

ACT NO. 8701

BILL NO. 35-0070

THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2023

An Act authorizing the Governor to utilize monies from public funds of the Virgin Islands to create working capital, to engage in a line of credit in the maximum amount of \$100,000,000 to provide for the disbursement of funds needed to advance disaster-related recovery projects that are reimbursable through federal funding and other disaster-related projects and provide funding to advance payment of the \$45,000,000 towards the buyout of the infrastructure agreement between the Virgin Islands Water and Power Authority and VITOL and the acquisition of the LPG facilities and to issue the Series 2023 Notes

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WHEREAS, the Virgin Islands is still slowly recovering from the devastating financial impacts of the two 2017 Category 5 Hurricanes, Irma and Maria, as well as Hurricane Dorian in 2019;

WHEREAS, damage to the Territory caused by Hurricanes Irma, Maria, and Dorian totaled a loss upwards of ten billion dollars;

WHEREAS, the Territory is currently rebuilding from all three devastating hurricanes while navigating the effects of Covid-19 on the community and the workforce;

WHEREAS, there continues to be significant damage to infrastructure, including schools, hospitals, government buildings, businesses, and homes of Virgin Islanders;

WHEREAS, the current financial resources of the Government of the Virgin Islands ("Government") are not sufficient to cover working capital necessary to begin disaster projects and other important financial obligations pending the receipt of federal grant funding;

WHEREAS, most of the rebuilding activities and initiatives will be underwritten with federal recovery money from two major sources, HUD's Community Development Block Grant-Disaster Relief and various public assistance funds from Federal Emergency Management Agency ("FEMA");

WHEREAS, the disbursement process for federal money is subject to oversight and compliance processes that may create delays in the release of funds to the Territory to pay expenses associated with disaster recovery related projects;

WHEREAS, and in addition, the use of the FEMA money is subject to a reimbursement process where the Virgin Islands will be required to utilize funds and submit proof of expenditures in order to drawdown the money;

WHEREAS, the Government of the Virgin Islands and the Virgin Islands Water and Power Authority ("WAPA") have limited access to investment-grade capital markets;

WHEREAS, the Government will require financial flexibility to assist WAPA with a buyout of its infrastructure agreement, and meet other existing or pending financial emergencies;

WHEREAS, any loan to be made must be taken from public funds and accounts of the Government of the Virgin Islands, but if these public funds and accounts are insufficient, then loans, notes or other evidence of indebtedness may be obtained from banks or other financial institutions or through public or private bond or note offerings;

WHEREAS, the Government needs to secure a line of credit to bridge payments until the federal funds are received and disbursed;

WHEREAS, the Legislature's grant of this financial flexibility to the executive branch is not unprecedented, as similar actions have been taken in prior years; and

WHEREAS, it is the intent of the Legislature that short-term borrowing under this act be used to address these issues and facilitate recovery projects; Now, Therefore,

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Authority to engage in a line of credit transaction and to issue revenue anticipation notes

(a) The Government of the Virgin Islands, acting through the Virgin Islands Public Finance Authority, may engage in a Line of Credit Transaction ("LOC") in fiscal year ("FY") 2023, in anticipation of the receipt of interest, taxes, rates, charges, and other local and federal revenues to be received, not inconsistent with section 8 of the Revised Organic Act of 1954 of the Virgin Islands, 48 U.S.C. §1574(b) (the "Series 2023 Notes"). The proceeds of the LOC issued pursuant to this act may be applied to disburse funds needed to advance disaster related recovery projects that are reimbursable through federal funding and other disaster related projects. These proceeds may also be applied to provide funding that advances payment of \$45,000,000 (45 million dollars) towards the buyout of the infrastructure agreement between the Virgin Islands Water and Power Authority and VITOL and the acquisition of the LPG facilities.

(b) Nothing in this section may be construed as authorizing any department or agency of the Government or the Virgin Islands Water and Power Authority to use funds to hire additional employees, enter into contractual agreements or to incur any obligation not authorized by FY 2023 appropriation acts for the general operation of the government.

(c) The maximum principal amount of the debts outstanding at any given time must not exceed \$100,000,000, plus the associated fees, charges, and carrying costs associated with the issuance of any such debt or required reserves. The interest on this debt must not exceed a maximum interest rate of 9%. The notes must mature no later than the last day of fiscal year, September 30, 2026.

