

1 H.395

2 Introduced by Committee on Commerce and Economic Development

3 Date:

4 Subject: Conservation and Development; Vermont Economic Development

5 Authority; Vermont Clean Energy Loan Fund

6 Statement of purpose of bill as introduced: This bill proposes to establish a

7 Vermont Clean Energy Loan Fund.

8 An act relating to the establishment of the Vermont Clean Energy Loan
9 Fund

10 It is hereby enacted by the General Assembly of the State of Vermont:

11 ~~Sec. 1. 10 V.S.A. chapter 12, subchapter 13 is added to read:~~

12 Subchapter 13. Vermont Clean Energy Loan Fund

13 § 280cc. CREATION; PURPOSES

14 There is established within the Authority the Vermont Clean Energy Loan
15 Fund, referred to in this subchapter as “the Fund,” the purpose of which shall
16 be to enable the Authority to make loans and provide other forms of financing
17 for projects that stimulate and encourage development and deployment of
18 clean energy technologies in the State of Vermont. The extension of credit to
19 support these purposes is critical to sustain economic growth and the quality of
20 life for Vermont residents in the future.

~~§ 280dd. PROGRAMS ADMINISTERED BY THE FUND~~

~~(a) The Fund shall consist of:~~

~~(1) All existing loans made by the Authority, the Vermont Small Business Development Corporation, and the Vermont Agricultural Credit Corporation for energy conservation, energy generation, and agricultural energy efficiency.~~

~~(2) The following programs:~~

~~(A) The Vermont Business Energy Conservation Loan Program.~~

~~(B) The Renewable Energy Loan Program.~~

~~(C) The Agricultural Energy Loan Program.~~

~~(D) The Energy Conservation Loan Guarantee Program.~~

~~(3) All existing loans of the Clean Energy Development Fund (CEDF), established in 30 V.S.A. § 8015.~~

~~(b) The Fund shall be administered by the Authority and shall not be subject to 32 V.S.A. chapter 7, subchapter 5.~~

~~(c) The Authority shall establish:~~

~~(1) New financing programs that the Authority determines are necessary to encourage and promote projects that support renewable and sustainable energy creation and reduce reliance upon traditional fossil fuel sources.~~

1 ~~(2) Policies and procedures for programs within the Fund that the~~
2 Authority determines are necessary to carry out the purposes of this
3 subchapter.

4 § 280ee. FUNDING OF PROGRAMS

5 (a) The Vermont Business Energy Conservation Loan Program, the
6 Renewable Energy Loan Program, and the Agricultural Energy Loan Program
7 may be initially funded by the Vermont Jobs Fund pursuant to section 234 of
8 this title.

9 (b) The Energy Conservation Loan Guarantee Program shall support
10 enrolled loans made by participating banks through a fund established by equal
11 capital contributions of \$500,000.00 from the Clean Energy Development
12 Fund, the Vermont Energy Investment Corporation, and the Authority.

13 Sec. 2. 10 V.S.A. § 216 is amended to read:

14 § 216. AUTHORITY; GENERAL POWERS

15 The ~~authority~~ Authority is hereby authorized:

16 * * *

17 (13) To cause to be incorporated in Vermont a nonprofit corporation
18 which will qualify as a state development company under Title 15 of the
19 United States Code and rules and regulations adopted pursuant thereto. The
20 voting members of the ~~authority~~ Authority shall be members of the company
21 and shall constitute the board of directors of the company. The company shall

1 ~~have at least 14 other members selected by the members of the authority~~

2 Authority. The company shall be organized and operate under the nonprofit
3 corporation laws of the ~~state~~ State of Vermont to the extent not inconsistent
4 herewith. The ~~authority~~ Authority shall have the power to contract with the
5 company to provide staff and management needs of the company. The
6 ~~authority~~ Authority is authorized to contribute ~~up to \$25,000.00~~ to the capital
7 of the company in an amount the Authority determines is necessary and
8 appropriate;

