

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 398 entitled “An act relating to the Vermont Economic
4 Development Authority” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 CHAPTER 12. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

9 * * *

10 § 212. DEFINITIONS

11 As used in this chapter:

12 * * *

13 (6) “Eligible facility” or “eligible project” means any industrial,
14 commercial, or agricultural enterprise or endeavor approved by the Authority
15 ~~that meets the criteria established in the Vermont Sustainable Jobs Strategy~~
16 ~~adopted by the Governor under section 280b of this title~~ used in a trade or
17 business whether or not such business is operated for profit, including land and
18 rights in land, air, or water; buildings; structures; machinery; and equipment of
19 such eligible facilities or eligible projects, except that an eligible facility or
20 project shall not include the portion of an enterprise or endeavor relating to the
21 sale of goods at retail where such goods are manufactured primarily out of

1 State, and except further that an eligible facility or project shall not include the
2 portion of an enterprise or endeavor relating to housing unless otherwise
3 authorized in this chapter. Such enterprises or endeavors may include:

4 * * *

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

8 * * *

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 [Repealed.]~~

11 * * *

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 [Repealed.]~~

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19 ~~[Repealed.]~~

20 (13) ~~“Mortgage payments,” as used in subchapter 2 of this chapter,~~
21 ~~means the periodic payments called for by a mortgage that shall cover lease~~

1 ~~land rentals, if any, mortgage insurance premiums, interest, installments of~~
2 ~~principal, taxes and assessments, hazard insurance payments, and any other~~
3 ~~payments called for in the mortgage. [Repealed.]~~

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

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

10 * * *

11 § 213. AUTHORITY; ORGANIZATION

12 * * *

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

1 majority vote of the members present and voting and then only if at least five
2 members vote in favor of the action.

3 * * *

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

7 § 214. MEMBERS; DISQUALIFICATION

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

9 * * *

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

15 * * *

16 § 215. MANAGER; DUTIES

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

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(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

1 applications for financial assistance and disclosure of information supplied to
2 it.

3 * * *

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

6 * * *

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

19 * * *

20 (15) To delegate to loan officers the power to review, approve, and
21 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 shall~~
8 ~~be preserved for three years after the application has been denied or, if the~~
9 ~~application is accepted, for three years after the mortgage has been discharged~~
10 ~~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 electronic signature of the treasurer of
11 the municipality and the manual, electronic, or facsimile signature or
12 signatures of the mayor or a majority of the selectboard or trustees as the case
13 may be. Interest coupons, if any, shall bear the facsimile signature of the
14 treasurer. If the municipality has a corporate seal, bonds shall bear the seal or
15 a facsimile of the seal. Bonds executed in accordance with this subchapter
16 shall be valid notwithstanding that before the delivery thereof and payment
17 therefor any or all of the persons whose signatures appear thereon shall have
18 ceased to hold office.

19 * * *

1 § 253. ~~STATE~~ AUTHORITY PROJECTS

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

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

7 * * *

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

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

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§ 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

1 provision of law. Notwithstanding the provisions of this subsection, the State
2 may accept and expend with respect to an eligible facility any gifts or grants
3 received from any source in accordance with the terms of the gifts or grants.

4 * * *

5 (f) Bonds may be issued by the Authority under this subchapter for the
6 purpose of making loans to local development corporations for industrial park
7 planning and development, constructing, or improving a speculative building
8 or small business incubator facility on land owned or held under lease by the
9 local development corporation, purchase or improvement of existing buildings
10 suitable or that can be made suitable for industrial or business incubation
11 purposes, and purchase of land in connection with any of the foregoing.

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

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

19 ~~(B) the proposed site for the speculative building or small business~~
20 ~~incubator facility will be located on adequate land owned or to be acquired by~~

