

The Virgin Islands Consortium

Mapp Approves \$500 Million Federal Loan Bill That Comes With Covenant-Breaking Stipulation

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Governor Kenneth Mapp said on Thursday in a transmittal letter to Senate President Myron Jackson that he has approved the community disaster loan bill, called a CDL, which provides \$500 million to the local government in low-interest loans from the federal government over the course of three fiscal years.

The governor took a swipe at senators for including amendments in the measure aimed at providing operational funds to the legislative and judicial branches of government, as well as the Government Employees' Retirement System. Mr. Mapp said those actions run contrary to authorized use of the funds, and was therefore forced to line-item veto the amendments. "The loan is not a new 'wad' of cash to be appropriated to others as if they

were forgotten at a banquet,” Mr. Mapp wrote. “Yes, it will cover some costs in our fiscal year 2018 budget, but limited to authorized use of the loan proceeds as provided for in federal law. We have assured the federal government that we recognize that a number of the Legislature’s amendments run contrary to authorized uses of the CDL proceeds and I’m telling you we will not provide for them.”

The governor, however, did not address the more daunting issues that may be caused by the approval of the CDL.

The U.S. Treasury decided that as part of the agreement to release the first \$300 million, it would not accept a subordinate lien. A subordinate lien is any secondary lien that is placed on a property, the property in the territory’s case being Matching Fund Revenue (MFR) and Gross Receipt Tax (GRT) bonds. In basic terms, a subordinate lien is any lien that has less of a payment priority than liens that have already been placed. It would be like having a first and second mortgage.

With the measure now approved by the governor, it remains to be seen what will happen. Will the bondholders sue? [Just last year](#), the VI government passed a measure placing a lien on the territory’s MFR bonds to ascertain that bondholders are paid first — no matter what financial constraints the U.S. Virgin Islands may face. And what will the bond market think of the government relative to keeping its covenants? Mr. Mapp’s approval could be translated by bondholders — as have been the recent opinion of the major U.S. ratings firms — that the Government of the Virgin Islands, once placed in a difficult financial position, could renege on its obligations.

The government has pledged and assigned matching fund revenues to the trustee for the benefit of bondholders, establishing a security interest in the revenues. The statutes are written to create a statutory lien on the revenues,” [Moody’s said in January](#). “We note, however, that these security provisions have not been tested in a stress scenario where the government faces a severe lack of funds to provide basic services and we believe they do not protect bondholders.”

While approval of the federal disaster loan with the priority payment stipulation does not necessarily mean the G.V.I. will cease making payments to its current debtors, it conveys that payment to the federal government would take precedence over the current debtors — and that, in the long run, could spell trouble for bondholders if funds become limited.

A [recently published Consortium article](#) concentrated on the sudden volatility that the MFR bonds could face if reductions in taxes that are included in the U.S. Senate’s version of the Republicans’ \$1.5 trillion tax cut measure, survives the House and is signed into law.

Every year, over \$200 million in rum taxes from Captain Morgan Distillery (Diageo) and Cruzan Rum Distillery is remitted to the G.V.I. The majority of the funds, however, never arrive in the coffers of the local government. Instead, the funds are transferred directly to the bondholders, leaving the territory with a fraction of the total sum.

Spirits are currently taxed at \$13.50 per gallon. The U.S. Senate proposal calls for lowering it to \$2.70 per gallon for the first 100,000 gallons produced or imported by the industry.

While it is unclear how much the USVI would lose if the law were to pass with the Senate line item, it puts on unstable ground the USVI's most dependable source of income to pay bondholders. And with the federal government now seeking priority payment over current bondholders, the possibility of the government being unable to meet its covenants, though it has never occurred in the past, becomes a real possibility.

Senators were left feeling helpless during a session on December 1 relative to the federal government's stipulation that it be paid first. Some even drew comparison with colonialism. "That money, I take it, but you gonna get killed for it tomorrow," said Senator Brian Smith.

But with no other alternative to keep the government afloat, and with Mr. Mapp signing \$100 million worth of contracts during a Public Finance Authority (PFA) meeting on Thursday, based on the expectation that the \$300 million drawdown would be approved, lawmakers grudgingly passed the measure.

"At the end of the day, you have to put bread on the table; this is the critical hour," Senator Myron Jackson told The Consortium the morning before the vote, even as he held on to his belief that the federal government had dug a trench for the USVI. "It's like they dig a hole and you got to jump in it. It's not even a hole; they put us in a trench," he said.