

05/27/2021-REPORTED OUT TO THE FLOOR

05/13/2021-AMENDED AND REPORTED OUT TO THE COMMITTEE ON RULES AND JUDICIARY

BILL NO. 34-0058

Thirty-Fourth Legislature of the Virgin Islands

May 3, 2021

An Act amending title 17 Virgin Islands Code, chapter 34 by adding a subchapter III to establish the Virgin Islands Catalyst Fund to provide loans to eligible entities to promote economic resiliency, and to support the retention or creation of jobs, to provide for the University of the Virgin Islands Research and Technology Park Corporation to administer the program and the fund, and to provide criteria for making loans; and making \$5,000,000 appropriation the Virgin Islands Catalyst Fund and a \$1,000,000 appropriation to the Economic Development Authority Enterprise Zone Program

PROPOSED BY: Senators Novelle E. Francis, Jr., Kurt A. Vialet and
Franklin D. Johnson
Co-sponsor: Senator Samuel Carrión

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

2 **SECTION 1.** This subchapter is known and may be cited as The VI Catalyst Revolving
3 Loan Fund Act of 2021.

4 **SECTION 2.** Title 17 Virgin Islands Code chapter 34 is amended by adding a
5 subchapter III to read as follows:

6 **“Subchapter III. VI Catalyst Loan Fund**

7 **§ 490F. Definitions**

8 The following words and phrases when used in this subchapter have the meanings given
9 to them in this section unless the context clearly indicates otherwise:

1 (a) “Catalyst Project” means a private economic development project created by
2 the combined efforts of the public sector and private sector which includes the rehabilitation,
3 renovation, construction, or other improvement of any building or structure within the Virgin
4 Islands; purchase of furniture, fixtures, or equipment; acquisition of land and building; or
5 financing the general needs of any eligible entity for operations or activities within the Virgin
6 Islands that are consistent with, and intended to further the Virgin Islands economic goals,
7 contribute to its socioeconomic development, accelerate job creation, and improve the welfare
8 and quality of life of the people of this Territory.

9 (b) “Corporation” means the University of the Virgin Islands Research and
10 Technology Park Corporation.

11 (c) “Eligible entity” means a Qualified Business that: (1) is an existing or new-to-
12 market enterprise located in the Virgin Islands:

13 (2) has a Virgin Islands business license.

14 (3) has been in operation for more than 18 months or admitted in the RT
15 Park or Economic Development Commission tax-exemption programs.

16 (4) is in good standing with the Virgin Islands Bureau of Internal Revenue
17 or has entered into a payment plan approved by the Virgin Islands Bureau of Internal
18 Revenue.

19 (5) demonstrates that the project meets federal guidelines if federal funds
20 are awarded from the Catalyst Fund.

21 (d) “Executive Director” means the Executive Director of the University of the
22 Virgin Islands Research and Technology Park Corporation.

23 (e) “Loan Review Committee” means the Loan Review Committee of the
24 University of the Virgin Islands Research and Technology Park Corporation with the authority
25 to approve loans.

1 (f) “Program” means the VI Catalyst Revolving Loan Fund Program established in
2 this subchapter.

3 (g) “Qualified Business” means a private, for-profit business engaged in relevant
4 industries and sectors, including business process outsourcing, information
5 Technology/telecommunications, sustainable development, energy services, sustainable
6 agriculture, financial Services, fintech, healthcare, advanced manufacturing, visitor economy,
7 and creative economy.

8 (h) “VI Catalyst Revolving Loan Fund” or “Catalyst Fund” means revolving funds
9 by that name established under, and administered pursuant to, this subchapter to provide capital
10 for catalyst projects, thereby creating jobs and investment in the Territory.

11 (i) “VI Catalyst Revolving Loan Fund Program” means the program of that name
12 to administer the VI Catalyst Revolving Loan Fund and to provide financial assistance for
13 catalyst projects, administered by the University of the Virgin Islands Research and
14 Technology Park Corporation pursuant to this subchapter and criteria, priorities, and guidelines
15 adopted by the Loan Review Committee.

16 **§ 490G. Establishment of program**

17 (a) The VI Catalyst Revolving Loan Fund Program is established to provide loans
18 to eligible entities for catalyst projects to achieve one or more of the following goals:

- 19 (1) To sustain local economic growth;
- 20 (2) To stimulate job creation and development;
- 21 (3) To catalyze commercial, residential, and industrial growth and
22 development;
- 23 (4) To increase attractiveness for job creation and retention; and
- 24 (5) To increase accessibility to capital funding.

