

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 574 entitled “An act relating to the Vermont Economic
4 Development Authority” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. § 213 is amended to read:

8 § 213. AUTHORITY; ORGANIZATION

9 (a) The Vermont Economic Development Authority is hereby created and
10 established as a body corporate and politic and a public instrumentality of the
11 State. The exercise by the Authority of the powers conferred upon it in this
12 chapter constitutes the performance of essential governmental functions.

13 (b)(1) The Authority shall have 15 voting members consisting of:

14 (A) the Secretary of Commerce and Community Development, the
15 State Treasurer, the Secretary of Agriculture, Food and Markets, the
16 Commissioner of Forests, Parks and Recreation, and the Commissioner of
17 Public Service, each of whom shall serve as an ex officio member, or a
18 designee of any of the aforementioned; ~~and~~

19 (B) ~~40~~ nine~~[eight]~~ members, who shall be residents of the State of
20 Vermont, appointed by the Governor with the advice and consent of the
21 Senate. ~~The appointed members shall be appointed~~ for terms of six years and

1 until their successors are appointed and qualified; ~~and~~ ~~Appointed members~~
2 ~~may be removed by the Governor for cause and the Governor may fill any~~
3 ~~vacancy occurring among the appointed members for the balance of the~~
4 ~~unexpired term.~~

5
6 {(C) one member, who at the time of his or her appointment is a
7 member of the Vermont General Assembly, appointed jointly for a term of
8 [six] years by the Speaker of the House of Representatives and the President
9 Pro Tempore of the Senate;}

10
11 {(C) one member, who at the time of his or her appointment is a
12 member of the Vermont House of Representatives, appointed for a term of
13 [six] years by the Speaker of the House; and

14 (D) one member, who at the time of his or her appointment is a
15 member of the Vermont Senate, appointed for a term of [six] years by the
16 Senate Committee on Committees.}

17
18 (2) An appointing authority may remove a member for cause and may
19 fill a vacancy for the balance of the unexpired term.

20 (c) The Authority shall elect a Chair, from among its appointed members,
21 and a Vice Chair and Treasurer from among its members and shall employ a

1 manager who shall hold office at the Authority's pleasure and who, unless he
2 or she is a member of the classified service under 3 V.S.A. chapter 13, shall
3 receive such compensation as may be fixed by the Authority with the approval
4 of the Governor. A quorum shall consist of eight members. Members
5 disqualified from voting under section 214 of this title shall be considered
6 present for purposes of determining a quorum. No action of the Authority
7 shall be considered valid unless the action is supported by a majority vote of
8 the members present and voting and then only if at least five members vote in
9 favor of the action.

10 (d) The Authority shall establish an Agricultural Finance Program
11 Advisory Panel of five members, consisting of two present members of the
12 Authority and three members, who shall be residents of the State of Vermont,
13 selected by the Chair of the Authority. A quorum shall consist of three
14 members. The Panel may act by majority vote of the members present and
15 voting. The Panel shall review the preliminary disposition of applications for
16 loans submitted under the agricultural finance programs of chapter 16 of this
17 title, when so requested by the applicant or by the manager of the Authority. If
18 the Panel determines that an application should be submitted to the members,
19 or if the Panel is in disagreement about the appropriate disposition of an
20 application, the application and the panel's recommendation shall be submitted
21 to the Authority at its next regularly scheduled meeting. The Advisory Panel

1 shall also provide advice to the Authority regarding the policies, practices, and
2 procedures for the operation of the agricultural programs.

3 (e)(1) Appointed members of the Authority and the Advisory Panel who
4 are not members of the General Assembly shall be compensated at the rate of
5 \$50.00 a day for time spent in the performance of their duties and they shall be
6 reimbursed for necessary expenses incurred in the performance of their duties.

7 (2) For attendance at meetings during adjournment of the General
8 Assembly, a legislative member of the Authority shall be entitled to per diem
9 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

10 (f) The State of Vermont reserves the right, at its sole discretion, and at any
11 time, to alter or change the structure, organization, programs, or activities of
12 the Authority, including the power to terminate the Authority, subject to any
13 limitation on the impairment of contracts entered into by the Authority.

14 (g) Any net earnings of the Authority, beyond that necessary for retirement
15 of the indebtedness or to implement the public purposes or programs of the
16 State of Vermont, shall not inure to the benefit of any person other than the
17 State of Vermont.

18 (h) Upon dissolution of the Authority, title to all property owned by the
19 Authority shall vest in the State of Vermont.

1 (i) ~~The Authority shall study and report back to the Legislature no later~~
2 ~~than January 15, 1989 on the feasibility of hiring full-time counsel in lieu of~~
3 ~~retaining outside counsel. [Repealed.]~~

4 Sec. 2. MEMBERS OF AUTHORITY; TRANSITION; IMPLEMENTATION

5 (a) The Vermont Economic Development Authority currently has 10
6 members who were appointed by the Governor pursuant to 10 V.S.A. § 213.

7 (b) Of these members, one member's term is currently expired and two
8 additional members' terms will expire on June 30, 2016.

9 (c) It is the intent of the General Assembly that, pursuant to the
10 amendments to 10 V.S.A. § 213 in Sec. 1 of this act, [one] [two] of these three
11 member seats be transitioned to become [the legislative member seat] [the two
12 legislative member seats] as of July 1, 2016.

13 (d) Accordingly, the Governor, the Speaker, and the [President Pro
14 Tempore] [Senate Committee on Committees] shall coordinate their
15 appointments to ensure that, to the extent possible, each sitting member who
16 wishes to continue serving on the Authority has the opportunity to do so, while
17 also ensuring that [one] [two] of the three expired and expiring member terms
18 successfully and timely transition[s] to a legislative member seat.

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

20 § 216. AUTHORITY; GENERAL POWERS

21 The Authority is hereby authorized:

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

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Sec. 4. 10 V.S.A. § 219 is amended to read:

§ 219. RESERVE FUNDS

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

1 any contract or contracts entered into by the Authority in contravention of the
2 Constitution of the United States.

3 Sec. 5. 10 V.S.A. § 220 is added to read:

4 § 220. TRANSFER FROM INDEMNIFICATION FUND

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

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

9 § 234. THE VERMONT JOBS FUND

10 * * *

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

17 * * *

18 Sec. 7. 10 V.S.A. chapter 16A is amended to read:

19 CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

20 § 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT

21 PROGRAM

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

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

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

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

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

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

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

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

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

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

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

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

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

1 § 374h. LOAN ELIGIBILITY STANDARDS

2 A farmer, or a limited liability company, partnership, corporation or other
3 business entity the majority ownership of which is vested in one or more
4 farmers, shall be eligible to apply for a farm ownership or operating loan,
5 provided the applicant is:

6 * * *

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

11 * * *

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

15 * * *

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

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Sec. 8. REPEALS

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

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

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

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

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE