

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Judiciary to which was referred Senate Bill No. 119  
3 entitled “An act relating to amending perpetual conservation easements”  
4 respectfully reports that it has considered the same and recommends that the  
5 House propose to the Senate that the bill be amended by striking out all after  
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 155 is redesignated to read:

8 CHAPTER 155. ACQUISITION OF INTERESTS IN LAND BY PUBLIC  
9 AGENCIES AND QUALIFIED ORGANIZATIONS

10 Sec. 2. DESIGNATION

11 10 V.S.A. §§ 6301–6311 are designated as 10 V.S.A. chapter 155,  
12 subchapter 1 to read:

13 Subchapter 1. General Provisions

14 Sec. 3. 10 V.S.A. § 6301 is amended to read:

15 § 6301. PURPOSE

16 It is the purpose of this chapter to encourage and assist the maintenance of  
17 the present uses of Vermont’s agricultural, forest, and other undeveloped land  
18 and to prevent the accelerated residential and commercial development thereof;  
19 to preserve and to enhance Vermont’s scenic natural resources; to strengthen  
20 the base of the recreation industry and to increase employment, income,  
21 business, and investment; to enable the citizens of Vermont to plan its orderly

1 growth in the face of increasing development pressures in the interests of the  
2 public health, safety, and welfare; and to encourage the use of conservation  
3 and preservation ~~tools~~ easements and related instruments to support farm,  
4 forest, and related enterprises, thereby strengthening Vermont’s economy to  
5 improve the quality of life for Vermonters, and to maintain the historic  
6 settlement pattern of compact village and urban centers separated by rural  
7 countryside.

8 Sec. 4. 10 V.S.A. § 6301a is amended to read:

9 § 6301a. DEFINITIONS

10 As used in this chapter:

11 (1) “State agency” means the ~~agency of natural resources~~ Agency of  
12 Natural Resources or any of its departments, ~~agency of transportation~~ Agency  
13 of Transportation, ~~agency of agriculture, food and markets~~ Agency of  
14 Agriculture, Food and Markets, or ~~Vermont housing and conservation board~~  
15 Vermont Housing and Conservation Board.

16 (2) “Qualified organization” means:

17 (A) an organization qualifying under Section 501(c)(3) of the Internal  
18 Revenue Code of 1986, as amended, which is not a private foundation as  
19 defined in Section 509(a) of the Internal Revenue Code, and which has been  
20 certified by the ~~commissioner of taxes~~ Commissioner of Taxes as being

1 principally engaged in the preservation of undeveloped land for the purposes  
2 expressed in section 6301 of this title.

3 (B) an organization qualifying under Section 501(c)(2) of the Internal  
4 Revenue Code of 1986, as amended, provided such organization is controlled  
5 exclusively by an organization or organizations described in subdivision (2)(A)  
6 of this section.

7 (3) “Taxation” and “tax” means ad valorem taxes levied by the ~~state~~  
8 State and its municipalities.

9 (4) “Adequate compensation to the holder” means the increase, if any, in  
10 the value of a landowner’s estate by reason of an amendment to a conservation  
11 easement that applies to the estate.

12 (5) “Adjoining landowner” means a person who owns land in fee  
13 simple, if that land either:

14 (A) shares a property boundary with a tract of land where an  
15 easement amendment is proposed; or

16 (B) is adjacent to a tract of land where an easement amendment is  
17 proposed and the two properties are separated by only a river, stream, or public  
18 highway.

19 (6) “Amend” or “amendment” means a modification of an existing  
20 conservation easement, the substitution of a new easement for an existing

1 conservation easement, or the whole or partial termination of an existing  
2 conservation easement.

3 (7) “Conservation easement” means a conservation right or interest that  
4 is less than a fee simple interest and that restricts the landowner’s use or  
5 development of land in order to protect the land’s natural, scenic, agricultural,  
6 recreational, or cultural qualities or resources or other public values. The term  
7 excludes interests in fee simple, leases, restrictive covenants not held by a  
8 qualified organization, rights-of-way, spring rights, timber **harvesting or**  
9 **mining** rights, and similar affirmative rights to use or extract resources from  
10 the land. The term also excludes trail easements and other public recreational  
11 rights unless those easements or rights are included in the stated purposes of a  
12 conservation easement.

13 (8) “Conservation right or interest” means a right or interest described in  
14 sections 823 and 6303 of this title.

15 (9) “Holder” means a State agency, a qualified organization, or a  
16 municipality that possesses a conservation right or interest. The term “holder”  
17 includes all coholders of a conservation right or interest.

18 (10) “Holder’s public review process” means the public review process  
19 conducted by an easement holder for a proposed amendment, as set forth in  
20 subchapter 2 of this chapter.

1           (11) “Landowner” means an owner of the fee interest in land that is  
2           subject to a conservation easement.

3           (12) “Panel” means the Easement Amendment Panel of the Natural  
4           Resources Board established in subchapter 2 of this chapter.

5           (13) “Person” shall have the same meaning as in 1 V.S.A. § 128.

6           (14) “Protected property” means real property that is subject to a  
7           conservation right or interest.

8           (15) “Protected qualities” means natural, scenic, agricultural,  
9           recreational, or cultural qualities and resources and other public values  
10          protected by a conservation easement.

11          (16) “Public conservation interest” means the benefits to the public, the  
12          environment, and Vermont’s working landscape afforded by conserving land  
13          for its natural, scenic, or agricultural qualities, its recreational or cultural  
14          resources, or other public values, and also includes investments in a  
15          conservation easement made by a State agency, a municipality, and a qualified  
16          organization.

17          Sec. 5. 10 V.S.A. § 6310 is added to read:

18          § 6310. EASEMENT HOLDER; FEE INTEREST; NONMERGER

19          If a holder of a conservation easement is or becomes the owner in fee  
20          simple of property subject to the easement, the easement shall continue in  
21          effect and shall not be extinguished.

1 Sec. 6. 10 V.S.A. § 6311 is added to read:

2 § 6311. CONSERVATION RIGHTS AND INTERESTS; TAX LIENS

3 Conservation rights and interests shall not be affected by any tax lien which  
4 attaches to the subject property under 32 V.S.A. § 5061 subsequent to the  
5 recording of the conservation rights and interests in the municipal land records.

6 Sec. 7. 10 V.S.A. chapter 155, subchapter 2 is added to read:

7 Subchapter 2. Amendment of Perpetual Conservation Easements

8 § 6321. PURPOSE

9 The purpose of this subchapter is to set forth a process and establish the  
10 criteria for determining if an amendment of a conservation easement may be  
11 appropriate and authorized and to provide that in all cases in which an  
12 amendment would materially alter the terms of an existing conservation  
13 easement, the proposed amendment is reviewed and approved following public  
14 notice, disclosure of the circumstances and reasons for the amendment, and an  
15 opportunity for the public to comment.

