

**TESTIMONY ON BILL NO. 35-0026  
PROVIDED BY THE  
OFFICE OF THE LIEUTENANT GOVERNOR  
DIVISION OF BANKING, INSURANCE AND FINANCIAL REGULATION  
BEFORE THE  
THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS  
COMMITTEE ON BUDGET, APPROPRIATIONS, AND FINANCE  
April 4, 2023**

Good afternoon to the Honorable Donna A. Frett-Gregory, Chair, Honorable Members of the Thirty-Fifth Legislature of the Virgin Islands Committee on Budget, Appropriations, and 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 Matthew, Interim Director of the Division of Banking, Insurance and Financial Regulation (hereinafter “Division”), within the Office of Lieutenant Governor, where the Honorable Tregenza A. Roach, Esq., in his capacity as Lieutenant Governor, serves as the Commissioner of Insurance (hereinafter “Commissioner”).

I most respectfully appear before you today to provide testimony on **Bill No. 35-0026** (*An Act amending Title 22 Virgin Islands Code relating to insurers becoming members of a Federal Home Loan Bank and matters relating thereto.*) I am accompanied by Attorney Glendina Matthew, Interim Director of the Division.

I most respectfully inform you that the Division supports **Bill No. 35-0026**, with the suggested changes that are requested in this testimony.

At the outset, it should be noted that the name Federal Home Loan Bank (hereinafter “FHLB”) is a little misleading. While the name includes the word “Federal,” FHLBs are not a government agency. Rather, FHLBs are privately owned by their members, which include both financial institutions and insurance companies. The FHLBs were created by the United States Congress in 1932, and their mission is to provide liquidity to their members to support housing finance and community development. FHLBs are federally regulated by the Federal Housing Finance Agency.

Additionally, while the name Federal Home Loan Bank also includes the words “Home Loan,” this is also a little misleading because although FHLBs provide loans, which are also called advances, to their member institutions, those loans can be used for any business purpose, and are not just limited to loans that are connected to housing.

Currently, the FHLB system is comprised of 11 regional Federal Home Loan Banks. The Virgin Islands, along with New York, New Jersey, and Puerto Rico, are part of the Federal Home Loan Bank of New York (hereinafter “FHLB of New York”). As of December 31, 2022, the entire FHLB system was comprised of a total of 6,502 institutions. Of this number, 5,937 were financial institutions and 565 were insurance companies. As of December 31, 2022, the FHLB of New York was comprised of a total of 327 member institutions, of which 281 were financial institutions and 46 were insurance companies. Currently, all of the banks that do business in the Virgin Islands are a member of an FHLB. This legislation today will hopefully also lead to insurance companies that are domiciled in the Territory becoming members of the FHLB of New York, because currently, no insurer that is domiciled in the Territory, is a member.

It is important to note that FHLBs, such as the FHLB of New York, provide loans to their member institutions. They do not directly loan money to businesses, organizations, or members of the public. Further, the loans that are provided to their member institutions must be collateralized. Requiring loans to be collateralized have helped to maintain the financial stability of the entire FHLB system, which has been around now for almost 100 years.

FHLBs, like the FHLB of New York, also use a portion of their earnings to support affordable housing through their member institutions. The FHLB of New York has also provided grant money, through its member institutions, for other programs in its region, such as the Covid-19 Small Business Recovery Grant Program, for small businesses and non-profit organizations that experienced a decline in revenue due to the Covid-19 pandemic, and disaster recovery grant programs for small businesses and homeowners that were impacted by Hurricanes Irma and Maria in Puerto Rico and the Virgin Islands.

The FHLB of New York has also used a portion of its earnings for charitable contributions to organizations in their region that support the local community. In the Virgin Islands, the FHLB of New York has made charitable contributions to a number of organizations, including the United Way of the U.S. Virgin Islands, the Community Foundation of the Virgin Islands, the Family Resource Center, My Brothers Workshop, the Salvation Army, and the Women's Coalition of St. Croix.

Insurance companies that are domiciled in the Virgin Islands would be eligible for membership in an FHLB pursuant to Section 1424 of Title 12 of the United States Code. However, **Bill No. 35-0026** would confirm, as part of Title 22 of the Virgin Islands Code, which governs the regulation of the business of insurance in the Territory, that insurance companies that are organized under the laws of a state or territory of the United States are eligible for membership in an FHLB. The provisions in **Bill No. 35-0026** would be consistent with 12 U.S.C. § 1424 because insurance companies that are formed outside the United States, which the Virgin Islands Code defines to be alien insurers, are not eligible for membership in an FHLB.

Further, as the insolvency of an insurance company is governed by provisions in Title 22, **Bill No. 35-0026** would also revise insolvency and voidable transfer provisions in Title 22, to prevent collateral that has been pledged to an FHLB, to be overridden if there was an insolvency of an insurer, except where there has been fraud or misconduct. **Bill No. 35-0026** would also create a framework that would allow the Commissioner and an FHLB to work together in the event a member insurer became troubled or insolvent, which could result in the Commissioner being able to obtain additional liquidity to improve the financial condition of a troubled or insolvent insurance company.

However, it is important to note that an insurance company would benefit from membership in an FHLB, even the insurer was not troubled or insolvent. FHLBs are generally able to offer their member institutions more favorable loan terms, and access to this liquidity would be especially helpful to insurance companies that are domiciled in the Territory, that could experience a simultaneous increase in claim payments due to a catastrophic event, like a hurricane.

To date, 24 states, and Puerto Rico, have enacted provisions that are similar to those that are in **Bill No. 35-0026**. Further, similar legislation is currently pending in 9 states, in addition to the Virgin Islands. Provisions in the Bill are also consistent with guidance provided by the National Association of Insurance Commissioners, and the Bill would make Virgin Islands law that would govern insolvent insurers that were members of an FHLB, consistent with provisions of federal law that would govern insolvent financial institutions that were also members of an FHLB.

While the Division does support **Bill No. 35-0026**, the Division also wants to point out a few technical revisions that should be made. First, line 1 of page 2 of **Bill No. 35-0026** refers to “[i]nsurers duly organized under the laws of any State *or of the United States*.” However, insurance companies are organized and regulated under state and territorial law. Accordingly, the section that states “or of the United States” should be stricken from the bill.

Second, lines 13 and 14 on page 2 amend Section 246 in chapter 10, which would relate to a stay of proceedings involving an insolvent insurer, to state that “Except as provided in Section 1254 of this title, all.” However, as Section 1256(f) is the provision that is being added that would relate to the prohibition on enjoining or preventing an FHLB from exercising or enforcing any right or cause of action related to collateral pledged or a security agreement, unless there has been fraud or misconduct, 1254 should be struck and replaced with 1256.

Third, the revisions that are being made to Sections 1256 and 1276 refer to the Commissioner in connection with an appointment as an administrator and acting as an administrator. However, the provisions in Chapter 51 of Title 22 of the Virgin Islands Code does not authorize the Commissioner to be appointed as an administrator. Accordingly, the Division proposes that the reference to administrator be struck from wherever it appears in Sections 1256 and 1276, and instead replaced with the word “receiver,” which would be consistent with the reference to receiver in Section 1261 of Title 22 of the Virgin Islands Code, where receiver is defined to mean “receiver, liquidator, rehabilitator or conservator as the context may require.”

Chair Frett-Gregory, Members of this Committee, and other Senators present, this concludes the Division’s testimony on **Bill No. 35-0026**. We thank you and the Members of the Committee on Budget, Appropriations, and Finance for the opportunity to appear before you. We are prepared to respond to your questions on this Bill.