9 (14) To incorporate one or more nonprofit corporations in Vermont to
10 fulfill the goals of this chapter. Such corporation shall be empowered to
11 borrow money and to receive and accept gifts, grants, or contributions from
12 any source, provided that such gifts, grants, or contributions are not less than
13 \$5,000.00 from any one source for the period of one year and provided that
14 such nonprofit corporation provides business loans of not less than \$2,500.00
15 to any particular entity or individual. The voting members of the ~~authority~~
16 Authority shall be directors of the corporation. The corporation shall be
17 organized and operate under the nonprofit corporation laws of the ~~state~~ State of
18 Vermont. The ~~authority~~ Authority may contract with the corporation to
19 provide staff and management needs of the company. The ~~authority~~ Authority
20 may contribute ~~no more than \$1,050,000.00~~ to the capital of the corporation in
21 an amount the Authority determines is necessary and appropriate;

1 ~~benefits from such program shall meet the criteria contained in the Vermont~~
2 sustainable jobs strategy adopted under section 280b of this title, and provided
3 further that the program shall meet the criteria contained in the Vermont
4 sustainable jobs strategy adopted under section 280b of this title. ~~Such~~ These
5 programs may include:

6 (1) the ~~mortgage insurance program~~ Mortgage Insurance Program,
7 administered under subchapter 2 of chapter 12 of this title;

8 (2) the ~~loans to local development corporations program~~ Loans to Local
9 Development Corporations Program, administered under subchapter 3 of
10 chapter 12 of this title;

11 (3) the ~~industrial revenue bond program~~ Industrial Revenue Bond
12 Program, administered under subchapter 4 of chapter 12 of this title;

13 (4) the ~~direct loan program~~ Direct Loan Program, administered under
14 subchapter 5 of chapter 12 of this title;

15 (5) the ~~Vermont financial access program, administered under~~
16 ~~subchapter 8 of chapter 12 of this title;~~

17 ~~(6) the SBA 504 Certified Development Company and Rural Economic~~
18 ~~Activity Loan programs~~ Small Business Loan Programs of the authority's
19 Vermont ~~503~~ 504 Corporation, administered by the ~~authority~~ Authority under
20 subdivision 216(13) of this title;

1 ~~(7)(6) the Small Business Development Corporation program Program,~~

2 administered by the ~~authority~~ Authority under subdivision 216(14) of this title;

3 ~~(8)(7) one or more programs targeting economically distressed regions~~

4 of the ~~state~~ State, and specifically including the ~~authority~~ Authority to develop

5 a program to finance or refinance up to 100 percent of the existing assets or

6 debts of a health, recreation, and fitness organization which is exempt under

7 Section 501(c)(3) of the Internal Revenue Code, the income of which is

8 entirely used for its exempt purpose, that owns and operates a recreation

9 facility located in a distressed region of the ~~state~~ State;

10 ~~(9)(8) an export finance program Export Finance Program,~~ administered

11 by the ~~authority~~ Authority under subchapter 9 of chapter 12 of this title;

12 ~~(9) a Renewable Energy Loan Program,~~ administered by the Authority

13 under subchapter 13 of this chapter;

14 * * *

15 Sec. 5. 10 V.S.A. § 213(b) and (c) are amended to read:

16 (b) The ~~authority~~ Authority shall have ~~12~~ 15 voting members consisting of

17 the ~~secretary of the agency of commerce and community development, the~~

18 ~~state treasurer, the secretary of agriculture, food and markets~~ Secretary of the

19 Agency of Commerce and Community Development, the State Treasurer, the

20 Secretary of Agriculture, Food and Markets, and the Commissioner of Public

21 Service, who shall serve as a nonvoting ex officio member, or a designee of

1 ~~any of the aforementioned; and nine 11 members, who shall be residents of the~~
2 ~~state State of Vermont, appointed by the ~~governor~~ Governor with the advice~~
3 ~~and consent of the ~~senate~~ Senate. Of the 12 appointed members, two members~~
4 ~~shall have demonstrated knowledge and experience in renewable energy or~~
5 ~~energy conservation or both. The appointed members shall be appointed for~~
6 ~~terms of six years and until their successors are appointed and qualified. The~~
7 ~~first members appointed by the ~~governor~~ Governor to the new ~~authority~~~~
8 ~~Authority shall be appointed, ~~three~~ four for a term of two years, ~~three~~ four for a~~
9 ~~term of four years, and three for a term of six years. Appointed members may~~
10 ~~be removed by the ~~governor~~ Governor for cause and the ~~governor~~ Governor~~
11 ~~may fill any vacancy occurring among the appointed members for the balance~~
12 ~~of the unexpired term.~~