16 § 6322. APPLICABILITY; EXEMPTIONS

17 (a) This subchapter applies to the amendment of conservation easements.  
18 As set forth in section 6301a of this title, whole or partial terminations of  
19 conservation easements constitute amendments within the meaning of this  
20 chapter.

1        (b) A conservation easement shall not be amended without the written  
2        approval of the landowner and each holder.

3        (c) Except for the easements identified in subsection (d) of this section,  
4        conservation easements shall be amended only in accordance with this chapter,  
5        and this chapter shall constitute the exclusive means under law by which an  
6        amendment to a conservation easement may be contested or appealed. **Except**  
7        **with respect to contesting or appealing the amendment of a conservation**  
8        **easement, this chapter shall not affect the Attorney General’s authority to**  
9        **regulate and oversee charities operating in the State.**

10       (d) The following easement amendments shall be exempt from sections  
11       6324–6333 of this title unless, for a particular easement amendment, the  
12       landowner and each holder elect to employ and be bound by those provisions:

13       (1) any amendment of a conservation easement that requires the  
14       approval of the General Assembly or is part of a land transaction that requires  
15       such approval;

16       (2) any amendment of a conservation easement subject to a written  
17       determination of necessity prepared by the Agency of Transportation in  
18       accordance with 19 V.S.A. § 503;

19       (3) any amendment of a conservation easement that was originally  
20       required by a federal, State, or local regulatory body, including a district  
21       environmental commission under chapter 151 of this title, the Public Service

1 Board, or an appropriate municipal panel under 24 V.S.A. chapter 117, by  
2 issuance of a State or municipal land use permit, an environmental permit or  
3 other environmental approval, a certificate of public good, or other regulatory  
4 approval under the terms of which any amendment of the easement must be  
5 approved by the body issuing the permit, certificate, or other approval; and

6 (4) any amendment that is the result of the exercise of a right of eminent  
7 domain granted under the U.S. or Vermont Constitution, ~~Chapter I, Art. 2.~~

8 § 6323. EASEMENT AMENDMENT PANEL

9 (a) An Easement Amendment Panel consisting of five members is created  
10 as a panel of the Vermont Natural Resources Board established under section  
11 6021 of this title.

12 (1) The regular members of the Panel shall be:

13 (A) The Chair of the Natural Resources Board, who shall serve as  
14 Chair of the Easement Amendment Panel.

15 (B) Two members of the Natural Resources Board, chosen by the  
16 Governor, whose terms on this Panel shall be contemporaneous with their  
17 terms on the Board.

18 (C) One member appointed by the Governor for a term of four years  
19 from a list of no fewer than five candidates submitted by qualified  
20 organizations. The Vermont Housing and Conservation Board shall provide a



1 list of qualified organizations to the Governor from which the Governor shall  
2 receive nominations.

3 (D) One member appointed by the Governor for a term of four years  
4 from a list of five candidates submitted by the Vermont Housing and  
5 Conservation Board.

6 (2) There shall be the following alternate members of the Panel, who  
7 may be appointed to serve by the Chair on a particular matter before the Panel  
8 when a regular Panel member is unable to serve:

9 (A) One alternate member appointed by the Governor for a term of  
10 four years from the list submitted to the Governor by qualified organizations  
11 under subdivision (1)(C) of this subsection.

12 (B) One alternate member appointed by the Governor for a term of  
13 four years from the list submitted to the Governor by the Vermont Housing and  
14 Conservation Board under subdivision (1)(D) of this subsection.

15 (3) Each member **and alternate** of the Natural Resources Board not  
16 appointed to the Panel shall be an alternate to the Panel and may be designated  
17 by the Chair to serve on a particular matter before the Panel if a regular or  
18 alternate member under subdivision (1) or (2) of this subsection is unable to  
19 serve.

20 (b) The Governor shall seek to appoint members to the Panel who are  
21 knowledgeable about agriculture, forestry, and environmental science. A

1 person shall not be eligible for appointment to the Panel if that person has been  
2 employed as a staff member of or consultant to or has served on the governing  
3 board of a holder during the 12 months preceding the appointment.

4 (c) Other departments and agencies of State government shall cooperate  
5 with the Panel and make available to the Panel data, facilities, and personnel as  
6 may be needed to assist the Panel in carrying out its duties and functions.

7 (d) A Panel member shall not participate in a particular matter before the  
8 Panel if the member has a personal or financial interest in the matter or is  
9 related to the petitioner, if a natural person, within the fourth degree of  
10 consanguinity or affinity or, if a corporation, to any officer, director, trustee, or  
11 agent of the corporation within the same degree.

12 (e) Decisions by the Panel shall be made as promptly as possible,  
13 consistent with the degree of review required by the proposed amendment.

14 (f) The Panel shall keep a record of its proceedings, and any decision by  
15 the Panel shall be in writing and shall provide an explanation of the reasons  
16 and basis for the decision.

17 (g) Members of the Panel shall receive per diem pay and all necessary and  
18 actual expenses in accordance with 32 V.S.A. § 1010.

19 (h) Powers. The Panel shall have the power, with respect to any matter  
20 within its jurisdiction, to:

1           (1) allow members of the public to enter upon the lands under or  
2           proposed to be under the conservation easement, at times designated by the  
3           Panel, for the purpose of inspecting and investigating conditions related to the  
4           matter before the Panel;

5           (2) enter upon or authorize others to enter upon the lands under or  
6           proposed to be under the conservation easement for the purpose of conducting  
7           inspections, investigations, examinations, tests, and site evaluations as it deems  
8           necessary to verify information presented in any matter within its  
9           jurisdiction; and

10           (3) adopt rules of procedure and substantive rules, in accordance with  
11           the provisions of 3 V.S.A. chapter 25, that interpret and carry out the  
12           provisions of this subchapter that pertain to easement amendments.

13           (i) Filing fees.

14           (1) A fee in the amount of \$100.00 shall accompany a request for review  
15           of a Category 2 amendment, pursuant to section 6326 of this title.

16           (2) A fee in the amount set by 32 V.S.A. § 1431(b)(1) shall accompany  
17           a petition for approval of a Category 3 amendment, pursuant to section 6328 of  
18           this title; a request for review of a holder’s decision, pursuant to section 6331  
19           of this title; and a request to revoke an easement amendment, pursuant to  
20           section 6332 of this title. The Panel may also assess to persons before the  
21           Panel the actual cost of the payment of per diems under subsection (g) of this

1 section and the actual cost of providing notice, holding hearings, paying  
2 mileage, and other expenses of the filing. Persons assessed costs by the Panel  
3 may petition the Environmental Division of the Superior Court for review of  
4 those costs.

