OFFICE OF THE LIEUTENANT GOVERNOR

Regulations For The Land Bank Trust

Submitted this ____ day of _________________, 20____

to

GOVERNOR ALBERT A. BRYAN, JR

by

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TREGENZA A. ROACH, ESQ.
Lieutenant Governor
Office of the Lieutenant Governor

Copy below is hereby certified to be a true and correct copy of Regulations adopted pursuant to authority granted in Title 33 V.I.C., Chapter 89, Subchapter III, Section 2541.

Introduction

There is hereby created in the Office of the Lieutenant Governor the Land Bank Trust ("the Trust"), pursuant to Act 8466 passed on 16 August 2021, to foster the public purpose of returning property to productive ownership that results in greater access to homeownership for statutorily identified members of the Virgin Islands community and generates property tax revenue for the Territory.

The Trust is a creature of statutory construction created to administer, maintain, and dispose of tax-delinquent property acquired by the Trust through judicial in rem foreclosure. Pursuant to 33 V.I.C. § 2541(d)(7) title to all properties foreclosed pursuant to Virgin Islands Code, Title 33, Chapter 89, Subchapter III, Section 2541 shall vest in the Trust, which properties shall be disposed of pursuant to the statute and to the regulations of the Trust.

Objective

The objective is to give the Virgin Islands community the opportunity to repurpose tax-delinquent properties in a manner consistent with the needs of the community and consistent with the statute. Once the Trust acquires title to foreclosed parcels, the Trust will inventory, classify, manage, maintain, sell, rent, lease, repair, or otherwise dispose of the properties under such terms and conditions that will facilitate the aims of Act 8466. Under Act 8466, at least 75% of the properties must be made available for sale and purchase annually as affordable housing for persons who qualify as first-time homebuyers, veterans, middle & low-to-moderate income, senior citizens or disabled persons. 33 V.I.C. § 2541(d)(8).

Applicability of Regulations

To build public confidence in the Trust, the following regulations are being issued in consideration of the public policies and legislative priorities that govern to whom and for what purpose Trust properties are sold or transferred. As such, the Regulations for the Trust will be circulated to all interested parties to include, but not limited to, members of the general public, government agencies, members of the Virgin Islands judiciary, and the Virgin Islands Bar.

Scope and Effect of Regulations

The instant Regulations for the Trust implement, construe, and interpret 33 V.I.C. § 2541(d).

Effective Date

The Regulations for the Trust will be published for thirty (30) days to receive and review public comments, after which time period the Regulations will become effective and binding. Comments should be sent via email to the following address: *raquel.penn@lgo.vi.gov*

Ms. Raquel Penn
Special Assistant to Legal Counsel
Office of the Lieutenant Governor
5049 Kongens Gade
St. Thomas, USVI 00802
(340) 774-2991

Notice Of Promulgation

The subject matter of the instant Regulations covers the overarching procedures for the Trust to take title to tax delinquent parcels that have been adjudicated in a judicial in rem foreclosure procedure as set forth in 33 V.I.C. § 2541(d). The proposed Regulations will have the force and effect of law after being published in at least one (1) newspaper of general circulation in the Territory for a minimum of thirty (30) days to solicit comments from the public.

2541(d)(8) A. Statement of Statutory Authority

Pursuant to 33 V.I.C. § 2541(d)(8), the Lieutenant Governor shall prescribe Regulations for a Trust to be established in the Office of the Lieutenant Governor to take title to tax delinquent parcels that have been adjudicated in a judicial in rem foreclosure procedure. The Declaration of Trust is set forth in Appendix A.

2541(d)(8) B. Lieutenant Governor As Trustee

(a) **Trustee**. The Trustee of the Trust is the Lieutenant Governor.

(b) **Fiduciary Responsibility**. The Trustee is a fiduciary held to the ethical obligations expected of Trustees: the duty of loyalty, the duty of independence, the duty of good faith, and the duty of care in the discharge of the Trustee's obligations.

(c) **Trustee to Develop Policies And Procedures**. The Trustee will develop policies and procedures to supplement these Regulations.

(d) **Biannual Reports**. The Trustee must file biannual reports on the acquisition and disposition of all Trust Property.

