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### Title 10: Conservation and Development

#### Chapter 12: Vermont Economic Development Authority

##### *Subchapter 1: GENERAL PROVISIONS*

###### **§ 210. Statutory purposes**

The statutory purpose of the exemption for local development corporations in section 236 of this title is to promote economic development. (Added 2013, No. 200 (Adj. Sess.), § 7.)

###### **§ 211. Legislative findings**

(a) The Legislature finds that it is necessary to alleviate and prevent unemployment and underemployment and to raise the per capita income within the State, that the development and increase of industry, including the further processing of agricultural products, within the State will promote the prosperity and general welfare of all citizens, and that this chapter is necessary and desirable in order to accomplish these purposes. The Legislature also finds that it is necessary and desirable to encourage the development, production, and distribution of renewable energy resources within the State.

(b) The Legislature further finds that small businesses are responsible for generating the majority of new jobs, and substantial economic development opportunity exists encouraging entrepreneurial development and innovation in Vermont. The Legislature further finds that business incubator facilities have proved to be effective tools to help small and start-up businesses through the difficult early years with low-cost, flexible space, necessary support services at an affordable cost, and with managerial and technical assistance on such items as bookkeeping, inventory control, marketing and personnel. Vermont's experience with business incubators confirms their value in nurturing jobs and entrepreneurship. The Legislature further finds that business incubator facilities related to institutions of higher education nationwide have been an excellent source for successful business enterprises.

(c) Therefore, the general public advantage requires:

- (1) an increased inventory of industrial sites and modern buildings suitable to house new or existing business enterprises;
- (2) the expansion, reclamation, or renovation of existing buildings to house new or existing business enterprises;
- (3) low-cost capital available to local development corporations for the purchase of land for industrial sites, for planning and development of industrial parks, and for the construction of speculative industrial buildings and small business incubator facilities;
- (4) low-cost capital available to industrial enterprises to provide land, buildings, and equipment for industrial expansion;
- (5) aid to existing business enterprises in the State when such aid will prevent serious reduction in employment or will enhance or increase the existing level of employment;
- (6) low-cost capital for the abatement of industrial air and water pollution and general improvement of the disposal of industrial waste;
- (7) low-cost capital to assist Vermont ~~family~~ farmers to farm ~~as provided in subdivision 272(3) of this title~~;
- (8) low-cost capital available for the purchase of land, buildings, and equipment to process Vermont milk, including the processing of milk into cheese, yogurt, or other value-added milk products; and
- (9) low-cost capital to assist the wood products enterprises to provide an adequate supply of mill quality chips for Vermont public and private schools and other entities that rely upon wood as a primary source of heating. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 217 (Adj. Sess.), § 4; 1985, No. 81, § 2; 1985, No. 136 (Adj. Sess.), § 1, eff. April 24, 1986; 2003, No. 63, § 73, eff. June 11, 2003; 2003, No. 121 (Adj. Sess.), § 91, eff. June 8, 2004.)

## § 212. Definitions

As used in this chapter, with the exception of Subchapter 16 entitled Vermont Agricultural Credit Program:

- (1) "Authority" means the Vermont Economic Development Authority established under section 213 of this title.
- (2) "Bond" means a note, bond, debenture, or any other evidence of indebtedness issued by a municipality or by the State of Vermont under subchapter 4 of this chapter to finance a project in whole or in part or to refund indebtedness incurred for that purpose.
- (3) "Debt service," as used in subchapter 4 of this chapter, means the amounts required to pay bonds according to their terms and shall include amounts representing principal, premium, and interest, including interest on overdue payments.
- (4) "Financing document," as used in subchapter 4 of this chapter, means a written instrument establishing the rights and responsibilities of a municipality or the Authority and

the user with respect to an eligible facility financed by the issue of bonds. A financing

document may be in the nature of a sale and leaseback, a lease purchase, a conditional sale, an installment sale, a secured or unsecured loan, a loan and mortgage, or other similar transaction, may bear any appropriate title and may involve property in addition to the property financed by the bonds. The municipality's or Authority's ownership or possessory interest in the eligible facility under a financing document may be that of owner, lessor, lessee, conditional or installment vendor, mortgagor, mortgagee, or otherwise, but the municipality or the Authority need not have any ownership or possessory interest in the facility.

(5) "Governing body" means the board of aldermen or city council of a city, the board of selectboard members of a town, and the trustees of an incorporated village.

(6) "Eligible facility" or "eligible project" means any industrial, commercial, or agricultural enterprise or endeavor approved by the Authority 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:

(A) Quarrying; mining; manufacturing; processing, including the further processing of agricultural products; assembling; or warehousing of goods or materials for sale or distribution or the maintenance of safety standards in connection therewith, and including Vermont-based manufacturers that are adversely impacted by the State's regulation or ban of products as they transition from the manufacture of the regulated or banned products to the design and manufacture of environmentally sound substitutes.

(B) The conduct of research and development activities, including research and development of computer software and telecommunications equipment.

(C) Use as the national or regional headquarters for a multistate business enterprise or use as the national headquarters of a nonprofit organization whose purpose is the promotion of business, industry, or agriculture, including the registry of animal breeds.

(D) Collecting or processing any kind of waste material for reuse or disposal.

(E) Reducing, mitigating, or eliminating pollution of land, air, or water by substances, heat, or sound.

(F) For the purposes of subchapter 4 of this chapter only, in addition to the foregoing, the conduct of any trade or business that is eligible for tax-exempt financing under the U.S. Internal Revenue Code.

(G) For purposes of subchapter 4 of this chapter only, transporting of goods, materials, or agricultural products for sale or distribution or the maintenance of safety standards in connection therewith, including railroad terminals, trucking terminals, and

airport facilities.

(H) Use as a small business incubator facility.

(I) Processing or converting post-consumer materials into industrial feed stocks or manufacturing products from these feed stocks, or both, excluding the converting of recyclable materials into a fuel or fuel product. As used in this subdivision, “post-consumer materials” means only those products generated by a business or a consumer that have served their intended end uses and that have been separated or diverted from solid waste.

(J) Travel and tourism projects and enterprises, and related recreational activities, provided that the project or enterprise will maintain a reasonable level of full-time employment throughout the year consistent with the size and nature of the business and general business custom in the industry.

(K) The business of information technology or the collection, processing, or management of data, documents, or records.

(L) A captive or commercial insurance underwriter; a mortgage, commercial, or consumer credit provider; or an entity engaged in underwriting or brokering services.

(M) A renewable energy plant, as defined in 30 V.S.A. § 8002, if the construction of the plant requires a certificate of public good under 30 V.S.A. § 248 and all or part of the electricity generated by the plant will be under contract to a Vermont electric distribution utility.

(N) Industrial park planning, development, or improvement.

(O) For purposes of subchapter 5 of this chapter, a telecommunications plant, as defined in 24 V.S.A. § 1911(2), owned by a municipality individually or in concert with one or more other municipalities as a communications union district established under 30 V.S.A. chapter 82.

(P) Any combination of the activities, uses, or purposes specified in this subdivision (6). An eligible facility may include structures, appurtenances incidental to an eligible project, such as utility lines, storage accommodations, offices, dependent care facilities, or transportation facilities.

(Q) Businesses providing intangible products and services, excluding the following:

(i) businesses engaged in pyramid sale distribution plans, where a participant's primary incentive is based on the sales made by an ever- increasing number of participants;

(ii) businesses deriving more than one-third of their gross annual revenue from legal gambling activities;

(iii) private clubs and businesses that limit the number of memberships for reasons other than capacity; and

(iv) businesses principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting.

(R) Mixed-use properties, provided that not less than 50 percent of the total square footage is dedicated for commercial use.

(S) After consultation with and deference to the Vermont Housing Finance Agency on applications that are eligible for financing from both the Authority and the Agency, financing for one or more of the following types of long-term care facilities licensed by the State pursuant to 33 V.S.A. chapter 71 and other applicable law, and any independent living facility, as defined in 32 V.S.A. § 9202(18), associated with the licensed facility:

- (i) an assisted living residence;
- (ii) a home for the terminally ill;
- (iii) a nursing home;
- (iv) a residential care home; and
- (v) a therapeutic community residence.

