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H.574

Introduced by Representatives Baser of Bristol, Carr of Brandon, O'Sullivan
of Burlington, Botzow of Pownal, Dakin of Colchester,
Kitzmiller of Montpelier, Marcotte of Coventry, Scheuermann
of Stowe, Sibiliala of Dover, and Stuart of Brattleboro

Referred to Committee on

Date:

Subject: Commerce and trade; economic development

Statement of purpose of bill as introduced: This bill proposes to amend certain
provisions governing the Vermont Economic Development Authority.

An act relating to the Vermont Economic Development Authority

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

Sec. 1. 10 V.S.A. § 216 is amended to read:

§ 216. AUTHORITY; GENERAL POWERS

The Authority is hereby authorized:

* * *

(15) To delegate to loan officers the power to review, approve, and
make loans under this chapter, subject to the approval of the manager, and to
disburse funds on such loans, subject to the approval of the manager, ~~provided~~
~~that such loans do not exceed \$350,000.00 in aggregate amount for any~~

1 ~~industrial loan for any three year period for any particular individual,~~
2 ~~partnership, corporation, or other entity or related entity, or do not exceed~~
3 ~~\$350,000.00 in aggregate amount if the loan is guaranteed by the Farm~~
4 ~~Services Agency, or its successor agency, or \$300,000.00 in aggregate amount~~
5 ~~if the loan is not guaranteed by the Farm Services Agency, or its successor~~
6 ~~agency, for any agricultural loan for any three year period for any particular~~
7 ~~individual, partnership, corporation, or other entity or related entity. No funds~~
8 ~~may be disbursed for any loan approved under this provision, except for any~~
9 ~~agricultural loan referenced above in an amount not to exceed \$50,000.00, and~~
10 ~~no rejection of a loan by a loan officer pursuant to this subdivision shall~~
11 ~~become final, until three working days after the members of the Authority are~~
12 ~~notified by facsimile, electronic mail, or overnight delivery mailed or sent on~~
13 ~~the day of approval or rejection, of the intention to approve or reject such loan.~~
14 ~~If any member objects within that three day period, the approval or rejection~~
15 ~~will be held for reconsideration by the members of the Authority at its next~~
16 ~~duly scheduled meeting.~~

17 * * *

18 Sec. 2. 10 V.S.A. § 219 is amended to read:

19 § 219. RESERVE FUNDS

20 * * *

1 (d) In order to ensure the maintenance of the debt service reserve
2 requirement in each debt service reserve fund established by the Authority,
3 there may be appropriated annually and paid to the Authority for deposit in
4 each such fund, such sum as shall be certified by the Chair of the Authority, to
5 the Governor, the President of the Senate, and the Speaker of the House, as is
6 necessary to restore each such debt service reserve fund to an amount equal to
7 the debt service reserve requirement for such fund. The Chair shall annually,
8 on or about February 1, make, execute, and deliver to the Governor, the
9 President of the Senate, and the Speaker of the House, a certificate stating the
10 sum required to restore each such debt service reserve fund to the amount
11 aforesaid, and the sum so certified may be appropriated, and if appropriated,
12 shall be paid to the Authority during the then current State fiscal year. The
13 principal amount of bonds or notes outstanding at any one time and secured in
14 whole or in part by a debt service reserve fund to which State funds may be
15 appropriated pursuant to this subsection shall not exceed ~~\$130,000,000.00~~
16 \$155,000,000.00, provided that the foregoing shall not impair the obligation of
17 any contract or contracts entered into by the Authority in contravention of the
18 Constitution of the United States.

1 Sec. 3. 10 V.S.A. § 220 is added to read:

2 § 220. TRANSFER FROM INDEMNIFICATION FUND

3 The State Treasurer shall transfer from the Indemnification Fund created in
4 former section 222a of this title to the Authority all current and future amounts
5 deposited to that Fund.

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

7 § 234. THE VERMONT JOBS FUND

8 * * *

9 (c) Monies in the Fund may be loaned to the Vermont Agricultural Credit
10 Program to support its lending operations as established in chapter 16A of this
11 title at interest rates and on terms and conditions to be set by the Authority to
12 ~~establish a line of credit in an amount not to exceed \$60,000,000.00 to be~~
13 ~~advanced to the Vermont Agricultural Credit Program to support its lending~~
14 ~~operations as established in chapter 16A of this title.~~

15 * * *

16 Sec. 5. 10 V.S.A. chapter 16A is amended to read:

17 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

18 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT

19 PROGRAM

20 (a) There is created the Vermont Agricultural Credit Program, which will
21 provide an alternative source of sound and constructive credit to farmers and

1 forest products businesses who are not having their credit needs fully met by
2 conventional agricultural credit sources at reasonable rates and terms. The
3 Program is intended to meet, either in whole or in part, the credit needs of
4 eligible agricultural facilities and farm operations in fulfillment of one or more
5 of the purposes listed in this subsection by making direct loans and
6 participating in loans made by other agricultural credit providers:

7 * * *

8 ~~(b) No borrower shall be approved for a loan from the corporation that~~
9 ~~would result in the aggregate principal balances outstanding of all loans to that~~
10 ~~borrower exceeding the then-current maximum Farm Service Agency loan~~
11 ~~guarantee limits, or \$2,000,000.00, whichever is greater.~~

12 § 374b. DEFINITIONS

13 As used in this chapter:

14 (1) “Agricultural facility” means land and rights in land, buildings,
15 structures, machinery, and equipment which is used for, or will be used for
16 producing, processing, preparing, packaging, storing, distributing, marketing,
17 or transporting agricultural or forest products which have been primarily
18 produced in this State, and working capital reasonably required to operate an
19 agricultural facility.

