

OVERRIDDEN

DATE: 06/18/2014

ACT NO. 7632
BILL NO. 30-0302

VETOED
MAY 16 2014
GOVERNOR

THIRTIETH LEGISLATURE OF THE VIRGIN ISLANDS

Regular Session

2014

An Act amending the Virgin Islands Code, title 29, chapter 14 to rename the Government Development Bank as the Economic Development Bank; and amending title 11, chapter 23 to merge the Government Development Bank and the Small Business Development Agency and amending Virgin Islands Code, title 17, chapters 34 and 43 and title 29, chapter 12 relating to Electronic Commerce Businesses and the Research and Technology Park

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Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 29, Virgin Islands Code chapter 14, section 901(a) is hereby amended by deleting "The Government Development Bank for the United States Virgin Islands" and replacing with "The Economic Development Bank for the United States Virgin Islands."

SECTION 2. Wherever it appears in the Virgin Islands Code, the "Government Development Bank" established in title 29 Virgin Islands, section 901, shall be renamed, replaced with and shall be referred to as the "Economic Development Bank".

SECTION 3. Title 29 Virgin Islands Code, chapter 14 is amended in the following instances:

"(a) Section 902 is deleted in its entirety and replaced with the following:

"§902. Charter

The Charter of the Bank shall be as follows:

CHARTER

First: The existence of the Bank shall be perpetual.

Second: The principal office of the Bank shall be at St. Thomas, Virgin Islands, and no less than one branch on St. Croix.

Third: The purpose for which the Bank has been formed is to accelerate the Economic Development of the United States Virgin Islands by providing technical, managerial and

financial assistance to industrial and commercial enterprises where such funds are to be used for the following governmental purposes:

(A) To provide financial resources, including but not limited to loan guarantees, medium and long term credit, and equity infusions to small, minority, medium and large business located in the United States Virgin Islands to assist these businesses maintain economic stability and to help these entities grow into mainstream commercial banking customers;

(B) To provide financial resources, including but not limited to loan guarantees, letter of credit and stand-by letters of credit guarantees, medium and long term credit to maintain the economic stability of small, medium and large businesses located in the United States Virgin Islands;

(C) To provide technical and managerial assistance and assist companies that require a performance bond, bid bond, or payment bond to ensure that the continued viability of these businesses;

(D) To actively monitor the performance and compliance and to provide technical and managerial assistance to ensure the continued viability and growth of these businesses;

(E) To encourage large corporate investments, facilitate employment growth opportunities and promote the location of financial services within the United States Virgin Islands;

(F) To compile financial, economic, statistical and other related data on the banking industry in the United States Virgin Islands, and to disseminate this information;

(G) To invest its funds in readily marketable securities; or other such instruments;

(H) To borrow money and contract debts for its corporate purposes upon such terms and conditions as the Bank may from time to time determine, with or without security; to dispose of its obligations evidencing such borrowing; to make, execute and deliver trust indentures and other agreements with respect to any such borrowing, contracting of debt, issuance of bonds, including industrial development bonds, notes, debentures or other obligations; and by the authority of the Government of the United States Virgin Islands, which is hereby granted, to issue its bonds, notes, debentures or other obligations in such form secured in such manner and subject to terms of redemption with or without premiums, and to sell the same at public or private sale at such price or prices, all as may be determined by its Board of Directors;

(I) To serve as fiscal agent or broker for United States Virgin Islands' enterprises seeking to qualify for grants, loans or any other form of financial or other

assistance for the Federal Government or any of its departments, agencies or instrumentalities;

(J) To exercise all incidental powers as may be necessary to facilitate the purposes of the Bank and the Small Business Development Agency;

(K) It will be the policy of the Bank to sell its papers, notes, instruments, mortgages, bonds, debentures or equity share purchased by the Bank as soon as it seems warranted by the Board of Directors in order to free funds for further economic development projects. The Board of Directors shall determine the length of time upon to which equity shares may be held. It shall also be the policy of the Bank to encourage and enter into joint financing with other GDB/SBDAs chartered or doing business under the Laws of the Virgin Islands and any other states of the United States.