1 ~~the local development corporation or leased by the local development~~
2 ~~corporation on terms satisfactory to the Authority;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 ~~(g) Bonds issued by the Authority under this subchapter may be secured, in~~
5 ~~whole or in part, by mortgage insurance under subchapter 2 of this chapter~~
6 ~~upon the terms and conditions set forth in subchapter 2 and in this subsection.~~
7 ~~Such insurance may be in the form of reinsurance or may be for the purpose of~~
8 ~~creating a loan loss reserve, in a case where the bonds are also secured by the~~
9 ~~mortgage insurance from another source. The principal amount of bonds so~~
10 ~~secured outstanding at any time with respect to facilities of any one user, or~~
11 ~~any related person, in any one municipality, shall not exceed \$2,500,000.00.~~
12 ~~For purposes of this subsection, the term “mortgagee” as used in subchapter 2~~
13 ~~of this chapter shall mean the purchasers of the bonds, or where appropriate the~~
14 ~~trustee under the security document; the mortgage payments to be insured shall~~
15 ~~be those required to be made by the user under the financing document; and~~
16 ~~bond proceeds, instead of being used to pay project costs directly, may be used~~
17 ~~to purchase participation in loans originated by local banks or other responsible~~
18 ~~financial institutions where the proceeds of such loans have been used to pay~~
19 ~~project costs. In authorizing mortgage insurance to secure bonds, the~~
20 ~~Authority shall make all of the findings and determinations set forth in~~
21 ~~subsection 221(a) of this title, except that the principal of the mortgage cannot~~

1 ~~exceed \$2,500,000.00. In authorizing any bonds that are to be secured by~~
2 ~~mortgage insurance, the Authority shall make all of the findings and~~
3 ~~determinations set forth in section 246 of this title, and may make the findings~~
4 ~~set forth in subdivisions 246(5) and (7) of this title, notwithstanding the fact~~
5 ~~that the mortgage insurance will create a contingent liability of the Authority.~~
6 ~~The creation of such contingent liability shall not be deemed to violate the~~
7 ~~prohibition contained in subsection (d), and the statement required on each~~
8 ~~bond that it does not constitute an indebtedness of the State may be modified to~~
9 ~~refer to the mortgage insurance. Separate series of bonds all of which are~~
10 ~~secured by mortgage insurance may be combined pursuant to subsection (e) of~~
11 ~~this section, and the proceeds of any payment of such mortgage insurance may~~
12 ~~be allocated and applied by the trustee for the benefit of the bondholders in~~
13 ~~accordance with the terms of the security document providing for the~~
14 ~~combined financing. All determinations and findings made by the Authority~~
15 ~~pursuant to this section shall be conclusive.~~

16 (h) The Authority is authorized to pledge security and to enter into security,
17 insurance, or other forms of credit enhancement. A pledge in any agreement
18 shall be valid and binding from the time such pledge shall be made without any
19 physical delivery or further act, and the lien of such pledge shall be valid and
20 binding as against all parties having claims of any kind in tort, contract, or
21 otherwise, irrespective of whether such parties have notice thereof. Any such

1 pledge shall be perfected by filing of the agreement in the records of the
2 Authority and no filing need be made under any other provision of law.

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

9 (j) No designated member, director, officer, employee, or agent of the
10 Authority shall be liable personally on the bonds or any contract entered into
11 by the Authority or subject to any personal liability or accountability by reason
12 of the issuance of the bonds unless the personal liability or accountability is the
13 result of intentional misconduct.

14 Subchapter 5. Direct Mortgage Loans

15 § 261. ADDITIONAL POWERS

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

18 (1) Make loans secured by mortgages or other assets, which may be
19 subordinate to one or more prior mortgages or liens, upon application by the
20 proposed ~~mortgagor~~ obligor, who may be a private corporation, nonprofit
21 organization, partnership, person, or municipality financing an eligible project

1 described in subdivision 212(6) of this title, upon such terms as the Authority
2 may prescribe, for the purpose of financing the establishment or expansion of
3 eligible facilities. Such loans shall be made from the Vermont Jobs Fund
4 established under ~~subchapter 3~~ of this chapter. The Authority may provide for
5 the repayment and redeposit of such loans as provided in this subchapter.

6 * * *

7 (3) Purchase prior ~~mortgages~~ secured loans and make payments on prior
8 ~~mortgages~~ secured loans on any eligible facility where the purchase or
9 payment is necessary to protect any loan previously made by the Authority. In
10 addition, the Authority may sell, transfer, convey, and assign any such prior
11 mortgage or security. Monies used by the Authority in the purchase of any
12 prior ~~mortgages~~ mortgage or security, or any payments thereon, shall be
13 withdrawn from the Vermont Jobs Fund, and any monies derived from the sale
14 of any prior ~~mortgages~~ mortgage or security shall be deposited by the
15 Authority in the Vermont Jobs Fund.

