like the Port Authority, It is unclear what provisions of Chapter 58, Section 1496B is intending to waive.

2:39:38 Second, the Commissioner of Insurance does not generally license, regulate, or supervise government entities. The Commissioner of Insurance regulates private individuals and private entities that are involved in the business of insurance. The Commissioner of Insurance does not generally license, regulate, or supervise any government entity, and it does not currently license, regulate, or supervise any activities of the Virgin Islands Port Authority. Rather, government entities like the Virgin Islands Port Authority would be governed by the statutory provisions that apply to the government entity.

2:40:17 And the government entity could generally issue regulations that would govern their activities to the extent authorized by law. It is important to know that section 1498 of the proposed bill states that the governing board of the Port Authority would have general oversight over the self-insurance program and it further gives the governing board the authority to adopt regulations as may be necessary or desirable in administering the self-insurance program. Third, the Commissioner of Insurance does not generally co-regulate the business of insurance with regulated entities.

2:40:58 The proposed bill includes provisions that would appear to allow the Virgin Islands Port Authority self-insurance program to be subject to regulations that are issued by both the Port Authority and the Commissioner of Insurance and further appears to authorize, appears to require the Commissioner of Insurance to consider the Port Authority's regulations in determining whether it should be issued a Certificate of Authority. As was just noted, Section 1498 of the proposed bill states that the Governing Board of the Port Authority would have general oversight over the self-insurance program and the authority to adopt regulations as may be necessary or desirable in administering the self-insurance program.

2:41:45 Section 14996 of the proposed bill requires the Port Authority to file an application for a certificate of authority that would include the regulations and the policies of the agency related to the self-insurance program. Section 1496B of the proposed bill indicates that the Port Authority self-insurance program would be subject to the regulations of the Commissioner of Insurance, although Section 1496 also indicates that this would be to the extent considered reasonably necessary to protect the Port Authority and the public interest. Section 1499 of the proposed bill requires the Commissioner of Insurance to examine the Port Authority's application for a Certificate of Authority under Section 1499 to determine the agency's ability to comply with the sub-chapter in the proposed bill and applicable regulations.

2:42:49 However, not only does the Commissioner of Insurance not regulate government entities, the Commissioner also does not generally co-regulate the business of insurance with regulated entities such that the Commissioner would consider the regulations of the Port Authority in determining whether the Port Authority should be issued a certificate of authority. Further, the Division is a consumer protection agency and insurance regulations would be construed to protect consumers and the public interest, not to protect the Port Authority. Any proposed bill that includes a matter that is placed under the jurisdiction of the Commissioner of Insurance should clearly set out the Commissioner's overarching authority to regulate the matter and protect consumer interest in a manner that is consistent with the mandate of the division.

2:43:40 Fourth, the proposed bill appears to lack any enforcement mechanism. The proposed bill does not appear to include any enforcement mechanism. While section 1499A of the proposed bill appears to speak to issuing, renewing and refusing a certificate of authority, there does not appear to be any provisions that would address the suspension or revocation of a Certificate of Authority. The proposed bill also does not appear to note any other enforcement mechanism such as a cease and desist order that would apply to the Port Authority. There are a few other things the Division would like to note about certain provisions in the proposed bill.

2:44:23 First, Section 1495 of the proposed bill defines Commissioner to be the Virgin Islands Commissioner of banking and insurance. However, Commissioners generally define to be the Commissioner of Insurance of the Virgin Islands in Title 22 of the Virgin Islands Code, and further, the Division is now the Division of Banking, Insurance and Financial Regulation. Second, Section 1497 of the proposed bill, which sets out the insurable assets that would fall within the scope of the Virgin Islands Port Authority self-insurance program, is potentially overbroad.

2:45:04 Section 1497A of the proposed bill states that the Port Authority may not seek to self-insure the first-party property aspects of its real property assets and the improvement thereon for the employee medical and health program. Section

1497B of the proposed bill provides that the Port Authority self-insurance program must cover the following categories. One, its general liability risk in whole or in part. Two, its motor vehicle liability risk in whole or in part. Three, its third party injuries. And four, any other risk not excluded by this section.

