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Title 10: Conservation and Development

Chapter 16A: Vermont Agricultural Credit Program

§ 374a. Creation of the Vermont Agricultural Credit Program

Commented [JE1]: Requested to be another subchapter of VEDA Chapter 12.

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers and forest products businesses who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms; or, in the alternative, the granting of the loan shall serve as a substantial inducement for the establishment or expansion of an eligible agricultural or forestry project within the State. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm and forest operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

- (1) to encourage diversification, cooperative farming, and the development of innovative techniques for farming and forest products businesses;
- (2) to increase energy efficiency and reduce energy consumption in agricultural facilities, including the construction of water pollution control facilities which implement best management practices for farm waste abatement pursuant to 6 V.S.A. chapter 215;
- (3) to encourage innovative and diversified processing, marketing, and distribution of Vermont agricultural products;
- (4) to assist beginning farmers to start new farms and new agricultural facilities to commence or strengthen their operations;
- (5) to assist or financially strengthen existing farms; and
- (6) to refinance loans incurred by eligible borrowers for any of the purposes enumerated in subdivisions (1) through (5) of this subsection.

~~(b) No borrower shall be approved for a loan from the corporation Authority under this subchapter that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then current maximum Farm Service Agency loan guarantee limits, or \$5,000,000.00, whichever~~

(b) is greater. (Added 1999, No. 25, § 1; amended 2003, No. 67, § 5, eff. June 16, 2003; 2005, No. 137 (Adj. Sess.), § 3; 2013, No. 199 (Adj. Sess.), § 6; 2015, No. 157 (Adj. Sess.), § A.6, eff. June 2, 2016; 2023, No. 141 (Adj. Sess.), § 17, eff. July 1, 2024.)

§ 374b. Definitions

As used in this subchapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment that is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing, or transporting agricultural or forest products that have been at least partially produced in this State, and working capital reasonably required to operate an agricultural facility.

(2) "Agricultural land" means real estate capable of supporting commercial farming or forestry, or both.

(3) "Agricultural products" mean crops, livestock, forest products, and other farm or forest commodities produced as a result of farming or forestry activities.

(4) "Farm ownership loan" means a loan to acquire or enlarge a farm or agricultural facility, to make capital improvements including construction, purchase, and improvement of farm and agricultural facility buildings, farm worker housing, or farmer housing that can be made fixtures to the real estate, to promote soil and water conservation and protection or provide housing, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

(5) "Authority" means the Vermont Economic Development Authority.

(6) "Cash flow" means, on an annual basis, all income, receipts, and revenues of the applicant or borrower from all sources and all expenses of the applicant or borrower, including all debt service and other expenses.

(7) "Farmer" means an individual directly engaged in the management or operation of an agricultural facility or farm operation for whom the agricultural facility or farm operation constitutes two or more of the following:

(A) is or is expected to become a significant source of the farmer's income;

(B) the majority of the farmer's assets; and

(C) an occupation in which the farmer is actively engaged, either on a seasonal or year-round basis.

(8) "Farm operation" means the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. "Farm operation" also means the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land. "Farm operation" also means

the operation of an agritourism business on a farm subject to regulation under the Required Agricultural Practices. "Farm operation" also means a business that provides specialty services to farmers, such as foresters, farriers, hoof trimmers, or large animal veterinarians operating or proposing to operate mobile units.

(9) "Forest products business" means an enterprise that is engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing forest products at least partially derived from Vermont forests.

(10) "Livestock" shall ~~mean include~~ cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge, coturnix quail, ferrets, camelids and ratites, cultured trout propagated by commercial trout farms, and bees.

(11) "Loan" means an operating loan or farm ownership loan, including a financing lease, provided that such lease transfers the ownership of the leased property to each lessee following the payment of all required lease payments as specified in each lease agreement.

(12) "Operating loan" means a loan to purchase livestock, farm or forestry equipment, or fixtures to pay annual operating expenses of a farm operation or agricultural facility, to pay loan closing costs, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

(13) "Program" means the Vermont Agricultural Credit Program established by this subchapter.

(14) "Project" or "agricultural project" means the creation, establishment, acquisition, construction, expansion, improvement, strengthening, reclamation, operation, or renovation of an agricultural facility or farm operation.