(L) It will be the policy of the Bank to sell its papers, notes, instruments, mortgages, bonds, debentures or equity shares purchased by the Bank as soon as it seems warranted by the Board of Directors in order to free funds for further economic development projects. The Board of Directors shall determine the length of time upon which equity shares may be held. It shall also be the policy of the Bank to encourage and enter into joint financing with other Banks chartered or doing business under the Laws of the United States Virgin Islands and any of the United States.

(M) The Bank Board shall administer the Small Business Incubator Program established in Title 11 Virgin Islands Code, chapter 23, subchapter II and may promulgate rules and regulations and exercise all powers necessary to carry out the purposes of the of the Program.

Fourth: The Bank shall have the following powers:

(A) To have a common seal and to alter the same from time to time;

(B) To acquire property for its corporate purposes by grant, gift, purchase, device or bequest, and to hold and to exercise the rights of ownership of and to dispose of the same;

(C) To acquire any property in settlement or reduction of debts previously made in the course of its business where such acquisition is necessary to minimize or avoid loss in connection therewith, to hold, deal with, complete, improve, insure, rent, and/or sell for cash or credit upon such terms, conditions and consider for such terms, conditions and consider for such periods and terms as the Board of Directors may deem advisable, to exercise the rights of ownership of and to dispose of the same;

(D) To establish one or more branches, offices or agencies necessary or convenient for the transaction of its business within or without the United States Virgin Islands;

(E) To purchase, hold, lease, mortgage and convey real property as follows:
(1) a plot whereon there is or may be erected a building suitable for the transaction of its business, from portions of which not required for its own use a revenue may be derived;
(2) such real estate as may be conveyed to it in settlement or reduction of debts previously contracted or in exchange for investments previously made in the course of its business; and

(3) such as it shall purchase or otherwise acquire at sale under judgments, decrees or mortgages held by it; provided, however, that the Board of Directors shall determine the time period within that real property purchased or acquired may be sold, except as maybe used for the business and transaction of its business.

(F) To sue and be sued;

(G) To appoint, employ and contract for the services of officers, agents and employees and professional assistants and to pay such compensation for their services as the Bank may determine; and to fix and pay Director's fees;

(H) To exercise such other corporate powers, not inconsistent herewith, as are conferred upon corporations by the laws of the United States Virgin Islands and to exercise all powers within and without the United States Virgin Islands to the same extent as natural persons might or could do;

(I) To be exempt from the statute of limitation laws as stated in Virgin Islands Code, title 5, chapter 3, section 31. The Bank and/or the Small Business Development Agency may bring an action for the default at any time;

(J) To administer the Small Business Incubator Program established in Title 11 Virgin Islands Code, chapter 23, subchapter II and may promulgate rules and regulations and exercise all powers necessary to carry out the purpose of the Program.

Fifth: The affairs of the Bank and the Small Business Development Agency shall be managed and its corporate powers exercised by the Governing Board of the Economic Development Authority.

Sixth: The Board of Directors, by the affirmative vote of a majority of the whole Board, may adopt, add to, amend, alter or repeal By-Laws of the Bank, not inconsistent with law, providing for the management of the business of the Bank, the regulation of its affairs, the organization, conduct and meetings of the Board of Directors, notice of meeting of the Board of Directors and waivers of notice, the appointment of committees of the Board of Directors and the power of such committees, the number, titles, qualifications, terms, election or appointment, removal and duties of officers, the form of the seal of the Bank, and the preparation and submission to the Governor, Legislature and the Bank Board of annual and other reports; and provided, however, that the By-Laws shall not be added to, amended or altered, nor shall any By-Laws be repealed at any meeting of the Board of Directors unless notice of the proposed

addition, amendment, alternation or repeal shall have been delivered or mail to each director at least one week before such meeting.

Seventh: The Bank shall not make any loans to its directors, or to any privately-owned enterprise in which one or more of the directors, or officers, agents or employees own any stock or equitable interest in excess of 25% therein. The Bank shall not make any loans guaranteed by a director, officer, agent or employee, except in each case with the unanimous approval of all the directors, exclusive of any interested director or directors, present at any meeting of the Board of Directors attended by at least 75% of the full Board, exclusive of any interested director or directors shall be excused during consideration and voting with regard to such loans.

