

H.398

Introduced by Representatives Marcotte of Coventry, Graning of Jericho, and
Priestley of Bradford

Referred to Committee on

Date:

Subject: Conservation and development; economic development

Statement of purpose of bill as introduced: This bill proposes to amend certain
provisions governing the Vermont Economic Development Authority.

An act relating to the Vermont Economic Development Authority

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

~~Sec. 1. 10 V.S.A. chapter 12 is amended to read:~~

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

* * *

§ 212. DEFINITIONS

As used in this chapter:

* * *

(6) “Eligible facility” or “eligible project” means any industrial,
commercial, or agricultural enterprise or endeavor approved by the Authority
~~that meets the criteria established in the Vermont Sustainable Jobs Strategy~~

1 ~~devised by the Governor under section 2806 of this title used in a trade or~~
2 ~~business whether or not such business is operated for profit, including land and~~
3 ~~rights in land, air, or water; buildings; structures; machinery; and equipment of~~
4 ~~such eligible facilities or eligible projects, except that an eligible facility or~~
5 ~~project shall not include the portion of an enterprise or endeavor relating to the~~
6 ~~sale of goods at retail where such goods are manufactured primarily out of~~
7 ~~State, and except further that an eligible facility or project shall not include the~~
8 ~~portion of an enterprise or endeavor relating to housing unless otherwise~~
9 ~~authorized in this chapter, however, certain housing projects designed for the~~
10 ~~purpose of housing employees of a business may be eligible upon consent of~~
11 ~~the Vermont Housing Finance Agency. Such enterprises or endeavors may~~
12 ~~include:~~

13 * * *

14 ~~(T) Any capital improvement; purchase of receivables, property,~~
15 ~~assets, commodities, bonds, or other revenue streams or related assets; working~~
16 ~~capital program or liability; or other insurance program.~~

17 * * *

18 ~~(9) "Insurance contract" means a contract insuring mortgage payments~~
19 ~~under subchapter 2 of this chapter. [Repealed.]~~

20

1 ~~(11) "Maturity date," as used in subchapter 2 of this chapter, means the~~
2 ~~date upon which the note or other evidence of indebtedness secured by a~~
3 ~~mortgage would be extinguished if paid in accordance with the mortgage~~
4 ~~payments. [Repealed.]~~

5 ~~(12) "Mortgage," as used in subchapter 2 of this chapter, means a first~~
6 ~~mortgage upon an eligible facility given by a mortgagor, as herein defined, to~~
7 ~~secure the repayment of amounts borrowed to pay costs of a project.~~
8 ~~[Repealed.]~~

9 ~~(13) "Mortgage payment," as used in subchapter 2 of this chapter,~~
10 ~~means the periodic payments called for by a mortgage that shall cover lease~~
11 ~~land rentals, if any, mortgage insurance premiums, interest, installments of~~
12 ~~principal, taxes and assessments, hazard insurance payments, and any other~~
13 ~~payments called for in the mortgage. [Repealed.]~~

14 ~~(14) "Mortgagee," as used in subchapter 2 of this chapter, means the~~
15 ~~original lender under a mortgage and its successors and assigns, if approved by~~
16 ~~the Authority. [Repealed.]~~

17 ~~(15) "Mortgagor," as used in subchapter 2 of this chapter, means the~~
18 ~~original borrower under a mortgage or a security agreement and its successors~~
19 ~~and assigns, if approved by the Authority. [Repealed.]~~

20 * * *

21 ~~§ 215. AUTHORITY, ORGANIZATION~~

(c) The Authority shall elect a chair from among its appointed members, and a vice chair and treasurer from among its members or staff and shall employ a manager who shall hold office at the Authority's pleasure and who, unless ~~he or she~~ the individual is a member of the classified service under 3 V.S.A. chapter 13, shall receive such compensation as may be fixed by the Authority ~~with the approval of the Governor~~. A quorum shall consist of eight members. Members disqualified from voting under section 214 of this title shall be considered present for purposes of determining a quorum. No action of the Authority shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least five members vote in favor of the action.

* * *

(i) ~~The Authority shall study and report back to the Legislature no later than January 15, 1989 on the feasibility of hiring full-time counsel in lieu of retaining outside counsel. [Repealed.]~~

§ 214. MEMBERS; DISQUALIFICATION

A member of the Authority may not participate in any decision:

* * *

(2) ~~Upon any insurance contract under subchapter 2 of this chapter or loan under subchapter 5 of this chapter, if the member is a member, director,~~

1 ~~trustee, employee, or officer of, or has any interest direct or indirect in, or~~
2 ~~owns any stock, bonds, or other liabilities issued by or authorized by the~~
3 ~~prospective mortgagor, mortgagee, or tenant;~~

4 * * *

5 § 215. MANAGER; DUTIES

6 The manager shall be the chief administrative officer of the Authority and
7 shall direct and supervise the administrative affairs and technical activities of
8 the Authority in accordance with any rules, regulations, and policies set forth
9 by the Authority. In addition to any other duties, the manager shall:

10 * * *

11 (4) work closely with the Agency of Commerce and Community
12 Development and provide assistance to the various divisions of that Agency
13 when requested to facilitate the planning and financing of projects;

14 (5) ~~make recommendations and reports, in cooperation with the Agency~~
15 ~~of Commerce and Community Development, to the Authority on the merits of~~
16 ~~any proposed project, on the status of local development corporations, and on~~
17 ~~suitable industrial sites; [Repealed.]~~

18 (6) perform such other duties as may be directed by the Authority in the
19 carrying out of the purposes of this chapter.

20 § 216. AUTHORITY; GENERAL POWERS

21 ~~The Authority is hereby authorized:~~

1 ~~(1) To sue and be sued in its own name and plead and be impleaded,~~
2 service of process upon it in any action shall be made by service upon the
3 Secretary of State either in hand or by leaving a copy of the process at his or
4 her the Secretary's office.

5 * * *

6 (3) To adopt and from time to time amend bylaws, and rules, and
7 ~~regulations~~ for the calling and conduct of its meetings and for the conduct of
8 its affairs, including ~~regulations~~ rules relating to applications for financial
9 assistance and disclosure of information supplied to it.

10 * * *

11 (6) To employ such employees, who may be in the classified system
12 under 3 V.S.A. chapter 13 within the discretion of the Authority, and to
13 employ or contract with agents, consultants, legal advisors, and other experts,
14 as may be necessary or desirable for its purposes, to determine the
15 qualifications, duties, and compensation of such employees, agents,
16 consultants, legal advisors, and experts and to utilize the services of other
17 governmental agencies and departments.

18 * * *

19 (9) To make such charges against local development corporations as
20 ~~may be mutually agreed upon to assist in meeting the expenses of the~~

1 ~~Authority incurred under this chapter, including any interest charged by the~~
2 ~~State Treasurer.~~

3 (10) To administer its own funds and to invest or deposit funds which
4 that are not needed currently to meet the obligations of the Authority.

5 * * *

6 (13) To cause to be incorporated in Vermont a nonprofit corporation that
7 will qualify as a State development company under Title 15 of the U.S. Code
8 15 U.S.C. § 695 and rules and regulations adopted promulgated pursuant
9 thereto. The voting members of the Authority shall be members of the
10 company and shall constitute the board of directors of the company. The
11 ~~company shall have at least 14 other members selected by the members of the~~
12 ~~Authority.~~ The company shall be organized and operate under the nonprofit
13 corporation laws of the State of Vermont to the extent not inconsistent
14 herewith. The Authority shall have the power to contract with the company to
15 provide staff and management needs of the company. The Authority is
16 authorized to contribute to the capital of the company in an amount the
17 Authority determines is necessary and appropriate.

18 * * *

19 (15) To delegate to loan officers the power to review, approve, and
20 ~~make loans under this chapter, subject to the approval of the manager, and to~~

1 ~~disburse funds on such loans, subject to the approval of the manager as set~~
2 ~~forth in the policies and procedures of the Authority.~~

3 * * *

4 § 217. RECORDS; ANNUAL REPORT; AUDIT

5 (a) The Authority shall keep an accurate account of all its activities and of
6 all its receipts and expenditures. ~~Information and records in connection with~~
7 ~~an application for an insurance contract under subchapter 2 of this chapter~~
8 ~~shall be preserved for three years after the application has been denied or, if~~
9 ~~the application is accepted, for three years after the mortgage has been~~
10 ~~discharged and thereafter until the Authority orders them destroyed.~~

11 * * *

12 (c) The Auditor of Accounts of the State and his or her the Auditor's
13 authorized representatives may at any time examine the accounts and books of
14 the Authority, including its receipts, disbursements, contracts, funds,
15 investments, and any other matters relating to its financial statements.

16 * * *

17 § 217a. APPLICATION

18 Among such other things as may be required by the Authority, any
19 application for financing ~~or for mortgage insurance~~ under this chapter shall
20 ~~state in detail on the application the nature and purpose of the business and its~~

1 ~~products for which the loan, or revenue bonds or mortgage insurance is are~~
2 intended to benefit.