(15) [Repealed.] (Added 1999, No. 25, § 1; amended 2003, No. 67, § 6, eff. June 16, 2003; 2003, No. 121 (Adj. Sess.), § 89, eff. June 8, 2004; 2005, No. 137 (Adj. Sess.), § 4; 2013, No. 199 (Adj. Sess.), § 6; 2015, No. 157 (Adj. Sess.), § A.6, eff. June 2, 2016; 2019, No. 129 (Adj. Sess.), § 20; 2023, No. 141 (Adj. Sess.), § 18, eff. July 1, 2024.)

§ 374c. Incorporation; board of directors

~~The Vermont Economic Development Authority shall incorporate a nonprofit corporation to administer the Vermont agricultural credit program and to fulfill the goals and purposes of this chapter. The voting members of the Authority shall be the board of directors of the corporation, and the manager of the Authority shall serve as the president and chief executive officer of the corporation. Such corporation shall be organized and operate under the nonprofit corporation laws of the State of Vermont to the extent not inconsistent herewith. The Authority will have the power to contract with the corporation to provide staff and management needs of the corporation. (Added 1999, No. 25, § 1.)~~

§ 374d. General powers

The corporation Authority shall have the powers necessary to carry out the purposes and provisions of this program and subchapter, including those general powers provided a business corporation by 11A V.S.A. § 3.02. In addition, the corporation shall have the power to:conferred onto the Authority in 10 VSA §216.

- (1) execute contracts and all other instruments necessary for the exercise of its powers and functions under this chapter;
- (2) without limitation, acquire or dispose of real or personal property or any interest in real or personal property;
- (3) receive and accept gifts, grants, or contributions from any source, for any purpose consistent with this chapter;
- (4) provide or contract for consolidated processing of any aspect of the financing of eligible borrowers in order to avoid duplication;
- (5) procure insurance against any loss;
- (6) invest monies of the corporation not required for immediate use;
- (7) borrow money and issue notes and other evidences of indebtedness for lending and administrative and other expenses. The corporation may sell, transfer, pledge, mortgage, hypothecate, or otherwise dispose of loans under its management. Neither the full faith and credit of the State of Vermont nor any of the assets of the Authority are pledged to secure repayment of the indebtedness of the corporation;
- (8) consent to any modification with respect to rate of interest, time, and payment of any contract or agreement of any kind to which the corporation is a party;
- (9) procure or agree to the procurement of insurance, guarantees, or interest rate subsidy assistance on any notes or any other evidence of indebtedness issued to the corporation;
- (10) make loans or advances secured by a mortgage or a security agreement, which may be subordinate to one or more prior mortgages or security agreements, to eligible borrowers under such terms and conditions as the corporation deems prudent and consistent with the purposes of this chapter and for such fees, and at such rate or rates of interest, as determined by the corporation, provided that the interest rate or rates charged by the corporation shall not exceed the rate paid or to be paid by the corporation for monies borrowed by the corporation to fund loans plus 300 basis points;
- (11)(1) take title, by foreclosure or other process available under the law, to any real or personal property where such action is necessary to protect any loan previously made by the corporation, pay all costs arising out of the legal action and acquisition from monies held in the Fund, and sell or transfer any such property to any responsible buyer. If the transfer or conveyance of assets acquired under this subdivision cannot be effected with reasonable promptness, the corporation may, in order to minimize financial losses and sustain a farm operation or agricultural facility, lease the assets owned by it to

~~responsible persons on such terms and conditions as the corporation deems reasonable;~~

(2) ~~purchase prior mortgages and make payments on prior mortgages or security interests on any assets pledged as security for loans of the corporation where the purchase or payment is necessary to protect any loan previously made by the corporation. In addition, the corporation may sell, transfer, and assign a prior mortgage or prior security interest. Monies used by the corporation for the purchase of any prior mortgages, or any payments on prior mortgages, shall be withdrawn from the Fund established pursuant to section 374e of this title, and any monies derived from the sale of any prior mortgages shall be deposited in the Fund;~~

(3) ~~employ or contract for services with agents, consultants, legal advisors, and other experts, as may be necessary for its purposes;~~

(4) ~~participate in eligible and qualified loan projects with lenders, including the farm credit system, banks, and insurance companies;~~

