ACT NO. 9063

BILL NO. 36-0216

THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2025

An act amending title 29 Virgin Islands Code, chapter 23 to establish a wholly owned subsidiary of the Virgin Islands Public Finance Authority and require conditions for the issuance of tax-exempt bonds

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 29, Virgin Islands Code, chapter 23 is amended as follows:

1. In section 1303:

(a) strike subsection (l) and insert the following new subsection (l):

"(l) PFA means the Virgin Islands Public Finance Authority, itself or acting through the Virgin Islands Hotel Development Financing Corporation"; and

(b) add the following new subsection (r):

"(r) Virgin Islands Hotel Development Financing Corporation means a public corporation controlled by the Virgin Islands Public Finance Authority that shall have the same or similar rights and powers granted to the Virgin Islands Public Finance Authority under title 29 Virgin Islands Code, chapter 15 regarding the development, operation and financing of qualified hotels in the Virgin Islands except as limited by provisions of this chapter."

SECTION 2. Title 29 Virgin Islands Code, chapter 23 is amended by adding the following new section 1318:

"§1318. Virgin Islands Hotel Development Financing Corporation; purpose

"(a) The Virgin Islands Hotel Development Financing Corporation ("VIHDFC") is established as a subsidiary of the Virgin Islands Public Finance Authority for the specific purpose of overseeing the development, operation and financing of hotels in the United States Virgin Islands, and shall have the same or similar rights, powers, obligations and responsibilities of Virgin Islands Public Finance Authority as provided in title 29 Virgin Islands Code, chapter 15. The issuance of bonds shall not be a general obligation of the VIHDFC, the issuer or the Government of the U.S. Virgin Islands.

(b) Notwithstanding any other law, neither the Government of the Virgin Islands, the Virgin Islands Public Finance Authority, nor any of their officers, employees, or agents shall be liable for any debt, obligation, or liability incurred by the VIHDFC.

(c) Bonds, notes, or other evidences of indebtedness issued by the VIHDFC pursuant to this act shall not constitute a debt of the Government of the Virgin Islands, nor a pledge of the full faith and credit of the Government of the Virgin Islands.

(d) Authority to Issue Bonds for 501(c)(3) Organizations. The VIHDFC may issue tax-exempt or taxable revenue bonds, notes, or other obligations as a conduit issuer on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code ("Qualified Nonprofit"), for the purpose of financing, refinancing, or reimbursing the costs of capital projects, facilities, equipment, operating and debt service reserves, or other eligible expenditures undertaken by the Qualified Nonprofit.

(e) Public Purpose Determination. The VIHDFC shall ensure that:

1. The Qualified Nonprofit is duly organized and recognized under Section 501(c)(3) of the Internal Revenue Code;

2. The project serves a charitable, educational, health, cultural, or other public purpose;

3. The financing complies with federal tax law governing 501(c)(3) conduit bonds; and

4. The issuance does not expose the Government to financial risk.

(f) No Pledge of Government Credit. All bonds issued under this section shall be special, limited obligations of the VIHDFC. The full faith and credit of the Government of the Virgin Islands shall not be pledged, and the Government shall have no financial obligation or liability whatsoever with respect to repayment of the bonds.

(g) Payment Solely from Revenues of the 501(c)(3) Borrower. Bonds issued under this section shall be payable solely from loan repayments, revenues, lease payments, or other security provided by the Qualified Nonprofit.

SECTION 3. Title 29 Virgin Islands Code, chapter 23 is amended by adding the following new section 1319:

"§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;

(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.

SECTION 3. Title 29 Virgin Islands Code, chapter 23 is amended by adding the following new section 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.

Thus passed by the Legislature of the Virgin Islands on November 19, 2025.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 20th day of November, A.D., 2025.

Milton E. Potter
President

Avery L. Lewis
Secretary

Bill No. 36- 0216 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 November, 2025 A.D.

Albert Bryan Jr.
Governor