Eighth: The Bank shall assign or sell at public or private sale, or otherwise dispose of for cash or credit, in its discretion and upon such terms and conditions and for such consideration as the Director shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by the Bank in connection with the payment of loans granted under this chapter, and to collect or compromise all obligations assigned to or be held by the Bank and all legal or equitable rights accruing to him in connection with the payment of such loans until such time as such obligations may be referred for suit or collection; provided, that any such compromise shall be subject to prior approval of the Board of Directors.

Ninth: Loans procured from the Bank or the Small Business Development Agency are not subject to the statute of limitations as stated in Virgin Islands Code, title 5, chapter 3 §31. The Economic Development Bank or the Small Business Development Agency may bring an action for default against a Loan recipient at any time; as per the rules of civil procedure and the agreement between the parties.

Tenth: The Economic Development Bank shall pursue to final collection, by way of compromise or otherwise, all claims against third parties assigned to the Economic Development Bank in connection with loans made by the Agency; provided, compromise shall be subject to such policy as set by the Board of Directors from time to time; this shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Economic Development Bank. The power to convey and to execute in the name of the Economic Development Bank deeds of conveyance, deeds of release, assignments and satisfaction of mortgages, and any other written instrument relating to real property or any interest therein acquired by the Economic Development Bank pursuant to the provisions of this chapter may be exercised by the Director or by any officer or agent appointed by him with an express delegation of power of attorney.

Eleventh: The Economic Development Bank shall take any and all action necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this chapter or Title 11 V.I.C., chapter 23; not withstanding any law to the contrary may require collateral and/or insurance; provided that no loan shall be compromised, modified or liquidated without the prior approval of the Board of Directors.

Twelfth: Out of the net income resulting at the end of the business year, such amount shall be added to the reserve account of the Economic Development Bank as the Board of Directors may consider necessary or pertinent; and the balance of such income may, in whole or in part, be added to the surplus account of the Economic Development Bank or remain in an unassigned income account, as the Board of Directors may determine. From time to time the Board of Directors may in its discretion make transfers from the reserve account and from the surplus account to the capital account of the Bank.

Thirteenth: The Board of Director, while acting within the scope of the authority as directors or officers, shall not be subject to any personal or civil liability resulting from the exercise of any Bank's or Small Business Development Agency's purposes, duties and responsibilities, unless the conduct of the members is determined by a court of competent jurisdiction to constitute willful wrongdoing or gross negligence.

(b) Section 915a (a) is amended by adding "appointed by the Board of Directors" after "five members" and deleting "to include (1) the Director of the Small Business Development Agency, (2) the President/Chief Executive Officer of the Government Development Bank, (3) the Director of the Bureau of Internal Revenue.

SECTION 4. Title 17 Virgin Islands Code, chapter 34, subchapter I, section 482 is amended in the following instances:

(1) Subsection (e) is amended by striking the language in its entirety and inserting new language that reads as follows:

'Electronic Commerce' or 'e-Commerce' means transacting or facilitating business or providing the means to transact or facilitate business on a communications network including, but not limited to the Internet. 'Electronic Commerce Business' or 'e-Commerce Business' means any business whose revenues derive primarily from intellectual property, collaboration services, applications, or transactions that leverage communications networks or utilization of communications networks is central rather than incidental to the business. The term includes, by way of example only, any business that provides one or more of the following services: on-line marketing; reputation management; web hosting; medical and other record or data storage and processing; social media; on-line travel, on-line registration products or services; on-line subscription services; GPS tracking technology; mobile applications; on-line game; digitally delivered newsletters; banner ads or text ad marketing; software as service; enhanced call routing; call reporting and IVR service; telecommunications advocacy and business management and consulting services where any of the clients of the management and consulting services are e-commerce or Electronic Commerce Businesses".