(e) **Trustee-Delegate(s)**. The Lieutenant Governor shall enter into a fee agreement with such person(s) or firm(s) to whom the Lieutenant Governor will delegate Trustee responsibilities.

(f) **Trustee Delegate Authority**. The Trustee-Delegate is authorized to contract with third parties on behalf of the Trust. The Trustee-Delegate is authorized to enter into and execute agreements, instruments of conveyance and all other related documents pertaining to the acquisition and disposition of all property that is placed in the Trust.

(g) **Trustee-Delegate Fiduciary Duties**. The Trustee-Delegate is held to the fiduciary responsibilities of the Trustee, namely, the duty of loyalty, the duty of independence, the duty of good faith, and the duty of care in the discharge of the Trustee-Delegate's obligations.

(h) **Five Year Terms**. The Trustee-Delegate shall be contractually obligated for five (5) year terms, after which the agreement terminates. The Trustee may renew the five (5) year contract or enter into a new agreement with a new Trustee-Delegate.

(i) **Conflict of Interest**. The Trustee may require the Trustee-Delegate to execute various documents and disclose certain information to ensure compliance with the conflict of interest statutes set forth in the Virgin Islands Code, Title 3, Chapter 37. No interest in the Trust property may be transferred to the Trustee-Delegate either directly or indirectly. The Trustee-Delegate is prohibited from realizing any pecuniary gain in the course of and by reason of discharging the

Trustee-Delegate's official duties.

(j) **Removal, Resignation, and Replacement of Trustee-Delegate**.

a. The Trustee may remove a Trustee-Delegate by giving sixty (60) days written notice, with such removal to be effective only upon the appointment of a successor Trustee-Delegate.
b. The Trustee-Delegate may resign by giving sixty (60) days advance written notice of resignation to the Trustee, with such removal to be effective only upon the appointment of a successor Trustee-Delegate.
c. In the event of the Trustee-Delegate's ethical breaches, incapacity to act, death, or other event necessitating immediate removal, the Trustee shall appoint a replacement Trustee-Delegate for ninety (90) days, with the option to renew for successive ninety (90) day periods until the Trustee can enter into a written fee agreement with a suitable replacement. A successor Trustee-Delegate shall not be liable for breaches committed by a predecessor Trustee-Delegate.

(k) **Compensation**. In consideration for providing services hereunder, the Trustee-Delegate shall be entitled to receive compensation from the Trust in an amount set forth in a fee agreement to be entered into by the Trustee-Delegate and the Trustee. Such compensation is the obligation of the Trust and shall be payable by the Trust in the manner set forth in the fee agreement.

(l) **Indemnification**. The Trust will indemnify the Trustee-Delegate and hold the Trustee-Delegate harmless against all claims, actions, proceedings, suits, costs of defense (including reasonable and customary attorneys' and accountants' fees and disbursements), expenses, liabilities, judgments, damages, awards and settlements asserted against or incurred by the Trustee-Delegate in connection with, or in any way arising directly or indirectly from, the performance of Trust duties by the Trustee-Delegate. The indemnification provided for in this section shall not apply to any claims or liabilities arising from the Trustee-Delegate's malfeasance.

(m) **No Bond**. The Trustee-Delegate shall not be required to furnish a bond or other security for the faithful performance of its duties under this Agreement.

2541(d)(8) C. Public Listing of All Trust Inventory

The Trust shall maintain and make available for public review and inspection an inventory of all real property in the Trust. This inventory shall be available on the Office of the Lieutenant Governor website and include at a minimum all parcels that are available for sale, the address of the parcels, the parcel identification numbers, and the year that a parcel entered the Trust's inventory.

2541(d)(8) D. Trust Priority of Use of Property

The Trust reserves the right to convey or not to convey real property, or to convey real property in the way that constitutes the best long term end use for the property and for the neighborhood. To support the legislative decision to prioritize local needs in the use and transfer of Trust property, the Trust establishes the following ranking of priorities for use, including but not limited to:

a) Use as affordable housing for persons who qualify as first time homebuyers, veterans, middle-to-low income, senior citizens, or disabled;
b) Use as purely public spaces and places;
c) Use as retail, commercial, or industrial purposes, by lease or sale;
d) Use as wildlife conservation areas;
e) Holding land for future purposes to benefit the community; and
f) Other uses as determined in policies to be developed by the Trust.