25 (b) The Corporation shall administer the Program to provide financial assistance
26 and development services for catalyst projects, as defined in subsection (a) of section 490F.

1 (c) The Executive Director shall take such steps, including the expenditure of
2 appropriated funds, as may be necessary to provide organizational, governance, and
3 administrative structure to the Program.

4 (d) In furtherance of organizing and administering the Catalyst Fund, the Executive
5 Director may retain staff and enter into and execute service agreements with outside providers
6 for legal, accounting, underwriting, audit and consultant expertise, including the expenditure
7 of funds as necessary or advisable in connection with such retention and execution.

8 (e) Financial assistance for catalyst projects through the Program must be provided
9 at competitive interest rates with flexible terms as determined by the Loan Review Committee,
10 to support the projects directly and to attract additional third-party capital.

11 (f) Payment of interest and principal on loans may be deferred at the discretion of
12 the Loan Review Committee.

13 (g) The Executive Director may assign all accounts that are inactive and delinquent
14 more than 180 days from when they are first due and owing, to a third-party collection agency
15 for collection.

16 (h) The Program must be to the extent practicable complementary to, and not
17 competitive with, commercial lenders and other territorial and federal programs.

18 **§ 490H. Lending Authority**

19 The Corporation may provide financial assistance under the Program to any eligible
20 entity either directly or in conjunction with a lending or financial institution, in connection with
21 the financing or refinancing of a catalyst project, in accordance with an agreement or
22 agreements, between the Corporation and the eligible entity, either as a sole lender or in
23 participation or syndication with other lenders.

1 **§ 490I. Catalyst Revolving Loans**

2 (a) After considering any advice and recommendations of the Loan Review
3 Committee, the Executive Director shall establish procedures for applying to the Program for
4 a loan of money from the Catalyst Fund. The procedures must:

5 (1) Include, a requirement that applications for loans must set forth:

6 (A) The proposed use of the loan;

7 (B) The plans, projects, and programs for which the loan will be
8 used;

9 (C) The expected benefits of the loan; and

10 (D) A statement of the short-term and long-term impacts of the use
11 of the Catalyst Revolving Loan; and

12 (2) Allow the applicant to revise the application upon the recommendation
13 of the Executive Director.

14 (b) Loans awarded may be used only for:

15 (1) The acquisition and leasing of land and buildings,

16 (2) The construction, renovation, rehabilitation, and expansion of buildings
17 or other facilities,

18 (3) The purchase of equipment, furniture, and fixtures that are necessary for
19 operation of the business, and

20 (4) Operating capital.

21 (c) After receipt of an application pursuant to this section, the Loan Review
22 Committee shall review and evaluate the application and determine whether the approval of
23 the application would promote the economic development of this Territory.

24 (d) The Catalyst Revolving Loan may be paired with and subordinate to a loan
25 provided by a commercial bank.

1 (e) Only one Catalyst Revolving Loan is available to a business or owner at one
2 time. However, once a borrower has fully repaid a loan, the borrower may qualify for
3 additional loans in the future.

4 (f) All loans made pursuant to this subchapter must be underwritten by experienced
5 financial services professionals and secured by adequate collateral and/or guarantees.

6 **§ 490J. Loan Review Committee; establishment, duties**

7 (a) The Loan Review Committee may be composed of no fewer than three members
8 appointed by the Executive Director, subject to the approval of the Board of Directors of the
9 Corporation. The Committee must include a representative of the Economic Development
10 Authority. If the Loan Review Committee is composed of an even number of directors, one-
11 half of the number of members constitutes a quorum for the transaction of business. If the
12 Loan Review Committee is composed of an odd number of members, a majority of the Loan
13 Review Committee members constitute a quorum for the transaction of business. Every action
14 consented to by a majority of the Loan Review Committee members present at a meeting at
15 which a quorum is present must be regarded as an act of the Loan Review Committee.

16 (b) The Executive Director shall ensure that the Loan Review Committee has
17 adequate resources and authority to discharge its responsibilities.

18 (c) The Loan Review Committee shall:

19 (1) Adopt such rules, statements of policy, procedures, forms, and
20 guidelines related to the administration of the Catalyst Loan Fund, and to the selection
21 of projects, as may be necessary for the implementation of this subchapter.

22 (2) Oversee the credit administration process of the Corporation to ensure
23 that credit risk and credit concentrations are managed in a prudent manner, consistent
24 with industry-wide safety and soundness practices;

25 (3) Approve appropriate general underwriting guidelines and monitor the
26 Corporation's adherence to such guidelines;

1 (4) Oversee the loan approval process and approve loans brought to the
2 Loan Committee as required under the Corporation's Loan Policy.