(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.

(7) "Industrial park" means an area of land planned and designed as a location for one or more industrial buildings, including adequate access roads, utilities, and other services necessary for eligible facilities.

(8) "Industrial park planning and development" means the basic architectural and engineering services needed to determine site and land use feasibility, and the planning and carrying out of land improvements necessary to make industrial land usable.

(9) [Repealed.]

(10) "Local development corporation" means any nonprofit organization incorporated in the State for the purpose of fostering, encouraging, and assisting the physical location of business enterprises within the State and having as its principal purpose the industrial and economic development of one or more political subdivisions, and shall include the Northeastern Vermont Development Association and any State development company organized under subdivision 216(13) of this title; however, in addition to the foregoing, for the purpose of providing assistance to small business incubator facilities, any nonprofit organization that enters into a written agreement with the Authority to establish, operate, and administer a small business incubator facility, including municipalities, local or regional nonprofit development corporations, and higher educational institutions, shall have the rights and obligations of a local development corporation under this chapter.

(11) through (15) [Repealed.]

(16) "Municipality" means a city, town, or incorporated village.

(17) "Political subdivision" means a city, town, incorporated village, or county.

(18) "Project" or "eligible facility" means the creation, establishment, acquisition, construction, expansion, improvement, reclamation, or renovation of an eligible facility.

(19) "Project costs" means any costs or expenses reasonably incidental to a project and may without limitation include the costs of:

(A) issuing bonds under subchapter 4 of this chapter to finance a project;

(B) acquiring land, buildings, structures, and facilities, whether by lease, purchase, construction, or otherwise;

(C) acquiring rights in or over land, air, or water;

(D) improving land and improving buildings, structures, and facilities by remodeling, reconstruction, replacement, or enlargement;

(E) acquiring and installing machinery and equipment;

(F) obtaining professional or advisory services;

(G) interest prior to and during construction and until one year after the completion of a project;

(H) creating reserves in connection with the issue of bonds under subchapter 4 of this chapter; and

(I) acquiring or committing to acquire any federally guaranteed security and pledging the proceeds thereof to secure the payment of bonds.

(20) "Security document," as used in subchapter 4 of this chapter, means a written instrument establishing the rights and responsibilities of a municipality or the Authority and the holders of bonds issued to finance an eligible facility and may provide for a trustee for the benefit of those bondholders. A security document may contain an assignment, pledge, mortgage, or other encumbrance of all or part of the municipality's or Authority's interest in, or right to receive payments with respect to, an eligible facility under a financing document and may bear any appropriate title. A financing document and a security document may be combined as one instrument.

(21) "Speculative building" means a basic structure of flexible design erected by a local development corporation for eventual sale or lease to a purchaser or tenant requiring eligible facilities.

(22) "Tenant" means the tenant or occupier of an eligible facility or small business incubator facility.

(23) "User," as used in subchapter 4 of this chapter, means the person or local development corporation that is:

(A) entitled to the use or occupancy of an eligible facility or is lessor to the person entitled to the use or occupancy of an eligible facility; and

(B) primarily responsible for making payments sufficient to meet debt service on the bonds issued to finance the facility.

(24) "Processing" means to subject a product to a particular method, system, or technique of preparation, handling, or other treatment designed to effect a particular result.

(25) "Federally guaranteed security" means any security, investment, or evidence of indebtedness that is either directly or indirectly insured, or guaranteed, in whole or in part, as to the repayment of principal or interest, or both, by the United States or any instrumentality thereof.

(26) "Federally insured project loan" means any loan to finance or refinance the cost of a project that is either directly or indirectly insured or guaranteed, in whole or in part, as to the repayment of principal or interest, or both, by the United States or any instrumentality thereof, or any commitment by the United States or any instrumentality thereof to so insure or guarantee such a loan.

(27) "Small business incubator facility" means a building, group of buildings, or part of a building where small and growing businesses may obtain small units of space available for purchase or lease at below-market rates or on flexible terms, shared office support services, and financial and general business management advice and assistance.

(28) "Loan," for the purposes of subchapters 5, 7, and 10 of this chapter, means a loan or a financing lease, provided that such lease transfers the ownership of the leased property to the lessee following the payment of all required lease payments as specified in the lease agreement. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 1, eff. March 27, 1975; 1975, No. 187 (Adj. Sess.), § 1; 1975, No. 217 (Adj. Sess.), §§ 5, 7; 1977, No. 52, § 1, eff. April 22, 1977; 1981, No. 37, § 1; 1981, No. 54, §§ 1, 6, 7, 12, eff. April 28, 1981; 1983, No. 33, § 1, eff. April 22, 1983; 1983, No. 38, § 1; 1983, No. 159 (Adj. Sess.), § 1, eff. April 14, 1984; 1985, No. 136 (Adj. Sess.), §§ 2-5, eff. April 24, 1986; 1989, No. 237 (Adj. Sess.), § 1; 1991, No. 202 (Adj. Sess.), § 9, eff. May 27, 1992; 1991, No. 212 (Adj. Sess.), §§ 1-3, eff. May 27, 1992; 1993, No. 89, §§ 2, 3, eff. June 15, 1993; 1995, No. 46, §§ 2, 3; 1995, No. 184 (Act. Sess.), § 5; 2005, No. 61, § 5; 2013, No. 161 (Adj. Sess.), § 72; 2013, No. 199 (Adj. Sess.), § 36; 2015, No. 41, § 22, eff. June 1, 2015; 2015, No. 51, § E.2, eff. June 3, 2015; 2015, No. 56, § 14; 2021, No. 91 (Adj. Sess.), § 1, eff. April 20, 2022; 2025, No. 26, § 1, eff. July 1, 2025.)

### **§ 213. Authority; organization**

(a) The Vermont Economic Development Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the Authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b) The Authority shall have 15 voting members consisting of the Secretary of Commerce and Community Development, the State Treasurer, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Public Service, each of whom shall serve as an ex officio member, or a designee of any of

the aforementioned; and 10 members, who shall be residents of the State of Vermont, appointed by the Governor with the advice and consent of the Senate. The appointed members shall be appointed for terms of six years and until their successors are appointed and qualified. Appointed members may be removed by the Governor for cause and the Governor may fill any vacancy occurring among the appointed members for the balance of the unexpired term.

(c) The Authority shall elect a chair from among its appointed members, and a vice chair and other officers from among its members and shall employ a manager who shall hold office at the Authority's pleasure and who, unless 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. 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.

(d) [Repealed.]

(e) Appointed members of the Authority shall be compensated at the rate of \$50.00 a day for time spent in the performance of their duties and they shall be reimbursed for necessary expenses incurred in the performance of their duties.

(f) The State of Vermont reserves the right, at its sole discretion, and at any time, to alter or change the structure, organization, programs, or activities of the Authority, including the power to terminate the Authority, subject to any limitation on the impairment of contracts entered into by the Authority.

(g) Any net earnings of the Authority, beyond that necessary for retirement of the indebtedness or to implement the public purposes or programs of the State of Vermont, shall not inure to the benefit of any person other than the State of Vermont.

(h) Upon dissolution of the Authority, title to all property owned by the Authority shall vest in the State of Vermont.

(i) [Repealed.] (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 2, eff. March 27, 1975; 1975, No. 187 (Adj. Sess.), § 7; 1977, No. 52, § 2, eff. April 22, 1977; 1987, No. 203 (Adj. Sess.), § 1, eff. May 27, 1988; 1989, No. 199 (Adj. Sess.), § 1; 1993, No. 89, § 3(a), eff. June 15, 1993; 1995, No. 190 (Adj. Sess.), § 1(a); 2003, No. 42, § 2, eff. May 27, 2003; 2013, No. 87, § 6, eff. June 17, 2013; 2023, No. 53, § 5, eff. June 8, 2023; 2025, No. 26, § 1, eff. July 1, 2025.)

