



TESTIMONY ON BILL REQUEST NO. 25-0894

THE COMMITTEE OF THE WHOLE

36th LEGISLATURE OF THE VIRGIN ISLANDS

TUESDAY, NOVEMBER 18, 2025

EARLE B. OTTLEY LEGISLATIVE HALL

ST. THOMAS, U.S.V.I.

10:00 AM

BY:

KEVIN MCCURDY

COMMISSIONER OF FINANCE

EXECUTIVE DIRECTOR

VIRGIN ISLANDS PUBLIC FINANCE AUTHORITY

Introduction

Good day, Senate President Milton Potter, Chairperson of the Committee of the Whole; all other senators in attendance; all those seated in the Senate chambers; and those in the listening and viewing audience. I am Kevin McCurdy, Commissioner of Finance and Executive Director of the Public Finance Authority (PFA). With me today are Kye Walker, Esq., at The Walker Legal Group, General Counsel to the PFA; Miles Plaskett, Esq., Partner at Duane Morris LLP, Bond Counsel to the PFA; and David Paul, President of the Fiscal Strategies Group, Financial Advisor to the PFA. We are also joined by representatives of Fortress Investment Group, the owners of Frenchman's Reef, including David Hammerman, COO Global Real Estate Equity and Ali Elam, Managing Director; and by Brad Langner, Managing Director of Piper Sandler, underwriters for the bond transaction. And participating virtually are Denise Rhymer, Esq., PFA Staff Counsel; and Cherrie Wallace-Cole, PFA Bond Proceeds Manager. Thank you for the opportunity to provide an overview of proposed amendments to the Hotel Development Program submitted by Governor Albert Bryan Jr..

The Problem

You will recall that earlier this year, pursuant to Act No. 8949, the PFA issued GARVEE Bonds through a wholly owned subsidiary called the Virgin Islands Transportation and Infrastructure Corporation (the "PFA GARVEE Subsidiary"). The purpose of the legislation before you today is to allow for the creation of a

similar, wholly owned subsidiary, in this case the Virgin Islands Hotel Development Financing Corporation (the “PFA Hotel Finance Subsidiary”).

The need to create subsidiaries for the issuance of bonds has grown out of changes in the regulations governing the issuance of municipal securities over the years since the 2008 financial collapse. The issuance of municipal securities used to be unregulated, but over the past decade or so the rules have been tightened.

In particular, pursuant to a 1995 amendment to Rule 15c2-12, the U.S. Securities and Exchange Commission (the “SEC”) requires that issuers of municipal securities enter into an agreement, called a Continuing Disclosure Undertaking (“CDU”), to provide certain information about their securities to the investor universe on an ongoing basis.

The types of information issuers agree to provide on a regular basis include:

- Annual financial information
- Audited financial statements
- Notice of failure to provide annual financial information on or before the date agreed to by the state or local government
- Other continuing disclosures provide notification of specific events, including those that may have an effect on repayment of a bond

The problem here is that the PFA has been unable to provide audited financial statements on the Government on a timely basis, as it has agreed to do in its CDU

dating back more than a decade. If an issuer is substantially out of compliance with its CDU, as the PFA has been, Underwriters are limited in their ability to market the issuer's bonds. In particular, Underwriters must adhere to the following restrictions:

- a. Offering bonds to not more than 35 investors, which applies to individual account holders, not fund complexes
- b. Investors must all be sophisticated investors
- c. Investors must not be purchasing with intention to distribute to other investors
- d. Bonds must be in minimum denominations of \$100,000 or higher

As long as the PFA is not able to provide audited financial statements of the Government, it remains out of compliance with its existing continuing disclosure requirements. The consequence is that PFA bond issues can only be sold subject to these limitations, the most onerous of which is the 35-investor limitation. For smaller bond issues, these limitations are not particularly problematic, but for larger issues, the limitations both result in a higher interest rate – estimated to be as much as one-half of one percent – or in the worst instance make the bonds non-marketable.

The Solution

The solution to this problem has been to issue bonds through a newly created subsidiary corporation of the PFA, as was done in the case of the GARVEE Bonds. Creating a new issuer with its own identity, including its own governing board, clean financial statements, and a new Continuing Disclosure Undertaking that does not

include a promise to provide audited financial statements of the Government, solves the problem. The bond underwriters are not constrained by the 35-investor limitation, and bond counsel is able to give a legal opinion, unconstrained by the CDU issues facing bonds issued directly by the PFA.

That was the reason the GARVEE Bonds were issued through the PFA GARVEE Subsidiary, and the reason we are requesting similar authorization to allow the PFA to create a Hotel Development Finance Subsidiary. This subsidiary would first be utilized for the pending issuance of bonds for the Frenchman's Reef Resort. That pending bond issue, by way of information, does not entail the pledge of any governmental revenues, or other credit support.

Those bonds will be a corporate financing, similar to financings that the PFA did for HOVENSA over the years, where HOVENSA was solely responsible for paying the bond debt. The pending bonds for Frenchman's Reef will similarly be secured solely by the operating revenues and assets of the Frenchman's Reef Resort, and would not involve the commitment or pledge of any government revenues or assets, but with the particular benefit to the Territory that upon the final repayment of the 30-year bond issue, title to the Frenchman's Reef Resort will revert to the Government of the Virgin Islands.

Why is this Solution Good for the Virgin Islands?

In addition to addressing the issues surrounding the 35-investor limitation, the proposed legislation also includes provisions to protect the long-term interests of the people of the Virgin Islands with respect to hotel projects similar to that being undertaken by the owners of the Frenchman's Reef Resort. Those provisions provide that the hotel in question shall be maintained in good repair and first-class condition throughout the term of the bonds, and that in the event of a casualty, insurance proceeds shall be utilized for the repair or rebuilding of the hotel. These are significant protections and have been negotiated as a central requirement in the Frenchman's Reef financing, along with requirements for the accumulation of significant reserves to make those protections a reality.

Once all bonds have been repaid, the hotel will be released to the Government without the Government having paid a cash consideration. A conservative estimate of the value of the hotel at the anticipated time of its transfer to the Government is \$840 million. The Government would then have myriad options available to it, to include selling the hotel, entering into a partnership with a flagship brand to continue operations of the hotel, or operating it to generate an ongoing, continuing revenue stream. Other tangible financial benefits to the Territory, include the issuance fee at the time of closing of the transaction and the annual service fees payable over the life of the bond.

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Senators, the Hotel Development Act was enacted for the purpose of leveraging the Territory's hospitality offerings to create economic opportunity and to foster economic growth for the benefit of the People of the Virgin Islands. The Solution we will discuss today achieves that purpose. We appreciate your time and consideration. Our team stands ready and available to answer any questions you may have.