2541(d)(8) E. Trust is Self-Financing

The Trust shall be self-financing and therefore, monies for all related expenditures shall be retained by the Trust from income from the sale, rental, or other disposition of property. This kind of self-funding is founded on the notion that the Trust will convert properties to productive taxable use, recapture uncollected taxes for the General Fund, fund a property maintenance program, and utilize the earnings from property sales to rehabilitate other Trust properties before making them available to the public.

2541(d)(8) F. Form of Consideration

Consideration takes the form of monetary payments for the transfer of real property and interests in Trust property to persons identified in Act 8466.

2541(d)(8) G. Trust Pricing of Property

The Trust should sell all properties at market value, but to facilitate the purpose of Act 8466, the Trust may establish a price for property that is a percentage of the market value according to tax assessment records. In no event, however, may the Trust impose a price that is lower than 50% of the last assessed value as per the Tax Assessor's records.

2541(d)(8) H. Trust May Factor Rehabilitation in the Pricing of Property

Where property needs rehabilitation and the Trust elects not to assume such a project, the Trust may take that into account in setting the price. The prospective purchaser must set forth in writing a rehabilitation plan and a timetable for the rehabilitation work to be completed. The prospective purchaser must also demonstrate that s/he has the financial resources to follow through with the rehabilitation plan.

2541(d)(8) I. Online Applications And Limitations On Acquisition of Property

All persons who qualify as a member of the statutorily protected classes outlined in Act 8466, regardless of political affiliation, race, color, sex, national origin, or place of employment, are eligible to purchase property from the Trust. In order to qualify, applicants must apply online and submit all required documentation before acquiring property. Properties will not be sold to persons who:

a) Have been convicted of a felony within the last ten (10) years from the date of application;
b) Own property in the United States Virgin Islands and are delinquent in the payment of real property taxes.
c) Are former owners of real property that were subject to judicial foreclosure for the nonpayment of real property taxes. For this category of persons, the prohibition on ownership extends to immediate family members, shareholders, partners, or persons otherwise connected to the former owner whose primary intent is to evade this prohibition.
d) Have a history of foreclosure judgments, or any unremedied violations of local Virgin Islands codes and ordinances.
e) Have the intention to purchase property for non-owner occupant purposes.

2541(d)(8) J. Trust Qualifications of Buyers

(a) The Trust must develop an online process to receive and process applications from all potential buyers.
(b) The Trust, in its sole discretion, may use U.S. Department of Housing and Urban Development ("HUD") median income limits, and definition of first time homebuyer, to determine the eligibility of persons to whom Trust property will be conveyed.
(c) Some relevant qualification criteria for income limits include the following:
    i. Have a household income of 80% or less of the area median income for the property being purchased, adjusted for family size six months before the time of closing.
    ii. The Trust may set other income criteria based on HUD regulations and the needs of the Trust.

(d) Some relevant qualification criteria for first time home buyers include the following:
   i. An individual who has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property. This includes a spouse. If the buyer or buyer's spouse meets this test, they are considered first-time homebuyers.
   ii. ii. A single parent who has only owned a principal residence with a former spouse while married.
   iii. An individual who is a displaced homemaker and has only owned a principal residence with a spouse.
   iv. An individual who has only owned a principal residence that is permanently affixed to a permanent foundation owned by another.
   v. An individual who has only owned a property that is not in compliance with Virgin Islands building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.

(e) Some relevant qualification criteria for veterans include the following:
   i. A Purchaser must provide a copy of the purchaser's DD214.
   ii. Trust may require additional documentation.

(f) Some relevant qualification criteria for seniors include the following:
   i. A Purchaser must turn fifty-five (55) during the year of the closing.
   ii. Trust may require additional documentation.

(g) Some relevant qualification criteria for disabled include the following:
   i. A Purchaser must provide documentation of disability from the U.S. Virgin Islands Department of Human Services or the Social Security Administration.
   ii. Trust may require additional documentation.

(h) The Purchaser must contribute between 1% and 5% of purchaser's own funds towards the purchase price as a downpayment.

(i) To facilitate the legitimate statutory purpose of increasing property ownership for Virgin Islanders, the Purchaser must sign, at the time of closing, a retention agreement to hold the property for at least ten (10) years before any succeeding transfer.