## § 214. Members; disqualification

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

(i) under subchapter 3 of this chapter affecting a local development corporation if the member is a stockholder or member of that corporation;

(2) upon any 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;

(3) upon a bond issue under subchapter 4 of this chapter if the member is an officer or director of a bank or trust company that is a prospective purchaser of the bonds or a prospective trustee under the trust indenture securing the bonds. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1977, No. 52, § 3, eff. April 22, 1977; 2025, No. 26, § 1, eff. July 1, 2025.)

### **§ 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, policies, and procedures set forth by the Authority. In addition to any other duties, the manager shall:

(1) attend all meetings of the Authority, act as its secretary and keep minutes of its proceedings;

(2) approve all accounts of the Authority, including accounts for salaries, per diems, and allowable expenses of any employee or consultant thereof, and expenses incidental to the operation of the Authority;

(3) make an annual report to the Authority documenting the actions of the Authority, and such other reports as the Authority may request;

(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) [Repealed.]

(6) perform such other duties as may be directed by the Authority in the carrying out of the purposes of this chapter. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1995, No. 190 (Adj. Sess.), § 1(a); 2025, No. 26, § 1, eff. July 1, 2025.)

### **§ 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 the Secretary's office.

(2) To adopt an official seal and alter the same.

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

(4) To establish reasonable priorities among the types and locations of projects to be undertaken or aided under this chapter, and to use its discretion in the selection and combining of programs to be utilized in the undertaking or aiding of such projects.

(5) To maintain its principal office in Washington County and other offices at such place or places as it may designate.

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

(7) To contract with the State of Vermont or any agency or political subdivision thereof, public corporations or bodies, private corporations, or individuals for any purposes related to industrial development.

(8) To borrow money, make and issue negotiable bonds, notes, commercial paper, and give other evidences of indebtedness or obligations, and give security therefor, including the sale, assignment, or pledge of the Authority's interest in loans. Such obligations may be incurred for any of the Authority's corporate purposes, including the expenses of preparing, issuing, and marketing obligations issued for such purposes, and the establishment of reserve funds, including reserve funds created under section 219 of this title. Such obligations shall be in such form and denominations, and with such terms and provisions, including the maturity date or dates, redemption provisions, and other provisions necessary or desirable. Such obligations shall be either taxable or tax-exempt, and shall be noninterest bearing, or bear interest at such rate or rates, which may be fixed or variable, as may be sufficient or necessary to effect the issuance and sale or resale thereof. The Authority is authorized to enter into such agreements with other persons as the Authority deems necessary or appropriate in connection with the issuance, sale, and resale of such obligations, including without limitation, trust indentures, bond purchase agreements, disclosure agreements, remarketing agreements, agreements providing liquidity or credit facilities, bond insurance, or other credit enhancements in connection with such obligations. The Authority is authorized to resell or retire any such notes prior to the stated maturity thereof.

(9) To make such charges against local development corporations as may be mutually agreed upon to assist in meeting the expenses of the Authority incurred under this chapter, including any interest charged by the State Treasurer.

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

(11) To acquire, hold, and dispose of real and personal property; to enter into all contracts, leases, agreements, and arrangements and to do all lawful acts and things necessary or incidental to the performance of its duties and the execution of its powers

under this chapter.

(12) To make such payments in lieu of taxes for highway maintenance, fire protection, or for other services as the Authority considers advisable, in the event property owned by the Authority is occupied in whole or in part.

(13) To cause to be incorporated in Vermont a nonprofit corporation that will qualify as a State development company under 15 U.S.C. § 695 and regulations 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 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.

(14) To incorporate one or more nonprofit corporations in Vermont to fulfill the goals of this chapter. Such corporation shall be empowered to borrow money and to receive and accept gifts, grants, or contributions from any source, provided that such gifts, grants, or contributions are not less than \$5,000.00 from any one source for the period of one year and provided that such nonprofit corporation provides business loans of not less than \$2,500.00 to any particular entity or individual. The voting members of the Authority shall be directors of the corporation. The corporation shall be organized and operate under the nonprofit corporation laws of the State of Vermont. The Authority may contract with the corporation to provide staff and management needs of the company. The Authority may contribute to the capital of the corporation 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 and to disburse funds on such loans as set forth in the policies and procedures of the Authority.

(16) To cause to be formed in Vermont a for-profit limited partnership, the purpose of which shall be to invest funds in commercial and agricultural enterprises that create job opportunities and support economic development. The Authority's investment in the partnership may not exceed \$2,000,000.00. To manage the operations of and attract investors to the partnership, the Authority is further authorized to cause to be formed in Vermont a for-profit limited liability company. The Authority's investment in the limited liability company shall be determined by the Authority.

(17) To contribute to the capital of the Vermont Agricultural Credit Corporation established pursuant to chapter 16A of this title in an amount the Authority determines is necessary and appropriate.

(18) To contribute to the capital of the Vermont Sustainable Energy Loan Fund established under subchapter 13 of this chapter in an amount the Authority determines is necessary and appropriate. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1977, No. 52, §§

4, 10, eff. April 22, 1977; 1977, No. 222 (Adj. Sess.), § 5, eff. July 2, 1978; 1981, No. 54, § 2, eff. April 28, 1981; 1983, No. 33, §§ 2, 3, eff. April 2, 1983; 1993, No. 210 (Adj. Sess.), § 229a; 1995, No. 46, §§ 4, 5, eff. April 20, 1995; 1995, No. 184 (Act. Sess.), § 4; 1999, No. 131 (Adj. Sess.), § 1; 2003, No. 67, §§ 1, 2, eff. June 16, 2003; 2005, No. 137 (Adj. Sess.), § 1; 2011, No. 110 (Adj. Sess.), § 5, eff. May 8, 2012; 2013, No. 87, § 3, eff. June 17, 2013; 2015, No. 157 (Adj. Sess.), § A.2, eff. June 2, 2016; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 217. Records; annual report; audit**

(a) The Authority shall keep an accurate account of all its activities and of all its receipts and expenditures.

(b) Prior to February 1 in each year, the Authority shall submit a report of its activities for the preceding fiscal year to the Governor and to the General Assembly. The report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by a certified public accountant and its cost shall be considered an expense of the Authority and a copy shall be filed with the State Treasurer. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(c) The Auditor of Accounts of the State and 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.

(d) At such time as the Authority has exhausted all rights and remedies to enforce the terms of a financing document or mortgage serving as security for a loan, the identity of the borrower and the outstanding principal balance of the loan shall become a public record. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 3, eff. March 27, 1975; 1999, No. 131 (Adj. Sess.), § 1a; 2013, No. 142 (Adj. Sess.), § 16; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 217a. Application**

Among such other things as may be required by the Authority, any application for financing 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 are intended to benefit. (Added 1983, No. 33, § 3a, eff. April 22, 1983; amended 1987, No. 203 (Adj. Sess.), § 3, eff. May 27, 1988; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 218. Construction**

(a) The powers conferred by this chapter are supplemental and alternative to other powers conferred by law.

(b) No notice, proceedings, or approval, including licensure under 8 V.S.A. chapter 73, shall be required with respect to any action taken under this chapter, except as provided in this chapter.

(c) Purchases and contracts required for the establishment or expansion of an eligible facility may be made or let without regard to any provision of law relating to public purchases or contracts.

(d) This chapter shall be liberally construed in order to effect its purposes.

(e) The provisions of this chapter are severable, and the invalidity of any provision or provisions of this chapter shall not affect the validity of any other provision or provisions of this chapter. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1987, No. 203 (Adj. Sess.), § 17, eff. May 27, 1988; 1993, No. 89, § 3(b), eff. June 15, 1993.)

## **§ 219. Reserve funds**

(a) The Authority may create and establish one or more special funds, herein referred to as "debt service reserve funds," and shall pay into each such debt service reserve fund:

(i) Any monies appropriated and made available by the State for the purpose of such funds.

(2) Any proceeds of the sale of notes or bonds, to the extent provided in the resolution or resolutions of the Authority authorizing the issuance thereof.