2:45:50 The term medical and health program, which appears in section 1497A, is not defined in the proposed bill. However, life insurance is not generally considered to be medical or health insurance. Accordingly, as life insurance has not been specifically excluded in section 1497A, it could be included in the Port Authority self-insurance program under section 1497B4. And it is not clear that including life insurance in the Port Authority self-insurance program would be consistent with the legislative intent the proposed bill. Finally, the portions of section 1497C in the proposed bill that relates to the approval of premiums is unclear. Section 1499C provides that the fund that is established to cover the liabilities of the Port Authority self-insurance program must maintain a capitalized amount of no less than $200,000. However, as the proposed bill sets the monetary amount that the fund must maintain and is further requiring the Port Authority to obtain this amount from its general funds, it is unclear what premiums the Commission of Insurance is being asked to approve. Chairman VLA, members of the 34th Legislature of the Virgin Islands Committee on Finance, Our Senators present today and the listening and viewing audience, the Division's hardworking staff members are unequivocally dedicated to regulating the banking, insurance and financial services sectors in the territory and protecting the interests of Virgin Islands residents.

2:47:36 This concludes the Division's testimony on Bill 34-0204. We thank you for the opportunity granted to the Division to appear before you today. We are prepared to respond to your related questions. Thank you for your testimony. Attorney Richards and Attorney Matthew, you care to put anything on the record in reference to the discussion we had in reference to all of your suggestions and the conversation with Attorney Topps and also Attorney Vincent Fraser that addresses your concern.

2:48:12 Good morning again, Glendina Matthew, Acting Director. Based on our discussion this morning the division has no objection with the bill being amended to exclude the supervision or licensure by the Office of Lieutenant Governor Division of Banking Insurance and the bill being amended to just include an enabling clause to the section that governs on the VI port authority thank you so much colleagues let's go to a three-minute rung and once again all the concerns that were listed by the opposite lieutenant governor has been noted and we will make the requisite changes where the self-insurance program for the port authority will not fall under the opposite lieutenant governor but the enabling clause would give the port authority the authorization to enter into a self-insurance program and then certain areas will define to include insurable assets management and maintenance of self-insurance so we went through the suggested language and there be no reference to Lieutenant Governor Office, no reference to the Commissioner. Where you see Commissioner in Maintainance of Self-Insurance, that's going to change to the Program Administrator who is the CFO for the Port Authority. So the completed bill will just deal with the port authority and title 29 section 10 543 for the authorization to establish a self-insurance program and in the other areas we're going to find a section where we put it in so trying

2:50:09 to increase senator fred gregory thank you mr chair so i'm trying to understand so port authority will engage in a self-insurance program or are we giving the authorization for the Virgin Lands Port Authority to be self-insured under certain categories? I'm a little unclear about that word program somewhat concerns me because it appears as if the Port Authority has to put a system in place whereas in the GVI we have a self-insurance, the government has self-insurance but there is there isn't a self-insurance program per se it's it's no it's a given that if there is an event where we are self-insured like a vehicle if you will then the government will pick up the call the cost via the tort claims or whatever that that is so I am a little still a little put back about the terminology program so I just need some clarification around your thoughts on that as to whether or not a program really needs to be established or is it just authorization for self-insurance for those various categories outlined thank you it is authorization that is granted by the legislature to allow VIP or authority to perform or have a self insurance fund program is just a word to use in terms of how you manage the a fund, but it is a self-insurance fund that you needed.

2:51:52 Do you have a follow-up question, Senator? I think that the way·and I think the Port Authority may be able to speak to this·but the way this was drafted and based on some of the things Senator VLA will allow to remain, it would give them the opportunity, like the management section would specifically lay out how it would be managed and also give them the authority to issue the rules and regulations. You have the section on insurable assets that would specify the assets that could be included within the program because this particular bill does lay out things that are excluded. For example, the first party property risks, they're not meant to be included in this program or employee medical and health insurance, but other things would be. So then there's the maintenance of the self-insurance, at least according to the way the bill is drafted.

2:52:48 The chair noted that there will be changes to how the bill is drafted, but then I'm still concerned that if there's... I just don't see the need for all of that language around what authorization they have, because if we if we move forward with that amount of language then the issue here is they can't have a minimum of $200,000 that presents an issue when you look at and I could get into it to make in my questions I'll do that so I'll just wait until it's my turn but I do have some concerns around that amount and then the terminology program or even the terminology fund if you're only capping it to maintain a minimum of I think there needs to be some additional requirements that they claim that they're now paying some one million dollars so there must be some commitment on an annual basis to continue to stack that program thank you mr. chair I'll wait thank you senator Fred Gregory but attorney fraser you want to comment well yes i mean uh center good good afternoon uh center reggie the the idea of the program is to ensure that the port authorities self-insurance um is done in a systematic way that not only for the benefit of saving money for the port authority but to make sure that it maintains the financial integrity that's necessary to protect the public and and so a lot of the in the way the bill was drafted it was given the opportunity to

