

Vuntut Gwitchin Controlled Subsidiary Loan Act
May 4, 2012

The Council of the Vuntut Gwitchin First Nation hereby enacts as follows:

Purpose

1 The purpose of this Act is to authorize the lending of money from the consolidated revenue fund from time to time to controlled subsidiaries of the government.

Interpretation

2(1) In this Act,

"consolidated revenue fund" means the Consolidated Revenue Fund of the Vuntut Gwitchin First Nation;

"controlled subsidiary" means

- (a) a corporation that is controlled by the government, or that is controlled by or through one or more corporations or limited partnerships that are controlled by the government, and
- (b) a limited partnership that is controlled by the government, or that is controlled by or through one or more corporations or limited partnerships that are controlled by the government;

"government" means the Vuntut Gwitchin First Nation Government;

"loan money" means money lent to a controlled subsidiary under this Act.

Control

3 A corporation or limited partnership that is controlled, or that is deemed to be controlled, by another corporation or limited partnership, or by an individual, trust or group, under the *Income Tax Act (Canada)*, shall be considered to be controlled by that corporation, limited partnership, individual, trust or group for the purposes of this Act.

Loans authorized

4(1) The Council may by resolution authorize a loan to a controlled subsidiary to enable it or another controlled subsidiary

- (a) to purchase of one or more assets; or
- (b) to contribute equity or make a loan to a corporation or partnership that is not a controlled subsidiary so that it can purchase or refinance one or more assets.

(2) A loan under this Act may not be made for any purpose other than a purpose under paragraph (1) (a) or (b).

(3) For greater certainty, a loan under subsection (1) may be made without an appropriation under subsection 16(1) of the *Governance Act*

Prerequisites for a loan

5(1) Before the Council authorizes a loan under this Act , the Council shall be provided with particulars of

- (a) all the assets to be purchased or refinanced and the plans for their development or use;

- (b) everyone who will own or have an interest in the assets when they are purchased or refinanced;
- (c) the terms and conditions of the loan;
- (d) the controlled subsidiaries that will be involved in providing the loan money for the purchase or refinancing; and
- (e) the documents to be used in making the purchase, or refinancing, including the documents that will be used in providing the loan money to
 - (i) the purchaser or owner of the assets, and
 - (ii) every controlled subsidiary involved in making the loan money available for the purchase.

(2) The Council may not authorize a loan under this Act except upon receipt of an undertaking from a lawyer that the loan money will be held in trust on the condition that it will not be paid out of trust unless

- (a) title to the assets has been transferred to the purchaser
- (b) unless the documents in paragraph (1)(e) have been executed; and
- (c) the executed documents
 - (i) comply with this Act, and
 - (ii) provide for the repayment of the loan money to the government in accordance with the terms and conditions of the loan provided to the Council under paragraph (1) (c).

Additional terms and conditions

6 A resolution authorizing a loan under section 4 may impose such terms or conditions on the loan, in addition to those mentioned in paragraph 5(1)(c), as the Council considers advisable.

Mandatory terms of the loan agreements

7 Before loan money is provided to a controlled subsidiary by the government or another controlled subsidiary, a loan agreement shall be entered into in which the recipient agrees that

- (a) the loan money will not be made available to any person or used except in accordance with the information provided to the Council under section 5 and any terms or conditions under section 6;
- (b) the loan money will be held in trust until title to the assets has been transferred to the purchaser; and
- (c) the full amount of the loan together with any accrued interest, penalties or other payments shall forthwith become due and payable where
 - (i) a violation of paragraph (a) or (b) occurs, or
 - (ii) the recipient ceases to be a controlled subsidiary within the meaning of this Act.

Limit

8 The aggregate of all loans to all corporations under this Act shall not exceed \$3,200,000 as

amended from time to time.

Change of ownership or control

9 Where a loan has been made under this Act to a corporation or limited partnership that ceases to be a controlled subsidiary within the meaning of this Act,

- (a) the full amount of the loan together with any interest, penalties or other payments shall, notwithstanding any terms of the loan agreement, forthwith become due and payable to the government; and
- (b) the government shall forthwith, without notice, take action to recover from the recipient the amounts referred to in paragraph (a).

Governance Act amendment

10 The *Governance Act* is amended by repealing paragraph 18(1)(c) and substituting the following for it:

- “(c) the payment of advances from the consolidated revenue fund to any person to enable that person to pay expenses that are authorized to be paid by this or any other Act;”.

Coming into force

11(1) This Act comes into force on a day to be fixed by resolution of the Council.