5 (3) The filing fees established by this subsection and the costs assessed  
6 pursuant to this subsection shall be deposited into the Act 250 Permit Fund,  
7 pursuant to section 6029 of this title.

8 § 6324. AMENDMENT CATEGORIES

9 (a) This subchapter divides amendments of conservation easements into  
10 three categories, which are:

11 (1) Category 1 amendments under section 6325 of this title, which may  
12 be made by the holder without a public review process;

13 (2) Category 2 amendments under section 6326 of this title, which are  
14 amendments that require a procedural determination by an independent entity  
15 concerning whether they may be made without a public review process in  
16 accordance with this subchapter or whether they should undergo such a  
17 process.

18 (3) Category 3 amendments under section 6327 of this title, which are  
19 amendments that require a public review process in accordance with this  
20 subchapter.

1        (b) Except for those amendments that are expressly exempt from the  
2        provisions of this subchapter, a person shall not approve or execute an  
3        amendment to a conservation amendment other than a Category 1 amendment  
4        without complying with sections 6326 through 6331 of this title.

5        § 6325. CATEGORY 1 AMENDMENTS; APPROVAL BY HOLDER  
6                    WITHOUT REVIEW

7        (a) A Category 1 amendment is an amendment to an existing conservation  
8        easement that has a beneficial, neutral, or not more than a de minimis negative  
9        impact on the protected qualities under the existing easement and that does not,  
10       by the express terms of the easement, require approval by court order. The  
11       holder and landowner may approve a Category 1 amendment without notice to  
12       or review by an independent entity. Category 1 amendments shall be limited  
13       to the following:

14                (1) placing additional land under the protection of the easement;

15                (2) adding, expanding, or enhancing the protected qualities under the  
16        easement;

17                (3) including, for the benefit of a holder, a right of first refusal, an  
18        option to purchase at agricultural value, or another right to acquire an  
19        ownership interest in the property in the future;

1           (4) amending the easement to protect areas that were excluded from the  
2           easement or to further restrict rights and uses that were retained by the  
3           landowner under the existing easement;

4           (5) correcting typographical or clerical errors without altering the intent  
5           of or the protected qualities or the uses permitted under the easement;

6           (6) modernizing or clarifying the language of the easement without  
7           changing its intent or the protected qualities or the uses permitted under the  
8           easement;

9           (7) permitting additional uses under the easement that will have no more  
10          than a de minimis negative impact on the protected qualities under the  
11          easement;

12          (8) merging conservation easements on two or more protected properties  
13          into a single easement, or adjusting the boundaries between two or more  
14          adjoining protected properties, ~~or adjusting the boundaries of areas~~  
15          ~~excluded from the easement resulting from the merger,~~ provided that the  
16          merger does not:

17                (A) remove land covered by the easement;

18                (B) permit new uses under the easement that will have more than a  
19                de minimis negative impact on protected qualities on the property; or

20                (C) reduce the existing safeguards of the protected qualities on the  
21                property;

1           (9) modifying the legal description of the protected property to reference  
2           a subsequent survey of the area covered by or excluded from the easement; or

3           (10) relocating an existing recreational trail without materially  
4           detracting from the public’s access or quality of experience.

5           (b) In the event a holder or landowner of a protected property seeks a  
6           recordable document from the Panel establishing that an amendment  
7           constitutes a Category 1 amendment, the holder shall follow the procedures for  
8           a Category 2 amendment under section 6326 of this title.

9           § 6326. CATEGORY 2 AMENDMENTS; CRITERIA; REVIEW

10           (a) A Category 2 amendment is an amendment that does not, by the express  
11           terms of the easement, require approval by court order and that:

12           (1) the holder reasonably believes will have not more than a de minimis  
13           negative impact on the protected qualities under an existing easement but that  
14           does not clearly meet the definition of a Category 1 amendment; or

15           (2) adjusts the boundaries of the land protected by the easement or  
16           adjusts the boundaries of areas excluded from the easement, but only if:

17           (A) the adjustment does not reduce the area covered by the easement  
18           by more than the greater of:

19                   (i) two acres; or

20                   (ii) one percent of the land protected by the easement, not to  
21           exceed five acres; and

1           (B) the holder reasonably believes the amendment will have no more  
2           than a de minimis negative impact on the protected qualities under the existing  
3           easement.

4           (b) A holder seeking review of a Category 2 amendment shall submit a  
5           request for review to the Panel, together with a copy of the amendment, a  
6           description of the protected property and easement, and an explanation of the  
7           purpose and effect of the amendment. The request for review shall include the  
8           applicant’s and landowner’s names and addresses, and the address of the  
9           applicant’s principal office in this State and, if the applicant is not a  
10           municipality or State agency, a statement of its qualifications as a holder. The  
11           request to the Panel shall be signed by each holder and the landowner or the  
12           landowner’s representative. In addition, the holder shall certify and  
13           demonstrate that the amendment:

14           (1) Is consistent with the public conservation interest. **If the**  
15           **amendment serves a public purpose other than conservation, the holder**  
16           **may certify the amendment as consistent with the public conservation**  
17           **interest if the amendment has no more than a de minimis negative impact**  
18           **on the protected qualities under the existing easement.**

19           (2) Is consistent with the conservation purpose and intent of the  
20           easement.

21           (3) Complies with all applicable federal, State, and local laws.



1           (4) Does not result in private inurement or confer impermissible private  
2           benefit under 26 U.S.C. § 501(c)(3).

3           (5) Has a net beneficial, neutral, or not more than a de minimis negative  
4           impact on the protected qualities under the existing easement. In determining  
5           such net beneficial, neutral, or de minimis negative impact, the holder shall  
6           address the degree to which the amendment will balance the stated goals and  
7           purposes of the easement and shall identify whether these goals and purposes  
8           are ranked by the terms of the easement and demonstrate that the proposed  
9           amendment is consistent with that ranking.

10           (6) Is consistent with the documented intent of the donor, grantor, and  
11           all persons that directly funded the acquisition of the easement.

12           (c) Within a reasonable time after receiving a request for review of a  
13           Category 2 amendment and after providing 10-days' notice to all other panel  
14           members, the Chair of the Panel shall make a determination and promptly  
15           notify the holder and landowner of the subject easement that:

16           (1) no further review of the amendment is required because it satisfies  
17           all of the criteria listed under subsection (b) of this section;

18           (2) the holder must submit further information before a review can be  
19           completed; or

1           (3) the holder must seek approval of the amendment as a Category 3  
2           amendment because the amendment fails one or more of the criteria listed  
3           under subsection (b) of this section.

4           (d) If two or more members of the Panel believe that the proposed  
5           amendment fails one or more of the criteria listed under subsection (b) of this  
6           section and those members notify the Chair either individually or collectively  
7           within 10 days of the date of the Chair’s notice to the Panel members, the  
8           amendment shall be subject to review as a Category 3 amendment.

