

1 S.247

2 Introduced by Senator Lyons

3 Referred to Committee on

4 Date:

5 Subject: Finance; commerce and trade; economic development; clean energy
6 funding and investment

7 Statement of purpose: This bill proposes to create the Vermont green trust, a
8 public entity that will administer funding and investment in clean energy
9 projects.

10 An act relating to establishing the Vermont green trust

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

12 Sec. 1. 30 V.S.A. § 8017 is added to read:

13 § 8017. VERMONT GREEN TRUST

14 (a) Creation and purpose.

15 (1) There is hereby created and established as a body corporate and
16 politic and a public instrumentality of the state the Vermont green trust, the
17 purpose of which shall be to provide financing and investment in clean energy
18 throughout the state. The exercise by the Vermont green trust of the powers

1 conferred upon it in this section constitutes the performance of essential
2 governmental functions.

3 (2) The Vermont green trust shall be subject to suit and liability solely
4 from the assets, revenues, and resources of the trust and without recourse to the
5 general funds, revenues, resources, or other assets of the state, and no director,
6 officer, employee, or agent of the trust, while acting within the scope of his or
7 her authority, shall be subject to any personal liability resulting from
8 exercising or carrying out any of the trust's purposes or powers.

9 (b) Board of directors.

10 (1) The Vermont green trust shall be administered by a five-member
11 board of directors composed of the following:

12 (A) one director appointed by the governor, who shall serve an initial
13 term of one year;

14 (B) one director appointed by the speaker of the house of
15 representatives, who shall serve an initial term of two years;

16 (C) one director appointed by the president pro tempore of the senate,
17 who shall serve an initial term of one year; and

18 (D) two directors, who shall serve as the chair and vice chair of the
19 board for initial terms of three years, and who shall be appointed unanimously
20 by the governor, the speaker of the house, and the president pro tempore of the
21 senate.

1 (2) Upon the expiration of the initial terms provided in subdivisions
2 (1)(A)–(D) of this subsection, a director shall serve a term of three years or
3 until his or her earlier resignation or removal.

4 (3) A director may be removed for cause by a vote of two or more of the
5 governor, the speaker of the house of representatives, and the president pro
6 tempore of the senate.

7 (4) A director may not serve more than three consecutive terms.

8 (5) A director who is a member of the general assembly and who is not
9 an employee of the state shall be reimbursed at the per diem rate set in
10 32 V.S.A. § 1010 and for his or her actual mileage incurred to attend meetings.
11 For attendance at meetings during adjournment of the general assembly, a
12 director who is a member of the general assembly shall be entitled to
13 compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

14 (c) Authority of trust. The Vermont green trust shall have the authority:

15 (1) to administer the Vermont green trust fund created in subsection (d)
16 of this section, and to create a loan guaranty fund or other such special funds as
17 are necessary to administer the Vermont green trust loan guaranty fund
18 program created in section 8018 of this title;

19 (2) to develop separate programs to finance and otherwise support clean
20 energy investment in residential, municipal, small business, and larger
21 commercial projects and such others as the board may determine;

1 (3) to support financing or other expenditures that promote investment
2 in clean energy to foster the growth, development, and commercialization of
3 clean energy sources and related enterprises;

4 (4) to stimulate demand for clean energy and the deployment of clean
5 energy sources within the state that serve end-use customers in the state;

6 (5) to assume or take title to any real property, and to convey or dispose
7 of its assets and pledge its revenues to secure any borrowing, convey, or
8 dispose of its assets and pledge its revenues to secure any borrowing for the
9 purpose of developing, acquiring, constructing, refinancing, rehabilitating, or
10 improving its assets or supporting its programs, provided each such borrowing
11 or mortgage, unless otherwise provided by the board, shall be a special
12 obligation of the trust, which obligation may be in the form of bonds, bond
13 anticipation notes, or other obligations which evidence an indebtedness to the
14 extent permitted by law to fund, refinance, and refund the same and provide for
15 the rights of holders thereof, and to secure the same by pledge of revenues,
16 notes, and mortgages of others, and which shall be payable solely from the
17 assets, revenues, and other resources of the authority;

