

COMMITTEE ON ECONOMIC DEVELOPMENT
AND AGRICULTURE

03/23/2022-AMENDED AND REPORTED OUT TO THE FLOOR
03/15/2022-REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY
03/14/2022-REASSIGNED TO THE COMMITTEE ON FINANCE

BILL NO. 34-0204

Thirty-Fourth Legislature of the Virgin Islands

March 4, 2022

An Act amending the Virgin Islands Code title 22, chapter 58, relating to self-insurance and title 29, chapter 10, section 543, relating to the powers of the Virgin Islands Port Authority, to authorize the Virgin Islands Port Authority to establish a self-insurance program to cover and manage certain risks

PROPOSED BY: Senator Kurt A. Violet

1 **WHEREAS**, the Virgin Islands Port Authority is an instrumentality of the Government
2 of the Virgin Islands established in title 29, chapter 10 of the Virgin Islands Code;

3 **WHEREAS**, the Virgin Islands Port Authority is charged with the responsibility to
4 acquire, construct, develop and improve, own, operate and manage any and all types of air and
5 marine terminals; to control the harbors of the Virgin Islands other than controlling the mooring
6 and anchoring of vessels as defined in title 25, chapter 16, Virgin Islands Code; and to make
7 available the benefits thereof in the widest economic manner, thereby promoting the general
8 welfare and increasing commerce and prosperity;

9 **WHEREAS**, the Virgin Islands Port Authority has considerable assets throughout the
10 Virgin Islands including considerable facilities operated as airports and seaports;

1 **WHEREAS**, the Virgin Islands Port Authority has experienced increasing insurance
2 premiums and relatively low claim experience in the areas of third-party personal injury and
3 property damage claims; and

4 **WHEREAS**, the Virgin Islands Port Authority can attain cost savings by establishing a
5 self-insurance program to cover certain of its risks, such as third-party claims, with minimal
6 exposure; and

7 **WHEREAS**, it is the intent of this act to establish a self-insurance program for the Virgin
8 Islands Port Authority under title 29 V.I.C., chapter 10; Now Therefore,

9 ***Be it enacted by the Legislature of the Virgin Islands:***

10 **SECTION 1.** Title 29 Virgin Islands Code, chapter 10 is amended in the following
11 instances:

12 (a) Section 543 is amended by adding a paragraph (19) that reads as follows:

13 “(19) to establish a self-insurance program that insures risks for its marine, aviation
14 and commercial assets. The authority to establish a self-insurance program must be
15 liberally construed to grant the Port Authority maximum flexibility in self-insuring to the
16 extent the self-insurance program is operated in a safe and sound manner.”

17 (b) Section 543a is added and reads as follows:

18 “**§ 543a. Self-insurance program**

19 (a) **Definitions.** Unless the context clearly requires otherwise, as used in this
20 subchapter, the term:

21 (1) “Agency” or “Port Authority” means the Virgin Islands Port Authority.

22 (2) “Program Administrator” means the Chief Executive Officer or designee of
23 the Virgin Islands Port Authority.

1 (3) “Self-insurance program” means a formal program of advance funding and
2 management of the Virgin Islands Port Authority’s financial exposure to a risk of loss
3 that is not transferred through the purchase of an insurance policy or contract.

4 **(b) Insurable assets**

5 (1) The self-insurance program must write insurance only for the Port Authority,
6 as an insured, in regards to those insurable risks or portions of those insurable risks that
7 the Port Authority, in its discretion, considers appropriate and in the best interest of the
8 Port Authority; however, the Port Authority may not self-insure the first party property
9 aspects of its real property assets and the improvements thereon or employee medical,
10 life, and health program.

11 (2) The Port Authority’s self-insurance program may cover the following
12 categories:

- 13 (A) its general liability risk in whole or in part;
- 14 (B) its motor vehicle liability risk in whole or in part;
- 15 (C) its third-party injuries; and;
- 16 (D) any other risk that is not excluded by this section.

17 **(c) Management.** The Governing Board of the Port Authority has general oversight
18 over the self-insurance program. The Governing administrative shall delegate the
19 administrative responsibilities of the self-insurance program to the Program Administrator of
20 the Virgin Islands Port Authority. The Governing Board may adopt such bylaws, rules, and
21 regulations as may be necessary or desirable in administering the self-insurance program.

22 **(d) Maintenance of self-insurance program**

23 The agency shall meet the following requirements as a condition of maintaining the
24 self-insurance program:

1 (1) Maintenance of competent and trustworthy persons to service the program.
2 Written notice shall be provided to the Program Administrator before changing the fund's
3 method of fulfilling its servicing requirements;

4 (2) Maintenance of a risk management program;

5 (3) Maintenance of a deposit of cash or securities in the amount of \$300,000 in
6 the first year and \$200,000 every year thereafter to a restricted account or a surety bond
7 in lieu thereof until a threshold of \$600,000 is met;

8 (4) Maintenance of excess insurance in accordance with sound actuarial
9 principles; and

10 (5) Maintenance of appropriate funded loss reserves determined in accordance
11 with sound actuarial principles to the Program administrator.

12 **BILL SUMMARY**

13 This bill amends titles 22 and 29 of the Virgin Islands Code granting the Virgin Islands
14 Port Authority the power to establish a self -insurance program to cover and manage certain
15 risk. The bill also amends the Port Authority's enabling law to authorize it to establish a self-
16 insurance program.

17 **BR21-0136/ February 4, 2022/YLT**

18 [..\..\..\AMENDS\34th Legislature\KURT A. VIALET\Amend 34-497\34-497-DRAFTED](#)

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