9           (e) If the determination under this section is that no further information or  
10           approval is required, the Chair shall, upon the holder’s request, send a notice of  
11           this determination in a recordable form to the holder.

12           (f) The Panel may adopt rules allowing certain Category 2 amendments to  
13           proceed as Category 1 amendments, provided the Panel establishes reasonable  
14           limitations to ensure that any such amendment will have not more than a  
15           de minimis negative impact on the protected qualities under the easement.

16           § 6327. CATEGORY 3 AMENDMENTS; REVIEW OPTIONS

17           (a) A Category 3 amendment is an amendment to an existing conservation  
18           easement that:

19                   (1) removes a protected quality from the easement or changes the  
20           hierarchy of the easement’s stated purposes;

1           (2) materially reduces the safeguards afforded to the protected qualities  
2           under the easement; or

3           (3) is not a Category 1 or Category 2 amendment.

4           (b) A holder shall not execute or record a Category 3 amendment without  
5           first:

6           (1) filing a petition for approval and obtaining the approval of the Panel  
7           for a Category 3 amendment in accordance with section 6328 of this title;

8           (2) filing a petition for approval and obtaining the approval of the  
9           Environmental Division of the Superior Court for a Category 3 amendment in  
10           accordance with section 6329 of this title. If an easement provides that the  
11           proposed amendment may only be approved by court order, then a holder may  
12           seek to amend the easement only by filing a petition for approval with the  
13           Environmental Division; or

14           (3) notifying the Panel that the holder will be conducting a holder's  
15           public review process under section 6330 of this title and completing that  
16           review process and any review by the Panel under section 6331 of this title.

17           (c) Having elected one of the review options described in this section for a  
18           given amendment, a holder may not elect to use one of the other options for the  
19           same amendment, except as provided in subsection 6330(h) of this title.

1     § 6328. CATEGORY 3 PETITION TO PANEL; PROCEDURE; CRITERIA

2           (a) Petition. A petition to the Panel to seek approval of a Category 3  
3     amendment shall comply with each of the following:

4           (1) The petition shall include:

5                   (A) a copy of the existing easement and proposed amendment;

6                   (B) a map and description of the protected property and easement;

7                   (C) an explanation of the purpose and effect of the amendment;

8                   (D) the same certification and demonstration required for Category 2  
9     amendments by subdivisions 6326(b)(1)–(4) of this title;

10                   (E) the landowner’s name and address;

11                   (F) the applicant’s name and address, the address of the applicant’s  
12     principal office in this State, and, if the applicant is not a municipality or State  
13     agency, a statement of its qualifications as a holder;

14                   (G) the filing fee in accordance with subsection 6323(i) of this title;

15                   (H) a statement as to whether the easement was originally conveyed  
16     with any ~~donor-imposed~~ restriction **imposed on the holder by the donor**  
17     **that was** accepted by the holder in exchange for the easement.

18           (2) The petition shall be signed by each holder of the subject easement,  
19     the landowner or landowner’s representative, and any person who holds an  
20     executory interest that allows assumption of the ownership of the property or  
21     the easement if the amendment is approved.

1        (b) Service of petition. Immediately on filing with the Panel, the petitioner  
2        shall send a copy of the petition to:

3            (1) the Attorney General, the Vermont Housing and Conservation  
4        Board, and the Agencies of Agriculture, Food and Markets and of Natural  
5        Resources;

6            (2) the legislative body, the planning commission, and the conservation  
7        commission, if any, of the municipality in which the property is located;

8            (3) the executive director of the regional planning commission within  
9        whose region the property is located;

10          (4) any person holding an executory interest in the conservation  
11        easement; and

12          (5) all persons who originally conveyed or amended the conservation  
13        easement, unless the existing easement was conveyed or amended more than  
14        25 years before the filing of the petition or the Panel determines that the  
15        addresses cannot be reasonably ascertained under the circumstances or that  
16        notification of such persons is otherwise impracticable; however, if the original  
17        conveyance of the easement contained any donor-imposed restrictions  
18        accepted by the holder in exchange for the easement, the Panel shall require  
19        the petitioner to demonstrate that it has made reasonable efforts to provide a  
20        copy of the petition to all persons who originally conveyed the conservation  
21        easement.

1        (c) Online posting. At the time a petition for a Category 3 amendment is  
2        filed, the holder shall post on its website or on another website designated by  
3        the Panel a copy of the petition and accompanying materials and information  
4        required under subsection (a) of this section.

5        (d) Notice of petition and proposed hearing by Panel.

6        (1) On receipt of a complete petition, the Panel shall promptly publish,  
7        at the expense of the petitioner, a notice of the petition in at least one area  
8        newspaper reasonably calculated to reach members of the public in the area  
9        where the protected property is located. The Panel also shall post the notice of  
10       public hearing on the Natural Resources Board website. The Panel shall send  
11       copies of the hearing notice to the petitioners, to the persons listed in  
12       subsection (b) of this section, and to adjoining landowners who may be  
13       affected by the amendment to the easement, unless it determines that the  
14       number of adjoining landowners is so large that direct notification is not  
15       practicable.

16       (2) The Panel's notice shall include each of the following:

17       (A) a description of the property subject to the existing conservation  
18       easement, the name of each petitioner, and a summary of the proposed  
19       amendment;

20       (B) the date, time, and place of the public hearing that the Panel  
21       proposes to hold. The date of the proposed public hearing shall be not less

1 than 25 days and not more than 40 days from the date of publication of the  
2 notice in the newspaper. The place of the public hearing shall be in the  
3 vicinity of the protected property subject to the easement;

4 (C) a link to the website on which the petition for the amendment and  
5 accompanying materials and information can be found;

6 (D) a statement that the Panel may waive the proposed public  
7 hearing, if no request for a hearing is received by the Panel within 15 days of  
8 the date on which the notice is published in the newspaper;

9 (E) information on how a person may request a public hearing; and

10 (F) information on how a person may confirm whether the proposed  
11 public hearing will be held.

12 (e) Request for hearing. Any person may request that the Panel hold a  
13 public hearing on the proposed amendment. The request for a hearing shall be  
14 submitted to the Panel and state the reasons why a hearing is warranted. On  
15 receipt by the Panel of a request for hearing, the Panel promptly shall send a  
16 copy of the request to the petitioners and to all persons listed in subsection (b)  
17 of this section.

18 (f) Public hearing; process; subpoena authority. The Panel shall conduct a  
19 public hearing on a petition under this section if a request for a public hearing  
20 is timely filed or it determines that a hearing is necessary.

1           (1) Any petition and any hearing on a petition for amendment of an  
2           easement shall not be considered a contested case under 3 V.S.A. chapter 25.