13 (c) The ~~authority~~ Authority shall elect a chair, from among its appointed
14 members, and a vice chair and treasurer from among its members and shall
15 employ a manager who shall hold office at the ~~authority's~~ Authority's pleasure
16 and who, unless he or she is a member of the classified service under 3 V.S.A.
17 ~~chapter 13 of Title 3,~~ shall receive such compensation as may be fixed by the
18 ~~authority~~ Authority with the approval of the ~~governor~~ Governor. A quorum
19 shall consist of ~~six~~ eight members. Members disqualified from voting under
20 section 214 of this title shall be considered present for purposes of determining
21 a quorum. No action of the ~~authority~~ Authority shall be considered valid

1 ~~unless the action is supported by a majority vote of the members present and~~
2 voting and then only if at least ~~four~~ five members vote in favor of the action.

3 * * *

4 Sec. 6. 10 V.S.A. § 219(d) is amended to read:

5 (d) In order to assure the maintenance of the debt service reserve
6 requirement in each debt service reserve fund established by the ~~authority~~
7 Authority, there may be appropriated annually and paid to the ~~authority~~
8 Authority for deposit in each such fund, such sum as shall be certified by the
9 chair of the ~~authority~~ Authority, to the ~~governor~~ Governor, the ~~president of the~~
10 ~~senate~~ President of the Senate, and the ~~speaker of the house~~ Speaker of the
11 House, as is necessary to restore each such debt service reserve fund to an
12 amount equal to the debt service reserve requirement for such fund. The chair
13 shall annually, on or about February 1, make, execute, and deliver to the
14 ~~governor~~ Governor, the ~~president of the senate~~ President of the Senate, and the
15 ~~speaker of the house~~ Speaker of the House, a certificate stating the sum
16 required to restore each such debt service reserve fund to the amount aforesaid,
17 and the sum so certified may be appropriated, and if appropriated, shall be paid
18 to the ~~authority~~ Authority during the then current state fiscal year. The
19 principal amount of bonds or notes outstanding at any one time and secured in
20 whole or in part by a debt service reserve fund to which state funds may be
21 appropriated pursuant to this subsection shall not exceed ~~\$115,000,000.00~~

1 ~~\$130,000,000.00, provided that the foregoing shall not impair the obligation of~~
2 any contract or contracts entered into by the authority in contravention of the
3 Constitution of the United States.

4 Sec. 7. INVESTMENT OF STATE MONIES

5 The Treasurer is hereby authorized to establish a short-term credit facility
6 for the Vermont Economic Development Authority in an amount of up to
7 \$10,000,000.00 to be used as interim financing for its Clean Energy Loan Fund
8 authorized under 10 V.S.A. § 280cc.

9 Sec. 8. EFFECTIVE DATE

10 ~~This act shall take effect on July 1, 2013.~~

Sec. 1. 10 V.S.A. chapter 12, subchapter 13 is added to read:

Subchapter 13. Vermont Sustainable Energy Loan Fund

§ 280cc. CREATION; PURPOSE; DEFINITIONS

(a) There is established within the Authority the Vermont Sustainable Energy Loan Fund, referred to in this subchapter as “the Fund,” the purpose of which shall be to enable the Authority to make loans and provide other forms of financing for projects that stimulate and encourage development and deployment of sustainable energy projects in the State of Vermont.

(b) In this subchapter:

(1) “Renewable energy” shall have the same meaning as in 30 V.S.A. § 8002(17).

(2) “Sustainable energy” means energy efficiency, renewable energy, and technologies that enhance or support the development and implementation of renewable energy or energy efficiency, or both.

§ 280dd. LOAN PROGRAMS ADMINISTERED WITHIN THE FUND

(a) The Fund shall consist of:

(1) Existing sustainable energy loans made by the Authority, the Vermont Small Business Development Corporation, and the Vermont Agricultural Credit Corporation.

(2) Sustainable energy loans originated under the following programs:

(A) The Small Business Energy Efficiency Loan Program, under which the Authority provides loans for qualifying commercial energy efficiency improvements.