20 (2) “Agricultural land” means real estate capable of supporting
21 commercial farming or forestry, or both.

1 (3) “Agricultural products” mean crops, livestock, forest products, and
2 other farm or forest commodities produced as a result of farming or forestry
3 activities.

4 (4) “Farm ownership loan” means a loan to acquire or enlarge a farm or
5 agricultural facility, to make capital improvements including construction,
6 purchase, and improvement of farm and agricultural facility buildings that can
7 be made fixtures to the real estate, to promote soil and water conservation and
8 protection, and to refinance indebtedness incurred for farm ownership or
9 operating loan purposes, or both.

10 (5) “Authority” means the Vermont Economic Development Authority.

11 (6) “Cash flow” means, on an annual basis, all income, receipts, and
12 revenues of the applicant or borrower from all sources and all expenses of the
13 applicant or borrower, including all debt service and other expenses.

14 (7) “Farmer” means an individual directly engaged in the management
15 or operation of an agricultural facility or farm operation for whom the
16 agricultural facility or farm operation constitutes two or more of the following:

17 (A) is or is expected to become a significant source of the farmer’s
18 income;

19 (B) the majority of the farmer’s assets; and

20 (C) an occupation in which the farmer is actively engaged, either on a
21 seasonal or year-round basis.

1 (8) “Farm operation” shall mean the cultivation of land or other uses of
2 land for the production of food, fiber, horticultural, silvicultural, orchard,
3 maple syrup, Christmas trees, forest products, or forest crops; the raising,
4 boarding, and training of equines, and the raising of livestock; or any
5 combination of the foregoing activities. Farm operation also includes the
6 storage, preparation, retail sale, and transportation of agricultural or forest
7 commodities accessory to the cultivation or use of such land.

8 (9) “Forest products business” means a Vermont enterprise that is
9 primarily engaged in managing, harvesting, trucking, processing,
10 manufacturing, crafting, or distributing products that originate in Vermont
11 forests.

12 (10) “Livestock” shall mean cattle, sheep, goats, equines, fallow deer,
13 red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge,
14 coturnix quail, ferrets, camelids and ratites, cultured trout propagated by
15 commercial trout farms, and bees.

16 ~~(10)~~(11) “Loan” means an operating loan or farm ownership loan,
17 including a financing lease, provided that such lease transfers the ownership of
18 the leased property to each lessee following the payment of all required lease
19 payments as specified in each lease agreement.

20 ~~(11)~~(12) “Operating loan” means a loan to purchase livestock, farm or
21 forestry equipment, or fixtures to pay annual operating expenses of a farm

1 operation or agricultural facility, to pay loan closing costs, and to refinance
2 indebtedness incurred for farm ownership or operating loan purposes, or both.

3 ~~(12)~~(13) “Program” means the Vermont Agricultural Credit Program
4 established by this chapter.

5 ~~(13)~~(14) “Project” or “agricultural project” means the creation,
6 establishment, acquisition, construction, expansion, improvement,
7 strengthening, reclamation, operation or renovation of an agricultural facility
8 or farm operation.

9 ~~(14)~~(15) “Resident” means a person who is or will be domiciled in this
10 State as evidenced by an intent to maintain a principal dwelling place in the
11 State indefinitely and to return there if temporarily absent, coupled with an act
12 or acts consistent with that intent, including the filing of a Vermont income tax
13 return within 18 months of the application for a loan under this chapter. In the
14 case of a limited liability company, partnership, corporation or other business
15 entity, resident means a business entity formed under the laws of Vermont, the
16 majority of which is owned and operated by Vermont residents who are natural
17 persons.

18 * * *

19 § 374h. LOAN ELIGIBILITY STANDARDS

20 A farmer, or a limited liability company, partnership, corporation or other
21 business entity the majority ownership of which is vested in one or more

1 farmers, shall be eligible to apply for a farm ownership or operating loan,
2 provided the applicant is:

3 * * *

4 (4) an operator or proposed operator of an agricultural facility, ~~or farm~~
5 operation, or forest products business for whom the loan reduces investment
6 costs to an extent that offers the applicant a reasonable chance to succeed in
7 the operation and management of an agricultural facility or farm operation;

8 * * *

9 (7) able to demonstrate that the applicant is responsible and able to
10 manage responsibilities as owner or operator of the farm operation, ~~or~~
11 agricultural facility, or forest products business;

12 * * *

13 (13) able to demonstrate that the proposed loan will be adequately
14 secured by a mortgage on real property ~~with a satisfactory maturity date in no~~
15 ~~event later than 20 years from the date of inception of the mortgage~~, or by a
16 security agreement on personal property ~~with a satisfactory maturity date in no~~
17 ~~event longer than the average remaining useful life of the assets in which the~~
18 ~~security interest is being taken~~; and

19 * * *

1 Sec. 6. REPEALS

2 (a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to
3 \$1,000,000.00 of the full faith and credit of the State for loss reserves for the
4 Vermont Economic Development Authority small business loan program and
5 TECH loan program, is repealed.

6 (b) In 10 V.S.A. chapter 12 (Vermont Economic Development Authority)
7 the following are repealed:

8 (1) subchapter 2, §§ 221–229 (Mortgage Insurance); and

9 (2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

10 Sec. 7. EFFECTIVE DATE

11 This act shall take effect on July 1, 2016.