(2) Subsection (j) is amended at the end of the subsection by adding the following:

"The term includes all lease, contract, access or license rights acquired by or utilized by the Park or the Protected Cell Corporation or the Park's strategic partners in and to data processors, servers and similar electronic systems, broadband access rights, telecommunications services and facilities, data transfer lines or radio equipment and the like, which constitute the data cloud of the Park and Tenants accessing or otherwise utilizing the Park cloud principally

from the Virgin Islands shall be considered to be operating and residing in the Park for all purposes”.

(3) An appropriately designated subsection is added alphabetically that reads as follows:

“() Existing Business’ means any entity that was obligated to obtain a business license in the Virgin Islands for at least one year prior to application and was obligated to file Virgin Islands gross receipts tax returns, including any new entity formed by, or an affiliate of, an Existing Business. For the purposes of this section, ‘affiliate’ means an entity that is controlled by, controlling or under common control by another Existing Business”.

SECTION 5. Title 17 Virgin Islands Code chapter 34, subchapter II is amended in section 490E after “application by inserting “for tenancy for an Existing Business”.

SECTION 6. Title 17 Virgin Islands Code chapter 43, section 806A is amended after the phrase, “recommending that” by inserting “a plan of operation for an Existing Business or”.

SECTION 7. Title 29 Virgin Islands Code, chapter 12, subchapter I, section 716 is amended by adding subsection (c) to read as follows:

“(c) If an applicant under this section is an Electronic Commerce Business or e-Commerce Business or Knowledge-Based Business as defined in 17 V.I.C. §482, the Director shall promptly, but no later than 10 days after receipt of the application, refer the applicant and application to the University of the Virgin Islands Research and Technology Park for consideration as a tenant and title 17 benefit recipient. If the Board of Directors denies benefits to the applicant, the Board shall no later than 10 days refer the application back to the EDA for consideration of granting Economic Development Benefits. The EDA and RT Park may promulgate joint regulations to implement this section.”

Thus passed by the Legislature of the Virgin Islands on April 24, 2014.

Witness our Hands and Seal of the Legislature of the Virgin Islands this 29th Day of April, A.D., 2014.



Handwritten signature of Shawn-Michael Malone in black ink.

Shawn-Michael Malone
President

Handwritten signature of Janette Millin Young in black ink.

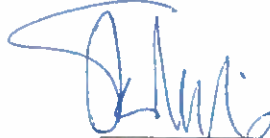
Janette Millin Young
Legislative Secretary

LEGISLATURE OF THE VIRGIN ISLANDS

**CERTIFICATE OF ENACTMENT
NOTWITHSTANDING THE GOVERNOR'S VETO**

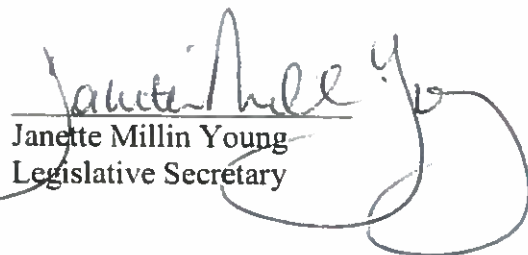
THIS IS TO CERTIFY THAT, Bill No. 30-0302-An Act amending the Virgin Islands Code, title 29, chapter 14 to rename the Government Development Bank as the Economic Development Bank; and amending title 11, chapter 23 to merge the Government Development Bank and the Small Business Development Agency and amending Virgin Islands Code, title 17, chapters 34 and 43 and title 29, chapter 12 relating to Electronic Commerce Businesses and the Research and Technology Park enacted by the Thirtieth Legislature at its regular session held on April 24, 2014, (a copy of which is attached hereto) and vetoed by the Governor on May 16, 2014, was duly enacted, by override, by the Thirtieth Legislature at its regular session on June 18, 2014, pursuant to section 9(d) of the Revised Organic Act of the Virgin Islands, 48 U.S.C. §1575 (d), notwithstanding the Governor's veto and has become law.

DATED: _____



Shawn-Michael Malone
President

ATTEST:



Janette Millin Young
Legislative Secretary