3           (2) Any person may participate in any hearing on any petition for  
4           amendment of an easement and shall have an opportunity to provide written or  
5           oral testimony to the Panel.

6           (3) The Panel shall have the power to issue a subpoena under the  
7           Vermont Rules of Civil Procedure to compel a petitioner to make available all  
8           relevant records pertaining to the conservation easement and the proposed  
9           amendment. The Environmental Division of the Superior Court shall have  
10           jurisdiction over any motion to quash or enforce such a subpoena.

11           (A) A petitioner may request that the Panel not disclose personal or  
12           confidential information contained in records subject to a subpoena under this  
13           section that the petitioner demonstrates is not directly and substantially related  
14           to the criteria of subsection (h) of this section. On a determination that the  
15           petitioner has made such a demonstration, the records shall be exempt from  
16           inspection and copying under the Public Records Act and the Panel shall keep  
17           the records confidential from all persons except the Panel’s members and staff  
18           unless a court of competent jurisdiction orders disclosure of the records.

19           (B) Any person who believes that additional information is needed  
20           from the easement holder before or during the hearing may direct a request to



1 the Panel, which may then require the petitioner to produce the requested  
2 information.

3 (C) If the petitioner fails to respond to a subpoena in a timely fashion,  
4 the Panel may deny the petition for amendment.

5 (g) Information considered. In any proceeding under this section, the Panel  
6 shall consider all circumstances and information that may reasonably bear  
7 upon the public conservation interest in upholding or amending the  
8 conservation easement, ~~including each of the following:~~

9 **(1) Factors to be considered by the Panel shall include each of the**  
10 **following:**

11 (A) any material change in circumstances that has taken place since  
12 the easement was conveyed or last amended, including changes in applicable  
13 laws or regulations, in the native flora or fauna, or in community conditions  
14 and needs, or the development of new technologies or new agricultural and  
15 forestry enterprises;

16 (B) whether the circumstances leading to the proposed amendment  
17 were anticipated at the time the easement was conveyed or last amended;

18 (C) the existence or lack of reasonable alternatives to address the  
19 changed circumstances;

20 (D) whether the amendment changes an easement's stated purpose or  
21 hierarchy of purposes;

1           (E) the certification requirements for Category 2 amendments listed  
2 in subdivisions 6326(b)(1)–(4) of this title;

3           (F) the documented intent of the donor, grantor, and all direct  
4 funding sources and **any restriction imposed on the holder by the donor**  
5 **and** accepted by the holder in exchange for the easement, if applicable; and

6           (G) any other information or issue that the Panel considers relevant.

7           **(2) The Panel may issue a partial decision on whether an**  
8 **amendment is consistent with the public conservation interest if it finds**  
9 **that evidence otherwise necessary to issue a complete decision under this**  
10 **section, such as an appraisal or survey is unnecessary to determine**  
11 **whether the amendment is consistent with the public conservation**  
12 **interest, and production of that evidence in advance of this determination**  
13 **would place an undue financial burden on the petitioner. If the**  
14 **application is partially approved, the petitioner may produce the evidence**  
15 **for a complete decision.**

16           (h) Criteria for approval.

17           (1) The Panel shall approve an amendment if it finds, by clear and  
18 convincing evidence, that the amendment:

19           (A) is consistent with the public conservation interest;

20           (B) is consistent with the purposes stated in section 6301 of this  
21 chapter;

1           (C) will not result in private inurement or confer impermissible  
2 private benefit under 26 U.S.C. § 501(c)(3);

3           (D) will result in adequate compensation to the holder. Any such  
4 compensation shall be paid to the holder of the easement and shall be used by  
5 the holder for the conservation of lands in a manner consistent, as nearly as  
6 possible, with the public conservation interest stated in the easement; and

7           (E) meets at least one of the following:

8           (i) the amendment promotes or enhances the conservation  
9 purposes of the easement or the protected qualities under the easement, even  
10 though it may be inconsistent with a strict interpretation of the terms of the  
11 existing easement;

12           (ii) enforcement of the easement term proposed for amendment  
13 would result in significant financial burdens to the easement holder or  
14 landowner and result in minimal conservation benefit to the public; or

15           (iii) the amendment clearly enhances the public conservation  
16 interest, even though it may allow the diminution of one or more conservation  
17 purposes or protected qualities on the property protected by the existing  
18 easement.

19           (2) In the event the conservation easement subject to the petition  
20 requires that an amendment comply with conditions that are more restrictive

1 than or different from the criteria listed in this subsection, the Panel must also  
2 find that those conditions have been met in order to approve the amendment.

3 (i) Decision. Following the hearing, or after a determination without a  
4 hearing, the Panel shall issue a written decision approving, approving with  
5 conditions, or denying the amendment request and stating the reasons for the  
6 Panel’s decision.

7 (1) The Panel shall post its written decision on the Board’s website and  
8 shall distribute a copy to each holder of the subject easement, the landowner,  
9 the Attorney General, and to any other person who participated in the public  
10 hearing, if one was held.

11 (2) If the decision approves an amendment that terminates an easement  
12 in whole or in part, the Panel shall require that the holder apply any monetary  
13 compensation to achieve a conservation purpose similar to that stated in the  
14 easement and shall require, as a condition of approval, the holder to identify  
15 such purpose and provide documentation proving that the compensation has  
16 been applied in accordance with this subdivision (2).

17 (j) The Attorney General may request reconsideration of a decision by the  
18 Panel. Such a request shall be filed within 30 days of the decision and shall  
19 identify each specific issue to be reconsidered. The request shall not be  
20 governed by the Vermont Rules of Civil Procedure and shall address the merits

1 of each specific issue. In its decision, the Panel shall address the merits of  
2 each such issue under subsection (h) of this section.

3 § 6329. PETITION TO ENVIRONMENTAL DIVISION

4 (a) A holder may file a petition for approval of a Category 3 amendment  
5 with the Environmental Division of the Superior Court. A holder shall file a  
6 petition for approval of an easement amendment with the Environmental  
7 Division of the Superior Court, pursuant to the requirements of this section, if,  
8 by its express terms, an easement provides that the proposed amendment may  
9 only be approved by court order.

10 (1) The petition shall be signed by each holder, the landowner or  
11 landowner's representative, and any person who holds an executory interest  
12 that allows assumption of ownership of the property or the easement, if the  
13 amendment is approved.

14 (2) The petitioner shall serve the petition on the persons described in  
15 subdivisions 6328(b)(1)–(5) of this title.

16 (A) As to a petition under this section, the Division shall determine  
17 which persons who originally conveyed or amended the easement shall be  
18 notified under subdivision 6328(b)(5) of this title.

19 (B) The petitioner shall serve the petition on adjoining landowners  
20 who may be affected by the amendment to the easement, unless on motion of  
21 the petitioner the Division determines that the number of adjoining landowners

1 is so large that such service is not practicable. The Division may direct the  
2 petitioner to provide a list of adjoining landowners.