2541(d)(8) K. Disposition of Trust Proceeds

When any parcel of real estate acquired by the Trust is sold or otherwise disposed of the proceeds shall be applied and distributed in the following order:

a) To the General Fund in an amount to pay all delinquent taxes and fees due on the foreclosed parcel;
b) To the payment of the expenses related to the judicial foreclosure process;
c) To pay the expenses of the Trust and the salaries of its employees, agents, and other personnel as provided for in an annual budget;
d) To cover the ongoing expenses related to maintenance of Trust property and to reimburse the Office of the Lieutenant Governor for agency personnel in other Divisions who provide support services to the Trust.
e) To meet the expenses of the next fiscal year to assure that sufficient funds will be available for the Trust to perform its work;
f) To acquire other properties that will ensure that the Trust meets the goals of Act 8466;
g) Any remaining balance shall be retained by the Office of the Lieutenant Governor to support the efficient performance of work related to real property tax assessment, collection, and administration.

2541(d)(8) L. Prepayment of Taxes

When property is conveyed to a new owner, the purchase price must include prepayment of real property tax assessment for one (1) year succeeding the transfer of the property. The tax assessment is an estimate based on the Tax Assessor assessed value in the year that the transfer is completed. The acquiring owner will not be liable for any portion of the tax revenue that falls below the estimated assessment. For any portion of tax revenue that is above the estimated assessment, the Trust will remit the difference to the General Fund in the year that it is due.

2541(d)(8) M. Trust is Not a Financial Institution

While the Trust is not a financial institution, it may engage in transactions such as owner financing or rent-to-own investment of properties to ensure compliance with the objectives of Act 8466. The Trust and Purchaser will negotiate a purchase price and enter into a purchase agreement for the property transactions. Terms and pricing of such transactions will be set forth in standard documents that meet real estate regulatory standards.

2541(d)(8) N. Other Methods of Trust Acquiring Property

(1) The Trust may accept properties that are deeded by owners in lieu of judicial foreclosure or auction sale.

(2) The Trust may acquire real property or real property interests by gift, devise, transfer, exchange, marshal sale, purchase, or otherwise on terms and conditions that are in accordance with Virgin Islands law.

(3) The Trust may grant and accept easements to resolve boundary line title issues, including building encroachments between adjoining parcels and fence encroachments. The Trust may authorize boundary line agreements and driveway agreements with the owners of parcels adjacent to Trust-owned parcels, without conveyance of ownership. Consideration for said easements and agreements may be set at a price to be determined between the Trust and the adjacent owner.

(4) The Trust may accept donated property if clean, marketable title has been verified by the owner.

(5) Prior to accepting donated property, the Trust must conduct its due diligence through the Recorders, Appraisal, GIS, Cadastral, or any other Division of the Office of the Lieutenant Governor, or any governmental department with relevant information. The Trust is allowed to enter into contracts with private parties to complete due diligence services as needed. If requested by the donor, the Trust will acknowledge the donation. The donor will be responsible for reporting and determining the value of any property donated.

2541(d)(8) O. Trust To Cooperate With Community

The Trust will own properties in diverse communities across the Virgin Islands. When prudent, the Trust will engage neighboring property owners on the policies and practices that will ensure the best outcomes for relevant neighborhoods. Likewise, the Trust will work with a broad cross-section of the community (including, but not limited to, realtors, brokers, housing non-profits, etc.) to publish the availability of property to statutorily protected classes, and to ensure the efficient, fair, and responsible disposition of Trust properties acquired through the judicial in rem foreclosure process.

2541(d)(8) P. Trust May Act as Co-Developer In Residential Real Estate Development

The Trust may participate in private-public partnerships for the development of affordable housing units throughout the Territory. The Trust may convey title of real property to a developer for real estate development of single-family or multi-unit units that can provide affordable housing for the statutorily identified classes. In those instances where the Trust conveys title to such a developer, the Trust is allowed to collect a co-developer's fee to be paid upfront by the developer. In addition to any other information required by the Trust, the developer must disclose all plans, cost estimates, names of licensed contractors, timeline for completion, and projected revenues from the project.