3 * * *

4 § 231. ASSISTANCE TO LOCAL DEVELOPMENT CORPORATIONS

5 Upon application of a local development corporation, the Authority may
6 loan money to that local development corporation, upon such terms and
7 conditions as it may prescribe, for the purpose of industrial park planning and
8 development, for constructing or improving a speculative building or small
9 business incubator facility on land owned or held under lease by the local
10 development corporation, for purchase or improvement of existing buildings
11 suitable for or which can be made suitable for industrial or small business
12 incubation facility purposes and for the purchase of land in connection with
13 any of the foregoing. Before the local development corporation receives such
14 funds for such purposes from the Authority, it shall give to the Authority
15 security for the repayment of the funds. The security shall be in such form and
16 amounts as the Authority may determine and shall, in each instance, include a
17 first mortgage on the land, or the leasehold, building, and appurtenances
18 financed by such funds. Loans by the Authority to local development
19 corporations for the construction of speculative buildings or improvements to
20 those buildings shall be repaid in full, including interest and other charges,
21 ~~within 90 days after the building is occupied if the building is being sold, or~~

1 ~~within five years after the property is occupied if the building is being leased,~~
2 or within such period of time deemed reasonable by the Authority. Loans by
3 the Authority to local development corporations for the construction, purchase,
4 or improvement of small business incubator facilities shall be repaid in full,
5 including interest and other charges, within ~~ten~~ 20 years after the property is
6 occupied.

7 * * *

8 § 244. BONDS

9 * * *

10 (b) Bonds shall bear the manual or digital signature of the treasurer of the
11 municipality and the manual, digital, or facsimile signature or signatures of the
12 mayor or a majority of the selectboard or trustees as the case may be. Interest
13 coupons, if any, shall bear the facsimile signature of the treasurer. If the
14 municipality has a corporate seal, bonds shall bear the seal or a facsimile of the
15 seal. Bonds executed in accordance with this subchapter shall be valid
16 notwithstanding that before the delivery thereof and payment therefor any or
17 all of the persons whose signatures appear thereon shall have ceased to hold
18 office.

19 ~~that~~

~~§ 253. STATE AUTHORITY PROJECTS~~

~~(a) The State of Vermont Authority may engage in projects within the state in accordance with the provisions of this subchapter. For the purposes of this section and section 254 of this title:~~

~~(1) The word “municipality” as used in the sections of this subchapter other than this section shall mean the “State of Vermont” “Authority”;~~

~~* * *~~

~~(b) For the purposes of engaging in a project, the Authority shall act ~~in the name of the State and on its behalf of the State~~ as its agent and instrumentality for the execution of financing documents, security documents, bonds, and other appropriate instruments or for the taking of any action with respect to a project financed in whole or in part by the issue of bonds under section 254 of this title.~~

~~(c) Title to or possessory interest in any eligible facility that is financed in whole or in part by the issue of bonds pursuant to section 254 of this title may be taken and held in the name of the State Authority. In performing its functions under this section, the Authority may exercise any and all powers conferred upon municipalities by this subchapter, but the Authority shall not execute any financing document, security document, or bond with respect to a project until the Authority has made the findings required by section 246 of this title.~~

~~(d) The Authority shall establish guidelines for the type and location of projects that shall be considered in evaluating applications for financing under this subchapter. These guidelines shall be used to prioritize projects and shall include factors such as the number of permanent jobs created or retained; the wage rates of the jobs created; the availability and suitability of private market financing; the employment multiplier effect; the potential for alleviating unemployment in distressed areas; the potential effect on the revitalization of depressed commercial areas; the potential to stimulate markets for recycled materials to be used as raw materials; whether the project is located in the job development zone as designated under chapter 29, subchapter 2 of this title; and a potential for increasing capital investment. In the consideration of nonmanufacturing projects, priority shall be given to those projects located within areas suffering from the loss of commercial or service enterprises, loss of commercial or service sales, buildings with large vacancy rates, or physically deteriorating structures.~~

§ 254. STATE BONDS

* * *

(c) Bonds issued under this section shall bear the manual, digital or facsimile signature of the manager or treasurer of the Authority ~~and the manual or facsimile signature of the Chair or Vice Chair of the Authority, or authorized designee and agent, provided, however, that at least one of the~~

1 ~~foregoing such~~ signatures shall be manual unless the bonds are to be manually
2 authenticated by a bank or trust company serving as trustee for the bonds. The
3 details of the bonds shall be fixed by the signing officers in accordance with
4 section 244 of this title. Bonds shall be sold by the signing officers at public
5 or private sale, and the proceeds thereof shall be paid to the trustee, lender, or
6 disbursing agent under the security document that secures the bonds.

7 (d) No financing or security document, or bond, or other instrument issued
8 or entered into ~~in the name and on behalf of the State~~ under this subchapter
9 shall in any way obligate the State to raise any money by taxation or use other
10 funds for any purpose to pay any debt or meet any financial obligation to any
11 person at any time in relation to an eligible facility financed in whole or in part
12 by the issue of the Authority's bonds under this subchapter, except from
13 monies received or to be received under a financing or security document
14 entered into under this subchapter or except as may be required by any other
15 provision of law. Notwithstanding the provisions of this subsection, the State
16 may accept and expend with respect to an eligible facility any gifts or grants
17 received from any source in accordance with the terms of the gifts or grants.

18 * * *

19 (f) Bonds may be issued by the Authority under this subchapter for the
20 purpose of making loans to local development corporations for industrial park
21 ~~planning and development, constructing, or improving a speculative building~~

1 ~~a small business incubator facility on land owned or held under lease by the~~
2 local development corporation, purchase or improvement of existing buildings
3 suitable or that can be made suitable for industrial or business incubation
4 purposes, and purchase of land in connection with any of the foregoing.

5 (1) Before issuing bonds for construction of a speculative building or
6 small business incubator facility and the purchase of land in connection
7 therewith, the Authority shall make the determinations and incorporate in its
8 minutes the findings that:

9 (A) ~~the project is within the scope of this chapter, will be of public~~
10 ~~use and benefit, and may reasonably be expected to create new employment~~
11 ~~opportunities;~~

12 (B) ~~the proposed site for the speculative building or small business~~
13 ~~incubator facility will be located on adequate land owned or to be acquired by~~
14 ~~the local development corporation or leased by the local development~~
15 ~~corporation on terms satisfactory to the Authority;~~

16 (C) ~~an adequate access road from a public highway is provided to the~~
17 ~~proposed site and that such utilities as water, sewer, and power facilities are~~
18 ~~available, or will be available when the speculative building or small business~~
19 ~~incubator facility is completed;~~

1 ~~(D) the project plans comply with all applicable environmental,~~
2 ~~zoning, planning, and sanitary laws and regulations of the municipality where~~
3 ~~it is to be located and of the State of Vermont;~~

4 ~~(E) the local development corporation is responsible and has~~
5 ~~presented evidence to demonstrate its ability to carry out the project as~~
6 ~~planned;~~

7 ~~(F) evidence has been presented demonstrating the feasibility of the~~
8 ~~site as a location for business, and additional evidence has been presented that~~
9 ~~an adequate supply of labor is available within the labor market area to serve a~~
10 ~~business located on the site;~~

11 ~~(G) the local development corporation has made adequate provisions~~
12 ~~for insurance protection of the building while it is unoccupied and suitable~~
13 ~~arrangements have been made for fire protection and maintenance while it is~~
14 ~~unoccupied;~~

15 ~~(H) the project will be without unreasonable risk of loss to the~~
16 ~~Authority, and the local development corporation is unable to secure on~~
17 ~~reasonable terms the funds required for the project without the assistance of~~
18 ~~the Authority;~~

19 ~~(I) the financing and security documents contain provisions such that~~
20 ~~under no circumstances is the State obligated directly or indirectly to pay~~
21 ~~project costs, debt service, or expenses of operation, maintenance, and upkeep~~

1 ~~of the facility except from bond proceeds or from funds received under the~~
2 ~~financing or security documents, exclusive of funds received thereunder by the~~
3 ~~State for its own use;~~

4 (J) ~~neither the financing document nor the security document~~
5 ~~purports to create any debt of the State with respect to the eligible facility,~~
6 ~~other than a special obligation of the State under this chapter required by~~
7 ~~section 232 of this title.~~

8 (2) Before issuing bonds for industrial park planning and development
9 and the purchase of land in connection therewith, the Authority shall make the
10 determinations and incorporate in its minutes the findings that:

11 (A) ~~the proposed industrial park is on adequate land owned or to be~~
12 ~~owned by the local development corporation, or leased by the local~~
13 ~~development corporation on terms satisfactory to the Authority;~~

14 (B) ~~an adequate access road from a public highway is provided to the~~
15 ~~proposed site, and utilities, including water, sewer, and power facilities, are~~
16 ~~available or will be available for any future tenant located in the park;~~