2:54:42 have an independent review by an entity like the commissioner of insurance to make sure that all of the necessary requirements um for a viable insurance program would be in place now although the if the law is changed and it provides for the um to exclude the commission of insurance the government board of the port authority was still has a fiduciary duty to ensure that the program is maintained in a viable way and the retention of a program manager or plan administrator would help to make sure that the risk are measured against the premiums the premiums are determined in an actuarial sound way and therefore so that although the minimum is two hundred thousand dollars the port authority once it's determined uh to be established with the premiums in an actuarial sound manner that premiums would then have to be added in as necessary based on past claim experience so the word program basically is to make sure that it's it's done in a in a systematic way not just a sinking fund with money controlled by the poor authority okay we I know you have more questions we will come back because we need to make sure that we get it clear but in in section 543 it defines the powers of the authority and that is we're under those powers of the authority, we're now saying that the authority also has the right to establish a self-insurance

2:56:38 program. So we put it in the statute that defines the powers of the port authority and expanding that to include the ability to self-insure. The other language that we're keeping, which includes the definitions with the exception of commissioner and insurable assets, define exactly what falls under the self-insurance program and what doesn't. So we don't want to leave it up to the port authority to decide what would fall under self-insurance.

2:57:22 So here it clearly says that they cannot self-insure first-party property, real property assets, employee medical and health program, or we're adding in life. And then it goes on to say the self-insurance can insure general liability risk in whole or in part, motor vehicle liability, third-party injuries, and any other risk that is not excluded by this section, and the language really includes bullards and bullies, et cetera. The bill then goes on on page four to establish the way that the programmer who will be in charge of the program, which is a chief financial officer who will be known as the program manager, and then it talks about risk management. So the other components of the bill is just to actually define exactly how the self-insurance program is going to operate, and the last section will be the maintenance of the self-insurance where we speak into how the program will function year in and year out.

2:58:34 Senator Blyden, you recognize? Thank you so much, Mr. Chair, and I believe that amendment will help to clarify and clear a lot of the um gray areas um because discussion we had on this morning um um assisted me in um realizing um exactly what the intent is and i do agree with the lieutenant governor's office in respect to that uh just briefly uh attorney richards in respect to the port authority because I know self-insurance is not regulated but at the same time based on the rules and regulations and the policies it must be up to par in order for you for for you guys to approve them in terms of having a go-ahead to do such a program correct no our office wouldn't have any approval self-insurance is generally not regulated and our office we don't regulate government entities so certificate of authority I'm talking about the certificate of authority yes the certificate of authority would be for for companies okay but yeah generally a certificate of authority under the code would be used to give insurance companies either domestic foreign or alien insurance companies the authority to engage in the business of insurance in the territory depending on the type of business they want to write whether it's property casualty life health you know title whatever the case may be that's generally what a certificate of authority does okay thank you for that and attorney free that your opponent

3:00:20 give kudos to the poor authorities for being creative in terms of finding ways to assist the agency in terms of reducing costs when it comes to operation and at the same time assisting in risk mitigation etc so thank you for what you guys continue to do and I want to thank you guys for your one minute testimony thank you so much Mr. Chair for the time thank you Senator Blaine, Senator DeGraph yes thank you Mr. Chair good afternoon everyone good afternoon colleagues good afternoon testifiers uh so as the bill as it is right now we don't agree on it we had our our separate meeting and the amendments that we're looking to do to give port authority the by the legislature the authority to form their own uh self-insurance you do agree with as you stated So then to any further conversation in regards to how port authority or what they do is really not even needed because we would figure that part out and go forward. That's what it is that we're talking about in the beginning.

3:01:30 Okay, so then you don't have a problem with us moving this forward and amending it? That is correct. Okay, good, good. And that's basically what it is that we're trying to get out. I do support based on our conversation that we have had. and thank you for your input in assisting us with getting the correct bill to have that done and move forward. Thank you for the time, Mr. Chair. Thank you so much, Senator DeGraff. Senator Francis?