SECTION 2. Payment of the LOC

(a) The LOC debt may be paid from the General Fund; however, the LOC debt may not be secured by a pledge of the full faith and credit of the Government of the Virgin Islands. The LOC debt may be paid from the following sources, or a combination of:

(1) "Interest Collections", consisting of interest earned on all deposits held to include investments in certificates of deposit, money market accounts, or any other interest-bearing accounts to be collected by the Government of the Virgin Islands;

(2) "Gross Receipts Tax Collections," consisting of Gross Receipts Taxes, including any penalties and interest charges, paid to the Virgin Islands Bureau of Internal Revenue for deposit into the General Fund of the Government, pursuant to 33 V.I.C. § 43 (the "Gross Receipts Tax"), exclusive of such sums already committed by the Government of the Virgin Islands excluding the tax collected during each fiscal year required to be deposited into the Moderate-Income Housing Fund, pursuant to 33 V.I.C. § 3027(a)(3);

(3) "Income Tax Collections," consisting of income tax revenues and proceeds paid into the Treasury of the Virgin Islands pursuant to Title 48, chapter 7, section 1397, of the United States Code; and

(4) Federal grant funds received for disaster related projects.

(b) If the Government of the Virgin Islands receives any stimulus appropriations from the federal government or any other federal funds, to the extent permitted by federal law, revenues, including interest accruing on these funds, must be used to repay the line of credit transaction.

SECTION 3. Conditions of the Authority to enter into the Line of Credit Transaction

(a) To the extent the LOC is used to advance funds for the buyout of WAPA's infrastructure agreement and WAPA's acquisition of the LPG facilities and to secure the return of investment to the Government of the Virgin Islands, the Government of the Virgin Islands shall engage the services of a utility turnaround management company as provided in section

6 of Act No. 8471 and within 60 days of enactment, provide an appraisal of the LPG facilities to the Legislature of the Virgin Islands.

(b) The V.I. Water and Power Authority shall not hire additional employees or enter into contractual agreements for administrative professional services prior to the engagement of the turnaround management company.

(c) The V.I. Water and Power Authority and the Government of the Virgin Islands shall submit a written status report to the Legislature on the last day of each calendar month on the status of the V.I. Water and Power Authority's subrecipient application to the U.S. Department of Housing and Urban Development until the federal funds are received and outstanding payments made to obtain the LPG facilities.

(d) Notwithstanding 3 V.I.C. § 177(b), relating to the annual audit of all government operations, upon the enactment of this act and until September 30, 2026, the Government of the Virgin Islands, acting through the Public Finance Authority shall maintain a detailed accounting report on all activities conducted with the proceeds of the line of credit including a description of the purpose for which the funds were used. The reports shall be submitted 10 days after the end of every 2nd and 4th quarter, beginning with the second quarter of calendar year 2023.

SECTION 4. Authority to negotiate, execute all agreements and pay expenses associated with the notes issued

The Government of the Virgin Islands, acting through the Virgin Islands Public Finance Authority may negotiate the final terms of any borrowing authorized by this act which may be procured pursuant to the terms of a multi-year credit facility;

(1) Execute and deliver all documents and agreements necessary or advisable in connection with any borrowing authorized herein; and

(2) Pay all expenses associated with the issuance of any notes issued or incurred under this act.

SECTION 5. Expiration of the Government's authority to borrow

The authority for the Government to enter into agreements under section 1, and the authority for the Governor to borrow monies secured by a pledge of Government funds pursuant to this act expires and all notes must mature on September 30, 2026.

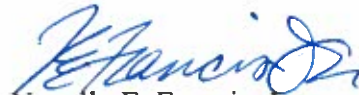
SECTION 6. Use of Local Banks


To the greatest extent possible, the Government of the Virgin Islands, acting through the Public Finance Authority, shall use banking institutions domiciled in the U.S. Virgin Islands to secure the line of credit transaction authorized under this act.

Thus passed by the Legislature of the Virgin Islands on April 14, 2023.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 18th Day of April, A.D., 2023.




Novelle E. Francis, Jr.
President


Carla J. Joseph
Secretary

Bill No. 35-0070 is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, This 20th day of April, 2023 A.D.




Albert Bryan Jr.
Governor