2541(d)(8) Q. Trust May Lease Commercial Properties

The Trust may keep properties in its inventory and lease them to tenants for commercial use. Commercial tenants must sign a five (5) year lease and are responsible for redevelopment and build out of the property.

2541(d)(8) R. Retention Period

All persons to whom Trust property is sold or otherwise conveyed, must retain ownership of the property for a minimal period of time known as the "Retention Period." The Retention Period shall be ten (10) years from the date of closing.

2541(d)(8) S. Sale, Transfer, or Assignment of Property Prior to Conclusion of Retention Period

In an effort to assist the Trust to fully attain the objectives of Act 8466 to ensure long term affordable homeownership, where there is a determination of noncompliance with the Retention Period, the Trust will cause to be filed a deed-in-lieu of foreclosure upon the public record and the property will revert to the ownership of the Trust.

CERTIFICATION BY THE LIEUTENANT GOVERNOR THAT REGULATIONS WERE DULY PUBLISHED AND CONFORM TO FORMATTING REQUIREMENTS

In my capacity as Lieutenant Governor of the United States Virgin Islands, I have reviewed the foregoing Rules and Regulations from the Office of the Lieutenant Governor and find them to be in compliance with Title 3, Chapter 25, and the *Amended Rules and Regulations for Filing and Publication of Regulations in the Territory of the United States Virgin Islands* and hereby approve the same in accordance with 3 V.I.C. § 936.

__________________________ ________________
TREGENZA A. ROACH, ESQ. Date

GOVERNOR'S APPROVAL & LIEUTENANT GOVERNOR'S ATTEST

Pursuant to the powers vested in me by Section 11 of the Revised Organic Act of 1954, the above Rules and Regulations of the United States Virgin Islands OFFICE OF THE LIEUTENANT GOVERNOR, which were duly published in the [Name of Publication] on[[Date of Publication] are hereby approved.

_______________________ ________________
ALBERT A. BRYAN, JR. Date
Governor
United States Virgin Islands

Attest:

__________________________ _________________
TREGENZA A. ROACH, ESQ. Date
Lieutenant Governor United States Virgin Islands

CERTIFICATION OF TRANSMITTAL TO LEGISLATURE

I hereby certify that the above approved Amended Rules and Regulations for Filing and Publication of Regulations in the Territory of the United States Virgin Islands from the Office of the Lieutenant Governor were transmitted to the Legislature of the United States Virgin Islands pursuant to 3 V.I.C. § 913(a) on the date noted below.

____________________________ __________________
Governor/Governor's Designee Date

APPENDIX A

DECLARATION OF TRUST

WHEREAS, pursuant to Act 8466 passed on 16 August 2021, there was created a Trust within the Office of the Lieutenant Governor to take title to properties foreclosed pursuant to Virgin Islands Code, Title 33, Chapter 89, Subchapter III, Section 2541, 75% of which properties must be made available for sale and purchase annually as affordable housing for persons who qualify as first-time homebuyers, veterans, middle & low-to-moderate income, senior citizens or disabled persons. 33 V.I.C. § 2541(d)(7) and (d)(8).

NOW THEREFORE, THIS DECLARATION OF TRUST is made and is effective as of March 1, 2023.

ARTICLE I - CREATION OF TRUST

1.1 Pursuant to 33 V.I.C. § 2541(d)(7), the Virgin Islands Legislature created a Land Bank Trust, which may be referred to as the "Trust", consisting of real property initially acquired through the judicial in rem foreclosure of tax delinquent parcels, and any real property subsequently acquired by the Trust through additional means including, but not limited to, purchase, donation, transfer, or exchange.

1.2 The Beneficiaries of the Trust are the People of the Virgin Islands generally. Specific beneficiaries are those persons who qualify for affordable housing as first-time homebuyers, veterans, middle & low-to-moderate income, senior citizens or disabled persons.

ARTICLE II - DESCRIPTION OF TRUST PROPERTY

2.1 Trust property consists of real property acquired by the Trust in executing its statutory obligations, as well as any income derived from the disposition of the real property as per the statutory requirement.

2.2 Property may be added to the Trust at any time by the Virgin Islands Legislature, or by any person or persons through conveyance, gift, assignment, and *inter vivos* or testamentary transfer. All such original and additional property is referred to herein collectively as the Trust Estate

2.3 Any property that may be received or which has been received by the Trustee hereunder, as invested and reinvested shall be held, administered and distributed by the Trustee as hereinafter set forth.