3:02:01 Thank you very much, Mr. Chair. I, too, am in support of this measure and I think it makes good sense in respect to having the self-insurance, especially when you have done your analysis to determine over the years that you have not had to make such a substantial payout despite having to pay all of these insurance. But insurance, of course, is a risk, being able to protect a risk situation, and for me I believe that what's critical here is that while you have not seen this within the last five years, a next event could really wipe out the entire $200,000, even though that events that is because of course there's a cap of seventy five thousand dollars that will be able to that would be assessed for a payout maximum but I wanted to ask you attorney Fraser is it the intent of the port authority to an annual basis ensure that there is two hundred thousand dollars as put put in the account regardless of whether or not there is money expended from that the during the previous previous years yes and to what with the assistance of the risk consultants it is anticipated that monies will be the monies will be deposited towards the insurance self insurance fund in the same way as though we're paying premiums and annually that money will continue to to increase um as you just indicated it is a risk and we don't we don't want to maintain of fun with just two hundred thousand dollars once we can get the fund build up to get to a level of of maybe multiple million millions of dollars then you may the port of time may find itself it may have some reprieve for a period of time it may not have to put any more money into into the fund because there's sufficient level based on the actuarial assist assistant analysis that is

3:04:07 done that would provide more savings for the port very well so you don't see any any difficulties in us languaging to make sure and ensure that port authority will be deposited at $200,000 over a period of time until it gets to the level where you think is sufficient to manage the risk associated with it thank you and also what about identifying the categories I know that this is outside of the the real estate and other areas is there are you aware of exactly what categories you intend to use the self-insurance for yes and the the in section what is in the current bill section 1497 B provides the area where we would the fund would be would cover the kind of risk that is there as you indicated we would not use it to cover you know uh insurance casualty insurance on our buildings on our port facilities on our airports and all of that because those are high risk and as you said you can get wiped out with one one event on those however we have some control over things like our automobile um uh events in liability general liability issues where we have the 75 000 uh cap that statutory cap that provides us a way to manage this this risk um the risk coverage on when our buoys and our marker ocean marine markers are damaged we have fun we can go and replace those because we have those in place so so those are things areas that clearly that we would manage we're not going to provide coverage for as indicated medical insurance or health

3:06:07 programs or even life insurance programs but clearly just the items that uh um first party those that are events that happen without the involvement of of other persons very well and in my um conclusion in respect and have not been mentioned here today in the event that the two hundred thousand dollars that's in on a startup if the event takes the entire two hundred thousand dollars what will happen then what is the next mechanism by which that payout would occur well well immediately as we indicated the in in the year 2021 we port authority had to was have insurance premium of of over or some 1.2 million dollars it is anticipated so insurance is now in place by next uh by november 1 the insurance that we currently have will expire so between now and then point i'd have would have the means to build up the fund sufficiently to exceed two hundred thousand dollars so that by november one we have we don't have to go out in the market and play high prices for in premium we would have a fund that exceeds two hundred thousand dollars very easily um to to satisfy the requirements that we would have for this fund very well thank you thank you for your response um tony fraser thank you mr chair for the time thank you so much senator fraser santa fred gregory Thank you, Mr. Chair.

3:07:46 So I look at this a little differently, and I am all in favor of the Port Authority definitely being self-insured for these respective equipment, if you will, right? um i think that we are making i think you know based on the presentation provided by the attorney we're talking about a whole insurance program uh with two hundred thousand dollars in it so the minimum is 200 000 which if we're going to talk program then that is not significant enough and it's not significant enough because i looked at what the losses were over uh a five-year period and you have some six hundred thousand dollars right correct well actually the highest it has been is 300 000 okay so vi 600 000 is potential savings no they said virgin has paid premium over losses of over 600 so that's your premium okay understood So, from 2018 to 2019, your losses were less than $300,000, that's a year, correct?

3:09:15 Yes. And then you said that in 2020 to 2021, why is that information unavailable? We are now in 2022. What are the findings? yeah we requested that information uh from our carrier um uh and we only have part of the year i was not able to get the rest and so what do you have for part of the year basically part of the year up up until just from um yeah the amount that i got was like fourteen thousand and I don't believe that's complete, so I didn't have available to give the accurate. So is your items like your fire boat, et cetera, considered under this self-insurance?