17 (C) ~~the total industrial park will be planned by architects and~~
18 ~~engineers acceptable to the Authority;~~

19 (D) ~~no more than 80 percent of the fair market value of the industrial~~
20 ~~park, as shown by appraisal by an appraiser acceptable to the Authority, is to~~
21 ~~be financed under the loan;~~

1 ~~(E) the park project is within the scope of this chapter, will be of~~
2 ~~public use and benefit, and may reasonably be expected to create new~~
3 ~~employment opportunities;~~

4 ~~(F) the park project complies with all applicable environmental,~~
5 ~~zoning, planning, and sanitary laws and regulations of the municipality in~~
6 ~~which it is to be located and of the State of Vermont;~~

7 ~~(G) the local development corporation is responsible and has~~
8 ~~presented evidence to demonstrate its ability to carry out the park project as~~
9 ~~planned;~~

10 ~~(H) evidence has been presented demonstrating the feasibility of the~~
11 ~~site as a location for industry, and additional evidence has been presented that~~
12 ~~an adequate supply of labor is available within the labor market area to serve~~
13 ~~an industry located on the site;~~

14 ~~(I) the park project will be without unreasonable risk of loss to the~~
15 ~~Authority, and the local development corporation is unable to secure on~~
16 ~~reasonable terms the funds required for the project without the assistance of~~
17 ~~the Authority;~~

18 ~~(J) the financing and security documents contain provisions such that~~
19 ~~under no circumstances is the State obligated directly or indirectly to pay~~
20 ~~project costs; debt service; or expenses of operation, maintenance, and upkeep~~
21 ~~of the facility except from bond proceeds or from funds received under the~~

1 ~~financing or security documents, exclusive of funds received thereunder by the~~
2 ~~State for its own use;~~

3 ~~(K) neither the financing document nor the security document~~
4 ~~purports to create any debt of the State with respect to the eligible facility,~~
5 ~~other than a special obligation of the State under this chapter required by~~
6 ~~section 237 of this title.~~

7 ~~(3) All determinations and findings made by the Authority pursuant to~~
8 ~~this section shall be conclusive~~ Financing and security documents shall contain
9 provisions such that under no circumstances is the State obligated directly or
10 indirectly to pay project costs; debt service; or expenses of operation,
11 maintenance, and upkeep of the facility except from bond proceeds or from
12 funds received under the financing or security documents, exclusive of funds
13 received thereunder by the State for its own use.

14 ~~(4) Financing and security documents shall not create any debt of the~~
15 ~~State with respect to the eligible facility, other than a special obligation of the~~
16 ~~State under this chapter.~~

17 ~~(g) Bonds issued by the Authority under this subchapter may be secured, in~~
18 ~~whole or in part, by mortgage insurance under subchapter 2 of this chapter~~
19 ~~upon the terms and conditions set forth in subchapter 2 and in this subsection.~~
20 ~~Such insurance may be in the form of reinsurance or may be for the purpose of~~
21 ~~creating a loan loss reserve, in a case where the bonds are also secured by the~~

1 ~~mortgage insurance from another source. The principal amount of bonds so~~
2 ~~secured outstanding at any time with respect to facilities of any one user, or~~
3 ~~any related person, in any one municipality, shall not exceed \$2,500,000.00.~~
4 ~~For purposes of this subsection, the term "mortgagee" as used in subchapter 2~~
5 ~~of this chapter shall mean the purchasers of the bonds, or where appropriate~~
6 ~~the trustee under the security document; the mortgage payments to be insured~~
7 ~~shall be those required to be made by the user under the financing document;~~
8 ~~and bond proceeds, instead of being used to pay project costs directly, may be~~
9 ~~used to purchase participation in loans originated by local banks or other~~
10 ~~responsible financial institutions where the proceeds of such loans have been~~
11 ~~used to pay project costs. In authorizing mortgage insurance to secure bonds,~~
12 ~~the Authority shall make all of the findings and determinations set forth in~~
13 ~~subsection 221(a) of this title, except that the principal of the mortgage cannot~~
14 ~~exceed \$2,500,000.00. In authorizing any bonds that are to be secured by~~
15 ~~mortgage insurance, the Authority shall make all of the findings and~~
16 ~~determinations set forth in section 246 of this title, and may make the findings~~
17 ~~set forth in subdivisions 246(5) and (7) of this title, notwithstanding the fact~~
18 ~~that the mortgage insurance will create a contingent liability of the Authority.~~
19 ~~The creation of such contingent liability shall not be deemed to violate the~~
20 ~~prohibition contained in subsection (d), and the statement required on each~~
21 ~~bond that it does not constitute an indebtedness of the State may be modified~~

1 ~~to refer to the mortgage insurance. Separate series of bonds all of which are~~
2 ~~secured by mortgage insurance may be combined pursuant to subsection (e) of~~
3 ~~this section, and the proceeds of any payment of such mortgage insurance may~~
4 ~~be allocated and applied by the trustee for the benefit of the bondholders in~~
5 ~~accordance with the terms of the security document providing for the~~
6 ~~combined financing. All determinations and findings made by the Authority~~
7 ~~pursuant to this section shall be conclusive.~~

8 (h) The Authority is authorized to pledge security and to enter into
9 security, insurance, or other forms of credit enhancement. A pledge in any
10 agreement shall be valid and binding from the time such pledge shall be made
11 without any physical delivery or further act, and the lien of such pledge shall
12 be valid and binding as against all parties having claims of any kind in tort,
13 contract, or otherwise, irrespective of whether such parties have notice thereof.
14 Any such pledge shall be perfected by filing of the agreement in the records of
15 the Authority and n filing need be made under any other provision of law.

16 (i) The Authority may purchase any bond issued under this subchapter 4.
17 Subject to the terms of any agreement with the bondholders, the Authority
18 may hold, pledge, resell, or cancel any bond purchased under this paragraph,
19 except that a purchase under this paragraph shall not cause the extinguishment
20 of such bond unless the Authority cancels the bond or otherwise certifies its
21 intention that the bond be extinguished.

1 ~~(j) No designated member, director, officer, employee, or agent of the~~
2 Authority shall be liable personally on the bonds or any contract entered into
3 by the Authority or subject to any personal liability or accountability by reason
4 of the issuance of the bonds unless the personal liability or accountability is
5 the result of intentional misconduct.

6 Subchapter 5. Direct Mortgage Loans

7 § 261. ADDITIONAL POWERS

8 In addition to powers enumerated elsewhere in this chapter, the Authority
9 may:

10 (1) Make loans secured by mortgages or other assets, which may be
11 subordinate to one or more prior mortgages or liens, upon application by the
12 proposed mortgagor obligor, who may be a private corporation, nonprofit
13 organization, partnership, person, or municipality financing an eligible project
14 described in subdivision 212(6) of this title, upon such terms as the Authority
15 may prescribe, for the purpose of financing the establishment or expansion of
16 eligible facilities. Such loans shall be made from the Vermont Jobs Fund
17 established under ~~subchapter 3~~ of this chapter. The Authority may provide for
18 the repayment and redeposit of such loans as provided in this subchapter.

19 * * *

20 (3) Purchase prior mortgages secured loans and make payments on prior
21 mortgages secured loans on any eligible facility where the purchase or

1 ~~payment is necessary to protect any loan previously made by the Authority. In~~
2 addition, the Authority may sell, transfer, convey, and assign any such prior
3 mortgage or security. Monies used by the Authority in the purchase of any
4 prior ~~mortgages~~ mortgage or security, or any payments thereon, shall be
5 withdrawn from the Vermont Jobs Fund, and any monies derived from the sale
6 of any prior ~~mortgages~~ mortgage or security shall be deposited by the
7 Authority in the Vermont Jobs Fund.

8 * * *

9 § 262. FINDINGS

10 Before making any loan, the Authority shall receive from an applicant a
11 loan application in such form as the Authority may by ~~regulation~~ rule
12 prescribe, and the Authority, or the Authority's loan officer pursuant to the
13 provisions of subdivision 216(15) of this title, shall determine and incorporate
14 findings in its minutes that:

15 (1) The project is within the scope of this chapter and will increase or
16 maintain employment and expand the economy of the State.

17 (2) The project plans comply with all applicable environmental, zoning,
18 planning, and sanitary laws and regulations of the municipality where it is to
19 be located and of the State of Vermont.

