

VEDA 2016 Legislative Changes H.868

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

2 \*\*\*Vermont Economic Development Authority\*\*\*

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

4 § 213. AUTHORITY; ORGANIZATION 4

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

9 (b)(1) The Authority shall have ~~15~~ up to 16 voting members consisting of:

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

15 (B) up to 10 members, who shall be residents of the State of  
16 Vermont, appointed by the Governor with the advice and consent of the  
17 Senate. ~~The appointed members shall be appointed for terms of six years and~~  
18 ~~until their successors are appointed and qualified. Appointed members may be~~  
19 ~~removed by the Governor for cause and the Governor may fill any vacancy~~  
20 ~~occurring among the appointed members for the balance of the unexpired~~  
21 ~~term.; and~~

22 (C) one member, who is a current member of the Vermont General  
23 Assembly, appointed jointly by the Speaker of the House of Representatives

1 and the President Pro Tempore of the Senate, who shall serve a term of six  
2 years or until he or she is no longer a member of the General Assembly,  
3 *whichever occurs sooner.*

4 (2)(A) An appointing authority may remove a member for cause.

5 (B) The Governor may fill a vacancy for the balance of the unexpired  
6 term.

7 (C) The Speaker and President Pro Tempore may jointly fill a vacancy  
8 by appointing a member of the General Assembly to a new six-year term.

9 *This section adds a Legislative Member to the VEDA Board, raising the*  
10 *number of Members from 15 to 16. The Member is to be jointly appointed*  
11 *by the Speaker of the House and the President Pro Tempore of the Senate.*

12 \* \* \*

13 § 216. AUTHORITY; GENERAL POWERS

14 The Authority is hereby authorized:

15 \* \* \*

16 (15) To delegate to loan officers the power to review, approve, and  
17 make loans under this chapter, subject to the approval of the manager, and to  
18 disburse funds on such loans, subject to the approval of the manager;  
19 ~~provided that such loans do not exceed \$350,000.00 in aggregate amount for~~  
20 ~~any industrial loan for any three year period for any particular individual,~~  
21 ~~partnership, corporation, or other entity or related entity, or do not exceed~~  
22 ~~\$350,000.00 in aggregate amount if the loan is guaranteed by the Farm~~

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

15 *This section eliminates the cap on the loan approval authority that can*  
16 *be delegated by the VEDA Members to staff. These limits have become*  
17 *outdated and the VEDA Members feel this loan amount is best*  
18 *determined by Board Policy, on a case by case basis. The limit for*  
19 *Subchapter 5 Direct Loan Approvals remains at \$1.5 million (\$2*  
20 *million if the project is energy related). These larger loans still*  
21 *require Board approval. Also eliminated is the requirement that there*  
22 *be a “three day waiting period” during which the Members can*



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1 State fiscal year. The principal amount of bonds or notes outstanding at any  
2 one time and secured in whole or in part by a debt service reserve fund to  
3 which State funds may be appropriated pursuant to this subsection shall not  
4 exceed ~~\$130,000,000.00~~ \$155,000,000.00, provided that the foregoing shall  
5 not impair the obligation of any contract or contracts entered into by the  
6 Authority in contravention of the Constitution of the United States.

7 *This change increases the debt service reserve fund that supports the*  
8 *State's pledge of it' Moral Obligation to VEDA from \$130 million to*  
9 *\$155 million. This is used (along with cash from VEDA) to*  
10 *collateralize a letter of credit which backs VEDA's Commercial Paper*  
11 *Program. VEDA has utilized this form of funding since 1997 and there*  
12 *has never been a call on the State's Moral Obligation. This increase is*  
13 *supported by the State Treasurer.*

14 § 220. TRANSFER FROM INDEMNIFICATION FUND

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

18 *Currently Section 222a of the VEDA statute provides for the State*  
19 *Treasurer to hold an Indemnification Fund which supports payments to*  
20 *lenders that VEDA must make pursuant to its Guaranty of loans under*  
21 *the Subchapter 2 Mortgage Insurance Program and the Subchapter 8*  
22 *Financial Access Program, both of which are being repealed below.*



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1 \$60,000,000.00 to be advanced to the Vermont Agricultural Credit Program  
2 to support its lending operations as established in chapter 16A of this title.

3 *This section would amend Section 234c to eliminate the maximum*  
4 *dollar amount of the interfund loan that can be made from the Vermont*  
5 *Jobs Fund to the Vermont Agricultural Credit Corporation (VACC).*  
6 *This allows VEDA the flexibility to utilize its' Commercial Paper*  
7 *Program, which often has the lowest rate, to also fund Agricultural*  
8 *Loans, thus keeping rates as low as possible to our customers.*

9 \* \* \*

10 ~~Subchapter 8: Vermont Financial Access Program [Repealed.]~~

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

14 \* \* \*

15 Sec. 2. 10 V.S.A. chapter 16A is amended to read:

16 Chapter 16A: Vermont Agricultural Credit Program

17 § 374A. CREATION OF THE VERMONT AGRICULTURAL CREDIT  
18 PROGRAM

19 (a) There is created the Vermont Agricultural Credit Program, which will  
20 provide an alternative source of sound and constructive credit to farmers and  
21 forest products businesses who are not having their credit needs fully met by  
22 conventional agricultural credit sources at reasonable rates and terms. The

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1 Program is intended to meet, either in whole or in part, the credit needs of  
2 eligible agricultural facilities and farm operations in fulfillment of one or  
3 more of the purposes listed in this subsection by making direct loans and  
4 participating in loans made by other agricultural credit providers:

5 \* \* \*

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

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

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,  
17 marketing, or transporting agricultural or forestry products which have been  
18 primarily produced in this State, and working capital reasonably required to  
19 operate an agricultural facility.

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

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

10           (5) "Authority" means the Vermont Economic Development  
11 Authority.

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

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

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1 (C) an occupation in which the farmer is actively engaged, either on  
2 a 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 that originate in Vermont  
13 forests.

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

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





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1 ~~in no event longer than the average remaining useful life of the assets in~~  
2 ~~which the security interest is being taken; and~~

3 *This modifies Section 374h (13) to eliminate the specific loan*  
4 *maturities that certain VACC loans may carry.*

5 \* \* \*

6 Sec. 3. REPEAL

7 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to  
8 \$1,000,000.00 of the full faith and credit of the State for loss reserves for the  
9 Vermont Economic Development Authority small business loan program  
10 and TECH loan program, is repealed.

11 Sec. 4. EFFECTIVE DATE

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

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