3:10:08 One minute. Yes, so vessels would be included in it. And what does it cost to replace a vessel? About a million? Okay, I don't know the exact cost. About a million. So the concern that I have is, while we speak to a minimum of 200,000, I think there must be some requirement that annually there is some amount that's placed within this fund. I see it as a fund where you have a restricted account, where you set aside those funds and not necessarily as a program, because I think as a program you are talking about the, I think I saw where you have the chief financial officer would appoint a risk manager who will carry out the day to day administrative duties of the program. I mean, I just don't see this, just based on my experience, let me just be straight up, as serving as previously as a CFO at Port Authority, I just don't see the need for anyone to be designated to carry out day-to-day activities for this program, per se. I see as the need arises, then the matter be investigated and addressed. Time. Oh boy. Mr. Chair. Go ahead. I just see that this is asking or placing the Port Authority in more than it needs to be placed in. it's a self-insurance program then I think the legislation just needs to be clear that we provide the authorization for self-insurance up to X you could start out with with your 200,000 but annually there must be some sort of funds that go into it and then once there are our claims and funds are paid out it still has to maintain a certain amount of money and I just don't think that $200,000 is sufficient for the maintenance because if you have your vessels included in there, your vessels are not cheap. In addition to the fact of this also deals with not the actual property, but also the insurance around any medical issues that may arise out of the accident, if you will, correct?

3:12:41 For third parties? Third parties and the individual, and the individuals operating the port authorities equipment. Well, port authority employees are covered under the workman compensation provisions of the law. And for third parties, we have the 75% statutory cap would cover that so regardless of what medical expenses may incur we will never pay out to any individual more than 75 000 that presents a little problem for me um especially when we're talking about our vessels i mean i could understand the bullets and those types of things i get that but when we begin to talk about our vessels we need to drill along on this a little further um you're saying a employee driving out a vessel accident occurs uh they deal with their work they they their coverage is tied to workman's compensation alone um yes there could be loss of life so how does that how do we address that that's covered as long as it's supported that employee it's covered under the workman compensation law our experience and and that's one reason why i say center that we refer to as a program because the the the deposits that would be made to the insurance fund these would be determined on an actuarial basis um with the assistance of our risk management uh consultants to make sure that port authority is properly funding it rather than having it done on a you know in an arbitrary arbitrary way but your concern is correct you want to make sure that you know you don't just

3:14:39 try to run have this available for two hundred thousand dollars because if you get you know five maximum liability in events in one year that can certainly wipe out your your 200 000 fund but it responds the responsibility would be for the port authority to make sure that it fund the program sufficiently to make sure that the um projections out for the year and assumptions are accurate to and continue to grow that insurance the self-insurance fund that is dedicated to cover this okay so i just think that we need to have a little further discussion around this around the difference between program and fund I think that's a very big difference so we need to be clear on what it is that we are saying yes to when it comes to moving this forward my time has been called so I have to return my conversation to the chair but I I do have some concerns around those types of vessels particularly you know the vehicles is one thing but when we start talking about the vessels that presents a different conversation for me thank you mr. chair thank you so much and the vessels read range in price somewhere 300,000 to 1.1 for the law enforcement vessels that they that they utilize I it's speaking According to the Port Authority, the intent isn't to leave it at $200,000.

3:16:21 The intent is to continue to make that $200,000 capitalization every single year so that they could build up that particular funding balance. But we will have an opportunity, colleagues, to the burning questions that we have. We know the areas that we need to change to make the bill amenable to be able to move on.

3:16:51 So any other areas we have in terms of whether we utilize the word fund or program, I can see both being used, fund in certain instances and program in the next instance, but I will Definitely go over all the items in the bill and make sure that we make the Changes that are necessary to move this forward. Senator James do you recognize?

3:17:22 Thank you chairman for the time I was reading title 22 Virgin Islands court section 1485 and There is a section that speaks to each member shall have a contingent assessment liability for payment of actual losses and expenses occurred while this policy was enforced. So my question to the Port Authority, as far as any assessment or evaluation that have been done prior to this legislation coming down have you been able to do that when it comes to the risk involved the idea when we started talking about it doing the research on this bill the idea was that while we have a 200 minute they suspend the fund that you're referring to this 200 000 was taking the place of that it was anticipated that by the presentation that is made to the commissioner of insurance that he would be an independent uh voice that determines if the court of charity is properly funding this in this fund from which um claims would have to be paid and and that he would we would provide him the claims experience it would be provided with all projections and that would be determined independently because as i said it is not something that would be arbitrarily determined but there will be a scientific or mathematical means by which we determine how to make deposits to that fund so this hundred thousand dollars was