20

1 ~~(5) The principal obligation of the Authority's mortgage does not~~
2 ~~exceed \$5,000,000.00, which may be secured by land and buildings or by~~
3 ~~machinery and equipment, or both, unless:~~

4 ~~(A) an integral element of the project consists of the generation of~~
5 ~~heat or electricity employing biomass, geothermal, methane, solar, or wind~~
6 ~~energy resources to be primarily consumed at the project, in which case the~~
7 ~~principal obligation of the Authority's mortgage does not exceed~~
8 ~~\$6,000,000.00, which may be secured by land and by buildings or machinery~~
9 ~~and equipment, or both; such principal obligation does not exceed 40 percent~~
10 ~~of the cost of the project; and the mortgagor obligor is able to obtain financing~~
11 ~~for the balance of the cost of the project from other sources as provided in the~~
12 ~~following section; or~~

13 * * *

14 ~~(6) The mortgagor obligor is responsible and able to manage its~~
15 ~~responsibilities as mortgagor obligor and owner of the project.~~

16 ~~(7) The mortgage loan has a satisfactory maturity date, in no case later~~
17 ~~than 20 years from the date of the mortgage.~~

18 ~~(8) The mortgagor obligor is unable to finance the project upon~~
19 ~~reasonable terms without the assistance of the requested loan from the~~

20 ~~Authority, or in the alternative, the granting of the loan will serve as a~~

1 ~~substantial inducement for the establishment or expansion of an eligible~~
2 project within the State.

3 (9) The ~~mortgagor~~ obligor has made adequate provision for insurance
4 protection of the project while the loan is outstanding.

5 * * *

6 § 263. MORTGAGE LOAN; LIMITATIONS

7 (a) When it has been determined by the Authority that the establishment or
8 expansion of a particular eligible facility will accomplish the public purposes
9 of this act, the Authority may contract to loan to the ~~mortgagor~~ obligor an
10 amount not in excess of 40 percent of the cost of such eligible facility. In
11 addition, the Authority shall have determined that the ~~mortgagor~~ obligor has
12 obtained from other independent and responsible sources, such as ~~banks and~~
13 ~~insurance companies~~ financial institutions or otherwise, a firm commitment for
14 all other funds, over and above the loan of the Authority and such funds or
15 property as the local development corporation may hold, necessary for
16 payment of all of the cost of the project, and that the sum of all these funds,
17 together with any funds, machinery, and equipment to be provided by the
18 ~~mortgagor~~ obligor is adequate for the completion and operation of the project.

19 (b) Any loan of the Authority under this subchapter shall be for a period of
20 time and shall bear interest at such rate as determined by the Authority and
21 ~~shall be secured by a mortgage on the eligible facility or a lien on its assets for~~

1 ~~which the loan was made or upon the assets of a municipal communications~~
2 plant, including the net revenues derived from the operation thereof, or both.
3 The ~~mortgage~~ secured loan may be subordinate to one or more prior ~~mortgages~~
4 loans, including the ~~mortgage~~ liens securing the obligation issued to secure the
5 commitment of funds from the independent and responsible sources and used
6 in the financing of the economic development project. Monies loaned by the
7 Authority shall be withdrawn from the Vermont Jobs Fund and paid over to the
8 ~~mortgagor~~ obligor in such manner as provided and prescribed by the rules ~~and~~
9 ~~regulations~~ of the Authority. All payments of principal and interest on the
10 loans shall be deposited by the Authority in the Vermont Jobs Fund.

11 (c) Loans by the Authority for an eligible facility under this subchapter
12 shall be made only in the manner and to the extent provided in this section,
13 except, however, in those instances where an agency of the federal government
14 participates in the financing of an eligible facility by loan, grant, or otherwise.
15 When any federal agency participates, the Authority may adjust the required
16 ratio of financial participation by the local development corporation,
17 independent sources of funds, and the Authority in such manner as to ensure
18 the maximum benefit available by the participation of the federal agency.
19 Where any federal agency participating in the financing of an eligible facility
20 ~~is not permitted to take as security a mortgage, the lien of which is junior to~~

1 ~~the mortgage of the Authority, the Authority shall be authorized to take as~~
2 security for its loan a mortgage junior in lien to that of the federal agency.

3 * * *

4 § 264. ACCELERATED REPAYMENT PROVISIONS

5 Any direct mortgage loan made on or after July 1, 1988 under this
6 subchapter shall be conditioned upon the maintenance of a reasonable level of
7 employment at the facility or facilities owned by the ~~mortgagor~~ obligor and
8 pledged as security for the loan. For the purposes of this section, a reasonable
9 level of employment shall be deemed not to have been maintained whenever a
10 ~~mortgagor~~ an obligor employing 50 or more employees at such facility or
11 facilities permanently transfers, within any three-year period, 50 percent or
12 more of those employees or employment positions to any out-of-state facility.
13 Upon breach of this condition, the Authority may declare all principal and
14 interest of the mortgage loan immediately due and payable and may
15 commence foreclosure on any property held as security for the mortgage loan
16 or take any other lawful steps to obtain payment.

17 * * *

18 § 279c. VERMONT EXPORT FINANCE PROGRAM

19 * * *

20 (e) Any excess of revenues over expenses derived from this program shall
21 ~~be deposited in the development fund~~ Vermont Jobs Fund.

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

(1) the Mortgage Insurance Program, administered under chapter 12, subchapter 2 of this title; [Repealed.]

* * *

(7) one or more programs targeting economically distressed regions of the State, and specifically including the Authority to develop a program to finance or refinance up to 100 percent of the existing assets or debts of a health, recreation, and fitness organization that is exempt under Section 501(c)(3) of the Internal Revenue Code, the income of which is entirely used for its exempt purpose, that owns and operates a recreation facility located in a distressed region of the State; [Repealed.]

* * *

§ 280b. THE VERMONT SUSTAINABLE JOBS STRATEGY

(1) Before adopting the Vermont sustainable jobs strategy, the Governor shall direct the Authority and the Secretary of Commerce and Community Development to solicit information and recommendations from the people and businesses of the State.

(2) After soliciting information and recommendations, the Authority and the Secretary shall jointly develop a proposed Vermont sustainable jobs strategy. In developing a proposed strategy, the Authority and the Secretary shall consider how best to integrate Vermont's economic, social, and environmental values into a Vermont sustainable jobs strategy. The Authority and the Secretary shall jointly present their proposed strategy to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs meeting in joint hearing.

* * *

Subchapter 15. Disaster Recovery Loan Fund

§ 280gg. DISASTER RECOVERY LOAN FUND

(a) There is established within the Authority the Vermont Disaster Recovery Loan Fund, referred to in this subchapter as "the Fund," the purpose of which is to enable the Authority to provide loans and other forms of financial assistance to businesses and agricultural enterprises after disasters

1 ~~(b) The Authority shall establish:~~

2 ~~(1) policies and procedures for the Fund that the Authority determines~~
3 ~~are necessary to carry out the purposes of this subchapter; and~~

4 ~~(2) financing programs necessary to ensure timely delivery of financial~~
5 ~~assistance after a disaster.~~

6 ~~(c) The Authority shall limit the interest rates charged for loans provided~~
7 ~~utilizing funds from the Disaster Recovery Loan Fund to rates necessary to~~
8 ~~cover the costs of administering the Fund.~~

9 ~~(d) This is a revolving loan program and any excess of revenues over~~
10 ~~expenses derived from this program shall be deposited in the Fund.~~

11 Sec. 2. 10 V.S.A. § 234 is redesignated and amended to read:

12 § 234 ~~220a~~. THE VERMONT JOBS FUND

13 (a) There is hereby created the Vermont Job Fund, hereinafter called the
14 Fund, which shall be used by the Authority as a nonlapsing fund for the
15 purposes of subchapters 3, 5, 9, and 10 of this chapter. To it shall be charged
16 all operating expenses of the Authority not otherwise provided for and all
17 payments of interest and principal required to be made by the Authority under
18 this subchapter. To it shall be credited any appropriations made by the General
19 Assembly for the purposes of subchapters 3, 5, 9, and 10 of this chapter and all
20 payments required to be made to the Authority under subchapters 3, 5, 9, and

21 ~~10 of this chapter, it being the intent of this section that the Fund shall operate~~

1 ~~as a revolving fund whereby all appropriations and payments made thereto,~~
2 ~~unless required to repay notes under the following section,~~ may be applied and
3 reapplied for the purposes of subchapters 3, 5, 9, and 10 of this chapter.

4 Monies in the Fund may be loaned at interest rates to be set by the Authority
5 for the following:

6 (1) Loans to local development corporations under this subchapter,
7 ~~provided that if the funds for any such loan are derived from the issue of notes~~
8 ~~to the State Treasurer under section 235 of this chapter, the loan shall bear~~
9 ~~interest at a rate not less than the rate on the notes chapter.~~

10 (2) Direct mortgage loans as described in subchapter 5 of this chapter.

11 (3) Loans for the financing of export activities under subchapter 9 of
12 this chapter.

13 (4) Other loans as the Authority may prescribe under subchapter 10 of
14 this chapter.

15 (b) ~~In order to provide monies in the Fund for loans under this chapter, the~~
16 ~~Authority may issue notes for purchase by the State Treasurer as provided in~~
17 ~~section 235 of this chapter.~~

18 (e) Monies in the Fund may be loaned to the Vermont Agricultural Credit
19 Program to support its lending operations as established in chapter 16A of this
20 title at interest rates and on terms and conditions to be set by the Authority to

21 ~~establish a line of credit in an amount not to exceed \$100,000,000.00 to be~~

1 ~~advanced to the Vermont Agricultural Credit Program to support its lending~~
2 operations as established in chapter 16A of this title.