3 (3) A petition under this section shall include the content required by  
4 subdivisions 6328(a)(1)(A)–(F) and (H) of this title and such other information  
5 as the Division’s rules may direct.

6 (b) A petition under this section shall be a matter of original jurisdiction  
7 before the Environmental Division. The Division shall provide notice of the  
8 first status conference or hearing, whichever is earlier, to the persons signing  
9 the petition and the persons on whom service of the petition is required. The  
10 Vermont Rules of Environmental Court Proceedings shall apply to petitions  
11 under this section. The Attorney General shall have a statutory right to  
12 intervene in a petition under this section and may appear at his or her  
13 discretion.

14 (c) In deciding a petition under this section, the Division shall consider the  
15 information described under subsection 6328(g) of this title and apply the  
16 criteria enumerated under subdivision 6328(h) of this title. However, if the  
17 terms of the conservation easement proposed for an amendment provide one or  
18 more conditions for amendment that are more restrictive than or different from  
19 those applied by the Panel, the Division shall also apply those conditions set  
20 forth in the easement in making its decision.

1        (d) Unless otherwise agreed, the holder or holders who file a petition under  
2        this section shall bear the costs and expenses of review of the petition.

3        § 6330. HOLDER’S PUBLIC REVIEW AND HEARING PROCESS

4        (a) A holder may adopt and conduct a holder’s public review process for a  
5        Category 3 amendment. Such a process may only be used if all holders agree  
6        to use the process and one of the holders is publicly identified in the initial  
7        notice as responsible for the publication by newspaper and on its website of all  
8        notices and documents required under this section.

9        (b) A holder’s public review process shall include each of the following:

10        (1) Creation of an easement amendment proposal containing the same  
11        information described in subdivisions 6328(a)(1)(A)–(F) and (H) of this title,  
12        except that a holder may defer the certification requirements referenced in  
13        subdivision 6328(a)(1)(D) of this title until after it completes the public  
14        hearing;

15        (2) Posting of the easement amendment proposal on the website of the  
16        holder publicly identified under subsection (a) of this section;

17        (3) Publication of a notice of the petition in at least one area newspaper  
18        reasonably calculated to reach members of the public in the area where the  
19        protected property is located. The notice also shall be placed on the website of  
20        the holder publicly identified under subsection (a) of this section. The notice  
21        shall include each of the following:

1           (A) A description of the property subject to the existing conservation  
2           easement, the name of each petitioner, and a summary of the proposed  
3           amendment;

4           (B) The date, time, and place of the public hearing. The date of the  
5           public hearing shall be not less than 25 days and not more than 40 days from  
6           the date of publication of the notice in the newspaper. The place of the public  
7           hearing shall be in the vicinity of the protected property subject to the  
8           easement;

9           (C) A link to the website where the easement amendment proposal  
10           and accompanying materials and information may be found;

11           (4) Sending a copy of the easement amendment proposal and notice to  
12           the persons described in subdivisions 6328(b)(1)–(5) of this title;

13           (5) Sending a copy of the notice to all adjoining landowners who may be  
14           affected by the amendment to the easement, unless all holders of the subject  
15           easement agree that the number of adjoining landowners is so large that direct  
16           notification is not practicable.

17           (c) Any person may participate in the holder’s public review process and  
18           public hearing by submitting written comments or oral comments, or both, at  
19           the public hearing. The holder may require each participant in the public  
20           hearing to sign a register noting their presence at the hearing and providing  
21           their electronic or other mailing address.



1        (d) If following the public review and hearing process the holder approves  
2        the amendment, the holder shall prepare a written decision that:

3            (1) explains the changes to the easement that have been approved;

4            (2) considers the information described under subsection 6328(g) of this  
5        title in relation to the easement amendment proposal;

6            (3) applies the criteria enumerated under subdivision 6328(h) of this title  
7        to the easement amendment proposal;

8            (4) lists all persons who submitted written or oral comments during the  
9        public review and hearing process; and

10          (5) summarizes the nature of any objection made to the amendment  
11        during the public review and hearing process and explains how the objection  
12        was addressed or why it was rejected.

13          (e) All holders of an easement shall conduct a single, combined holder's  
14        public review process that complies with this section for any particular  
15        amendment that has been proposed to the easement. The holders may prepare  
16        a written decision to which they all agree. If all holders do not agree to the  
17        written decision, the amendment shall not be approved.

18          (f) The holder shall file the decision with the Panel, together with a  
19        certification that the holder has conducted a public hearing and complied with  
20        this section. At the time of this filing, the holder shall post on its website:

21            (1) a copy of the written decision and certification filed with the Panel;

1           (2) the date that the decision and certification were filed with the  
2 Panel; and

3           (3) the notice described in subsection (g) of this section.

4           (g) Immediately on filing the decision with the Panel, the holder shall send  
5 a notice of the decision to all persons listed in subdivisions 6328(b)(1)–(5) of  
6 this title and shall provide a link to the holder’s website where the decision,  
7 certification, and other information may be found. The notice shall:

8           (1) state the date on which the decision was filed with the Panel;

9           (2) list the persons who have the right to file a request for review with  
10 the Panel under subsection 6331(a) of this title and state that any request for  
11 review must be submitted to the Panel within 30 days of the date the holder  
12 filed its decision with the Panel; and

13           (3) state that any such request for review must state the basis for the  
14 appeal, include a statement of issues, and make a prima facie showing that the  
15 holder’s decision is not in the public conservation interest.

16           (h) If at any time prior to the issuance of a final decision by the holder, any  
17 holder or the landowner decides to terminate the holder’s public review  
18 process, the amendment shall not be approved. However, at the option of the  
19 landowner and holder, the proposed amendment may be submitted and  
20 approved as a Category 3 amendment by the Panel or the Environmental  
21 Division of the Superior Court in accordance with this subchapter.

1     § 6331. PANEL REVIEW OF HOLDER’S DECISION FOLLOWING  
2             PUBLIC REVIEW AND HEARING

3             (a) The following persons have the right to request that the Panel review  
4     the holder’s decision under section 6330 of this title:

5             (1) the Attorney General;

6             (2) the person who originally conveyed the easement, if the easement  
7     was donated or provided through a bargain sale or other mechanism in which  
8     the person who conveyed the easement received a tax deduction;

9             (3) the legislative body of the municipality in which the property subject  
10    to the easement is located;

11            (4) any person who provided an oral or written comment during the  
12    holder’s public review and hearing process.

13            (b) A request to review under this section must be filed with the Panel  
14    within 30 days of the date the holder files the decision and certification with  
15    the Panel.

16            (c) A request for review of a holder’s decision must be in writing, state the  
17    basis for the request to review, contain a statement of issues, and make a prima  
18    facie showing that the holder’s decision is not in the public conservation  
19    interest.

