



Legislature of the Virgin Islands

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POST AUDIT DIVISION

February 12, 2026

MEMORANDUM

TO: Honorable Novelle E. Francis, Jr.
Chairman, Committee on Budget, Appropriations and Finance
36th Legislature of the Virgin Islands

FROM: Post Audit Division

SUBJECT: Bill No. 36-0238 – An act amending title 29, Virgin Islands Code, chapter 23, to redirect certain hotel development bond proceeds to the Government Employees' Retirement System of the Virgin Islands

BACKGROUND

29 V.I.C. § 1319

***** Statutes current through Act 9046 of the 2025 session of the 36th Legislature, including all code changes through October 25, 2025 *****
Virgin Islands Code Annotated > TITLE TWENTY-NINE Public Planning and Development (Chs. 1 — 24) >
Chapter 23. Hotel Development Program (§§ 1301 — 1320)

§ 1319. Qualifications and Eligibility for issuance of tax-exempt bonds

(a) Loan to Qualified Nonprofit. The VIHDFC may enter into a loan agreement, lease, instalment sale agreement, or similar financing arrangement with a Qualified Nonprofit, under which bond proceeds are loaned, leased, or otherwise made available to the Qualified Nonprofit to carry out the approved project.

(b) Obligations of the Nonprofit. The Qualified Nonprofit shall:

1. Repay the loan in amounts and at times sufficient to pay all principal, interest, and expenses of the bonds;
2. Provide collateral or security acceptable to the VIHDFC;
3. Pay the Government of the Virgin Islands an issuance fee determined by the VIHDFC at financial close and an annual service fee until the bonds are redeemed;
4. Maintain the hotel development project in good repair and first-class condition throughout the term of the bonds;
5. Transmit quarterly unaudited and annual audited financial statements to the VIHDFC;
6. Maintain its tax-exempt status under Section 501(c)(3) of the Internal Revenue Code;
7. Comply with all applicable federal tax regulations governing tax-exempt bonds; and
8. Indemnify the VIHDFC against any liability, loss, or expense arising from the project or the financing.

(c) Transfer to the Government of the U.S. Virgin Islands. For the issuance of bonds secured by hotel development projects, the owner shall transfer fully unencumbered and fee-simple ownership interest to the Government upon repayment of all bonds, the issuance documents shall contain covenants providing for the following:

- (1) All net revenues, after payment of debt service, operating expenses and reserve deposits must be applied to early redemption of bonds. No private equity disbursements are permitted.
- (2) If the hotel is sold prior to final maturity of the bonds, all net proceeds from such sale after repayment of the bonds and costs related thereto, will be transmitted to the **Government** *“Government Employees’ Retirement System of the Virgin Islands”*;
- (3) The owner shall make good faith efforts to obtain and maintain insurance in amounts sufficient to repair or replace the property in the event of casualty, including windstorm and flood coverage.
- (4) If the insurance is not available, the owner shall provide written proof of denial of coverage to the subsidiary.
- (5) The reserve fund shall be capitalized at the closing of financing to cover annual insurance deductibles, ensuring that any insurance claims arising during the coverage period or during the bond term can be fully satisfied. This requirement shall remain in effect until the final transfer of the property to the Government of the Virgin Islands.
- (6) Property Insurance proceeds must be used solely to restore, rebuild, or replace the Project.
- (7) Failure to commence reconstruction within 12 months after a casualty constitutes a material breach triggering:
 - (a) appointment of a receiver; and
 - (b) immediate transfer of operational control to the Government or its designee.
- (d) The issuance shall not be a general obligation of the VIHDFC, the Issuer, the Government of the Virgin Islands or the United States of America.”
- (e) Tax Compliance Certificates. The Qualified Nonprofit shall execute all certificates necessary to maintain the tax-exempt status of the bonds.
- (f) Continuing Disclosure. The Qualified Nonprofit shall comply with continuing disclosure requirements under SEC Rule 15c2-12, unless otherwise exempted.
- (g) Maintenance of 501(c)(3) Status. Loss of the 501(c)(3) status shall constitute an event of default under the loan agreement and shall require immediate remedial action or, if directed by the bondholders, immediate repayment of the bonds.
- (h) Financial reporting. The qualified nonprofit shall transmit quarterly unaudited and annual audited financial statements to the VIHDFC;
- (i) Property Assessments. A property condition assessment shall be conducted every five years during the bond term by a competent, independent third-party entity at the cost of the qualified non-profit and such property condition assessment shall be transmitted to the Legislature and the VIHDFC. Such assessment shall be completed and transmitted within 180 days after each five-year period.