3 ~~(d)(c)~~ Monies in the Fund may be loaned to the Vermont Small Business
4 Development Corporation to support its lending operations as established
5 pursuant to subdivision 216(14) of this title at interest rates and on terms and
6 conditions to be set by the Authority.

7 ~~(e)(d)~~ Monies in the Fund may be loaned to the Vermont 504 Corporation
8 to support its lending operations as established pursuant to subdivision 216(13)
9 of this title at interest rates and on terms and conditions to be set by the
10 Authority.

11 ~~(f)(e)~~ The Authority may loan money from the Fund to the Vermont
12 Sustainable Energy Loan Fund established under subchapter 13 of this chapter
13 at interest rates and on terms and conditions set by the Authority.

14 Sec. 3. APPROPRIATION

15 The sum of \$2,000,000.00 is appropriated from the General Fund to the
16 Agency of Commerce and Community Development to fund the Disaster
17 Recovery Loan Fund established in 10 V.S.A. § 280gg.

18 Sec. 4. EFFECTIVE DATE

~~This act shall take effect on July 1, 2025.~~

Sec. 1. 10 V.S.A. chapter 12 is amended to read:

CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

* * *

§ 212. DEFINITIONS

As used in this chapter:

* * *

(6) “Eligible facility” or “eligible project” means any industrial, commercial, or agricultural enterprise or endeavor approved by the Authority ~~that meets the criteria established in the Vermont Sustainable Jobs Strategy adopted by the Governor under section 280b of this title~~ used in a trade or business whether or not such business is operated for profit, including land and rights in land, air, or water; buildings; structures; machinery; and equipment of such eligible facilities or eligible projects, except that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to the sale of goods at retail where such goods are manufactured primarily out of State, and except further that an eligible facility or project shall not include the portion of an enterprise or endeavor relating to housing unless otherwise authorized in this chapter. Such enterprises or endeavors may include:

* * *

(T) Any capital improvement; purchase of receivables, property, assets, commodities, bonds, or other revenue streams or related assets; working capital program or liability; or other insurance program.

* * *

(9) "Insurance contract" means a contract insuring mortgage payments under subchapter 2 of this chapter. [Repealed.]

* * *

(11) "Maturity date," as used in subchapter 2 of this chapter, means the date upon which the note or other evidence of indebtedness secured by a mortgage would be extinguished if paid in accordance with the mortgage payments. [Repealed.]

(12) "Mortgage," as used in subchapter 2 of this chapter, means a first mortgage upon an eligible facility given by a mortgagor, as herein defined, to secure the repayment of amounts borrowed to pay costs of a project. [Repealed.]

(13) "Mortgage payments," as used in subchapter 2 of this chapter, means the periodic payments called for by a mortgage that shall cover lease land rentals, if any, mortgage insurance premiums, interest, installments of principal, taxes and assessments, hazard insurance payments, and any other payments called for in the mortgage. [Repealed.]

(14) "Mortgagee," as used in subchapter 2 of this chapter, means the original lender under a mortgage and its successors and assigns, if approved by the Authority. [Repealed.]

(15) “Mortgagor,” as used in subchapter 2 of this chapter, means the original borrower under a mortgage or a security agreement and its successors and assigns, if approved by the Authority. [Repealed.]

* * *

§ 213. AUTHORITY; ORGANIZATION

* * *

(c) The Authority shall elect a chair from among its appointed members, and a vice chair and ~~treasurer~~ other officers from among its members and shall employ a manager who shall hold office at the Authority’s pleasure and who, unless ~~he or she~~ the individual is a member of the classified service under 3 V.S.A. chapter 13, shall receive such compensation as may be fixed by the Authority ~~with the approval of the Governor~~. A quorum shall consist of eight members. Members disqualified from voting under section 214 of this title shall be considered present for purposes of determining a quorum. No action of the Authority shall be considered valid unless the action is supported by a majority vote of the members present and voting and then only if at least five members vote in favor of the action.

* * *

(i) ~~The Authority shall study and report back to the Legislature no later than January 15, 1989 on the feasibility of hiring full-time counsel in lieu of retaining outside counsel.~~ [Repealed.]

§ 214. MEMBERS; DISQUALIFICATION

A member of the Authority may not participate in any decision:

* * *

*(2) Upon any ~~insurance contract under subchapter 2 of this chapter or~~
loan under subchapter 5 of this chapter; if the member is a member, director,
trustee, employee, or officer of; or has any interest direct or indirect in; or
owns any stock, bonds, or other liabilities issued by or authorized by the
prospective mortgagor, mortgagee, or tenant;*

* * *

§ 215. MANAGER; DUTIES

*The manager shall be the chief administrative officer of the Authority and
shall direct and supervise the administrative affairs and technical activities of
the Authority in accordance with any rules, ~~regulations, and policies,~~ and
procedures set forth by the Authority. In addition to any other duties, the
manager shall:*

* * *

*(4) work closely with the Agency of Commerce and Community
Development and provide assistance to the various divisions of that Agency
when requested to facilitate the planning and financing of projects; and*

*(5) ~~make recommendations and reports, in cooperation with the Agency
of Commerce and Community Development, to the Authority on the merits of~~*

~~any proposed project, on the status of local development corporations, and on suitable industrial sites; [Repealed.]~~

~~(6) perform such other duties as may be directed by the Authority in the carrying out of the purposes of this chapter.~~

~~§ 216. AUTHORITY; GENERAL POWERS~~

~~The Authority is hereby authorized:~~

~~(1) To sue and be sued in its own name and plead and be impleaded; service of process upon it in any action shall be made by service upon the Secretary of State either in hand or by leaving a copy of the process at ~~his or her~~ the Secretary's office.~~

~~* * *~~

~~(3) To adopt and from time to time amend bylaws, and rules, ~~and regulations~~ for the calling and conduct of its meetings and for the conduct of its affairs, including ~~regulations~~ rules, policies, and procedures relating to applications for financial assistance and disclosure of information supplied to it.~~

~~* * *~~

~~(10) To administer its own funds and to invest or deposit funds ~~which~~ that are not needed currently to meet the obligations of the Authority.~~

~~* * *~~

(13) To cause to be incorporated in Vermont a nonprofit corporation that will qualify as a State development company under ~~Title 15 of the U.S. Code~~ 15 U.S.C. § 695 and ~~rules and regulations adopted promulgated~~ pursuant thereto. The voting members of the Authority shall be members of the company and shall constitute the board of directors of the company. ~~The company shall have at least 14 other members selected by the members of the Authority.~~ The company shall be organized and operate under the nonprofit corporation laws of the State of Vermont to the extent not inconsistent herewith. The Authority shall have the power to contract with the company to provide staff and management needs of the company. The Authority is authorized to contribute to the capital of the company in an amount the Authority determines is necessary and appropriate.

* * *

(15) To delegate to loan officers the power to review, approve, and make loans under this chapter, ~~subject to the approval of the manager,~~ and to disburse funds on such loans, ~~subject to the approval of the manager as set forth in the policies and procedures of the Authority.~~

* * *

§ 217. RECORDS; ANNUAL REPORT; AUDIT

(a) The Authority shall keep an accurate account of all its activities and of all its receipts and expenditures. ~~Information and records in connection with~~

~~an application for an insurance contract under subchapter 2 of this chapter shall be preserved for three years after the application has been denied or, if the application is accepted, for three years after the mortgage has been discharged and thereafter until the Authority orders them destroyed.~~

* * *

(c) ~~The Auditor of Accounts of the State and his or her~~ the Auditor's authorized representatives may at any time examine the accounts and books of the Authority, including its receipts, disbursements, contracts, funds, investments, and any other matters relating to its financial statements.

* * *

§ 217a. APPLICATION

~~Among such other things as may be required by the Authority, any application for financing or for mortgage insurance under this chapter shall state in detail on the application the nature and purpose of the business and its products for which the loan, or revenue bonds or mortgage insurance is~~ are intended to benefit.

* * *

§ 231. ASSISTANCE TO LOCAL DEVELOPMENT CORPORATIONS

~~Upon application of a local development corporation, the Authority may loan money to that local development corporation, upon such terms and conditions as it may prescribe, for the purpose of industrial park planning and~~

development, for constructing or improving a speculative building or small business incubator facility on land owned or held under lease by the local development corporation, for purchase or improvement of existing buildings suitable for or which can be made suitable for industrial or small business incubation facility purposes and for the purchase of land in connection with any of the foregoing. Before the local development corporation receives such funds for such purposes from the Authority, it shall give to the Authority security for the repayment of the funds. The security shall be in such form and amounts as the Authority may determine and shall, in each instance, include a first mortgage on the land, or the leasehold, building, and appurtenances financed by such funds. Loans by the Authority to local development corporations for the construction of speculative buildings or improvements to those buildings shall be repaid in full, including interest and other charges, within 90 days after the building is occupied if the building is being sold, or within five years after the property is occupied if the building is being leased, or within such period of time deemed reasonable by the Authority. Loans by the Authority to local development corporations for the construction, purchase, or improvement of small business incubator facilities shall be repaid in full, including interest and other charges, within ~~ten~~ 20 years after the property is occupied.