1           (1) A person who originally conveyed the easement may also make a  
2           prima facie case that the amendment fails to comply with conditions  
3           concerning amendments that may be contained in the original easement.

4           (2) In this section, the term “prima facie” means an initial showing of  
5           specific facts which, if proven, would show that the easement amendment is  
6           not in the public conservation interest or, if the request was filed by a person  
7           who originally conveyed the easement, does not comply with conditions  
8           concerning amendments that may be contained in the original easement. A  
9           prima facie showing also shall include the reasons why the facts prove that the  
10           amendment is not in the public conservation interest or does not comply with  
11           the original easement’s conditions.

12           (d) The Panel, on its own initiative or by written request of the holder, may  
13           dismiss a request for review without further hearing if the person requesting  
14           the review is not eligible to request review under this section or the request for  
15           review fails to comply with subsection (c) of this section.

16           (e) With respect to an amendment for which the holder’s public review and  
17           hearing under section 6330 of this title was completed, the Panel shall, at the  
18           request of the landowner or holder, issue a certificate in recordable form that  
19           the holder has made the required certifications and that no further approval of  
20           the amendment is required if:

1           (1) no request for review was filed within the time permitted under  
2           subsection (b) of this section; or

3           (2) such a request was filed and dismissed under subsection (d) of this  
4           section.

5           (f) In the event that a timely request for review is filed and not dismissed  
6           under subsection (d) of this section, the Panel shall review the amendment as a  
7           Category 3 amendment in accordance with section 6328 of this title, provided  
8           that:

9           (1) the request for review shall be limited to the statement of issues  
10           raised in the request for review, unless the Panel determines that a request to  
11           amend the statement of issues is timely filed and will not result in prejudice to  
12           any party to the proceeding; and

13           (2) the decision of the holder shall be presumed to be in the public  
14           conservation interest. This presumption shall be rebutted if the Panel finds that  
15           there was a substantial violation of the procedural requirements of section 6330  
16           of this title or if the amendment does not meet the criteria of section 6328(h) of  
17           this title.

18           § 6332. REVOCATION OF EASEMENT AMENDMENTS

19           (a) Revocation by the Panel. On its own initiative or at the request of the  
20           Attorney General or a person who participated in the Panel’s or holder’s

1 review process, the Panel may revoke easement amendments approved under  
2 section 6328, 6330, or 6331 of this title.

3 (1) A revocation petition before the Panel shall be a contested case  
4 under 3 V.S.A. chapter 25, and the Panel shall comply with 3 V.S.A. § 814(c)  
5 (notice; opportunity to show compliance).

6 (2) The Panel may revoke an easement amendment approved under  
7 section 6328, 6330, or 6331 of this title if finds one or more of the following:

8 (A) noncompliance with the easement amendment decision of the  
9 Panel or any condition of that decision;

10 (B) noncompliance with the holder’s decision following the holder’s  
11 public review and hearing process under section 6330 of this title, concerning  
12 which decision the Panel has issued a certificate to the holder pursuant to  
13 section 6331 of this title;

14 (C) failure of a holder of the easement to disclose all relevant and  
15 material facts in the petition or during the review process; or

16 (D) misrepresentation by a holder of the easement of any relevant  
17 and material fact at any time.

18 (b) The Attorney General or the Panel may petition the Environmental  
19 Division to revoke an easement amendment approved by the Division under  
20 section 6329 of this title.

1           (1) Each holder of the easement amendment subject to the petition shall  
2           be given notice and an opportunity to show compliance.

3           (2) The Division may revoke an easement amendment approved by the  
4           Division under section 6329 of this title if it finds one or more of the  
5           following:

6                   (A) noncompliance with the easement amendment decision of the  
7           Division or any condition of that decision;

8                   (B) failure of a holder of the easement to disclose all relevant and  
9           material facts in the petition or during the review process;

10                   (C) misrepresentation by a holder of the easement of any relevant and  
11           material fact at any time.

12           (c) This section shall not be applied to alter the rights of a good faith  
13           purchaser who, subsequent to approval of an amendment under this chapter,  
14           purchased property affected by the amendment without notice of the  
15           misrepresentation or failure to disclose and was not responsible for and had no  
16           knowledge or constructive notice of the conditions imposed by the Panel or  
17           Environmental Division.

18           § 6333. APPEALS

19           (a) Appeals. A final decision of the Panel or the Environmental Division of  
20           the Superior Court under this subchapter may be appealed to the Supreme  
21           Court within 30 days of the decision's issuance.

1        (b) Persons eligible to appeal. Only the following persons shall have the  
2        right to appeal to the Vermont Supreme Court under this section:

3            (1) a holder of the subject easement;

4            (2) the landowner;

5            (3) the Attorney General;

6            (4) the Panel, but only of a decision of the Environmental Division on a  
7        revocation petition brought by the Panel under section 6332 of this title; or

8            (5) the persons who originally conveyed the easement if the  
9        conservation easement contained any donor-imposed restriction accepted by  
10       the holder in exchange for the easement.

11        (c) Appeal by fewer than all holders. If the appeal is filed by fewer than all  
12       of the holders, the holder or holders filing the appeal shall bear the holder's  
13       cost and expenses of the appeal. However, the decision on appeal shall be  
14       binding on all holders and on all other parties.

15        (d) Preservation. An objection that has not been raised before the Panel or  
16       the Environmental Division may not be considered by the Supreme Court,  
17       unless the failure or neglect to raise that objection is excused by the Supreme  
18       Court because of extraordinary circumstances.

19        (e) Standard of review. The Supreme Court may reverse a decision  
20       appealed under this section only if the decision is clearly erroneous or the  
21       Panel or Environmental Division clearly abused its discretion.



1     § 6334. CONTRIBUTOR RESTITUTION ACTIONS; DAMAGE

2             LIMITATION

3             A decision by the Panel or the Environmental Division on an amendment  
4             under this subchapter shall not affect any right of a person who has personally  
5             or directly contributed to the holder’s acquisition of the easement to seek  
6             restitution in a court of competent jurisdiction of the contribution based upon  
7             misrepresentation or breach of contract on the part of the easement holder.  
8             However, such restitution shall be only for the amount contributed or granted,  
9             and shall not include interest, damages, attorney’s fees, or other costs, unless  
10            the reviewing court finds that the holder has acted in bad faith.

11     § 6335. REPORT TO GENERAL ASSEMBLY

12            Each State agency shall provide to the General Assembly a report of any  
13            easement amendments made during the previous year. The report shall  
14            summarize each easement amendment and describe both the reasons for the  
15            amendment and how the amendment promotes the public conservation interest.  
16            The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not  
17            apply to the report to be made under this section.