16 * * *

17 § 262. FINDINGS

18 Before making any loan, the Authority shall receive from an applicant a
19 loan application in such form as the Authority may by ~~regulation~~ rule
20 prescribe, and the Authority, or the Authority's loan officer pursuant to the

1 provisions of subdivision 216(15) of this title, shall determine and incorporate
2 findings in its minutes that:

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

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

8 * * *

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

12 (A) an integral element of the project consists of the generation of
13 heat or electricity employing biomass, geothermal, methane, solar, or wind
14 energy resources to be primarily consumed at the project, in which case the
15 principal obligation of the Authority's ~~mortgage~~ loan does not exceed
16 \$6,000,000.00, which may be secured by land and by buildings or machinery
17 and equipment, or both; such principal obligation does not exceed 40 percent
18 of the cost of the project; and the ~~mortgagor~~ obligor is able to obtain financing
19 for the balance of the cost of the project from other sources as provided in the
20 following section; or

21 * * *

1 property as the local development corporation may hold, necessary for
2 payment of all of the cost of the project, and that the sum of all these funds,
3 together with any funds, machinery, and equipment to be provided by the
4 ~~mortgagor~~ obligor is adequate for the completion and operation of the project.

5 (b) Any loan of the Authority under this subchapter shall be for a period of
6 time and shall bear interest at such rate as determined by the Authority and
7 shall be secured by a mortgage on the eligible facility or a lien on its assets for
8 which the loan was made or upon the assets of a municipal communications
9 plant, including the net revenues derived from the operation thereof, or both.

10 The ~~mortgage~~ secured loan may be subordinate to one or more prior ~~mortgages~~
11 loans, including the ~~mortgage~~ liens securing the obligation issued to secure the
12 commitment of funds from the independent and responsible sources and used
13 in the financing of the economic development project. Monies loaned by the
14 Authority shall be withdrawn from the Vermont Jobs Fund and paid over to the
15 ~~mortgagor~~ obligor in such manner as provided and prescribed by the rules ~~and~~
16 ~~regulations~~ of the Authority. All payments of principal and interest on the
17 loans shall be deposited by the Authority in the Vermont Jobs Fund.

18 (c) Loans by the Authority for an eligible facility under this subchapter
19 shall be made only in the manner and to the extent provided in this section,
20 except, however, in those instances where an agency of the federal government
21 participates in the financing of an eligible facility by loan, grant, or otherwise.

1 When any federal agency participates, the Authority may adjust the required
2 ratio of financial participation by the local development corporation,
3 independent sources of funds, and the Authority in such manner as to ensure
4 the maximum benefit available by the participation of the federal agency.

5 Where any federal agency participating in the financing of an eligible facility
6 is not permitted to take as security a mortgage, the lien of which is junior to the
7 mortgage of the Authority, the Authority shall be authorized to take as security
8 for its loan a mortgage junior in lien to that of the federal agency.

9 * * *

10 § 264. ACCELERATED REPAYMENT PROVISIONS

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

1 foreclosure on any property held as security for the ~~mortgage~~ loan or take any
2 other lawful steps to obtain payment.

3 * * *

4 § 279c. VERMONT EXPORT FINANCE PROGRAM

5 * * *

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

8 * * *

9 § 280a. ELIGIBLE PROJECTS; AUTHORIZED FINANCING PROGRAMS

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

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

19 * * *

20 (11) a program that would award grants made to eligible and qualified
21 recipients as directed by the Agency of Agriculture, Food and Markets or the

1 Agency of Natural Resources for the purpose of funding water quality
2 initiatives approved by the agencies, provided that the maximum amount of
3 grants awarded by the Authority pursuant to the program shall not exceed
4 \$1,340,238.00 in the aggregate; or

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

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

10 § 280b. THE VERMONT SUSTAINABLE JOBS STRATEGY

11 ~~(a)(1) The Governor, with the advice of the Secretary of Commerce and~~
12 ~~Community Development and the Authority, shall adopt a Vermont sustainable~~
13 ~~jobs strategy for the State, in accordance with the provisions of this section~~
14 Before issuing any funds to an eligible facility or eligible project under section
15 280a of this title, the Authority shall make a determination that the facility or
16 project materially supports one of the following objectives:

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

19 (B) providing quality employment at wage and benefit levels
20 sufficient to permit a reasonable standard of living by community standards.