* * *

§ 244. BONDS

* * *

(b) Bonds shall bear the manual or electronic signature of the treasurer of the municipality and the manual, electronic, or facsimile signature or signatures of the mayor or a majority of the selectboard or trustees as the case may be. Interest coupons, if any, shall bear the facsimile signature of the treasurer. If the municipality has a corporate seal, bonds shall bear the seal or a facsimile of the seal. Bonds executed in accordance with this subchapter shall be valid notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to hold office.

* * *

§ 253. ~~STATE~~ AUTHORITY PROJECTS

(a) ~~The State of Vermont~~ Authority may engage in projects within the state State in accordance with the provisions of this subchapter. For the purposes of this section and section 254 of this title:

(1) The word “municipality” as used in the sections of this subchapter other than this section shall mean the ~~“State of Vermont”~~ “Authority”;

* * *

(b) For the purposes of engaging in a project, the Authority shall act ~~in the name of the State and~~ on its behalf of the State as its agent and instrumentality

for the execution of financing documents, security documents, bonds, and other appropriate instruments or for the taking of any action with respect to a project financed in whole or in part by the issue of bonds under section 254 of this title.

(c) Title to or possessory interest in any eligible facility that is financed in whole or in part by the issue of bonds pursuant to section 254 of this title may be taken and held in the name of the State Authority. In performing its functions under this section, the Authority may exercise any and all powers conferred upon municipalities by this subchapter, but the Authority shall not execute any financing document, security document, or bond with respect to a project until the Authority has made the findings required by section 246 of this title.

* * *

§ 254. STATE BONDS

* * *

(c) Bonds issued under this section shall bear the manual, electronic, or facsimile signature of the manager or treasurer of the Authority ~~and the manual or facsimile signature of the Chair or Vice Chair of the Authority, or authorized designee and agent~~; provided, however, that ~~at least one of the foregoing~~ such signatures shall be manual unless the bonds are to be manually authenticated by a bank or trust company serving as trustee for the bonds. The

details of the bonds shall be fixed by the signing officers in accordance with section 244 of this title. Bonds shall be sold by the signing officers at public or private sale, and the proceeds thereof shall be paid to the trustee, lender, or disbursing agent under the security document that secures the bonds.

(d) No financing or security document, or bond, or other instrument issued or entered into ~~in the name and on behalf of the State~~ under this subchapter shall in any way obligate the State to raise any money by taxation or use other funds for any purpose to pay any debt or meet any financial obligation to any person at any time in relation to an eligible facility financed in whole or in part by the issue of the Authority's bonds under this subchapter, except from monies received or to be received under a financing or security document entered into under this subchapter or except as may be required by any other provision of law. Notwithstanding the provisions of this subsection, the State may accept and expend with respect to an eligible facility any gifts or grants received from any source in accordance with the terms of the gifts or grants.

* * *

(f) Bonds may be issued by the Authority under this subchapter for the purpose of making loans to local development corporations for industrial park planning and development, constructing, or improving a speculative building or small business incubator facility on land owned or held under lease by the local development corporation, purchase or improvement of existing buildings

suitable or that can be made suitable for industrial or business incubation purposes, and purchase of land in connection with any of the foregoing.

(1) Before issuing bonds for construction of a speculative building or small business incubator facility and the purchase of land in connection therewith, the Authority shall make the determinations and incorporate in its minutes the findings that:

~~(A) the project is within the scope of this chapter, will be of public use and benefit, and may reasonably be expected to create new employment opportunities;~~

~~(B) the proposed site for the speculative building or small business incubator facility will be located on adequate land owned or to be acquired by the local development corporation or leased by the local development corporation on terms satisfactory to the Authority;~~

~~(C) an adequate access road from a public highway is provided to the proposed site and that such utilities as water, sewer, and power facilities are available, or will be available when the speculative building or small business incubator facility is completed;~~

~~(D) the project plans comply with all applicable environmental, zoning, planning, and sanitary laws and regulations of the municipality where it is to be located and of the State of Vermont;~~

~~(E) the local development corporation is responsible and has presented evidence to demonstrate its ability to carry out the project as planned;~~

~~(F) evidence has been presented demonstrating the feasibility of the site as a location for business, and additional evidence has been presented that an adequate supply of labor is available within the labor market area to serve a business located on the site;~~

~~(G) the local development corporation has made adequate provisions for insurance protection of the building while it is unoccupied and suitable arrangements have been made for fire protection and maintenance while it is unoccupied;~~

~~(H) the project will be without unreasonable risk of loss to the Authority, and the local development corporation is unable to secure on reasonable terms the funds required for the project without the assistance of the Authority;~~

~~(I) the financing and security documents contain provisions such that under no circumstances is the State obligated directly or indirectly to pay project costs; debt service; or expenses of operation, maintenance, and upkeep of the facility except from bond proceeds or from funds received under the financing or security documents, exclusive of funds received thereunder by the State for its own use;~~

~~(J) neither the financing document nor the security document purports to create any debt of the State with respect to the eligible facility, other than a special obligation of the State under this chapter required by section 232 of this title.~~

(2) ~~Before issuing bonds for industrial park planning and development and the purchase of land in connection therewith, the Authority shall make the determinations and incorporate in its minutes the findings that:~~

~~(A) the proposed industrial park is on adequate land owned or to be owned by the local development corporation or leased by the local development corporation on terms satisfactory to the Authority;~~

~~(B) an adequate access road from a public highway is provided to the proposed site, and utilities, including water, sewer, and power facilities, are available or will be available for any future tenant located in the park;~~

~~(C) the total industrial park will be planned by architects and engineers acceptable to the Authority;~~

~~(D) no more than 80 percent of the fair market value of the industrial park, as shown by appraisal by an appraiser acceptable to the Authority, is to be financed under the loan;~~

~~(E) the park project is within the scope of this chapter, will be of public use and benefit, and may reasonably be expected to create new employment opportunities;~~

~~(F) the park project complies with all applicable environmental, zoning, planning, and sanitary laws and regulations of the municipality in which it is to be located and of the State of Vermont;~~

~~(G) the local development corporation is responsible and has presented evidence to demonstrate its ability to carry out the park project as planned;~~

~~(H) evidence has been presented demonstrating the feasibility of the site as a location for industry, and additional evidence has been presented that an adequate supply of labor is available within the labor market area to serve an industry located on the site;~~

~~(I) the park project will be without unreasonable risk of loss to the Authority, and the local development corporation is unable to secure on reasonable terms the funds required for the project without the assistance of the Authority;~~

~~(J) the financing and security documents contain provisions such that under no circumstances is the State obligated directly or indirectly to pay project costs; debt service; or expenses of operation, maintenance, and upkeep of the facility except from bond proceeds or from funds received under the financing or security documents, exclusive of funds received thereunder by the State for its own use;~~

~~(K) neither the financing document nor the security document purports to create any debt of the State with respect to the eligible facility, other than a special obligation of the State under this chapter required by section 237 of this title.~~

~~(3) All determinations and findings made by the Authority pursuant to this section shall be conclusive. Financing and security documents shall contain provisions such that under no circumstances is the State obligated directly or indirectly to pay project costs; debt service; or expenses of operation, maintenance, and upkeep of the facility except from bond proceeds or from funds received under the financing or security documents, exclusive of funds received thereunder by the State for its own use.~~

~~(4) Financing and security documents shall not create any debt of the State with respect to the eligible facility, other than a special obligation of the State under this chapter.~~

~~(g) Bonds issued by the Authority under this subchapter may be secured, in whole or in part, by mortgage insurance under subchapter 2 of this chapter upon the terms and conditions set forth in subchapter 2 and in this subsection. Such insurance may be in the form of reinsurance or may be for the purpose of creating a loan loss reserve, in a case where the bonds are also secured by the mortgage insurance from another source. The principal amount of bonds so secured outstanding at any time with respect to facilities of any one user, or~~

~~any related person, in any one municipality, shall not exceed \$2,500,000.00.~~