3 (5) Designate and authorize appropriate persons to execute and deliver
4 agreements or instruments related to the approval and disbursement of the loans, and to
5 take all such additional actions necessary and appropriate to effectuate this paragraph;

6 (6) Ensure that borrowers meet the conditions of this subchapter.

7 (7) Receive and evaluate annual reports from borrowers. The annual reports
8 must include, records necessary to determine and verify the business has met the
9 requirements of the Program.

10 (8) Review loan portfolio quality, including, trends in loan quality, loans,
11 charge-offs and delinquencies;

12 (9) Review and evaluate pertinent legislative and regulatory developments
13 impacting credit risk management;

14 (10) Review the Corporation's lending activities and monitor compliance
15 with approved internal policies, and all applicable territorial and federal law and
16 regulations;

17 (11) Review periodic reports from the regulatory agencies, external and
18 internal auditors and others; and

19 (12) Discuss and evaluate local market economic conditions effecting loan
20 portfolio quality.

21 **§ 490L. Report on Program Impact**

22 On or before July 1 of each year, the Executive Director shall prepare and submit to the
23 Governor and the President of the Legislature, a report containing VI Catalyst Revolving Loan
24 Fund Program activity for the preceding fiscal year ending September 30th which must include,
25 without limitation:

26 (1) The number of applications for loans submitted to the Loan Committee;

1 (2) The number of applications for loans approved by the Committee;

2 (3) The amount of loans awarded from the Catalyst Fund;

3 (4) A listing of each loan awarded during the preceding calendar year, including the
4 name of the business located at the project, a description of the project, the term of the loan,
5 and the liability under the loan;

6 (5) An update on the status of projects under loans awarded before the preceding
7 calendar year;

8 (6) The number of businesses created or expanded in this Territory, or relocated to
9 the Territory, because of loans from the Catalyst Fund;

10 (7) The number of jobs created or saved in the Territory because of loans from the
11 Catalyst Fund;

12 (8) The environmental impact of businesses and projects with respect to which
13 loans have been awarded;

14 (9) The geographic distribution of loans, by number and amount, awarded under
15 the program; and

16 (10) The amount of all grants, gifts, and donations of money to the Catalyst Fund
17 applied for and accepted from public and private sources.

18 **§ 490M. Non-discrimination**

19 No loan may be made to a business unless the business certifies to the Loan Review
20 Committee, in a form satisfactory to the Committee, that it will not discriminate against any
21 employee or against any applicant for employment because of race, religion, color, national
22 origin, sex, or age.

23 **§ 490N. Coordination**

24 (a) In carrying out this subchapter, the Executive Director may call upon
25 Government departments and agencies to supply such statistical data, program reports, and
26 other materials, information, and assistance as the Executive Director considers necessary to

1 implement the Program, and all departments, agencies and authorities of the Government shall
2 cooperate, to the extent not inconsistent with applicable law, with the Executive Director, to
3 ensure that all activities related to the purposes of this subchapter are carried out in a
4 coordinated manner.

5 (b) The Executive Director shall establish a close liaison, cooperation, and
6 coordination with the Economic Development Authority and the Department of Labor to
7 accomplish the goals of the VI Catalyst Revolving Loan Fund Program as provided in
8 subsection (a) of Section 490I.

9 **§ 490O. Duplication of activities**

10 The Executive Director may not duplicate the work or activities of any department or
11 agency of the Government of the Virgin Islands, and nothing contained in this subchapter may
12 be construed to authorize any such duplication unless such work or activity is expressly
13 authorized for in this chapter.

14 **§ 490P. VI Catalyst Fund**

15 (a) There is established an account maintained by the Corporation designated “The
16 Catalyst Fund”, the purpose of which is to receive, manage, control, and dispose of monies on
17 behalf of the Program. The Catalyst Fund is separate from any other fund or account of the
18 Corporation.

19 (b) The Catalyst Fund must be used to award loans to eligible entities in accordance
20 with this subchapter.

21 (c) Within the Catalyst Fund, the Corporation may establish additional accounts
22 and subaccounts.

23 (d) The maximum total loan amount that may be awarded to an eligible entity may
24 not exceed \$1,500,000 from the initial \$5,000,000 tranche approved pursuant to this
25 subchapter. The Loan Review Committee may establish limits for further loans pursuant to
26 loan policies or regulations.

1 (e) The expenses of administering the fund must be paid from money in the Catalyst
2 Fund. No other fund or account of the Corporation may be available or may be used for the
3 payment of obligations incurred in connection with this subchapter.

