

Dear Sen. Cummings,

The VCBB is proposing a minor change to Act 71, as discussed in more detail below.

Currently, Act 71 requires that certain assets be returned **to the State** if a grantee (typically a CUD) materially fails to comply with grant terms.

30 V.S.A. 8086(c)(3) (p. 17 of text of Act 71), regarding the Construction Grant program, provides that the Board “shall establish policies and standard grant terms and conditions that ... establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the terms and conditions of a grant.”

The Issue: We understand from discussions with CUDs, state officials and professionals in the bond market that this provision may make it difficult for CUDs to access the bond market; creditors want assurances that they will be able to obtain a CUD’s assets through liens before entering into financing agreements. While it is not expected that this provision would be invoked frequently, if at all, in the unlikely event that a grantee materially failed to comply with grant terms, we propose that assets would be transferred **to a receiver rather than the State** to protect the assets. In this way, assets could be protected and remain subject to outstanding bondholders’ or creditors’ liens, if applicable.

Proposed Changes: Below are the edits proposed by the VCBB to 30 V.S.A. 8086(c), marked against original text to show proposed changes:

The Board shall establish policies and standard grant terms and conditions that: ...

(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets, which shall remain subject to any outstanding bondholders’ or creditors’ liens, if applicable, to the State a court-appointed receiver if a grantee materially fails to comply with the terms and conditions of a grant; ...

I am happy to provide more background for your consideration.

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(3) establish standards for recouping grant funds and transferring ownership of grant-funded network assets, which shall remain subject to any outstanding bondholders’ or creditors’ liens, if applicable, to the State a court-appointed receiver if a grantee materially fails to comply with the terms and conditions of a grant; the State shall have the ability to buy the remainder of a grantee’s assets in the event a grantee materially fails to comply with the terms and conditions of a grant; ...