~~For purposes of this subsection, the term “mortgagee” as used in subchapter 2 of this chapter shall mean the purchasers of the bonds, or where appropriate the trustee under the security document; the mortgage payments to be insured shall be those required to be made by the user under the financing document; and bond proceeds, instead of being used to pay project costs directly, may be used to purchase participation in loans originated by local banks or other responsible financial institutions where the proceeds of such loans have been used to pay project costs. In authorizing mortgage insurance to secure bonds, the Authority shall make all of the findings and determinations set forth in subsection 221(a) of this title, except that the principal of the mortgage cannot exceed \$2,500,000.00. In authorizing any bonds that are to be secured by mortgage insurance, the Authority shall make all of the findings and determinations set forth in section 246 of this title, and may make the findings set forth in subdivisions 246(5) and (7) of this title, notwithstanding the fact that the mortgage insurance will create a contingent liability of the Authority. The creation of such contingent liability shall not be deemed to violate the prohibition contained in subsection (d), and the statement required on each bond that it does not constitute an indebtedness of the State may be modified to refer to the mortgage insurance. Separate series of bonds all of which are secured by mortgage insurance may be combined pursuant to subsection (e) of~~

~~this section, and the proceeds of any payment of such mortgage insurance may be allocated and applied by the trustee for the benefit of the bondholders in accordance with the terms of the security document providing for the combined financing All determinations and findings made by the Authority pursuant to this section shall be conclusive.~~

~~(h) The Authority is authorized to pledge security and to enter into security, insurance, or other forms of credit enhancement. A pledge in any agreement shall be valid and binding from the time such pledge shall be made without any physical delivery or further act, and the lien of such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, irrespective of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the agreement in the records of the Authority and no filing need be made under any other provision of law.~~

~~(i) The Authority may purchase any bond issued under this subchapter 4. Subject to the terms of any agreement with the bondholders, the Authority may hold, pledge, resell, or cancel any bond purchased under this paragraph, except that a purchase under this paragraph shall not cause the extinguishment of such bond unless the Authority cancels the bond or otherwise certifies its intention that the bond be extinguished.~~

~~(j) No designated member, director, officer, employee, or agent of the Authority shall be liable personally on the bonds or any contract entered into~~

by the Authority or subject to any personal liability or accountability by reason of the issuance of the bonds unless the personal liability or accountability is the result of intentional misconduct.

Subchapter 5. Direct Mortgage Loans

§ 261. ADDITIONAL POWERS

In addition to powers enumerated elsewhere in this chapter, the Authority may:

(1) Make loans secured by mortgages or other assets, which may be subordinate to one or more prior mortgages or liens, upon application by the proposed ~~mortgagor~~ obligor, who may be a private corporation, nonprofit organization, partnership, person, or municipality financing an eligible project described in subdivision 212(6) of this title, upon such terms as the Authority may prescribe, for the purpose of financing the establishment or expansion of eligible facilities. Such loans shall be made from the Vermont Jobs Fund established under ~~subchapter 3~~ of this chapter. The Authority may provide for the repayment and redeposit of such loans as provided in this subchapter.

** * **

(3) Purchase prior ~~mortgages~~ secured loans and make payments on prior ~~mortgages~~ secured loans on any eligible facility where the purchase or payment is necessary to protect any loan previously made by the Authority. In addition, the Authority may sell, transfer, convey, and assign any such prior

mortgage or security. Monies used by the Authority in the purchase of any prior ~~mortgages~~ mortgage or security, or any payments thereon, shall be withdrawn from the Vermont Jobs Fund, and any monies derived from the sale of any prior ~~mortgages~~ mortgage or security shall be deposited by the Authority in the Vermont Jobs Fund.

* * *

§ 262. FINDINGS

Before making any loan, the Authority shall receive from an applicant a loan application in such form as the Authority may by ~~regulation~~ rule prescribe, and the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate findings in its minutes that:

(1) The project is within the scope of this chapter and will increase or maintain employment and expand the economy of the State.

(2) The project plans comply with all applicable environmental, zoning, planning, and sanitary laws and regulations of the municipality where it is to be located and of the State of Vermont.

* * *

(5) The principal obligation of the Authority's ~~mortgage~~ loan does not exceed \$5,000,000.00, which may be secured by land and buildings or by machinery and equipment, or both, unless:

(A) an integral element of the project consists of the generation of heat or electricity employing biomass, geothermal, methane, solar, or wind energy resources to be primarily consumed at the project, in which case the principal obligation of the Authority's ~~mortgagor~~ loan does not exceed \$6,000,000.00, which may be secured by land and by buildings or machinery and equipment, or both; such principal obligation does not exceed 40 percent of the cost of the project; and the ~~mortgagor~~ obligor is able to obtain financing for the balance of the cost of the project from other sources as provided in the following section; or

** * **

(6) The ~~mortgagor~~ obligor is responsible and able to manage its responsibilities as ~~mortgagor~~ obligor and owner of the project.

(7) The ~~mortgage~~ loan has a satisfactory maturity date, ~~in no case later than 20 years from the date of the mortgage.~~

(8) The ~~mortgagor~~ obligor is unable to finance the project upon reasonable terms without the assistance of the requested loan from the Authority, or in the alternative, the granting of the loan will serve as a substantial inducement for the establishment or expansion of an eligible project within the State.

(9) The ~~mortgagor~~ obligor has made adequate provision for insurance protection of the project while the loan is outstanding.

* * *

§ 263. *MORTGAGE LOAN; LIMITATIONS*

(a) When it has been determined by the Authority that the establishment or expansion of a particular eligible facility will accomplish the public purposes of this act, the Authority may contract to loan to the ~~mortgagor~~ obligor an amount not in excess of 40 percent of the cost of such eligible facility. In addition, the Authority shall have determined that the ~~mortgagor~~ obligor has obtained from other independent and responsible sources, such as ~~banks and insurance companies~~ financial institutions or otherwise, a firm commitment for all other funds, over and above the loan of the Authority and such funds or property as the local development corporation may hold, necessary for payment of all of the cost of the project, and that the sum of all these funds, together with any funds, machinery, and equipment to be provided by the ~~mortgagor~~ obligor is adequate for the completion and operation of the project.

(b) Any loan of the Authority under this subchapter shall be for a period of time and shall bear interest at such rate as determined by the Authority and shall be secured by a mortgage on the eligible facility or a lien on its assets for which the loan was made or upon the assets of a municipal communications plant, including the net revenues derived from the operation thereof, or both. The ~~mortgage~~ secured loan may be subordinate to one or more prior ~~mortgages~~ loans, including the ~~mortgage~~ liens securing the obligation issued

to secure the commitment of funds from the independent and responsible sources and used in the financing of the economic development project. Monies loaned by the Authority shall be withdrawn from the Vermont Jobs Fund and paid over to the ~~mortgagor~~ obligor in such manner as provided and prescribed by the rules ~~and regulations~~ of the Authority. All payments of principal and interest on the loans shall be deposited by the Authority in the Vermont Jobs Fund.

(c) Loans by the Authority for an eligible facility under this subchapter shall be made only in the manner and to the extent provided in this section, except, however, in those instances where an agency of the federal government participates in the financing of an eligible facility by loan, grant, or otherwise. When any federal agency participates, the Authority may adjust the required ratio of financial participation by the local development corporation, independent sources of funds, and the Authority in such manner as to ensure the maximum benefit available by the participation of the federal agency. Where any federal agency participating in the financing of an eligible facility is not permitted to take as security a mortgage, the lien of which is junior to the mortgage of the Authority, the Authority shall be authorized to take as security for its loan a mortgage junior in lien to that of the federal agency.

* * *

§ 264. ACCELERATED REPAYMENT PROVISIONS

Any direct ~~mortgage~~ loan made on or after July 1, 1988 under this subchapter shall be conditioned upon the maintenance of a reasonable level of employment at the facility or facilities owned by the ~~mortgagor~~ obligor and pledged as security for the loan. For the purposes of this section, a reasonable level of employment shall be deemed not to have been maintained whenever ~~a mortgagor~~ an obligor employing 50 or more employees at such facility or facilities permanently transfers, within any three-year period, 50 percent or more of those employees or employment positions to any out-of-state facility. Upon breach of this condition, the Authority may declare all principal and interest of the ~~mortgage~~ loan immediately due and payable and may commence foreclosure on any property held as security for the ~~mortgage~~ loan or take any other lawful steps to obtain payment.

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§ 279c. VERMONT EXPORT FINANCE PROGRAM

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(e) Any excess of revenues over expenses derived from this program shall be deposited in the ~~development fund~~ Vermont Jobs Fund.

* * *

§ 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

(a) The Authority may develop, modify, and implement any existing or new financing program, provided that any specific project that benefits from such

program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under outlined in section 280b of this title, and provided further that the program shall meet the criteria contained in the Vermont Sustainable Jobs Strategy adopted under section 280b of this title. These programs may include:

(1) the Mortgage Insurance Program, administered under chapter 12, subchapter 2 of this title; [Repealed.]

* * *

(11) a program that would award grants made to eligible and qualified recipients as directed by the Agency of Agriculture, Food and Markets or the Agency of Natural Resources for the purpose of funding water quality initiatives approved by the agencies, provided that the maximum amount of grants awarded by the Authority pursuant to the program shall not exceed \$1,340,238.00 in the aggregate; or

(12) loans to agricultural enterprises or endeavors administered by the Authority under chapter 16A of this title and any programs created thereunder.