3:19:21 doing the same thing that you're referring to in that that section of 1485. one minute thank you and in your testimony you made mention that in 2021 um viper paid a specific amount for premiums for the same coverage and then you mentioned um how much you paid for fiscal year 2022 how much we're about to pay and my question is you mentioned the cost saving which is good but what has been the greatest loss ever received or experienced by virginal's port authority and i know you probably said during a hurricane right well yeah the hurricane port authority suffered substantial everything but most of those kinds of those uh the losses during that time would not have been covered by a self-insurance program because those those losses primarily with our buildings and our facilities would be in a different category which will not be included as part of this program um year to year the amounts that we pay out i think we probably pay more in claims in automobile accidents more than anything else time okay and thank you for that clarification and mr chair with your indulgence you said in 2018 to 2019 policy year viper had losses that were less than 50 of the premium costs and you said those losses were less than three hundred thousand dollars can you speak to directly to what triggered those last losses or was that the same thing that you just made mention of yeah they would be primarily primarily our biggest loss

3:21:07 category is in automobile losses whether what we have to pay out to third parties when our employee staff may get in an accident you have to fix people car people get people personal injury those are the biggest drivers of of the events the claims that we receive and i would just end by saying and i would just end by saying hold your employees accountable when it comes to taking care of the government at the virgin islands be equal thank you we we do that we do that we also have defensive driving um training that employees are are required to go through every year and it is has been our practice last coffee okay thank you you see like you're sticking I don't want to abuse my time but please drivers take care of the government's vehicle thank you mr.

3:22:07 chair for the time thank you so much Senator James Senator Saro Thank you, Mr. Chair, and good afternoon again. Attorney Fraser, how are you this afternoon? I'm fine, good afternoon, Senator Sarah. Curious, just tell me, how many vessels do you have now at the board?

3:22:38 I'm sorry, I don't have that. I'm thinking, it's less than 10. We have three, two, somewhere between five and 10. They're primarily used for the pilot vessels in St. Thomas and St. Croix. We have pilot, and I think we have one or two police vessels as well.

3:23:10 Okay. Attorney Richards? Yes, so in your testimony, and I understand that amendments will come, but on page five when you said that the section 1497 of the proposed bill, which sets out the insurable assets that would fall within the scope of the Virginia Support Authority self-insurance program is potentially overbroad. Can you explain that for me, please? Okay, the reason that that was stated is because the proposed bill, as written, specifically sets out in section 1497A the assets that would not be included in the self-insurance program. So, section 1497A states that the Port Authority may not seek to self-insure the first-party property aspects of its real property assets and the improvement thereon and the employee medical and health program section 1497 B then goes on to list the things that would be covered under the self-insurance program and there is one section the last one that says any other risk that is not excluded by this section so if something isn't it's like a catch-all phrase exactly and if something isn't excluded then it's potentially included and that's why the the issue was raised at least with respect to life because medical and health are generally not considered to be life insurance and so the failure to specifically exclude it might raise the potential that it could be included.

3:24:58 One minute. Okay, now let's go quickly to page four. How about the bill lacking any enforcement mechanism And then in the testimony from Attorney Fraser on page six, it says the VIP will be required to comply with the regulations and orders of the insurance commissioner pursuant to Title 22, BIC Chapter 58. And then here we have in your testimony that the bill lacks any enforcement. If this is to go through, who's the enforcer? Well, it's a self-insurance program, and self-insurance is generally not regulated so any self-insurance program it's written what i guess also the concern and i'm sorry yeah what i was asking um if you can answer briefly so how it's written right now is that um you have that it appears to lack any enforcement mechanism So, go ahead and finish your statement. Okay. That's my confusion there. Okay. Okay. The proposed bill- Time.

3:26:15 Generally in the business of insurance- Mr. Chair? You may proceed. Mr. Chair, can I conclude? Go ahead and proceed. Okay. Well, generally in the business of insurance, we generally have an enforcement mechanism. We wouldn't just issue, renew or refuse a certificate of authority. we would have the ability to suspend or to revoke it, and even to issue a cease and desist. So the bill as written, and that's probably because it's a government entity, and we don't regulate government entities, doesn't really allow any enforcement mechanism, just as written and presented here today, you know, so it's different in that regard.

3:26:54 And even the regulations, it should be noted that, you know, the bill as written would only subject the VI Port Authority to the regulations of the Commissioner to the extent considered reasonably necessary to protect the Port Authority and the public interest. The Port Authority, as a government instrumentality, would under the bill have their own authority to issue their own regulations and at least the way the bill is currently drafted, the The management of the self-insurance program under section 1498 would be the governing board would be the responsibility of the governing board of the Port Authority. They would have the general oversight over the program. So I wanted to put it on the record that when you highlighted that there's no enforcer, that's because you don't really enforce a government entity and that would be the duty of the board.

3:27:52 what I wanted to clarify on the record yes generally we don't regulate government entities and in this case for the Port Authority it would be the governing board of the Port Authority perfect thank you thank you mr. chair for the latitude thank you senator Saro and in the main thing we have maintenance of certificate we're going to change that to maintenance of self insurance, and that is where we can put in some of what you're speaking about, and some is already contained in that particular section, maintenance of a risk management program, maintenance of a deposit of cash and securities in a month of $200,000, maintenance of excess insurance in accordance with some actuarial principles.

3:28:42 So there are a number of items in there that are protection for the self-insurance program as prescribed or pursuant to the authorization under the Port Authority. That's why we just don't want to give the authorization a loan. We want to make sure that, and the Port Authority worked on this bill, that in fact what they sent down that would be able to regulate and monitor the program is included, but it's just not included under the lieutenant governor office, but directly under the authority. So where you see Commissioner, that will be the program administrator, which is the chief financial officer for the Port Authority. Senator Joseph, you still there? Okay, I think that is a no.

3:29:41 Okay. So I think we have exhausted all testimony. We had a very good earlier meeting in reference to this particular measure and what we need to do. I want to thank Attorney Fraser and Attorney Matthew and Attorney Richards and also Mr. Bertrand who has been here all day for coming to the legislature and providing testimony on these two bills. Colleagues, we are going to vote in one minute. Let me recess so that we can be able to vote. Let's come at these sounds and resist for one minute. Thank you. We'll be right back. We'll be right back. Oh We'll be right back. We'll be right back. Thank you. Thank you. Thank you. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. We'll be right back. Thank you.

3:39:45 Thank you. Thank you. Thank you.

3:41:15 Thank you. We'll be right back. uh Thank you. [3 such phrases repeated 43 times · standby audio before the proceeding, transcribed by the recogniser as speech]

4:03:15 Media Finance is back on the record. Before we go to the motion, we will be amending this bill with all the various recommendations that we heard and with some further discussion, so at the next level we will have an amendment in the nature of a substitute to make sure that we cover all of the areas and we have a fresh bill. Do I hear a motion?

4:04:01 Motion Senator Fred Gregory. Thank you Mr. Chair. I move that Bill No. 34-0204, an act amending the Virgin Ann's Code, Title 22, Chapter 58, relating to self-insurance, and Title 29, Chapter 10, Section 543, relating to the powers of the Port Authority, to authorize the Virgin Ann's Port Authority to establish a self-insurance program to cover and manage certain risks, be favorably voted on in this Committee and forward it to the Rules Committee for further consideration and action. I so move. Thank you. Motion made by Senator Fred Gregory, seconded by Senator James Earl Howe. Senator Marvin A. Blyden. Senator Blyden, absent. Senator Samuel Carrion. Senator Carrion, yay. Senator Dwayne M. DeGraff. Senator DeGraff yay senator donna a fred gregory senator fred gregory yay senator javon e james senior senator james senior yay senator janelle k saru yes senator sarow yay senator kurt a vla Yes. Senator Viale, yay. Mr. Chair, you have six yeas, one absent.

4:05:36 Thank you. Thank you, Madam Clerk. Bill number 34, that's 0204. An act amending the Virgin Islands Code, Title 22, Chapter 58, relating to self-insurance, and Title 29, Chapter 10, Section 543, relating to the powers of the Port Authority to authorize to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks, has received a favorable vote in this committee. I will be sent to the Committee of Rules and Judiciary for further consideration. Colleagues, today is a short day.

4:06:16 I want to thank you for your participation. I want to thank the testifiers for being here and thank my staff along with everybody else media media security all the central staff of the legislature marina the committee of finance is hereby adjourned We'll be right back. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. Thank you. We'll be right back. Thank you. We'll be right back. We'll be right back. We'll be right back. Thank you. We'll be right back. We'll be right back. Thank you. Thank you. Thank you. We'll be right back. Thank you. Thank you. Thank you. Thank you. Thank you.