(3) Any other monies or financial instruments such as surety bonds, letters of credit, or similar obligations, which may be made available to the Authority for the purpose of such fund from any other source or sources. All monies or financial instruments held in any debt service reserve fund, except as hereinafter provided, shall be used, as required, solely for the payment of the principal of the bonds secured in whole or in part by such fund or of the sinking fund payments with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds, or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity or to reimburse the issuer of a liquidity or credit facility, bond insurance, or other credit enhancement for the payment by such party of any of the foregoing amounts on the Authority's behalf; provided, however, that the monies or financial instruments in any such fund shall not be drawn upon or withdrawn therefrom at any time in such amounts as would reduce the amount of such funds to less than the debt service reserve requirement established by resolution of the Authority for such fund as hereafter provided except for the purpose of making with respect to bonds secured in whole or in part by such fund payments, when due, of principal, interest, redemption premiums, and the sinking fund payments hereinafter mentioned for the payment of which other monies of the Authority are not available. Any income or interest earned by, or increment to, any debt service reserve fund due to the investment thereof may be transferred by the Authority to other funds or accounts of the Authority to the extent it does not reduce the amount of such debt service reserve fund below the debt service reserve requirement for such fund.

(b) The Authority shall not at any time issue bonds or notes secured in whole or in part by a debt service reserve fund if upon the issuance of such bonds or notes the amount in such debt service reserve fund will be less than the debt service reserve requirement

established by the resolution of the Authority for such fund, unless the Authority at the time of issuance of such bonds shall deposit in such fund from the proceeds of the bonds or notes so to be issued, or from other sources, an amount which together with the amount then in such fund, will not be less than the debt service reserve requirement established for such fund. The debt service reserve requirement for any debt service reserve fund shall be established by resolution of the Authority prior to the issuance of any bonds or notes secured in whole or in part by such fund and shall be the amount, determined by the Authority to be reasonably required in light of the facts and circumstances of the particular bond issue.

(c) In computing the amount of the debt service reserve funds for the purpose of this section, securities in which all or a portion of such funds shall be invested shall be valued at par if purchased at par or at amortized value, as such term is defined by resolution of the Authority, if purchased at other than par.

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed \$181,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States. (Added 1995, No. 184 (Act. Sess.), § 4b; amended 2003, No. 67, § 3, eff. June 16, 2003; 2009, No. 78 (Adj. Sess.), § 15, eff. April 15, 2010; 2011, No. 110 (Adj. Sess.), § 3, eff. May 8, 2012; 2013, No. 87, § 7, eff. June 17, 2013; 2015, No. 157 (Adj. Sess.), § A.3, eff. June 2, 2016; 2017, No. 157 (Adj. Sess.), § 1; 2019, No. 79, § 17, eff. June 20, 2019.)

## **§ 220. Transfer from Indemnification Fund**

The State Treasurer shall transfer from the Indemnification Fund created in former section 222a of this title to the Authority all current and future amounts deposited to that Fund. (Added 2015, No. 157 (Adj. Sess.), § A.4, eff. June 2, 2016.)

## **§ 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 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 this chapter and all payments required to be made to the Authority under 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 may be applied and reapplied for the purposes 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 chapter.
- (2) Direct 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) 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.

(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.

(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.

(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. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1985, No. 81, § 3; 1995, No. 46, § 8, eff. April 20, 1995; 2003, No. 7, § 8, eff. April 25, 2003; 2003, No. 67, § 4, eff. June 16, 2003; 2009, No. 78 (Adj. Sess.), § 16, eff. April 15, 2010; 2013, No. 87, § 4; 2015, No. 157 (Adj. Sess.), § A.5, eff. June 2, 2016; renumbered from 10 V.S.A. § 234 and amended by 2025, No. 26, § 2, eff. July 1, 2025.)

***Subchapter 2: MORTGAGE INSURANCE***

**§§ 221-229. Repealed. 2015, No. 157 (Adj. Sess.), § A.7(b), eff. June 2, 2016.**

***Subchapter 3: INDUSTRIAL PARKS, SPECULATIVE BUILDINGS, AND SMALL BUSINESS INCUBATOR FACILITIES***

**§ 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 20 years after the property is occupied. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1977, No. 52, 1986 § 8, eff. April 22, 1977; 1985, No. 136 (Adj. Sess.), § 7, eff. April 24, 1991, No. 76, § 1; 2025, No. 26, § 1, eff. July 1, 2025.)

### **§ 232. Issuance of loans for speculative buildings and small business incubator facilities**

Before issuing any loan under this subchapter for construction of a speculative building or small business incubator facilities and the purchase of land in connection therewith, the Authority, or the Authority's loan officer pursuant to the provisions of subdivision 216(15) of this title, shall determine and incorporate the following findings in its minutes. Such findings when adopted by the Authority shall be conclusive:

- (1) 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.
- (2) The proposed site for the speculative building or small business incubator facilities 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.
- (3) 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 facilities is completed.
- (4) 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 local development corporation is responsible and has presented evidence to demonstrate its ability to carry out the project as planned.
- (6) 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 or in the small business incubator facility.
- (7) 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.
- (8) The project will be without unreasonable risk of loss to the Authority.
- (9) The local development corporation is unable to secure on reasonable terms the funds required for the project without the assistance of the Authority, or in the alternative, the making of the loan will serve as a substantial inducement for the establishment or expansion of a speculative building or small business incubator. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1985, No. 136 (Adj. Sess.), § 8, eff. April 24, 1986; 1991, No. 76, § 2; 1995, No. 46, § 7, eff. April 20, 1995.)

### **§ 233. Depressed areas**

The Authority shall give preference to the areas within labor market districts declared to be economically depressed areas as defined by the Vermont Agency of Commerce and Community Development or the Vermont Department of Labor, or to the area that is a designated job development zone under chapter 29, subchapter 2 of this title. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1981, No. 66, § 5(a), eff. May 1, 1981; 1985, No. 172 (Adj. Sess.), § 2; 1995, No. 190 (Adj. Sess.), § 1(a); 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006.)

**§ 234. Redesignated. 2025, No. 26, § 2, eff. July 1, 2025.**

(Added 1973, No. 197 (Adj. Sess.), § 1; amended 1985, No. 81, § 3; 1995, No. 46, § 8, eff. April 20, 1995; 2003, No. 7, § 8, eff. April 25, 2003; 2003, No. 67, § 4, eff. June 16, 2003; 2009, No. 78 (Adj. Sess.), § 16, eff. April 15, 2010; 2013, No. 87, § 4; 2015, No. 157 (Adj. Sess.), § A.5, eff. June 2, 2016; renumbered to 10 V.S.A. § 220a by 2025, No. 26, § 2, eff. July 1, 2025.)

**§ 235. Repealed. 1995, No. 184 (Adj. Sess.), § 4a, eff. July 1, 1997.****§ 236. Taxes**

(a) While a part of a building or industrial park owned by a local development corporation and subject to a mortgage to the Authority or the State of Vermont under this subchapter remains unoccupied, that portion that remains unoccupied shall be exempt from all taxes and special assessments of the State or a municipality. Instead of taxes, payments shall be made by the local development corporation to the municipality in which the speculative building or industrial park is located for highway maintenance, fire protection, or for other services.

(b) Any property to which the Authority holds title by reason of foreclosure upon a mortgage or other security given by a local development corporation in connection with a loan made under this subchapter, or voluntary conveyance in lieu thereof, shall, as long as it is not leased or rented, be exempt from all taxes and special assessments of the State and all local municipal property taxes for the remaining balance of the tax year in which title becomes vested in the Authority and the entire next succeeding year, provided however, that thereafter the Authority shall pay 50 percent of the local municipal property taxes annually assessed against such property during the term of the Authority's ownership. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1977, No. 52, § 9, eff. April 22, 1977; 1981, No. 54, § 14, eff. April 28, 1981.)

**§ 237. Issuing of loans for industrial park planning and development projects**

Before issuing any loan under this subchapter for industrial park planning and development, and the purchase of land in connection therewith, the Authority shall determine and incorporate in its minutes the findings that:

- (1) 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.
- (2) 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.
- (3) The total industrial park will be planned by architects and engineers acceptable to the Authority.
- (4) 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.
- (5) 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.
- (6) 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.
- (7) The local development corporation is responsible and has presented evidence to demonstrate its ability to carry out the park project as planned.
- (8) 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.
- (9) 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. Such findings when adopted by the Authority shall be conclusive. (Added 1973, No. 197 (Adj. Sess.), § 1.)

