

## PROPOSED 2016 CHANGES TO VEDA ENABLING LEGISLATION:

### **Subchapter 1: General Provisions**

#### **§216. Authority; general powers**

(15) To adopt a policy to delegate to loan officers the power to review, approve, and make loans under this chapter, and Chapter 16A of this Title 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.~~

*This section eliminates the specific dollar amount loan approval authority that can be delegated by the VEDA Members to staff. The VEDA Members feel this is best determined by them through policy. Also eliminated is the requirement that there be a “three day waiting period” during which the Members can request that a particular staff loan approval be held for consideration by the Members at their next meeting. Such requests are extremely rare and eliminating the three day wait will improve VEDA’s customer service level. Also deleted is the provision that any loan declined by staff has the three day waiting period before the denial is issued. The Members believe they can best determine a procedure by which they are informed of such loan denials.*

#### **§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 any contract or contracts entered into by the Authority in contravention of the Constitution of the United States. (Added 1995, No. 184 (Act. Sess.), § 4b; amended 2003, No. 67, § 3, eff. June 16, 2003; 2009, No. 78 (Adj. Sess.), § 15, eff. April 15, 2010; 2011, No. 110 (Adj. Sess.), § 3, eff. May 8, 2012; 2013, No. 87, § 7, eff. June 17, 2013.)

*This change increases the size of the debt service reserve fund that supports the State's pledge of moral obligation to VEDA which allows VEDA to borrow funds at attractive rates that it loans to borrowers. VEDA's loan volume remains strong and if VEDA is to be able to borrow more funds at these favorable rates to relend to borrowers to fulfill VEDA's economic development mission, this increase is necessary. This increase is supported by the State Treasurer.*

#### **§ 220. Indemnification Fund**

- (a) The state treasurer is hereby directed to transfer all current and future funds in the former subchapter 2 mortgage insurance indemnification fund to the authority.

*Currently Section 222a of the VEDA statute provides for the State Treasurer to hold an Indemnification Fund which supports payments to lenders that VEDA has to make pursuant to its guaranty of loans under the Subchapter 2 Mortgage Insurance Program and the Subchapter 8 Financial Access Program, both of which are being repealed as below. The effect of these changes is the State would be relieved of any of its full faith and credit obligations under Subchapter 2 and Subchapter 8. These would be assumed by VEDA and the funds in the Indemnification Fund that support VEDA's activities under Subchapter 2 and Subchapter 8 would be transferred to VEDA to enable VEDA to honor those obligations itself.*

#### **10 VSA Chapter 12 Subchapter 2 is hereby repealed in its entirety**

*The Subchapter 2 Mortgage Insurance Program is repealed. This program has been used increasingly infrequently and VEDA has several other programs to provide financing support to borrowers. The Indemnification Fund mentioned above supports VEDA's commitments under Subchapter 2 and there are almost no funds remaining in the Indemnification Fund. As noted above, any obligations stemming from*

*Subchapter 2 and Subchapter 8 will be assumed by VEDA with the accompanying transfer of the Indemnification Fund to VEDA.*

### **Subchapter 3: Industrial Parks, Speculative Buildings, And Small Business Incubator Facilities**

#### **§ 234. The Vermont Jobs Fund**

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

*This section would amend the current Section 234c to eliminate the maximum dollar amount for the interfund loan that can be made from VEDA's main fund (the Vermont Jobs Fund) to the Vermont Agricultural Credit Corporation (VACC). The Members believe they are in the best position to determine how large this interfund loan should be, and there are two other interfund loans made by the Vermont Jobs Fund to VEDA subsidiaries that do not have maximum amounts.*

#### **10 VSA Chapter 12 Subchapter 8 is hereby repealed in its entirety**

*The Vermont Financial Access Program is repealed. This program is no longer active and has been replaced by VEDA's Capital Access Program.*

### **Chapter 16A: Vermont Agricultural Credit Program**

#### **§ 374a. Creation of the Vermont Agricultural Credit Program**

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers **and forest products businesses** who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

~~(b) No borrower shall be approved for a loan from the corporation that would result in the aggregate principal balance outstanding of all loans to that borrower exceeding the then current maximum Farm service Agency loan guarantee limits or \$2,000,000.000 whichever is greater.~~

The Members believe that they are in the best position to determine the maximum VACC exposure to a borrower.

#### **§ 374b. Definitions**

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

**(9) “Forest products business” shall mean any Vermont-based enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting or distributing products that originate in Vermont forests.**

12) “Operating loan” means a loan to purchase livestock, farm **or forestry** equipment, or fixtures to pay annual operating expenses of a farm operation or agricultural facility, to pay loan closing costs, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

#### **§ 374h. Loan eligibility standards**

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

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

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

*The several small changes above to Sections 374a, 374b and 374h are meant to clarify that forest products businesses and forestry products operations are eligible to apply for financing under VACC.*

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

*This modifies Section 374h (13) to eliminate the specific loan maturities that certain VACC loans may carry. The VEDA Members feel, again, that they are in the best position to determine maximum loan maturities.*

**§ 112(b) of the Public Act Number 54 of the 2009 session is hereby repealed.**

~~An amount not to exceed \$1,000,000.00 of the full faith and credit of the state is pledged for the support of the activities of the Vermont economic development authority to be used for loss reserves for lending in the Vermont small business loan program and the TECH loan program, to be apportioned in a manner deemed appropriate by the authority and the state treasurer.~~