People named in this transcript

SUSPECTED, and a finding aid only. Names were matched by machine against the spellings used across all 426 of our transcripts, and the title is the one used in the room. Being named here is NOT evidence that a person attended or spoke · only that the name was said. Speech recognition mishears names, so a spelling may be wrong even where no alternative is offered.

7x **Senator Dwayne DeGraff**
heard in this transcript as: DeGraff, DeGraph, Dwayne M. DeGraff

7x **Senator Fred Gregory**
the surname alone also matches: Donna A. Frett-Gregory; Donna Frett-Gregory; Donna A. Fred Gregory; Frank Gregory
heard in this transcript as: Gregory

7x **Senator Kurt Vialet**
heard in this transcript as: Kurt A. Viale, Kurt A. Vialet, Viale, Vialet

7x **Senator Marvin Blyden**
heard in this transcript as: Blyden, Blyton, Marvin A. Blyden

5x **Senator Novelle Francis**
heard in this transcript as: Francis, Noble Francis

5x **Senator Samuel Carrion**
heard in this transcript as: Carrion

4x **Senator Marise C. James**
the surname alone also matches: Javan James; Giovanni James Sr
heard in this transcript as: James, James Sr

3x **Senator Carla Joseph**
the surname alone also matches: Clifford Joseph; Karla J. Joseph
heard in this transcript as: Joseph

3x **Senator Janelle K. Saro**
heard in this transcript as: Saro

3x **Senator Kurt VLA**
heard in this transcript as: Kurt A. VLA, VLA

2x **Senator Donna A. Frett-Gregory**
heard in this transcript as: Donna A. Fred Gregory, Donna Fred Gregory

2x **Senator Javan James**
heard in this transcript as: Javon E. James Sr

1x **Senator Donna Frett-Gregory**
heard in this transcript as: Donna A. Frett-Gregory

Bills and acts referred to

Matched by number against our own acts corpus. The number is what the recognition heard, so it may be wrong; where it resolved, the title is the one the Legislature gave the act.

Bill 34-0191	Act 8563 · March 24, 2022 · An Act amending title 22 Virgin Islands Code, chapters 55 and 66 and title 13, chapter 14 relating to captive insurance companies to clarify the purpose of the chapter, and to prohibit the organization within the Virgin Islands of a special category of multi-state insurers that may not be required to comply with the accreditation standards established by the National Association of Insurance Commissioners (NAIC) and adopted by the Territory as a NAIC-accredited jurisdiction aneQeoe
Bill 34-0204	Act 8565 · March 24, 2022 · An Act amending the Virgin Islands Code, title 29, chapter 10, section 543, relating to the powers of the Virgin Islands Port Authority, to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks
Act 7025	Act 7025 · An Act amending Title 22 of the Virgin Islands Code adding chapter 54.te provide for the establishment, operation and management of Captive Insurance and Reinsurance companies, special purpose vehicles and protected cells as a means of accessing alternative sources of capital and achieving the benefits of insurance securitization; to establish the Virgin Islands as an international insurance center; to promote the growth, development and diversification of the economy of the Virgin Islands and to issue tax incentives to achieve that end; and repealing title 22 Virgin Islands Code, chapter 55 --0
Act 7569	Act 7569 · An Act amending Title 22 to add Chapter 4 creating the Division of Alternative Markets and International Reinsurance within the Office of the Lieutenant Governor; repealing Act No. 7025; and by amending Title 22 to add Chapter 55 to enact the ·Virgin Islands International Insurers Act.· ---0
Act 7574	Act 7574 · November 19, 2013 · An Act providing for supplemental measures in support of the Fiscal Year 2014 operating budget for the Government of the Virgin Islands and adopting the Omnibus Authorization Act of Fiscal Year 2014 and for other purposes related to the public health, safety and welfare weeQe-=
Act 8563	Act 8563 · March 24, 2022 · An Act amending title 22 Virgin Islands Code, chapters 55 and 66 and title 13, chapter 14 relating to captive insurance companies to clarify the purpose of the chapter, and to prohibit the organization within the Virgin Islands of a special category of multi-state insurers that may not be required to comply with the accreditation standards established by the National Association of Insurance Commissioners (NAIC) and adopted by the Territory as a NAIC-accredited jurisdiction aneQeoe
Act 8565	Act 8565 · March 24, 2022 · An Act amending the Virgin Islands Code, title 29, chapter 10, section 543, relating to the powers of the Virgin Islands Port Authority, to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks

Referred to but not found in our acts corpus: Act 4900