18     Sec. 8. 4 V.S.A. § 34 is amended to read:

19     § 34. JURISDICTION; ENVIRONMENTAL DIVISION

20            The ~~environmental division~~ Environmental Division shall have:

1           (1) jurisdiction of matters arising under 10 V.S.A. chapters 201 and 220  
2 ~~of Title 10;~~

3           (2) jurisdiction of matters arising under 24 V.S.A. chapter 61,  
4 subchapter 12, and chapter 117 ~~and subchapter 12 of chapter 61 of Title 24;~~  
5 ~~and~~

6           (3) original jurisdiction to revoke permits under 10 V.S.A. chapter 151  
7 ~~of Title 10; and~~

8           (4) such original jurisdiction to approve or deny and to revoke  
9 amendments of conservation easements as is provided by 10 V.S.A. chapter  
10 155, subchapter 2.

11       Sec. 9. 10 V.S.A. § 324 is amended to read:

12       § 324. STEWARDSHIP

13           (a) The Board shall amend or terminate conservation easements held  
14 pursuant to this chapter only in accordance with chapter 155, subchapter 2 of  
15 this title.

16           (b) If an activity funded by the Board involves acquisition by the State of  
17 an interest in real property for the purpose of conserving and protecting  
18 agricultural land or forestland, important natural areas, or recreation lands, the  
19 Board, in its discretion, may make a one-time grant to the appropriate state  
20 State agency, qualified organization, or municipality. The grant shall not

1 exceed ten percent of the current appraised value of that property interest and  
2 shall be used to support its proper management or maintenance or both.

3 Sec. 10. 10 V.S.A. § 823 is amended to read:

4 § 823. INTERESTS IN REAL PROPERTY

5 Conservation and preservation rights and interests shall be deemed to be  
6 interests in real property and shall run with the land. A document creating  
7 such a right or interest shall be deemed to be a conveyance of real property and  
8 shall be recorded under 27 V.S.A. chapter 5. ~~Such a right or interest shall be~~  
9 ~~subject to the requirement of filing a notice of claim within the 40-year period~~  
10 ~~as provided in 27 V.S.A. § 603.~~ Such a right or interest shall be enforceable in  
11 law or in equity. Any subsequent transfer, mortgage, lease, or other  
12 conveyance of the real property or an interest in the real property shall  
13 reference the grant of conservation rights and interests in the real property,  
14 provided, however, that the failure to include a reference to the grant shall not  
15 affect the validity or enforceability of the conservation rights and interests.

16 Sec. 11. 27 V.S.A. § 604 is amended to read:

17 § 604. FAILURE TO FILE NOTICE

18 (a) This subchapter shall not bar or extinguish any of the following  
19 interests, by reason of failure to file the notice provided for in section 605 of  
20 this title:

21 \* \* \*

1 (8) Any conservation rights or interests created pursuant to 10 V.S.A.  
2 chapter 34 or 155.

3 \* \* \*

4 Sec. 12. EASEMENT AMENDMENT PANEL; INITIAL APPOINTMENTS

5 By ~~October 1, 2013~~ XXX, 2014, the Governor shall appoint the members  
6 of the Easement Amendment Panel under Sec. 7 of this act, 10 V.S.A.  
7 § 6323(a)(2)–(4) (members; easement amendment panel). The initial term of  
8 the members appointed under 10 V.S.A. § 6323(a) from a list submitted by  
9 qualified organizations shall expire on February 1, 2017. The initial term of  
10 the members appointed under 10 V.S.A. § 6323(a) from a list submitted by the  
11 Vermont Housing and Conservation Board shall expire on February 1, 2015.

12 Sec. 12a. 10 V.S.A. § 6029 is amended to read:

13 § 6029. ACT 250 PERMIT FUND

14 There is hereby established a special fund to be known as the ~~Act 250~~  
15 ~~permit fund~~ Act 250 Permit Fund for the purposes of implementing the  
16 provisions of this chapter and the Easement Amendment Panel of the Board  
17 created under section 6323 of this title. Revenues to the ~~fund~~ Fund shall be  
18 those fees collected in accordance with ~~section~~ sections 6083a and 6323 of this  
19 title, gifts, appropriations, and copying and distribution fees. The ~~board~~ Board  
20 shall be responsible for the ~~fund~~ Fund and shall account for revenues and  
21 expenditures of the ~~board~~ Board. At the ~~commissioner's~~ Commissioner's

1 discretion, the ~~commissioner of finance and management~~ Commissioner of  
2 Finance and Management may anticipate amounts to be collected and may  
3 issue warrants based thereon for the purposes of this section. Disbursements  
4 from the ~~fund~~ Fund shall be made through the annual appropriations process to  
5 the ~~board~~ Board and to the ~~agency of natural resources~~ Agency of Natural  
6 Resources to support those programs within the ~~agency~~ Agency that directly or  
7 indirectly assist in the review of Act 250 applications. This ~~fund~~ Fund shall be  
8 administered as provided in 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of~~  
9 ~~Title 32.~~

10 **Sec. 12b. 10 V.S.A. § 6021(e) is added to read:**

11 **(e) The Board also shall include the Easement Amendment Panel**  
12 **constituted in accordance with section 6323 of this title.**

13 *[EFFECTIVE DATES SECTION, OPTION 1]:*

14 Sec. 13. EFFECTIVE DATES

15 (a) This section, Sec. 12, and, in Sec. 7, 10 V.S.A. § 6323 shall take effect  
16 on passage.

17 (b) The remainder of the act shall take effect on ~~January~~ **July 1, 2014.**

18 *[EFFECTIVE DATES SECTION, OPTION 2]:*

19 Sec. 13. EFFECTIVE DATES; **EMERGENCY RULES**

20 (a) This section, Sec. 12, and, in Sec. 7, 10 V.S.A. § 6323 shall take effect  
21 on passage.

1           **(b) The remainder of this act shall take effect on July 1, 2014.**

2           **(c) Notwithstanding the assignment of rulemaking authority to the**

3           **Easement Amendment Panel under 10 V.S.A. § 6323, the Natural**

4           **Resources Board as constituted immediately prior to passage of this act**

5           **shall have authority, on passage of the act, to prefile initial proposed rules**

6           **under 10 V.S.A. § 6323 with the Interagency Committee on**

7           **Administrative Rules and file these initial proposed rules with the**

8           **Secretary of State (SOS). On appointment, the Easement Amendment**

9           **Panel shall have authority, with respect to these initial proposed rules, to**

10           **conduct the public hearing and comment process and submit a final**

11           **proposal to the SOS and the Legislative Committee on Administrative**

12           **Rules and to finally adopt the initial proposed rules.**

13  
14  
15  
16  
17

(Committee vote: \_\_\_\_\_)

\_\_\_\_\_

Representative [surname]

FOR THE COMMITTEE