ARTICLE III - RIGHT TO DISPOSE OF TRUST ESTATE

The Trustee shall dispose of all, or any part, of the Trust Estate in such manner as the Virgin Islands Legislature has directed, and as set forth in the policies and procedures of the Trust that are in keeping with statutory intent.

ARTICLE IV - TRUSTEE

4.1 The Legislature appointed the Lieutenant Governor as the Trustee, whose job duties are set forth in greater detail within the Declaration of Trust.
4.2 The Lieutenant Governor shall not receive compensation from this Trust.
4.3 The Lieutenant Governor may designate another to discharge the duties of Trustee. 33 V.I.C. § 2541(d)(4).
4.4 The Lieutenant Governor may enter into a fee agreement with person(s) or firm(s) that have been designated to discharge the duties of Trustees on the Lieutenant Governor's behalf.

ARTICLE V – POWERS OF TRUSTEE

5.1 In order to carry out the provisions of this Declaration of Trust, the Trustee shall administer the trust with the care, skill, prudence, and diligence under the circumstances that a prudent person acting in the capacity of a Trustee and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims as set forth in Act 8466.
5.2 The Trustee is authorized to exercise the Trustee's fiduciary discretion broadly (which shall be subject to the standard of reasonableness and good faith the beneficiaries) with respect to any property at any time held under any provision of this Declaration of Trust and without authorization by any court and in addition to any other rights, powers, authority and privileges granted by any other provision of this Declaration, or by statute or general rules of law.
5.3 In addition to all powers and authorities under common law, statutory authority, and other provisions of this Declaration of Trust, the Trustee shall have the following powers and authorities to be exercised in the Trustee's discretion, solely in the interest of the beneficiaries (the People of the Virgin Islands) and for the exclusive purpose of providing benefits to persons identified in Act 8466:

(1) To sell, transfer, exchange, mortgage, or otherwise dispose of any of any real property and to execute and deliver good and sufficient deeds or other instruments for the conveyance or transfer of same.
(2) To negotiate, enter into, and execute any contracts on behalf of the Trust.
(3) To lease, manage, and delegate management of all real property now or hereafter owned by the Trust.
(4) To take a lease of or to rent real property on behalf of the Trust.
(5) To deposit and draw down from the monies deposited into revolving fund for the Trust that is established and maintained by the Department of Finance. 33 V.I.C. § 2541(d)(9).
(6) To do all acts, although not listed in this Declaration of Trust, necessary to administer the funds of the Trust that have been deposited into accounts with banks, trust companies, or other financial institutions.
(7) To collect all monies payable or belonging to the Trust to include, but not limited to, bills of exchange, drafts, checks, promissory notes, and other instruments, whether negotiable or non-negotiable, and for all purposes to sign and endorse financial instruments for deposit or collection on behalf of the Trust.
(8) To inquire and receive any and all account information, confidential or not, from the Department of Finance, any bank, trust company, or other financial institution wherein the

Trust has an account or accounts, and to request investigations into any and all banking activities as it may pertain to or affect the Trust's accounts.

(9) To write checks or otherwise withdraw monies or account balances now or in the future standing to the Trust's credit with any bank, trust company, or other financial institution now or hereafter having monies belonging to the Trust, which power extends to credit and debit cards.

(10) To collect trust property and accept or reject additions to the Trust Estate from any person.

(11) To retain in the form received any real property donated to, or otherwise acquired as a part of the Trust Estate, including residential property, commercial property, and vacant land and to exchange any such property for other properties.

(12) To cause to be deposited and invested Trust money in savings accounts bearing a reasonable rate of interest, Treasury Bill and other forms of United States government obligations, and accounts of all types, including margin accounts, federally insured savings accounts, and certificates of deposit held at all types of regulated financial service institutions.

(13) To invest and reinvest all or any part of the Trust Estate in any property and undivided interests in property, wherever located, including real estate or any interest in real estate whether or not productive at the time of investment, bonds, debentures, notes, stocks of corporations regardless of class, or interests in limited partnerships, limited liability companies or similar entities.