18 (6) to have such other purposes as provided by resolution of the trust's
19 board of directors, which purposes shall be consistent with this section;

20 (7) to seek to qualify as a Community Development Financial Institution
21 under Section 4702 of the United States Code;

1 (8) to provide financing support if the authority determines that the
2 amount to be financed by the authority and other nonequity financing sources
3 does not exceed 80 percent of the cost to develop and deploy a clean energy
4 project or up to 100 percent of the cost of financing an energy efficiency
5 project;

6 (9) to assess reasonable fees on its financing activities to cover its
7 reasonable costs and expenses, as determined by the board;

8 (10) to publicize information regarding the rates, terms, and conditions
9 for all of its financing support transactions available to the public for
10 inspection, including formal annual reviews by the department of public
11 service, and providing details to the public on the Internet; provided public
12 disclosure shall be restricted for patentable ideas, trade secrets, proprietary or
13 confidential commercial or financial information, disclosure of which may
14 cause commercial harm to a nongovernmental recipient of such financing
15 support, and for other information exempt from public records disclosure.

16 (d) Vermont green trust fund.

17 (1) There is created a Vermont green trust fund, which shall be a special
18 fund created and administered pursuant to 32 V.S.A. chapter 7, subchapter 5;
19 provided, however, that notwithstanding provisions of 32 V.S.A. § 588 to the
20 contrary, all fund balances and interest earned by the fund shall be carried

1 forward within the fund from year to year, and expenditures from the fund
2 shall be made by the Vermont green trust board.

3 (2) The Vermont green trust fund shall consist of the following:

4 (A) notwithstanding any provision of law to the contrary, all
5 revenues generated from the following sources:

6 (i) participation in the regional greenhouse gas initiative under
7 section 255 of this title;

8 (ii) participation of the state's energy efficiency utility in the
9 ISO-NE forward capacity market;

10 (iii) any current or future funding sources allocated to the clean
11 energy development fund created in section 8015 of this title;

12 (iv) any taxes, fees, or assessments imposed and collected for the
13 storage within the state of spent nuclear fuel;

14 (v) renewable energy certificates or credits from hydroelectric
15 power generation;

16 (vi) any taxes, fees, or assessments imposed on unregulated fuels,
17 including home heating oil, kerosene, and propane, for the purpose of funding
18 clean energy investment consistent with this section and section 8018 of this
19 title; and

20 (vii) any other state funds transferred by the secretary of
21 administration or the board of directors or a comparable authority of any other

1 state-created program established to provide financing support for clean energy
2 projects;

3 (B) eligible federal funds secured by the trust to support clean energy
4 projects;

5 (C) charitable gifts, grants, contributions, and loans from individuals,
6 corporations, university endowments, and philanthropic foundations;

7 (D) earnings and interest derived from financing support activities for
8 clean energy projects backed by the trust;

9 (E) if and to the extent that the trust qualifies as a Community
10 Development Financing Institution under Section 4702 of the United States
11 Code, funding from the Community Development Financing Institution Fund
12 administered by the United States Department of Treasury, as well as loans
13 from and investments by depository institutions seeking to comply with their
14 obligations under the United States Community Reinvestment Act
15 of 1977; and

16 (F) capital raised through contracts with private sources, including
17 the proceeds of bonds, notes, mortgages, loans, or other indebtedness incurred
18 by the trust.

19 (e) Eligible investments.

20 (1) Before making any loan, loan guarantee, or such other form of
21 financing support or risk management for a clean energy project, the board of

1 directors shall develop standards to govern the administration of the authority
2 through rules, policies, and procedures that specify borrower eligibility, terms,
3 and conditions of support, and other relevant criteria, standards, or procedures.

4 (2) The board of directors shall use amounts held in the Vermont green
5 trust fund for expenditures that promote investment in clean energy in
6 accordance with a comprehensive plan developed by it to foster the growth,
7 development, and commercialization of clean energy, related enterprises, and
8 to stimulate demand for clean energy and deployment of clean energy that
9 serves end-use customers in this state and for the further purpose of supporting
10 operational demonstration projects for advanced technologies that reduce
11 energy use from traditional sources. Such expenditures may include providing
12 low-cost financing and credit enhancement mechanisms for clean energy
13 projects and technologies, reimbursement of the operating expenses, including
14 administrative expenses incurred by the trust, and capital costs incurred by the
15 trust in connection with the operation of the trust fund, or the other permitted
16 activities of the authority, grants, direct or equity investments, contracts, or
17 other actions that support the research, development, manufacture,
18 commercialization, deployment, and installation of renewable clean energy
19 technologies, and actions that expand the expertise of individuals, businesses,
20 and lending institutions with regard to clean energy.

