

ACT NO. 8565

BILL NO. 34-0204

THIRTY-FOURTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2022

An Act amending the Virgin Islands Code, 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

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

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

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

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

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

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

Be it enacted by the Legislature of the Virgin Islands:

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

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

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

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

“§ 543a. Self-insurance program

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

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

(b) **Insurable assets**

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

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

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

(c) **Management.** The Governing Board of the Port Authority has general oversight over the self-insurance program. The Governing Board shall delegate the administrative responsibilities of the self-insurance program to the Program Administrator of the Virgin

Islands Port Authority. The Governing Board may adopt such bylaws, rules, and regulations as may be necessary or desirable in administering the self-insurance program.

(d) Maintenance of self-insurance program

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

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

(2) Maintenance of a risk management program;

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

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

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

Thus passed by the Legislature of the Virgin Islands on March 24, 2022.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 30th Day of March, A.D., 2022.




Donna A. Fretz-Gregory
President


Genevieve R. Whitaker
Secretary



Bill No. 34-0204 is hereby approved.

**Witness my hand and the Seal of the Government of
the United States Virgin Islands at Charlotte Amalie,
St. Thomas, This 13th day of April, 2022 A.D.**

A handwritten signature in blue ink, appearing to read "Albert Bryan Jr.", written over a horizontal line.

**Albert Bryan Jr.
Governor**