(14) To sell or dispose of any real property constituting a part of the Trust Estate, for cash or on credit, at public or private sale, to exchange any real property of the Trust Estate for other real property, at such times and upon such terms and conditions as the Trustee may deem best.

(15) To sell or exercise all the rights, powers and privileges of an owner in respect to any real property constituting a part of the Trust Estate.

(16) To borrow money with or without security and to encumber, mortgage or pledge any asset of the Trust Estate for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the Trustee.

(17) To collect and receive receipt for rents, issues, profits, and income of the Trust Estate. To insure the assets of the Trust Estate against damage or loss and to insure the Trustee, the Trustee's agents, and beneficiaries against liability arising from the administration of the Trust.

(18) To exercise incidental powers in connection with the exercise of any of the powers described in the preceding paragraphs, the Trustee is authorized to take all actions that the Trustee believes necessary, proper, or convenient to fulfill the objectives of Act 8466, including the power to prepare, execute, and file all documents and maintain records; enter into contracts; hire, discharge, and pay reasonable compensation to attorneys, accountants, expert witnesses, or other assistants; execute, acknowledge, seal, and deliver any instrument.

ARTICLE VI – DISCLOSURE OF RECORDS AND ACCOUNTS

The Trustee shall maintain accurate and detailed accounts of all assets, investments, receipts, disbursements, and all transactions executed by and on behalf of the Trust. At the direction of the Legislature, or in response to a legitimate public records request, the Trustee may disclose and release the detailed account information.

<u>ARTICLE VII – AMENDMENT OF DECLARATION OF TRUST</u>

At the direction of the Legislature, and in consultation and agreement with the Trustee, the provisions of this Declaration of Trust may be amended, in whole or in part, by an instrument in writing. No such amendment shall authorize or permit any part of the Trust Estate to be used for or diverted to purposes other than for the exclusive benefit of the statutorily protected classes, and no such amendment shall cause or permit any portion of the Trust's funds to be converted to the use of any other government agency or entity.

<u>ARTICLE VIII – GENERAL</u>

8.1 *Limited Liability Effect of Declaration of Trust.* Neither the Declaration of Trust nor any modification thereof shall be construed as giving to any person any legal or equitable cause of action against the Trust, the Trustee, or any officer or employee thereof, except in a professional capacity.

8.2 *Construction of Trust.* This Trust shall be construed and enforced according to the laws of the United States Virgin Islands. If any provision of this Trust shall be held illegal or invalid for any reason, such a determination shall not affect the remaining provisions of the Trust.

8.3 *Headings.* The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

IN WITNESS WHEREOF, this Declaration of Trust is effective as of the day and year first above written.

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Tregenza A. Roach, Esq.
Lieutenant Governor

APPENDIX B

Virgin Islands Code Title 33-Taxation and Finance; Subtitle 2. Property Taxes; Chapter 89. Levy and Collection of Tax; Subchapter III. Attachment and Sale of Property for Nonpayment; Section 2541 - Collection of real property taxes and public sewer system user fees by attachment of property or by judicial foreclosure of property

(a) The Lieutenant Governor shall proceed, pursuant to the provision of subsection (b) of this section, to collect by the attachment and sale of the property of the delinquent taxpayer, any taxes and public sewer system user fees which are paid within the period prescribed in section 2496 of this title.

(b) The Lieutenant Governor shall prepare a written notice of attachment of the real property on which the taxes and public sewer system user fees are owing by the delinquent taxpayer. This notice shall contain the amount of the delinquent taxes and public sewer system user fees and the interest provided for by section 2494 of this chapter, and shall contain a statement that if all the taxes and public sewer system user fees, penalties and costs are not paid within the period prescribed in section 2546 of this title, the property shall be sold at public auction. This notice shall also contain the date of the public auction at which the property will be sold for unpaid taxes as well as the date upon which the period to redeem the delinquent real property expires. The attachment shall be enforceable as soon as notice thereof shall have been served by leaving a copy with the debtor himself or any member of his family or attendants of legal age, a record of which service shall be noted down for subsequent action. When the debtor, a member of the debtors family or attendants cannot be found, the Lieutenant Governor shall leave the notice with two neighbors of the debtor who shall be witnesses of the service of the notice, or, if no witnesses can be found willing to receive the notice as certified by affidavit, then the notice shall be (1) mailed to the debtor's last known address and published in a newspaper of general circulation once a week for four consecutive weeks, and (2) posted in the post office nearest to the attached property or posted on the bulletin board of the Superior Court of the Virgin Islands on the island of the attached property, whichever place is reasonably calculated to apprise the debtor of the attachment. After the levy of the attachment the Lieutenant Governor shall have affixed to the notice a certificate describing the property attached, and shall cause the said certificate to be recorded in the real property register in the office of the recorder of deeds. The certificate shall contain -