1 (f) “Clean energy.” In this section, “clean energy” means renewable
2 energy, as defined in section 8002 of this section, and financing of energy
3 efficiency projects and projects that seek to deploy electric, electric hybrid,
4 natural gas, or alternative fuel vehicles and associated infrastructure, and any
5 related storage, distribution, manufacturing technologies, or facilities.

6 Sec. 2. 30 V.S.A. § 8018 is added to read:

7 § 8018. VERMONT GREEN TRUST LOAN GUARANTY FUND

8 PROGRAM

9 (a) For the purposes of this section:

10 (1) “Eligible energy conservation project” means an energy
11 conservation project meeting the criteria identified, as provided in subsection
12 (d) of this section;

13 (2) “Participating lending institution” means any bank, trust company,
14 savings bank, savings and loan association, or credit union, whether chartered
15 by the United States of America or this state, or any insurance company
16 authorized to do business in this state that participates in the Vermont green
17 trust loan guaranty fund program;

18 (3) “Participating qualified nonprofit organizations” means individuals,
19 nonprofit organizations, and small businesses;

20 (4) “Small business” means a business entity employing not more than
21 50 full-time employees;

1 (5) "Trust" means the Vermont green trust.

2 (b) The trust shall establish the Vermont green trust loan guaranty fund
3 program from the proceeds of bonds issued by the trust for the purpose of
4 guaranteeing loans made by participating lending institutions to a participating
5 qualified nonprofit organization for eligible energy conservation projects,
6 including for two or more joint eligible energy conservation projects.

7 (c) Participating qualified nonprofit organizations may borrow money from
8 a participating lending institution for any energy conservation project for
9 which the trust provides guaranties pursuant to this section, subject to the
10 following:

11 (1) a participating qualified nonprofit organization shall enter into any
12 loan or other agreement and make such covenants, representations, and
13 indemnities as a participating lending institution deems necessary or
14 appropriate; and

15 (2) a participating lending institution shall enter into a guaranty
16 agreement with the trust, pursuant to which the trust has agreed to provide a
17 first loss guaranty of an agreed percentage of the original principal amount of
18 loans for eligible energy conservation projects.

19 (d) The trust shall identify types of projects that qualify as eligible energy
20 conservation projects, including the purchase and installation of insulation,
21 alternative energy devices, energy conservation materials, replacement

1 furnaces and boilers, and technologically advanced energy-conserving
2 equipment. The trust shall establish priorities for financing eligible energy
3 conservation projects based on need and quality determinants.

4 (e) The trust shall:

5 (1) ensure that the program established pursuant to this section
6 integrates with existing state energy efficiency and renewable energy
7 programs;

8 (2) establish performance targets for the program to ensure that the
9 program in coordination with existing financing programs will enable
10 efficiency improvements for at least 15 percent of single-family homes in the
11 state by 2020;

12 (3) enter into agreements with participating lending institutions that
13 provide loan origination services; and

14 (4) exercise such other powers as are necessary for the proper
15 administration of the program.

16 (f) Financial assistance provided by participating lending institutions
17 pursuant to this section shall be subject to the following terms:

18 (1) eligible energy conservation projects shall meet cost-effectiveness
19 standards adopted by the trust;

1 (2) loans shall be at interest rates determined by the trust to be no higher
2 than necessary to result in the participation of lending institutions in the
3 program; and

4 (3) the amount of a fee paid for an energy audit provided pursuant to
5 this program may be added to the amount of a loan to finance the cost of an
6 eligible project conducted in response to an energy audit. In such cases, the
7 amount of the fee may be reimbursed from the fund to the borrower.

8 Sec. 3. EFFECTIVE DATE

9 This act shall take effect on passage.