(b) This section shall not apply to the Job Start Program authorized by chapter 12, subchapter 7 of this title, and the agricultural finance programs authorized by chapter 16 of this title. [Repealed.]

§ 280b. THE VERMONT SUSTAINABLE JOBS STRATEGY

~~(a)(1) The Governor, with the advice of the Secretary of Commerce and Community Development and the Authority, shall adopt a Vermont sustainable jobs strategy for the State, in accordance with the provisions of this section. Before issuing any funds to an eligible facility or eligible project under section 280a of this title, the Authority shall make a determination that the facility or project materially supports one of the following objectives:~~

~~(A) creating or sustaining employment opportunities for Vermonters in proportion to the amount of financial assistance requested;~~

~~(B) providing quality employment at wage and benefit levels sufficient to permit a reasonable standard of living by community standards, and at levels that may contribute to bringing Vermont's average wage up to or above 100 percent of the national average wage rate;~~

~~(C) promoting employment opportunities in economically disadvantaged areas and communities in the State;~~

~~(D) advancing the overall growth of wealth in the Vermont economy by promoting the production and sale of goods and services with a substantial Vermont content and those that utilize Vermont's unique human and natural resource base to markets outside of the State and nation, including visitors to, and travelers through, the State;~~

~~(E) assisting the development of a business infrastructure that will contribute to sustainable economic development, to include the provision of~~

necessary services, including shipping, warehousing, communications, repair and maintenance, technical services, distribution, and dependent care, particularly when intrastate capability in these areas can replace services currently provided by out-of-state suppliers;

(F) encouraging economic development projects that reduce, mitigate, or eliminate the effects of climate change, the pollution of land, air, or water, or those that will interdict material within the State that, having served its intended purpose, would otherwise enter the solid waste disposal stream and that will cause the diversion of such material to useful purposes, or that will reuse or recycle any such post-consumer material;

(G) encouraging commercial activity in the traditional downtown areas of the State and promoting through appropriate commercial adaptation the preservation of suitable buildings or structures that are historically or aesthetically significant;

(H) encouraging economic development projects that are consistent with and sensitive to the needs of the communities in which such projects are located;

(I) promoting entrepreneurial activity, recognizing that some of those that are the small businesses of today will be the large employers of tomorrow; and

(J) aiding in the achievement of the economic development and business growth strategies adopted by the Vermont Economic Progress Council and the Vermont Department of Economic Development, wherever possible providing assistance to those categories of enterprise that may be designated as especially desirable for Vermont.

(2) All determinations and findings made by the Authority pursuant to this section shall be conclusive.

~~(b)(1) The Vermont sustainable jobs strategy shall contain the criteria upon which the Authority shall develop, modify, and implement its public financing programs, and the criteria for determining whether investments should be made in an eligible project. Such criteria shall include a requirement that, before making any investment or other financial commitment, the Authority shall determine that the proposed project is of public use and benefit and is without unreasonable risk of loss to the Authority.~~

~~(2) In adopting the Vermont sustainable jobs strategy, the Governor shall consider:~~

~~(A) the policies established in section 280 of this title; and~~

~~(B) the economic policy and economic development plan of the State, as developed by the Economic Progress Council under subchapter 3 of chapter 29 of this title~~ The Authority may adopt such policies and procedures necessary to define further any term or criterion used in this section or to set

specific standards by which to measure the extent to which any proposed project meets the requirements of this section.

~~(c)(1) Before adopting the Vermont sustainable jobs strategy, the Governor shall direct the Authority and the Secretary of Commerce and Community Development to solicit information and recommendations from the people and businesses of the State.~~

~~(2) After soliciting information and recommendations, the Authority and the Secretary shall jointly develop a proposed Vermont sustainable jobs strategy. In developing a proposed strategy, the Authority and the Secretary shall consider how best to integrate Vermont's economic, social, and environmental values into a Vermont sustainable jobs strategy. The Authority and the Secretary shall jointly present their proposed strategy to the House Committee on Commerce and the Senate Committee on Economic Development, Housing and General Affairs meeting in joint hearing.~~

~~(3) After legislative presentation, the Authority and the Secretary may amend the proposed strategy, and shall present the proposed strategy as amended to the Governor. The Governor may adopt the proposed strategy, or may return the proposed strategy to the Authority and the Secretary for further development and legislative presentation. After adoption of the Vermont sustainable jobs strategy, any amendments to the strategy may be adopted by the Governor in accordance with the process established by this section. In~~

deciding whether to provide financial assistance to an applicant, the Authority, after determining that a project meets its credit underwriting standards, shall take into account the criteria outlined in this section, the overall benefits of the project to the State and to the community in which it is proposed to be located, the amount of assistance requested, and the availability of Authority resources to fund the request.

* * *

Subchapter 15. Disaster Recovery Loan Fund

§ 280gg. DISASTER RECOVERY LOAN FUND

(a)(1) There is established within the Authority the Vermont Disaster Recovery Loan Fund, referred to in this subchapter as “the Fund,” the purpose of which is to enable the Authority to provide loans and other forms of financial assistance to businesses and agricultural enterprises after disasters.

(2) The Authority shall consult with the Secretary of Commerce and Community Development and the Secretary of Agriculture in determining whether funds shall be made available following a disaster event impacting areas of the State. A consultation shall not be required in the event of a disaster declaration declared by the Governor or the President of the United States.

(b) The Authority shall establish:

(1) policies and procedures for the Fund that the Authority determines are necessary to carry out the purposes of this subchapter; and

(2) financing programs necessary to ensure timely delivery of financial assistance after a disaster.

(c) The Authority shall limit the interest rates charged for loans provided utilizing funds from the Disaster Recovery Loan Fund to rates necessary to cover the costs of administering the Fund.

(d) This is a revolving loan program and any excess of revenues over expenses derived from this program shall be deposited in the Fund.

Sec. 2. 10 V.S.A. § 234 is redesignated and amended to read:

§ 234 220a. THE VERMONT JOBS FUND

(a) There is hereby created the Vermont Jobs Fund, hereinafter called the Fund, which shall be used by the Authority as a nonlapsing fund for the purposes of subchapters 3, 5, 9, and 10 of this chapter. To it shall be charged all operating expenses of the Authority not otherwise provided for and all payments of interest and principal required to be made by the Authority under this subchapter. To it shall be credited any appropriations made by the General Assembly for the purposes of subchapters 3, 5, 9, and 10 of this chapter and all payments required to be made to the Authority under subchapters 3, 5, 9, and 10 of this chapter; it being the intent of this section that the Fund shall operate as a revolving fund whereby all appropriations and

~~payments made thereto, unless required to repay notes under the following section, may be applied and reapplied for the purposes of subchapters 3, 5, 9, and 10 of this chapter. Monies in the Fund may be loaned at interest rates to be set by the Authority for the following:~~

~~(1) Loans to local development corporations under this subchapter, provided that if the funds for any such loan are derived from the issue of notes to the State Treasurer under section 235 of this chapter, the loan shall bear interest at a rate not less than the rate on the notes chapter.~~

~~(2) Direct mortgage loans as described in subchapter 5 of this chapter.~~

~~(3) Loans for the financing of export activities under subchapter 9 of this chapter.~~

~~(4) Other loans as the Authority may prescribe under subchapter 10 of this chapter.~~

~~(b) In order to provide monies in the Fund for loans under this chapter, the Authority may issue notes for purchase by the State Treasurer as provided in section 235 of this chapter.~~

~~(e) 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 \$100,000,000.00 to be~~

advanced to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title.

(d)(c) Monies in the Fund may be loaned to the Vermont Small Business Development Corporation to support its lending operations as established pursuant to subdivision 216(14) of this title at interest rates and on terms and conditions to be set by the Authority.

(e)(d) Monies in the Fund may be loaned to the Vermont 504 Corporation to support its lending operations as established pursuant to subdivision 216(13) of this title at interest rates and on terms and conditions to be set by the Authority.

(f)(e) The Authority may loan money from the Fund to the Vermont Sustainable Energy Loan Fund established under subchapter 13 of this chapter at interest rates and on terms and conditions set by the Authority.

~~*Sec. 3. 2024 Acts and Resolves No. 113, Sec. B.1100 is amended to read.*~~

~~*Sec. B.1100 MISCELLANEOUS FISCAL YEAR 2025 ONE-TIME*~~

~~*APPROPRIATIONS*~~

~~** * **~~

~~*(h) Department of Economic Development. In fiscal year 2025, funds are appropriated for the following.*~~

~~(1) \$150,000 General Fund for continued funding of the International Business Office previously funded by 2021 Acts and Resolves No. 74, Sec. G.300(b)(1); and~~

~~(2) \$2,000,000 General Fund for a grant to the Vermont Economic Development Authority to establish a disaster relief fund for use by businesses and agricultural enterprises following a natural disaster.~~

Sec. ~~■~~ 3. *EFFECTIVE DATE*

This act shall take effect on July 1, 2025.