(B) The Renewable Energy Loan Program, which the Authority may create to provide loans for qualifying renewable energy projects.

(C) The Agricultural Energy Loan Program, which the Authority may create to provide loans for qualifying agriculture- and forest product-based sustainable energy projects.

(D) The Energy Efficiency Loan Guarantee Program, which the Authority may create to provide loan guarantees to participating lending institutions that enroll loans for sustainable energy projects in the Program.

(3) Programs created by the Authority pursuant to subsection (c) of this section.

(b) The Fund shall be administered by the Authority and shall not be subject to 32 V.S.A. chapter 7, subchapter 5.

(c) The Authority may establish:

(1) New financing programs that the Authority determines are necessary to encourage and promote sustainable energy projects and reduce reliance upon traditional fossil fuel sources.

(2) Policies and procedures for programs within the Fund that the Authority determines are necessary to carry out the purposes of this subchapter.

Sec. 2. INITIAL CAPITALIZATION OF THE ENERGY EFFICIENCY

LOAN GUARANTEE PROGRAM

The Vermont Economic Development Authority shall provide loan guarantees under the Energy Efficiency Loan Guarantee Program for loans enrolled in the Program by participating banks through an initial capital contribution of \$500,000.00 from the Authority and from additional sources as they become available, which may include capital investments from the Vermont Clean Energy Development Fund, State Energy Program grants through the Department of Public Service, and available federal funding.

Sec. 3. 10 V.S.A. § 216 is amended to read:

§ 216. AUTHORITY; GENERAL POWERS

The ~~authority~~ Authority is hereby authorized:

* * *

(13) To cause to be incorporated in Vermont a nonprofit corporation which will qualify as a state development company under Title 15 of the United States Code and rules and regulations adopted pursuant thereto. The voting members of the ~~authority~~ Authority shall be members of the company and shall constitute the board of directors of the company. The company shall have at least 14 other members selected by the members of the ~~authority~~ Authority. The company shall be organized and operate under the nonprofit corporation laws of the ~~state~~ State of Vermont to the extent not inconsistent herewith. The ~~authority~~ Authority shall have the power to contract with the company to provide staff and management needs of the company. The ~~authority~~ Authority is authorized to contribute ~~up to \$25,000.00~~ to the capital of the company in an amount the Authority determines is necessary and appropriate;

(14) To incorporate one or more nonprofit corporations in Vermont to fulfill the goals of this chapter. Such corporation shall be empowered to borrow money and to receive and accept gifts, grants, or contributions from any source, provided that such gifts, grants, or contributions are not less than \$5,000.00 from any one source for the period of one year and provided that such nonprofit corporation provides business loans of not less than \$2,500.00

to any particular entity or individual. The voting members of the ~~authority~~ Authority shall be directors of the corporation. The corporation shall be organized and operate under the nonprofit corporation laws of the ~~state~~ State of Vermont. The ~~authority~~ Authority may contract with the corporation to provide staff and management needs of the company. The ~~authority~~ Authority may contribute ~~no more than \$1,050,000.00~~ to the capital of the corporation in an amount the Authority determines is necessary and appropriate;

* * *

(17) To contribute to the capital of the Vermont Agricultural Credit Corporation established pursuant to chapter 16A of this title in an amount the Authority determines is necessary and appropriate;

(18) To contribute to the capital of the Vermont Sustainable Energy Loan Fund established under subchapter 13 of this chapter in an amount the Authority determines is necessary and appropriate.

Sec. 4. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(b) In order to provide monies in the ~~industrial development fund~~ Fund for loans under this chapter, the ~~authority~~ Authority may issue notes for purchase by the ~~state treasurer~~ State Treasurer as provided in section 235 of this chapter.

* * *

(f) The Authority may loan money from the Fund to the Vermont Sustainable Energy Loan Fund established under subchapter 13 of this chapter at interest rates and on terms and conditions set by the Authority.

