

Statement of purpose: Includes all the technical fixes from Rep Emmons 9-11-2019 draft bill to clarify the ability to use, and establish terms for the award of, monies from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund to individuals to address failed wastewater systems. Proposes extension of the loan term for loans to privately owned public water systems, making the loan terms consistent with loan terms for municipally owned public water systems. Also proposes technical fixes.

Sec. 1. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans for planning and construction of clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

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(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to \$275,000.00 from either the fees collected pursuant to 3 V.S.A. § 2822(j)(4) or the Fund identified in (a)(1) of this section shall be

deposited into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

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(b)(1) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary.

(2) These funds shall be administered by the Bond Bank on behalf of the State, except that:

(A) the Vermont EPA Drinking Water State Revolving Fund and the Vermont Drinking Water Planning Loan Fund shall be administered by VEDA concerning loans to privately owned public water systems provided under ~~subdivisions (a)(3) and (5) of this section~~ subchapter 3 of this chapter;

(B) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund shall be administered by VEDA concerning loans to private entities for clean water projects provided under subchapter 4 of this chapter; and

(C) the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted by the State for the purpose of providing loans to individuals

~~for failed wastewater systems and potable water supplies provided under subdivision (a)(1) and (10) of this section~~ section 4763b of this chapter.

(3) The funds shall be invested in the same manner as permitted for investment of funds belonging to the State or held in the Treasury. The funds shall consist of the following:

(4) The funds shall consist of the following:

~~(1)~~(A) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

~~(2)~~(B) principal and interest received from the repayment of loans made from each of such funds;

~~(3)~~(C) capitalization grants and awards made to the State by the United States of America for any of the purposes for which such funds have been established;

~~(4)~~(D) interest earned from the investment of fund balances;

~~(5)~~(E) private gifts, bequests, and donations made to the State for any of the purposes for which such funds have been established; and

~~(6)~~(F) other funds from any public or private source intended for use for any of the purposes for which such funds have been established.

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Sec. 2. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

Subchapter 2. ~~Municipal~~ Loans to Municipalities and Individuals

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§ 4757 REVOLVING LOAN FUNDS; ADDITIONAL USES

In addition to providing a source of funds from which loans may be made to municipalities under this chapter, each fund created under section 4753 of this chapter may be used for one or more of the following purposes:

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(6) To pay from Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund or the Vermont Wastewater and Potable Water Revolving Loan Fund the costs of administration of loans awarded under subdivision ~~4753(a)(10)~~ 4763b of this title.

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§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

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(6) all funds from the repayment of loans made under this subsection shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) Notwithstanding any other provision of law, when the wastewater system serving only single-family and multifamily residences either meets the definition of a failed system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to an owner of one or more of the residences from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund established in section 4753 of this title, provided that no State funds are used. In such cases, the following conditions shall apply:

(1) a loan may only be made to an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) a loan may only be made to an owner who resides in one of the residences served by the failed system on a year-round basis;

(3) a loan may only be made to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) a loan may only be made to an owner who demonstrates sufficient means to pay the principal and interest on the loan;

(5) a loan may only be made for a project that is a clean water project the Secretary has designated as a priority for receipt of financial assistance;

(6) when the failed system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed system that is determined through agreement of all of the owners of residences served by the failed system;

(7) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

(8) loans shall be awarded at or below market interest rates;

(9) no more than \$500,000.00 of the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund shall be used in each fiscal year to award loans under this subsection; and

(10) all funds from the repayment of loans made under this subsection shall be deposited into the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

(c) Loans awarded under this section:

(1) shall include a loan repayment schedule that commences not later than one year after completion of the funded project for which loan funds have been issued; and

(2) shall not be used for the operation and maintenance expenses, or laboratory fees for monitoring, of a wastewater system or potable water supply.

~~(b)~~ (d) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 3. 24 V.S.A. chapter 120, subchapter 2 is amended to read:

Subchapter 2. Municipal Loans

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§ 4763c. LOANS TO MUNICIPALITIES FOR MUNICIPAL PUBLIC WATER SUPPLY
SYSTEMS

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

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(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed 30 years, and the annual interest rate, plus the administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 4752(12) of this title, the term shall not exceed 40 years. When the applicant municipality is disadvantaged as defined in subdivision 4752(12)(A), the annual interest rate, plus the administrative fee, shall be no less than minus three percent.

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§ 4765. APPLICATION FOR LOANS TO MUNICIPALITIES

Sec. 4. 24 V.S.A. chapter 120, subchapter 3 is amended to read:

Subchapter 3. Private Loans for Privately Owned Public Water Systems

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§ 4771. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(b) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4770(b) of this title. Each such loan shall be made subject to the following conditions:

(1) The loan shall be evidenced by a note payable over a term not to exceed ~~20~~ 30 years. Repayment shall commence no later than one year after completion of the project for which loan funds have been applied.

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(5)(A) Notwithstanding subdivision (4) of this subsection, a privately owned nonprofit community type system may qualify for a ~~30~~ 40-year loan term at an interest rate, plus administrative fee, to be established by the Secretary of Natural Resources that shall be no more than three percent or less than minus three percent, provided that the applicant system meets the income level and annual household user cost requirements of a disadvantaged municipality as defined in subdivision 10 V.S.A. § ~~4571(9)(A)~~ 4752(12)(A), and at least 80 percent of the residential units served by the water system is continuously occupied by local residents and at least 80 percent of the water produced is for residential use.