29 V.I.C. § 1320

*** Statutes current through Act 9046 of the 2025 session of the 36th Legislature, including all code changes through October 25, 2025 ***

Virgin Islands Code Annotated > TITLE TWENTY-NINE Public Planning and Development (Chs. 1 — 24) >

Chapter 23. Hotel Development Program (§§ 1301 — 1320)

§ 1320. No Recourse to the Government; use of administrative fees

(a) Nothing in this chapter shall be construed to authorize the VIHDFC or the Government of the Virgin Islands, nor any of their officers, employees, or agents, to guarantee, insure, or otherwise become liable for any debt issued for a Qualified Nonprofit.

(b) The VIHDFC shall not be required to own, operate, or manage the project. Ownership may remain with the Qualified Nonprofit or may be transferred pursuant to IRS-compliant arrangements or the loan agreement.

(c) Administrative fees collected because of the issuance of tax-exempt bonds may be utilized by the Virgin Islands Public Finance Authority for its administration and operations. Any other use or financial transaction involving administrative fees must be submitted to and approved by the Legislature of the Virgin Islands prior to expenditure.

“(d) Notwithstanding any other law, any net proceeds derived from the sale of a hotel development project financed under this chapter that would otherwise be transmitted to the Government of the Virgin Islands shall instead be transmitted to the Government Employee’s Retirement System of the Virgin Islands, unless otherwise prohibited by federal law or applicated bond covenants.”

The Government of the United States Virgin Islands has, at various times, owned or exercised legal control over hotel properties; often through public financing entities, to support redevelopment or manage assets. In some cases, ownership reverts to the government after financing arrangements conclude. In others, properties are deeded directly to the government, or acquired through foreclosure or as part of long-term development financing strategies. Most recently, the following has occurred:

Current & Recent Ownership

- **Frenchman’s Reef Resorts:** In early 2026, the GVI utilized a complex bond financing structure to support the acquisition of the Westin Beach Resort & Spa and Morningstar Buoy Haus Beach Resort at Frenchman’s Reef. While managed by a private group (Davidson Hospitality), the ownership is held through a subsidiary of the Public Finance Authority (PFA). Once the approximately **\$448.6 million** in bonds are repaid (expected in 30 years), the full title will transfer to "the people of the Virgin Islands". The financing structure is designed so that once the debt is fully retired, ownership of the Frenchman’s Reef property would transfer to the people of the Virgin Islands. At that point, the government would have the option to lease or sell the property through standard public processes.
- **King’s Alley Hotel:** This property in Christiansted was formerly owned by the government after being acquired through foreclosure due to a loan default. The GVI finalized its sale to a private developer, Neighborhood Establishment, for **\$3.65 million** in March 2022. The

property sale is a result of a PFA decision made in June 2021, where the board approved the ratification of a contract with Atlantic Caribbean Consulting, LLC.

- **Virgin Isle Hotel:** This property was deeded to the VI Government in 1999, but it became a derelict site following destruction by Hurricane Hugo with the intention for public use or an office complex.
- **Hotel on the Cay:** Governor Albert Bryan Jr. signed a lease agreement between the Government of the Virgin Islands and Christiansted Harbor Resort and Marina LLC for the redevelopment of the historic 7.2-acre Hotel on the Cay property. Under the terms of the agreement, the company will receive a sixty (60) year lease and will undertake a two phased \$25 million renovation of the resort, which sits at the entrance to Christiansted Harbor on Protestant Cay. The leasing of the property for hotel development and operation was put to bid in October 2020, and Christiansted Harbor Resort and Marina LLC was the winning bidder among several bidders.

SUMMARY

Proceeds from the sale of a hotel refer to the total cash or other consideration received by the seller upon transferring ownership of the property. Gross proceeds represent the full sale price before expenses, while net proceeds reflect the amount remaining after deducting transaction costs such as broker commissions, legal fees, and closing costs.

Bill No. 36-0238 proposes to redirect the net proceeds from the sale of certain hotel development project away from the Government of the Virgin Islands and instead allocate them to the Government Employees’ Retirement System. Because the project is financed through tax-exempt bonds issued by the Government of the Virgin Islands, these proceeds are appropriately considered public assets and should be returned to the government upon sale. Notably, the bill does not propose a partial allocation, but rather seeks to transfer the entirety of the net proceeds.

Redirecting all net proceeds in this manner would significantly reduce revenues that would otherwise flow into the General Fund, which supports the core operations and public services of the Virgin Islands Government. While strengthening the retirement system is an important objective, this approach shifts a substantial financial resource away from the government’s primary operating fund, potentially undermining its ability to meet essential obligations. For these reasons, the initiative presents a concerning reallocation of public assets and should be carefully reconsidered.



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