

# ACT NO. 6984

BILL NO. 27-0131

## TWENTY-SEVENTH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2007

An Act providing for the establishment of the Retroactive Wage Commission, a letter of credit to use \$45,000,000 from the Insurance Guaranty Fund to execute the retroactive payments for all Government Employees and retirees owed; and making a \$500,000 appropriation to the Retroactive Wage Commission; amending Act No. 5826 §8 relating to the contribution to the General Fund by the West Indian Company; and providing for other purposes

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

**SECTION 1.** (a) The Governor of the Virgin Islands, within sixty days after the enactment of this Act, shall establish under the Office of the Governor The Retroactive Wage Commission, consisting of accountants, persons with expertise in Notice of Personnel Action procedures and human resources to work exclusively with the compilation, calculation and preparation of Notices of Personnel Action in conjunction with all the departments for government employees and retirees who are owed retroactive wages. The seventy-five day per year work limitation established in 3 V.I.C, §706 (c) does not apply to a government retiree who is employed to serve on or to assist the Commission.

(b) The Director of the Division of Personnel shall serve as the chairperson of the Commission"; and

(c) The Commission shall remain in existence until all retroactive wages owed on the date of enactment of this Act are paid, unless further action is taken by the Legislature to extend its operation.

(d) In addition to any other duties assigned by the Governor or by law, the Commission shall:

- (1) select officers that are necessary to execute its functions;
- (2) enter into contracts consistent with the mandates of this Act;

- (3) prepare a budget for the operation of the Commission;
- (4) investigate all retroactive wages due to government employees and retirees;
- (5) compile a listing of all government employees and retirees that are due retroactive wages and provide the Governor and the Legislature with a copy of the list;
- (6) provide for a schedule of distribution based on a formula established by the Commission and approved by the Governor;
- (7) assist with the document preparation by the various departments for payment;
- (8) submit a quarterly status report to the Legislature; and
- (9) do all those things necessary to carry out the mandates of the office.

**SECTION 2.** (a) Sixty days after enactment of this Act, the Public Finance Authority shall issue a request for proposals in a newspaper of general circulation for a letter of credit from a federally insured lending institution for \$45,000,000. No monies from the Insurance Guaranty Fund may be used until the fund balance is restored to \$50,000,000, except to pay claims and expenses in the ordinary course of business of the Insurance Guaranty Association. Any funds drawn under the letter of credit shall constitute a loan by the lending institution to be repaid by the Government in accordance with the terms of the letter of credit and this Act.

(b) (1) The Virgin Islands Public Finance Authority shall negotiate, pursuant to appropriate competitive selection procedures, with a federally insured lending institution with a rated investment grade or higher which has the capacity for the issuance of a \$45,000,000 irrevocable letter of credit.

(A) The letter of credit must be used as a substitute funding source and a source of credit to provide financial liquidity for payments by the Virgin Islands Insurance Guaranty Fund when funds are needed to fulfill the purpose of Chapter 10 of Title 22 of the Virgin Islands Code.

(B) The letter of credit must remain in place until the balance in the Insurance Guaranty Fund is returned to the statutory limit established in 33 V.I.C., § 3061.

(2) The documentation for the letter of credit must be satisfactory to Commissioner of Insurance.

(c) The Commissioner of Insurance and the Commissioner of Finance, upon receipt of the letter of credit on behalf of the Insurance Guaranty Fund, may notwithstanding 33 V.I.C. 3061 (c) and (d), transfer from the Guaranty Fund no more than \$45,000,000 to the General Fund to fund a portion of retroactive payments for Government employees and retirees.

(d) (1) The letter of credit must require presentation to the issuer of no document other than a written demand by the Board, acting through the Commissioner, for the advance of a specific amount under the letter of credit.

(2) The Commissioner of Insurance shall draw against the letter of credit whenever the Board requests a transfer of funds to pay obligations of insolvent insurers under Chapter 10 of Title 22 of the Virgin Islands Code or when the Board determines that sufficient funds are not available or on deposit in the Insurance Guaranty Fund to satisfy pending or anticipated covered claims.

(e) The Virgin Islands Public Finance Authority shall bear the costs of consultant engagements, attorney fees and any other costs associated with obtaining the letter of credit and structuring related collateral, loan or Government of the Virgin Islands guaranty documentation.

(f) The Insurance Guaranty Fund must continue to be funded after issuance of the letter of credit from gross premium taxes pursuant to 22 V.I.C., §§603 (d)(2) and 662, 33 V.I.C., §3061 and other applicable law. Once the Guaranty Fund is restored to \$50,000,000, the letter of credit must be cancelled.

(g) During the pendency of the letter of credit no member insurer of the Insurance Guaranty Association may be assessed under Title 22, Chapter 10, §237 (a) (3) of the Virgin Islands Code, until funds in the Insurance Guaranty Fund have been exhausted and a total of \$50,000,000 has been paid from the Insurance Guaranty Fund or from advances under the letter of credit.

**SECTION 3.** (a) Notwithstanding title 33 Virgin Islands Code §3066 (b), the sum of \$500,000 is appropriated from the Union Arbitration Award and Government Employees Increment Fund in the fiscal year ending September 30, 2008, to the Office of the governor for the Retroactive Wage Commission established under section 1 of this Act, for personnel, office space, equipment, travel and other necessary expenses incurred in setting up the commission and the headquarters of the Commission.

**SECTION 4.** The sum appropriated in section 3 remains available until expended.

**SECTION 5.** (a) Act No. 5826 Section 8 subsection (b), as amended by Act No. 6585, section 5, is amended by striking "\$1,000,000" and inserting "ten percent of its annual, net revenues, or \$700,000, whichever is greater".

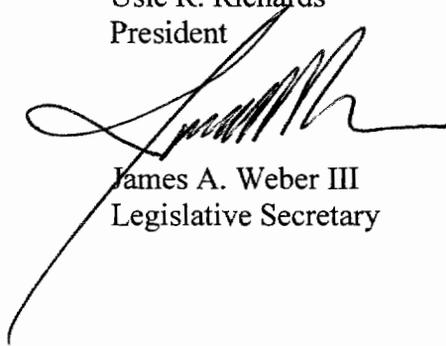
(b) The \$700,000 realized under subsection (a) must be used to obtain a letter of credit and any remaining monies must go be covered into the General Fund.

Thus passed by the Legislature of the Virgin Islands on December 6, 2007.

Witnessed our Hands and Seal of the Legislature of the Virgin Islands this 17<sup>th</sup> Day of December, A.D., 2007.



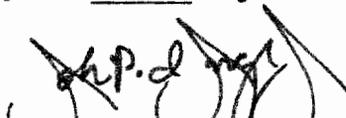
  
Usie R. Richards  
President

  
James A. Weber III  
Legislative Secretary



Bill No. 27-0131 is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 22<sup>nd</sup> day of December, A.D., 2007

  
John P. de Jongh, Jr.,  
Governor