**Subchapter 4: ECONOMIC DEVELOPMENT REVENUE BONDS****§ 241. Powers of municipalities**

Municipalities shall have the following powers in addition to any other powers given them by law:

- (1) To engage in projects under this subchapter within the municipality or partially within the municipality but entirely within the State, to acquire ownership or possessory interests in eligible facilities and related property, and to dispose of them;
- (2) To issue bonds to pay project costs, or to reimburse a user or a related person for payments for project costs made before or after the bonds are issued, or to refund bonds previously issued;
- (3) To execute financing documents and security documents and to perform obligations and exercise powers created by them;
- (4) In the event of default by a user under a financing document, but only to the extent authorized by the financing document or security document, to dispose of all or part of the eligible facility by sale or otherwise for the benefit of the bondholders under the security document;
- (5) To make contracts or take any other action that is necessary or desirable in connection with the exercise of the foregoing powers. Nothing in this chapter shall be construed to authorize a municipality to operate an eligible facility itself or to conduct any business enterprise with it.
- (6) To acquire and to enter into commitments to acquire any federally guaranteed security and to pledge or otherwise use any such federally guaranteed security in such manner as the Authority shall approve to secure or otherwise provide a source of repayment on any of its bonds or to enter into any appropriate agreement with one or more users whereby the municipality may make a loan to any such user for the purposes of enabling such user to fund or refund directly or indirectly, the cost of acquiring or entering into commitments to acquire any federally guaranteed security; provided, however, that the federally guaranteed security is evidence of a federally insured project loan or, if not such evidence, that the Authority determines that the federally guaranteed security has been issued to pass through a federally insured project loan. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 8, eff. March 27, 1975; 1981, No. 54, § 8, eff. April 28, 1981; 1993, No. 89, § 3(b), eff. June 15, 1993.)

## § 242. Financing documents

(a) A financing document shall:

- (1) provide for payments by the user at such times and in such amounts as are necessary in order to pay the debt service on all bonds issued to finance the project as they become due; and
- (2) obligate the user to pay all the costs and expenses of operation, maintenance, upkeep, and insurance of the eligible facility.

(b) A financing document may:

- (1) provide for payments by the user that include amounts in addition to the amounts required to pay debt service;
- (2) obligate a user to make payments before the eligible facility exists or becomes functional and to make payments after the eligible facility has ceased to exist or be functional to any extent and from any cause whatsoever;
- (3) obligate a user to make payments regardless of whether the user is in possession or is entitled to be in possession of the eligible facility;
- (4) allocate responsibility between the municipality and the user for making purchases and contracts required for the project;
- (5) contain an option for the user to acquire any ownership or possessory interest that the municipality may have in the eligible facility for nominal consideration upon payment of the bonds or upon the user's making adequate and secure provision for their payment and provide for the automatic transfer of the municipality's interest in the facility upon the effective exercise of the option;
- (6) provide that some or all of the user's obligations shall be unconditional and shall be binding and enforceable in all circumstances whatsoever notwithstanding any other provision of law; and

(7) contain such other provisions and covenants relating to the use, maintenance, repair, insurance, and replacement of the eligible facility as the municipality and the user deem necessary for the protection of themselves or others. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 9, eff. March 27, 1975; 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 243. Security documents**

(a) An assignment, pledge, mortgage or other encumbrance of all or part of a municipality's right to receive payments with respect to an eligible facility contained in a security document shall be fully effective from the time when the security document is executed with or without any subsequent physical delivery or segregation of the money and without any filing or recording under the Uniform Commercial Code or otherwise.

(b) A security document may contain covenants of the municipality as to:

- (1) the creation and maintenance of reserves;
- (2) the issuance of other bonds with respect to the eligible facility;
- (3) the custody, investment and application of monies;
- (4) the disposition of insurance or condemnation proceeds;
- (5) the use of surplus bond proceeds;
- (6) action by the municipality in the event of a default by the user under the financing document;
- (7) the subjecting of additional property to the lien of the security document;
- (8) any other matter which affects the security for the bonds in any way;
- (9) pledging any federally guaranteed security and monies received therefrom whether such security is acquired by the municipality or by a user to secure the payment of the bonds.

(c) A security document may limit the rights of bondholders to enforce obligations of the municipality thereunder or under the financing document. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 10, eff. March 27, 1975; 1981, No. 54, § 10, eff. April 28, 1981; 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 244. Bonds**

(a) Bonds authorized under this subchapter may, without limitation, be issued:

- (1) in one or more series of one or more denominations and bearing one or more rates of interest;
- (2) in bearer form or registered form with or without privileges of conversion and reconversion from one form to the other;
- (3) payable in serial installments or as term bonds, and any series may consist of both types of bonds, provided that all of the bonds of every series shall mature no later than 40 years after their dates; and
- (4) subject to redemption prior to maturity, with or without the payment of any redemption premium, in accordance with the provisions of the security document.

(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.

(c) Every bond shall bear a statement on its face that it does not constitute an indebtedness of the municipality except to the extent permitted by this subchapter. Bonds may be sold at public or private sale by the officers authorized to sign them. The price at which bonds are sold may be par or may be more or less than par, but the original purchaser of the

bond shall be obligated to pay accrued interest for the period, if any, from the date of the bonds to the date of delivery. All bonds issued under this subchapter and interest coupons applicable thereto, if any, shall be deemed to be negotiable instruments and to be investment securities under the Uniform Commercial Code.

(d) No purchaser of bonds shall be in any way bound to see to the proper application of the proceeds thereof. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 11, eff. March 27, 1975; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 245. Municipal proceedings**

All actions of a municipality in the exercise of its powers with respect to a project and the financing thereof shall be authorized by resolution adopted by majority vote of all of the members of its governing body. Unless otherwise provided in the resolution, or in the city charter in the case of a city, each resolution shall take effect upon its passage. The terms and details of any transaction may be delegated by the governing body to those authorized by the governing body to enter into the transaction on behalf of the municipality. (Added 1973, No. 197 (Adj. Sess.), § 1.)

#### **§ 246. Approval of Authority**

No municipality may acquire any interest in an eligible facility or execute any financing document or security document or issue any bonds under this subchapter without the approval of the Authority, but nothing herein contained shall prevent a municipality from giving preliminary official approval of a proposed project and the financing thereof. In applying for approval by the Authority the municipality shall furnish the Authority with any information required, including drafts of the proposed financing document and security document. The Authority shall not give its approval unless it determines and incorporates findings in its minutes that:

- (1) the project and its proposed financing are feasible;
- (2) the establishment and operation of the eligible facility will either:
  - (A) create or preserve employment opportunities directly or indirectly within the State; or
  - (B) help to protect the State's physical environment, or will accomplish both purposes;
- (3) the eligible facility consists of property of a type that may be financed under this subchapter;
- (4) the proposed user, or if the user as defined under subdivision 212(23) of this chapter is a lessor, then the tenant of said lessor, has the skills and financial resources necessary to operate the eligible facility successfully;
- (5) the financing and security documents contain provisions such that under no circumstances is the municipality 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 municipality for its own use;
- (6) the project plans comply with all applicable environmental, zoning, planning, and sanitary laws and regulations of the municipality and of the State of Vermont; and
- (7) neither the financing document nor the security document purports to create any debt of the municipality with respect to the eligible facility, other than a special obligation of the municipality under this chapter; and
- (8) the proposed financing of the project by the municipality and the proposed operation and use of the eligible facility will preserve or increase the prosperity of the municipality and of the State or enhance or protect the physical environment of the State and will promote the general welfare of citizens of the State;
- (9) for a project involving an eligible facility as defined in subdivision 212(6)(G) of this chapter, the project has been certified by the Transportation Board as likely to aid in the retention of existing industrial or agricultural enterprises in the State or in the development and increase of such enterprises, and if such project consists in whole or in part of vehicles, rolling stock or other modes of conveyance, there is reasonable assurance that the same will continue to be based in or operated from the municipality and contribute to the prosperity of the municipality and of the State; and