1 and at levels that may contribute to bringing Vermont’s average wage up to or
2 above 100 percent of the national average wage rate;

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

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

10 (E) assisting the development of a business infrastructure that will
11 contribute to sustainable economic development, to include the provision of
12 necessary services, including shipping, warehousing, communications, repair
13 and maintenance, technical services, distribution, and dependent care,
14 particularly when intrastate capability in these areas can replace services
15 currently provided by out-of-state suppliers;

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

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

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

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

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

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

18 ~~(b)(1) The Vermont sustainable jobs strategy shall contain the criteria upon~~
19 ~~which the Authority shall develop, modify, and implement its public financing~~
20 ~~programs, and the criteria for determining whether investments should be made~~
21 ~~in an eligible project. Such criteria shall include a requirement that, before~~

1 ~~making any investment or other financial commitment, the Authority shall~~
2 ~~determine that the proposed project is of public use and benefit and is without~~
3 ~~unreasonable risk of loss to the Authority.~~

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

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

7 ~~(B) the economic policy and economic development plan of the~~
8 ~~State, as developed by the Economic Progress Council under subchapter 3 of~~
9 ~~chapter 29 of this title The Authority may adopt such policies and procedures~~
10 ~~necessary to define further any term or criterion used in this section or to set~~
11 ~~specific standards by which to measure the extent to which any proposed~~
12 ~~project meets the requirements of this section.~~

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

17 ~~(2) After soliciting information and recommendations, the Authority and~~
18 ~~the Secretary shall jointly develop a proposed Vermont sustainable jobs~~
19 ~~strategy. In developing a proposed strategy, the Authority and the Secretary~~
20 ~~shall consider how best to integrate Vermont's economic, social, and~~
21 ~~environmental values into a Vermont sustainable jobs strategy. The Authority~~

1 ~~and the Secretary shall jointly present their proposed strategy to the House~~
2 ~~Committee on Commerce and the Senate Committee on Economic~~
3 ~~Development, Housing and General Affairs meeting in joint hearing.~~

4 ~~(3) After legislative presentation, the Authority and the Secretary may~~
5 ~~amend the proposed strategy, and shall present the proposed strategy as~~
6 ~~amended to the Governor. The Governor may adopt the proposed strategy, or~~
7 ~~may return the proposed strategy to the Authority and the Secretary for further~~
8 ~~development and legislative presentation. After adoption of the Vermont~~
9 ~~sustainable jobs strategy, any amendments to the strategy may be adopted by~~
10 ~~the Governor in accordance with the process established by this section In~~
11 ~~deciding whether to provide financial assistance to an applicant, the Authority,~~
12 ~~after determining that a project meets its credit underwriting standards, shall~~
13 ~~take into account the criteria outlined in this section, the overall benefits of the~~
14 ~~project to the State and to the community in which it is proposed to be located,~~
15 ~~the amount of assistance requested, and the availability of Authority resources~~
16 ~~to fund the request.~~

17 * * *

18 Subchapter 15. Disaster Recovery Loan Fund

19 § 280gg. DISASTER RECOVERY LOAN FUND

20 (a)(1) There is established within the Authority the Vermont Disaster
21 Recovery Loan Fund, referred to in this subchapter as “the Fund,” the purpose

1 of which is to enable the Authority to provide loans and other forms of
2 financial assistance to businesses and agricultural enterprises after disasters.

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

9 (b) The Authority shall establish:

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

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

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

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

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

20 § ~~234~~ 220a. THE VERMONT JOBS FUND

1 (a) There is hereby created the Vermont Jobs Fund, hereinafter called the
2 Fund, which shall be used by the Authority as a nonlapsing fund for the
3 purposes of ~~subchapters 3, 5, 9, and 10~~ of this chapter. To it shall be charged
4 all operating expenses of the Authority not otherwise provided for and all
5 payments of interest and principal required to be made by the Authority under
6 this subchapter. To it shall be credited any appropriations made by the General
7 Assembly for the purposes of ~~subchapters 3, 5, 9, and 10~~ of this chapter and all
8 payments required to be made to the Authority under ~~subchapters 3, 5, 9, and~~
9 ~~10~~ of this chapter, it being the intent of this section that the Fund shall operate
10 as a revolving fund whereby all appropriations and payments made thereto,
11 ~~unless required to repay notes under the following section,~~ may be applied and
12 reapplied for the purposes of ~~subchapters 3, 5, 9, and 10~~ of this chapter.
13 Monies in the Fund may be loaned at interest rates to be set by the Authority
14 for the following:

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

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

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

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

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

6 (e) Monies in the Fund may be loaned to the Vermont Agricultural Credit
7 Program to support its lending operations as established in chapter 16A of this
8 title at interest rates and on terms and conditions to be set by the Authority to
9 establish a line of credit in an amount not to exceed \$100,000,000.00 to be
10 advanced to the Vermont Agricultural Credit Program to support its lending
11 operations as established in chapter 16A of this title.

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

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