Sec. 5. 10 V.S.A. § 280a is amended to read:

§ 280a. **ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS**

(a) ~~The authority~~ Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont sustainable jobs strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont sustainable jobs strategy adopted under section 280b of this title. ~~Such~~ These programs may include:

(1) ~~the mortgage insurance program~~ Mortgage Insurance Program, administered under subchapter 2 of chapter 12 of this title;

(2) ~~the loans to local development corporations program~~ Loans to Local Development Corporations Program, administered under subchapter 3 of chapter 12 of this title;

(3) ~~the industrial revenue bond program~~ Industrial Revenue Bond Program, administered under subchapter 4 of chapter 12 of this title;

~~(4) the direct loan program~~ Direct Loan Program, administered under subchapter 5 of chapter 12 of this title;

~~(5) the Vermont financial access program, administered under subchapter 8 of chapter 12 of this title;~~

~~(6) the SBA 504 Certified Development Company and Rural Economic Activity Loan programs~~ Small Business Loan Programs of the authority's Vermont ~~503~~ 504 Corporation, administered by the ~~authority~~ Authority under subdivision 216(13) of this title;

~~(7)~~(6) the Small Business Development Corporation ~~program~~ Program, administered by the ~~authority~~ Authority under subdivision 216(14) of this title;

~~(8)~~(7) one or more programs targeting economically distressed regions of the ~~state~~ State, and specifically including the ~~authority~~ Authority to develop a program to finance or refinance up to 100 percent of the existing assets or debts of a health, recreation, and fitness organization which is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, that owns and operates a recreation facility located in a distressed region of the ~~state~~ State;

~~(9)~~(8) an ~~export finance program~~ Export Finance Program, administered by the ~~authority~~ Authority under subchapter 9 of chapter 12 of this title;

(9) a Vermont Sustainable Energy Loan Fund and any programs created thereunder, administered by the Authority under subchapter 13 of this chapter;

* * *

Sec. 6. 10 V.S.A. § 213(b) and (c) are amended to read:

(b) ~~The authority~~ Authority shall have ~~12~~ 15 voting members consisting of ~~the secretary of the agency of commerce and community development, the state treasurer, the secretary of agriculture, food and markets~~ Secretary of the Agency of Commerce and Community Development, the State Treasurer, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Public Service, each of whom shall serve as a voting ex officio member, or a designee of any of the ~~forementioned; and nine~~ 10 members, who shall be residents of the ~~state~~ State of Vermont, appointed by the ~~governor~~ Governor with the advice and consent of the ~~senate~~ Senate. The appointed members shall be appointed for terms of six years and until their successors are appointed and qualified. ~~The first members appointed by the governor to the new authority shall be appointed, three for a term of two years, three for a term of four years and three for a term of six years.~~ Appointed members may be removed by the ~~governor~~ Governor for cause and the ~~governor~~ Governor may fill any vacancy occurring among the appointed members for the balance of the unexpired term.

(c) ~~The authority~~ Authority shall elect a chair, from among its appointed members, and a vice chair and treasurer from among its members and shall employ a manager who shall hold office at the ~~authority's~~ Authority's pleasure and who, unless he or she is a member of the classified service under 3 V.S.A. chapter 13 of Title 3, shall receive such compensation as may be fixed by the ~~authority~~ Authority with the approval of the ~~governor~~ Governor. A quorum shall consist of ~~six~~ eight members. Members disqualified from voting under section 214 of this title shall be considered present for purposes of determining a quorum. No action of the ~~authority~~ Authority shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least ~~four~~ five members vote in favor of the action.

* * *

Sec. 7. 10 V.S.A. § 219(d) is amended to read:

(d) In order to assure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the ~~authority~~ Authority, there may be appropriated annually and paid to the ~~authority~~ Authority for deposit in each such fund, such sum as shall be certified by the chair of the ~~authority~~ Authority, to the ~~governor~~ Governor, the ~~president of the senate~~ President of the Senate, and the ~~speaker of the house~~ Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The chair

shall annually, on or about February 1, make, execute, and deliver to the ~~governor~~ Governor, the ~~president of the senate~~ President of the Senate, and the ~~speaker of the house~~ Speaker of the House, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the ~~authority~~ Authority during the then current state fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which state funds may be appropriated pursuant to this subsection shall not exceed ~~\$115,000,000.00~~ \$130,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the authority in contravention of the Constitution of the United States.

Sec. 8. INVESTMENT OF STATE MONIES

The Treasurer is hereby authorized to establish a short-term credit facility for the benefit of the Vermont Economic Development Authority in an amount of up to \$10,000,000.00.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.