(10) the findings when adopted by the Authority shall be conclusive. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 12, eff. March 27, 1975; 1981, No. 54, § 15, eff. April 28, 1981; 1983, No. 38, § 2; 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 247. Obligations of the municipality**

No financing or security document, bond, or other instrument issued or entered into under this subchapter shall in any way obligate a municipality to use its taxing power for any purpose in relation to an eligible facility financed under this subchapter. No municipality may pay or promise to pay any debt or meet any financial obligation to any person at any time in relation to an eligible facility financed under this subchapter, except from monies received or to be received under the provisions of a financing or security document entered into under this subchapter or except as may be required by other provisions of law. Bonds issued under the subchapter shall not be deemed indebtedness of the municipality for the purposes of any debt limit. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 13, eff. March 27, 1975; 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 248. Trustees and trust funds**

A state or national chartered bank, Vermont bank, or Vermont trust company may serve as trustee for the benefit of bondholders under a security document; and the trustee may at any time own all or any part of the bonds issued under that security document, unless otherwise provided therein. All monies received or held by a municipality or by a trustee pursuant to a financing or security document, other than funds received or held by the municipality for its own use, shall be deemed to be trust funds and shall be held and applied solely in accordance with the applicable document, but the person paying the money to the municipality or the trustee shall not be in any way bound to see to its proper application. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 14, eff. March 27, 1975.)

#### **§ 249. Remedies**

Except as provided in any financing or security document entered into or any bond issued under this subchapter, each of the parties to the financing or security document or any bondholder may enforce the obligation of any other person to him or her under the bond or instrument by appropriate legal proceedings in a court of competent jurisdiction. A receiver may be appointed for an eligible facility in any such proceeding. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 15, eff. March 27, 1975; 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 250. Bonds exempt from taxation**

All bonds issued under this subchapter and the income therefrom shall be exempt from taxation by the State of Vermont and all of its political subdivisions, agencies, or instrumentalities, except that bonds shall not be exempt from inheritance, transfer, and estate taxes or taxes in the nature thereof. (Added 1973, No. 197 (Adj. Sess.), § 1.)

#### **§ 251. Taxation of eligible facilities**

All real and personal property comprising an eligible facility financed under this subchapter shall be set in the grand list and taxed to the tenant of the facility as if the tenant were the owner of the property in fee. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1993, No. 89, § 3(b), eff. June 15, 1993.)

#### **§ 252. Bonds eligible for investment**

Bonds issued under this subchapter shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity; such bonds shall likewise be legal investments for all public officials authorized to invest public funds. No person offering to buy or sell or buying or selling the bonds shall be required to obtain any license or register any transaction in connection with them. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 16, eff. March 27, 1975.)

#### **§ 253. Authority projects**

(a) The 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 "Authority";

(2) The provisions of section 245 of this title shall not apply; and

(3) The provisions of this subchapter other than this section and section 254 of this title shall, where appropriate, be deemed to be modified or superseded by the provisions of this section and section 254 of this title.

(b) For the purposes of engaging in a project, the Authority shall act on 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 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. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 17, eff. March 27, 1975; 1975, No. 187 (Adj. Sess.), § 2; 1983, No. 159 (Adj. Sess.), § 2, eff. April 14, 1984; 1985, No. 172 (Adj. Sess.), § 3; 1991, No. 202 (Adj. Sess.), § 10, eff. May 27, 1992; 1993, No. 89, § 3(b), eff. June 15, 1993; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 254. Authority bonds**

(a) From time to time the Authority may issue bonds to pay project costs of a project that has been approved by the Authority, to reimburse a user for the payment of costs made before or after the bonds are issued or to refund bonds previously issued.

(b) No bonds shall be issued under this section without the prior approval of the Governor or designee and the State Treasurer.

(c) Bonds issued under this section shall bear the manual, electronic, or facsimile signature of the manager or treasurer of the Authority, or authorized designee and agent; provided, however, that 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 issued or entered into 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.

(e) In carrying out the purposes of this subchapter, the Authority may, with the consent of the users, undertake a combined financing of projects for two or more users, and, thereupon, all other provisions of this subchapter shall apply to and for the benefit of the Authority and the participants in such joint financing.

(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 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 required by section 237 of this title.

(3) 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) 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. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 18, eff. March 27, 1975; 1975, No. 187 (Adj. Sess.), § 3; 1981, No. 54, § 11, eff. April 28, 1981; 1983, No. 33, §§ 5, 6, eff. April 22, 1983; 1983, No. 159 (Adj. Sess.), § 3, eff. April 14, 1984; 1985, No. 25, § 2; 1985, No. 136 (Adj. Sess.), § 10, eff. April 24, 1986; 1993, No. 89, § 3(b), eff. June 15, 1993; 2025, No. 26, § 1, eff. July 1, 2025.)

#### ***Subchapter 5: DIRECT 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 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 this chapter. The Authority may provide for the repayment and redeposit of such loans as provided in this subchapter.

(2) Take title by foreclosure to any eligible facility where such acquisition is necessary to protect any loan previously made by the Authority; pay all costs arising out of such foreclosure and acquisition from monies held in the Vermont Jobs Fund; and sell, transfer, and convey any such eligible facility to any responsible buyer. If the sale, transfer, and conveyance cannot be effected with reasonable promptness, the Authority may, in order to minimize financial losses and sustain employment, lease the eligible facility to a responsible tenant or tenants.

(3) Purchase prior secured loans and make payments on prior 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 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 mortgage or security shall be deposited by the Authority in the Vermont Jobs Fund.

(4) Purchase and own personal property for the purpose of leasing such personal property under financing leases, which leases transfer the ownership of leased personal property to each lessee following the payment of all required lease payments as specified in each lease agreement.

(5) Execute lease agreements pursuant to subdivision (4) of this section.

(6) Provide loans and assistance under this subchapter for the planning, development, or improvement of an industrial park or an eligible project within an industrial park. (Added 1973, No. 197, (Adj. Sess.), § 1; amended 1975, No. 187 (Adj. Sess.), § 4; 1993, No. 89, § 3, eff. June 15, 1993; 1995, No. 46, § 10, eff. April 20, 1995; 2013, No. 199 (Adj. Sess.), § 36; 2015, No. 41, § 23, eff. June 1, 2015; 2021, No. 91 (Adj. Sess.), § 1, eff. April 20, 2022; 2025, No. 26, § 1, eff. July 1, 2025.)

## § 262. Findings

Before making any loan, the Authority shall receive from an applicant a loan application in such form as the Authority may by 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.

(3) The making of the loan will be of public use and benefit.

(4) The proposed loan will be adequately secured by a mortgage on real property or equipment, or both.

(5) The principal obligation of the Authority's 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 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 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

(B) a single loan for which the principal amount of the Authority's mortgage does not exceed \$3,000,000.00 for an eligible facility consisting of a municipal telecommunications plant, as defined in 24 V.S.A. § 1911(2).

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

(7) The loan has a satisfactory maturity date.

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

(10) The loan will be without unreasonable risk of loss to the Authority. Such findings when adopted by the Authority shall be conclusive. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 187 (Adj. Sess.), § 5; 1987, No. 203 (Adj. Sess.), § 2, eff. May 27, 1988; 1991, No. 212 (Adj. Sess.), § 5, eff. May 27, 1992; 1993, No. 89, § 3(b), eff. June 15, 1993; 1995, No. 46, § 11, eff. April 20, 1995; 1999, No. 131 (Adj. Sess.), § 2; 2003, No. 67, § 7a, eff. June 16, 2003; 2005, No. 137 (Adj. Sess.), § 2; 2011, No. 110 (Adj. Sess.), § 4, eff. May 8, 2012; 2015, No. 41, § 24, eff. June 1, 2015; 2021, No. 91 (Adj. Sess.), § 1, eff. April 20, 2022; 2025, No. 26, § 1, eff. July 1, 2025.)

### **§ 263. 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 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 obligor has obtained from other independent and responsible sources, such as 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 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 secured loan may be subordinate to one or more prior loans, including the 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 obligor in such manner as provided and prescribed by the rules 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.