(1) The name of the delinquent taxpayer, if known:

(2) The assessed value of his property;

(3) The amount of taxes and public sewer system user fees, penalties, and costs thereon; and

(4) A description of, the situation of, and the approximate boundaries of the property attached in favor of the Government of the Virgin Islands.

(c) Every notice of attachment for delinquent taxes and public sewer system user fees, shall have the effect of a judgment against all of the real and personal property of the delinquent attached, and every lien herein created shall have the force and effect of an execution duly levied. In all cases where real estate is attached and is to be sold for the payment of taxes and public sewer system user fees the Lieutenant Governor shall notify all persons having a mortgage or other lien of record on said property at least two weeks prior to the sale of said property.

(d) The Lieutenant Governor may elect to proceed to collect any due property taxes and public

sewer system user fees that are unpaid within the period prescribed in section 2496 of this title pursuant to a judicial foreclosure in rem proceedings brought against the property of the delinquent taxpayer. Such proceeding is brought against the real property only, and is to foreclose the tax liens. No personal judgment may be entered herein for such taxes, or any part thereof.

(1) The Magistrate Division and the Superior Court have concurrent jurisdiction over the foreclosure in rem proceedings.

(2) Notice of such proceedings is considered sufficient when the Lieutenant Governor causes to be filed in court a Petition of Foreclosure of Tax Delinquent Parcels with an attached list of all parcels affected by delinquent taxes. Upon the filing of the Petition of Foreclosure, the Lieutenant Governor shall cause the Petition and the attached list to be published daily for eight consecutive weeks in a newspaper of general circulation within each district.

(3) The Petition of Foreclosure must give notice as to the effect of the filing, the nature of the proceeding, the persons affected, the right of redemption, the date for return of an answer, and the penalty for failure to answer. The List that is attached to the Petition must contain as to each parcel, the following:

(A) A brief description of the property including the parcel identification number, the physical description of the property, and the last property owner of record as it appears in the Office of the Tax Assessor, sufficient to identify each parcel affected by such tax lien; and

(B) A statement of the amount of delinquent taxes plus penalties and interest and costs.

(4) The Petition of Foreclosure must be signed by the Lieutenant Governor, or the Lieutenant Governor's designee, and must be mailed to the last owner of record to provide actual notice to the property owner of record within the Office of the Tax Assessor.

(5) If any person having the right to redeem or answer fails to answer, such person is considered in default and is barred and foreclosed from all his rights, title, and interest to the parcels described in the Petition of Foreclosure, and a judgment in foreclosure may be taken by default. A motion to reopen a default foreclosure judgment may not be brought later than 120 days after the entry of the judgment.

(6) Any proceeding brought pursuant to this subsection must be given preference over all other proceedings and actions in the Superior or Magistrate Court and must be resolved within 180 days from the filing of the petition.

(7) Upon entry of a final judgment, title to all properties foreclosed pursuant to this subsection vests in a Trust created and established in the Office of the Lieutenant Governor. All property so vested must be listed on an inventory to be updated annually by the Lieutenant Governor and made available for public inspection.

(8) Property acquired pursuant to this section must be disposed of pursuant to the regulations of the Trust, but 75% of the properties must be made available for sale and purchase annually as affordable housing for persons who qualify as first-time homebuyers, veterans, middle & low-to-moderate income, senior citizens or disabled persons.

(9) Pursuant to this subsection, there is established in the Treasury of the Government of the Virgin Islands a revolving fund for the Trust, administered as a separate and distinct fund in the Treasury of the Government of the Virgin Islands. The fund consists of all monies earned by the Trust, and the Commissioner of Finance shall submit an annual report on the financial status of the fund to the Governor and the Legislature.