

VHCB – Suggestions for H.232 Changes

Gus Seelig, April 27, 2021

Title 10: Conservation And Development

Chapter 15: Vermont Housing And Conservation Trust Fund

Subchapter 1: General Provisions

§ 302. Policy, findings, and purpose

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, forestland, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the State.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, ~~and~~ to support farm, forest, and related enterprises, and to mitigate the impact of climate change, Vermont should encourage and assist in creating affordable housing and in preserving the State's agricultural land, forestland, historic properties, important natural areas and recreational lands, and in keeping conserved agricultural land in production and affordable for future generations of farmers.

In carrying out this mission, the Vermont Housing and Conservation Board shall seek to enhance access to land and housing for all Vermonters who qualify for the Board's activities under § 303 of this Chapter, especially Indigenous peoples and communities of color that have suffered from discriminatory practices and historic inequity.

(c) It is the purpose of this chapter to create the Vermont Housing and Conservation Trust Fund to be administered by the Vermont Housing and Conservation Board to further the policies established by subsections (a) and (b) of this section.

Subchapter 2: Establishment And Organization

§ 311. Establishment and Organization

(a) There is created and established a body politic and corporate to be known as the "Vermont Housing and Conservation Board" to carry out the provisions of this chapter. The Board is constituted a public instrumentality exercising public and essential governmental

functions, and the exercise by the Board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the State. The Board is exempt from licensure under 8 V.S.A. chapter 73.

(b) The Board shall consist of the following 11 members:

(1) The Secretary of Agriculture, Food and Markets or designee.

(2) The Secretary of Human Services or designee.

(3) The Secretary of Natural Resources or designee.

(4) The Executive Director of the Vermont Housing Finance Agency or designee.

(5) Three public members appointed by the Governor in consultation with the Office of Racial Equity and with the advice and consent of the Senate, who shall be residents of the State and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land and forestland, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).

(6) One public member appointed by the Speaker of the House, who shall not be a member of the General Assembly at the time of appointment.

(7) One public member appointed by the Senate Committee on Committees, who shall not be a member of the General Assembly at the time of appointment.

(8) Two public members appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate in consultation with the Office of Racial Equity as follows:

(A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who is experienced in social and racial equity policy and who is ~~shall not be~~ an employee or board member of any of those organizations at the time of appointment.

(B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(4) of this title who has conservation expertise and professional experience related to climate change, such as climate mitigation, climate resilience, or improvements in biodiversity, and who is ~~shall not be~~ an employee or member of the board of any of those organizations at the time of appointment.

(c) The public members shall serve terms of three years beginning February 1 of the year of appointment. However, two of the public members first appointed by the Governor shall serve initial terms of one year; and the public members first appointed by the Speaker and Committee on Committees shall serve initial terms of two years. A vacancy occurring among the public members shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed.

(d) Annually, the Board shall elect from among its public members a chair and vice chair. The Board may elect officers as it may determine. Meetings shall be held at the call of the Chair or at the request of three members. A majority of the sitting members shall constitute a quorum and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

(e) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each member shall be reimbursed from the Fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

(f) The Board shall employ the Executive Director to administer, manage and direct the affairs and business of the Board, subject to the policies, control, and direction of the members. The Board may employ technical experts and other officers, agents, and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties, and compensation. The Board shall use the Office of the Attorney General for legal services.

Subchapter 3: Powers And Duties

§ 321. General powers and duties

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and those general powers provided to a nonprofit corporation by Title 11B and including, without limitation of the general powers under Titles 11A and 11B, the power to:

- (1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;
- (2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;
- (3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter;
- (4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter;

(5) make and execute all legal documents necessary or convenient for the exercise of its powers and functions under this chapter, including legal documents that may be made and executed with the State or any of its agencies or instrumentalities, with the United States or any of its agencies or instrumentalities, or with private corporations or individuals;

(6) receive and accept grants from any source to be held, used, or applied or awarded to carry out the purposes of this chapter subject to the conditions upon which the grants, aid, or contributions may be made;

(7) make and publish rules and regulations respecting its housing programs and such other rules and regulations as are necessary to effectuate its corporate purposes; and

(8) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b)(1) The Board shall seek out and fund nonprofit organizations including organizations that reach out to Black, Indigenous and communities or color, and municipalities that can assist any region of the State that has high housing prices, high unemployment, or low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

§ 322. Allocation system

(a) In determining the allocation of funds available for the purposes of this chapter, the Board shall give priority to projects that combine the dual goals of creating affordable housing and conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreation lands and also shall consider, but not be limited to, the following factors:

(1) the need to maintain balance between the dual goals in allocating resources;

(2) the need for a timely response to unpredictable circumstances or special opportunities to serve the purposes of this chapter;

(3) the level of funding or other participation by private or public sources in the activity being considered for funding by the Board;

(4) what resources will be required in the future to sustain the project;

(5) the need to pursue the goals of this chapter without displacing lower income Vermonters;

(6) the long-term effect of a proposed activity and, with respect to affordable housing, the likelihood that the activity will prevent the loss of subsidized housing units and will be of perpetual duration;

(7) geographic distribution of funds;

(8) expanding access to land and home ownership to Vermonters who have historically suffered discrimination or unequal access to benefits and services, including Black, Indigenous, and People of Color who qualify to benefit from the Board's activities under §303 of this Chapter.

(b) The Board's allocation system shall include a method, defined by rule, that evaluates the need for, impact, and quality of activities proposed by applicants.

§ 323. Annual report

Prior to January 31 of each year, the Board shall submit a report concerning its activities to the Governor and to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Energy and Technology, on Natural Resources, Fish, and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include the following:

(1) a list and description of activities funded by the Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

(2) a list of contributions received by the Board, whatever their form or nature, and the source thereof, unless anonymity is a condition of a particular contribution;

(3) a full financial report of the Board's activities, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;

(4) if more than 70 percent of the funds allocated by the Board during the previous year were allocated to either one of the dual goals of this chapter, as established in subsection 302(a) of this title, the Board shall set forth its reasons for not allocating funds more equally between the two.

5) identification and evaluation of structural barriers that are contributing to racial, ethnic, and economic disparities in housing, homeownership, and access to publicly supported open spaces; actions the Board is taking to remove these barriers and increase equity and access to Board-supported programs; and metrics to monitor progress in removing these disparities.