(d) The Authority may develop and incorporate into loan instruments formulae which require prepayment of loans when the profits attained by the borrower warrant prepayment.

(e) All real and personal property to which the Authority holds title by reason of foreclosure upon a mortgage or other security granted it pursuant to this subchapter, or a voluntary conveyance in lieu thereof, shall, as long as it is not leased or rented, be exempt from all taxes and special assessments of the State and all local municipal property taxes for the remaining balance of the tax year in which title becomes vested in the Authority and the entire next succeeding year; provided, however, that thereafter the Authority shall pay 50 percent of the local municipal property taxes annually assessed against such property during the term of the Authority's ownership.

(f) The Authority shall give preference to projects located within labor market districts declared to be economically depressed areas as defined by the Vermont Agency of Commerce and Community Development or the Vermont Department of Labor, or to projects located within the area that is a designated job development zone under chapter 29, subchapter 2 of this title.

(g) The Authority shall give preference to projects involving loans to employee-owned businesses, to businesses that are becoming employee-owned through the purchase of stock or business assets, and to start-up businesses that will be owned by substantially all of the employees.

(h) All actions of a municipality taken under this subchapter for the financing of an eligible project described in subdivision 212(6) shall be as authorized in section 245 of this title.

(i) The provisions of section 247 of this title shall apply to the financing of an eligible project described in subdivision 216(6) of this title. (Added 1973, No. 197 (Adj. Sess.), § 1; amended 1975, No. 18, § 19, eff. March 27, 1975; 1975, No. 187 (Adj. Sess.), § 6; 1977, No. 228 (Adj. Sess.), § 6, eff. April 17, 1978; 1981, No. 54, § 16, eff. April 28, 1981; 1985, No. 172 (Adj. Sess.), § 4; 1985, No. 172 (Adj. Sess.), § 4; 1993, No. 89, § 3, eff. June 15, 1993; 1995, No. 190 (Adj. Sess.), § 1(a); 2003, No. 121 (Adj. Sess.), § 90, eff. June 8, 2004; 2005, No. 103 (Adj. Sess.), § 3, eff. April 5, 2006; 2005, No. 170 (Adj. Sess.), § 3; 2015, No. 41, § 25, eff. June 1, 2015; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 264. Accelerated repayment provisions**

Any direct 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 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 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 loan immediately due and payable and may commence foreclosure on any property held as security for the loan or take any other lawful steps to obtain payment. (Added 1987, No. 203 (Adj. Sess.), § 4, eff. May 27, 1988; amended 2025, No. 26, § 1, eff. July 1, 2025.)

#### ***Subchapter 6: FAMILY FARM ASSISTANCE***

**§§ 271-275. Repealed. 2019, No. 61, § 12.**

**§ 276. Repealed. 2009, No. 33, § 83(e)(2).**

**§ 277. Repealed. 2019, No. 61, § 12.**

#### ***Subchapter 7: JOB START PROGRAM***

**§§ 278-278b. Repealed. 2007, No. 46, § 8, eff. May 23, 2007.**

#### ***Subchapter 8: VERMONT FINANCIAL ACCESS PROGRAM***

**§§ 279-279b. Repealed. 2015, No. 157 (Adj. Sess.), § A.7(b), eff. June 2, 2016.**

#### ***Subchapter 9: VERMONT EXPORT FINANCE PROGRAM***

**§ 279c. Vermont Export Finance Program**

(a) The Authority may, directly or indirectly, extend export finance to Vermont businesses, or to non-Vermont businesses where a substantial beneficiary of the export finance would be a Vermont business. The Authority may only directly extend export finance where the transaction will be guaranteed or insured against nonpayment by the Export-Import Bank of the United States, the U.S. Small Business Administration, or a comparable source of risk mitigation. Such export finance may include extending working capital loans to finance the pre-export costs of manufacturing, preparing, or accumulating products destined for export by overseas importers, the post-export costs of holding export receivables, as well as purchasing export receivables that are payable by overseas importers.

(b) The Authority may use any cash on hand in the Vermont Jobs Fund established under subchapter 1 of this chapter, any appropriations made by the General Assembly for this purpose, loans from banks, export finance specialty lenders, the Treasurer, or other sources in order to provide funds for lending under this subchapter. The Authority may pledge its

assets as security for such loans.

(c) The Authority may sell any loans or participations in loans made under this subchapter to financial institutions.

(d) The Authority may extend export finance on such terms and conditions as it deems appropriate. Export finance directly extended by the Authority shall conform to the terms and conditions of the applicable risk mitigation offered by the Export-Import Bank of the United States, the U.S. Small Business Administration, or a comparable source of risk mitigation.

(e) Any excess of revenues over expenses derived from this program shall be deposited in the Vermont Jobs Fund.  
(Added 1995, No. 46, § 13, eff. April 20, 1995; amended 2025, No. 26, § 1, eff. July 1, 2025.)

#### **Subchapter 10: VERMONT JOBS FUND**

##### **§ 280. Public financing policy**

(a) It is policy of the State to engage in publicly supported financing activities that carry out the economic development policies of the State, including the following policies:

(1) Vermont should encourage enterprises that maximize job opportunities for Vermonters, produce a diversity of goods and services, and support sustainable development in the Vermont economy.

(2) Vermont should encourage entrepreneurial investments by the private sector in businesses that promote a sustainable economy and that are compatible with Vermont's economic, social, and environmental values.

(3) Vermont should help its citizens start, maintain, and expand enterprises that:

(A) make use of the traditional skills of Vermont's people while developing new capabilities necessary to compete in a changing economic environment; and

(B) produce value-added products or services, thereby maximizing reinvestment within Vermont.

(b) As used in this chapter, the term "sustainable development" means meeting the needs of the present without compromising the ability of future generations to meet their own needs. (Added 1995, No. 46, § 14, eff. April 20, 1995.)

##### **§ 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 outlined in section 280b of this title. These programs may include:

(1) [Repealed.]

(2) the Loans to Local Development Corporations Program, administered under chapter 12, subchapter 3 of this title;

(3) the Industrial Revenue Bond Program, administered under chapter 12, subchapter 4 of this title;

(4) the Direct Loan Program, administered under chapter 12, subchapter 5 of this title;

(5) the SBA 504 Certified Development Company and Small Business Loan Programs of the Authority's Vermont 504 Corporation, administered by the Authority under subdivision 216(13) of this title;

(6) the Small Business Development Corporation Program, administered by the Authority under subdivision 216(14) of this title;

(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;

(8) an Export Finance Program, administered by the Authority under chapter 12, subchapter 9 of this title;

(9) a Vermont Sustainable Energy Loan Fund and any programs created thereunder, administered by the Authority under subchapter 13 of this chapter;

(10) any other program implemented after the adoption of the sustainable jobs strategy pursuant to section 280b of this title designed to meet Vermont's need for sustainable economic development;

(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) [Repealed.] (Added 1995, No. 46, § 14; amended 2003, No. 122 (Adj. Sess.), § 281, eff. June 10, 2004; 2011, No. 63, § E.800; 2013, No. 87, § 5, eff. June 17, 2013; 2015, No. 39, § 20; 2025, No. 26, § 1, eff. July 1, 2025.)

#### **§ 280b. The Vermont sustainable jobs strategy**

(a)(1) 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 postconsumer 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) 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) 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. (Added 1995, No. 46, § 14, eff. April 20, 1995; amended 1995, No. 190 (Adj. Sess.), § 1(b); 2025, No. 26, § 1, eff. July 1, 2025.)