(5) ~~execute lease agreements for the purpose of leasing personal property under financing leases, which leases transfer the ownership of the leased personal property to each lessee following the payment of all required lease payments as specified in each lease agreement;~~

(6) ~~sell loans, or portions thereof, in order to provide further funding for lending under this chapter. Proceeds from sales of loans shall be deposited in the Agricultural Credit Development Fund established under section 374e of this title;~~

(7) ~~establish policies and procedures consistent with the purpose of providing sound and constructive credit to eligible loan applicants; and~~

(8) ~~do all things necessary to carry out the purposes and provisions of this chapter.~~
(Added 1999, No. 25, § 1; amended 2003, No. 7, § 6, eff. April 25, 2003.)

§ 374e. Agricultural Credit Development Fund

The Agricultural Credit Development Fund is created and shall be used by the corporation for the purposes of this chapter. All reasonable administrative expenses of the corporation shall be paid from the Fund. The Fund shall be credited with any appropriations made by the General Assembly, all payments of principal and interest received from loans transferred or assigned to or made by the corporation, any available grants or gifts made to the corporation, the proceeds of any sale, transfer, pledge, mortgage, hypothecation, or other disposition of loans transferred or assigned to the corporation by the Authority and loans made by the corporation pursuant to this chapter, and any funds borrowed by the corporation. Monies in the Fund may, after payment of reasonable administrative expenses and debt service on the indebtedness of the corporation incurred in furtherance of its purposes under this chapter, be loaned by the corporation directly to eligible borrowers, used to purchase or acquire portions of loans made by unrelated third party lenders to eligible borrowers, or to subsidize the payment of interest on the debt of the corporation so as to lower the interest rate on loans made by the corporation to eligible borrowers. (Added 1999, No. 25, § 1.)

§ 374f. Records

~~The corporation shall keep an accurate account of all its activities. (Added 1999, No. 25, § 1; amended 2011, No. 139 (Adj. Sess.), § 6, eff. May 14, 2012.)~~

§ 374g. Construction

~~The provisions of section 218 of this title shall apply to this chapter. Information concerning loan applicants or recipients shall be kept confidential. (Added 1999, No. 25, § 1.)~~

§ 374h. Loan eligibility standards

A farmer, forest products business, or a limited liability company, partnership, corporation, or other business entity with a minimum 20 percent ownership of which is vested in one or more farmers, forest products businesses, or a nonprofit corporation, shall be eligible to apply for a farm ownership or operating loan that shall be intended to expand the agricultural economy or forest economy of the State, provided the applicant is:

- (1) an owner, prospective purchaser, or lessee of agricultural land in the State or of depreciable machinery, equipment, or livestock to be used in the State;
- (2) a person of sufficient education, training, or experience in the operation and management of an agricultural facility or farm operation or forest products business of the type for which the applicant requests the loan;
- (3) an operator or proposed operator of an agricultural facility, farm operation, or forest products business for whom the loan reduces investment costs to an extent that offers the applicant a reasonable chance to succeed in the operation and management of an agricultural facility or farm operation;
- (4) a creditworthy person under such standards as the corporation may establish;
- (5) able to provide and maintain adequate security for the loan by a mortgage on real property or a security agreement and perfected financing statement on personal property;
- (6) able to demonstrate that the applicant is responsible and able to manage responsibilities as owner or operator of the farm operation, agricultural facility, or forest products business;
- (7) able to demonstrate that the applicant has made adequate provision for insurance protection of the mortgaged or secured property while the loan is outstanding;
- (8) a person who possesses the legal capacity to incur loan obligations;
- (9) in compliance with such other reasonable eligibility standards as the corporation may establish;
- (10) able to demonstrate that the project plans comply with all regulations of the municipality where it is to be located and of the State of Vermont;
- (11) able to demonstrate that the making of the loan will be of public use and benefit;

- (12) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property or by a security agreement on personal property; and
- (13) there will be sufficient projected cash flow to service a reasonable level of debt, including the loan or loans, being considered by the corporation. (Added 1999, No. 25, § 1; amended 2003, No. 67, § 7, eff. June 16, 2003; 2015, No. 157 (Adj. Sess.), § A.6, eff. June 2, 2016; 2023, No. 141 (Adj. Sess.), § 19, eff. July 1, 2024.)