4 (f) All costs, liabilities, obligations, and expenses incurred in carrying out the
5 purpose of this subchapter are payable solely from funds provided for the purposes of this
6 subchapter, and no liability, cost, expense, or obligation may be imposed upon the Corporation
7 beyond the extent to which money had been provided solely for the purposes of the
8 Corporation's activities authorized under this subchapter.

9 (g) The Catalyst Fund consists of:

10 (1) All monies appropriated by the Legislature thereto pursuant to
11 authorization under this subchapter.

12 (2) Money received from federal grants or programs, including any federal
13 grant or program enacted to provide economic relief in response to the coronavirus
14 disease (COVID-19) pandemic;

15 (3) Grants, gifts, and donations intended for deposit in the fund, including
16 transfers from other accounts or funds; and

17 (4) All repayments of loans, payments, and other receipts arising out of
18 transactions financed from the Catalyst Fund.

19 (h) There must be credited to the Catalyst Fund interest and income earned on:

20 (1) Money in the Catalyst Fund and its accounts and subaccounts, after
21 deducting any applicable charges;

22 (2) Unexpended appropriations made to the Catalyst Fund; and

23 (3) Any other moneys generated in connection with the activities authorized
24 under this subchapter.

1 (i) All payments of principal and interest on any loan made with money from the
2 Catalyst Fund must be deposited in the Catalyst Fund. The Corporation shall administer the
3 Catalyst Fund as a revolving loan fund.

4 (j) All receipts, savings, and accrual to the Catalyst Fund, any unexpended
5 appropriations made to the Catalyst Fund, and any funds returned into accounts or funds which
6 are not utilized for whatever reasons remaining at the end of each fiscal year must be carried
7 forward to the next fiscal year and retained for the purposes for which the Catalyst Fund is
8 established.

9 (k) The Executive Director shall administer the Catalyst Fund and may apply for
10 and accept any gift, grant, donation, bequest, or other source of money for deposit in the
11 Catalyst Fund.

12 **§ 490Q. Offenses; penalties**

13 (a) A person who makes any statement knowing it to be false, or who willfully
14 overvalues any security for the purpose of obtaining for himself or for any applicant any loan,
15 or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release,
16 or substitution of security therefor, or for the purpose of influencing in any way the action of
17 the Corporation, or for the purpose of obtaining money, property, or anything of value, under
18 this subchapter, is punishable by a fine of not more than \$5,000, or by imprisonment for not
19 more than five years, or both.

20 (b) A person, being connected in any capacity with the Corporation, is punishable
21 by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, if
22 the person:

23 (1) embezzles, abstracts, purloins, or willfully misapplies any moneys,
24 funds, securities, or other things of value, whether belonging to it or pledged or
25 otherwise entrusted to it, or

1 (2) with intent to defraud the Corporation or any other body politic or
2 corporate, or any individual, or to deceive any officer, auditor, or examiner of the
3 Corporation, makes any false entry in any book, report, or statement of or to the
4 Corporation, or, without being duly authorized, draws any order or issues, puts forth,
5 or assigns any note or other obligation, or draft, bill of exchange, mortgage, judgment,
6 or decree thereof, or

7 (3) with the intent to defraud participates or shares in or receives directly or
8 indirectly any money, profit, property, or benefit through any transaction, loan,
9 commission, contract, or any other act of the Corporation, or

10 (4) gives any unauthorized information concerning any future action or plan
11 of the Corporation which might affect the value of securities, or, having such
12 knowledge, invests or speculates, directly or indirectly, in the securities or property of
13 any small business concern receiving loans or other assistance from the Corporation.

14 **SECTION 3.** (a) From the payment made to the Government of the Virgin Islands
15 pursuant to the March 2, 2017 waiver from the obligations of Limetree Bay Terminals, to
16 construct a bitumen storage facility under section 6.6 of the Operating Agreement dated
17 December 1, 2015, between of the Government of the U.S. Virgin Islands and Limetree Bay
18 Terminals LLC, the sum of \$6,000,000 is appropriated in the fiscal year ending September 30,
19 2021, to be distributed as follows:

20 (1) \$5,000,000 to the VI Catalyst Revolving Loan Program for carrying out
21 the purposes of this 17 V.I.C., chapter 34, subchapter III:

22 (A) All moneys in the Catalyst Fund are available for expenditure,
23 including for the Corporation's general administration of the activities
24 authorized by this subchapter, upon appropriation by the Legislature.

25 (B) The transfer of funds to the Catalyst Fund is conditioned upon
26 adherence to this subchapter.