#### ***Subchapter 11: STATE INFRASTRUCTURE BANK PROGRAM***

##### **§ 280d. Definitions**

As used in this subchapter:

- (1) "Agency" means the Agency of Transportation.
- (2) "Authority" means the Vermont Economic Development Authority established under section 213 of this title.
- (3) "Board" means the State Infrastructure Bank Board as established under this subchapter.
- (4) "Bond act" means any general or special law authorizing a governmental unit to incur indebtedness for all or any part of the cost of a qualified project.
- (5) "Bonds" means bonds, notes, or other evidence of indebtedness.
- (6) "Borrower obligations" means government obligations or a promissory note of a private enterprise issued to evidence a loan.
- (7) "Cost," as applied to any qualified project, means any or all costs, whenever incurred, approved by the Agency, of carrying out a qualified project, including costs for preliminary planning or legal, fiscal, and economic investigations, reports, and studies to determine the economic or engineering feasibility of a qualified project; engineering and architectural reports, studies, surveys, designs, plans, working drawings, and specifications necessary in the construction of a qualified project; construction; expansion; facilities; improvement and rehabilitation; acquisition of real property, personal property, materials, machinery, or equipment; start-up costs; demolitions and relocations; reasonable reserves and working capital; interest on loans, borrower obligations and notes in anticipation thereof prior to and during construction of such qualified project or prior to the date of such loan, if later; administrative, legal, and financing expenses; and other expenses necessary or incidental to the above.
- (8) "Financial assistance" means any financial assistance for a qualified project provided by the Board under the Program, including loans to and leases with qualified borrowers, the establishment of reserves and other security, and guarantees of and credit enhancement for the obligations of governmental units and private enterprises incurred in connection with the financing of qualified projects.
- (9) "General revenues" when used with reference to a governmental unit means revenues, receipts, assessments, and other monies of a governmental unit, and all rights to receive the same, including revenue permitted to be collected by municipalities, project revenue, assessments upon or payments received from any other governmental unit that is a member or service recipient of the governmental unit, proceeds of loans made in accordance with this subchapter and of grants made in accordance with State transportation or highway grant programs, investment earnings, reserves for debt service or other capital or current expenses, receipts from any rate, charge, tax excise, or fee, all or a part of the receipts of which are payable or distributable to or for the account of the governmental unit, local aid distributions, if any, and receipts, distributions, reimbursements, and other assistance from the State or the United States; provided, however, that general revenues shall not include any monies restricted by law to specific statutorily defined purposes inconsistent with their treatment as general revenues for purposes of this subchapter.
- (10) "Government obligations or governmental obligations" means bonds, notes, or other evidence of indebtedness issued by a government unit to evidence a loan.

(11) "Government unit or governmental unit" means any municipality, regional development corporation that is qualified pursuant to 24 V.S.A. chapter 76, or other instrumentality of the State or any of its political subdivisions, that is responsible for the construction, ownership, or operation of a qualified project.

(12) "Guarantee" means a contract or contracts entered into by the Program pursuant to which the Program agrees to guarantee all or a portion of the obligations of a governmental unit or private enterprise incurred to finance a qualified project.

(13) "Highway account" means the highway account of the Program, established under this subchapter.

(14) "ISTEA" means the federal Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, as amended.

(15) "Lease" means any form of capital or operating lease for all or a portion of a qualified project between the Program and a governmental unit or private enterprise.

(16) "Loan" means any form of financial assistance subject to repayment which is provided by the Program to a qualified borrower for all or any part of the cost of a qualified project. A loan may provide for planning, construction, bridge, or permanent financing, and be disbursed in anticipation of reimbursement for or direct payment of costs of a qualified project or take the form of a guarantee, line of credit, or other form of financial assistance.

(17) "Loan agreement" means any agreement entered into between the program and a qualified borrower pertaining to a loan or lease. A loan agreement may contain, in addition to financial terms, provisions relating to the regulation and supervision of a qualified project or any other provisions as the Board may reasonably determine. The term "loan agreement" shall include a loan agreement, lease, trust agreement, trust indenture, security agreement, reimbursement agreement, guarantee agreement, bond or note resolution, loan order, or similar instrument whether secured or unsecured.

(18) "NHS Act" means the federal National Highway System Designation Act of 1995, P.L. 104-59, as amended.

(19) "Private enterprise" means a private person or entity that has entered into a contract with a public authority to design, finance, construct, or operate a qualified project that is within the jurisdiction of such public authority, provided that the public authority is responsible for complying with all applicable requirements of ISTE A and the NHS Act with respect to such qualified project.

(20) "Program" means the State Infrastructure Bank Program established pursuant to this subchapter.

(21) "Project revenues" means all rates, rents, fees, assessments, charges and other receipts derived or to be derived by a qualified borrower from a qualified project, and, if so provided in the applicable loan agreement pursuant to this subchapter, from any system of which such qualified project is a part and any other revenue producing facilities under the ownership or control of such qualified borrower, including proceeds of grants, gifts, appropriations and loans, including the proceeds of loans or grants made by the Board, investment earnings, reserves for capital and current expenses, proceeds of insurance or condemnation and the sale or other disposition of property; provided, however, the project revenues shall not include any ad valorem taxes levied directly by a governmental unit on any real and personal property.

(22) "Qualified borrower" means any governmental unit or private enterprise that is authorized to construct, operate, or own a qualified project.

(23) "Qualified project" means any activity, as defined in Title 23 and Title 49, Code of Federal Regulations.

(24) "Revenues" when used with respect to the Board, means any receipts, fees, revenues, or other payments received or to be received by the Program, including receipts and other payments received by or deposited in the Program, payments of principal, interest, or other charges on loans, leases, grants, appropriations or other financial assistance from the State or the United States or any political subdivision or instrumentality of either in connection with the Program, investment earnings on its funds and accounts, including the Program, and any other fees, charges, or other income received or receivable by the Program.

(25) "Secretary" means the Secretary of Transportation.

(26) "State aid distributions" means any receipts, distributions, reimbursements, or other assistance payable by the State to or for the account of a governmental unit.

(27) "Transit account" means the transit account of the Program, established pursuant to this subchapter.

(28) "Trust agreement" means any agreement entered into by the Program and the State Treasurer providing for the issuance, security, and payment of bonds issued pursuant to this subchapter. The term "trust agreement" shall include a trust agreement, trust indenture, security agreement, reimbursement agreement, bond or note resolution, or other similar instrument. (Added 1997, No. 43, § 1.)

#### **§ 280e. State Infrastructure Bank Program**

(a) There is created a State Infrastructure Bank Program, to be a program to assist the improvement, rehabilitation, expansion, and construction of transportation projects within the State to contribute to the economic welfare of the State by providing jobs and other economic opportunities for the people of the State and enhancing economic development, particularly in downtown areas.

(b)(1) A State infrastructure bank board is established within the Vermont Economic Development Authority to administer the State Infrastructure Bank Program.

(2) The Board shall consist of two legislators and nine other members: the State Treasurer, the Secretary of Transportation or designee, the Secretary of Commerce and Community Development or designee, one member of the Authority, one member from the Agency of Transportation Planning Division, one member who is a member of the board of a regional development corporation approved under 24 V.S.A. chapter 76, one member who is a member of a regional planning commission created under 24 V.S.A. chapter 117, subchapter 3, two members at large, one Representative appointed by the Speaker of the House, and one Senator appointed by the Committee on Committees. Selection of Board members shall be made with consideration toward geographic representation from throughout the State. Board members, other than legislators and State agency officials or designees, shall be appointed by the Governor, with the advice and consent of the Senate, to five-year terms, except that the Governor shall stagger initial appointments so that the terms of no more than two members expire during a calendar year. Legislative members shall be appointed on or before January 15 of the first year of each legislative session. A quorum shall consist of six members. Members disqualified from voting shall be considered present for purposes of determining a quorum. No action of the Board 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 four members vote in favor of the action.

(3) Board members who are not otherwise compensated in the course of their employment shall be compensated and receive reimbursement for necessary expenses in the same manner provided for members of the board of the Economic Development Authority under subsection 213(e) of this title.

(c)(1) The Board shall adopt such rules or guidelines as it deems necessary to carry out the purposes of the program.

(2) A majority vote of Board members present and voting shall be necessary to approve a loan or bond issuance.

(3) The Secretary of Transportation can veto any approval of the Board if he or she presents objections to the Board based upon the lack of compliance with federal law governing this Program.

(4) The Authority shall assign a State Infrastructure Bank Coordinator from the staff of the Authority to manage the Program. The Coordinator shall be responsible for administration of the Program in accordance with the policies and rules of the Board. The Coordinator may have other responsibilities within the Authority that are outside this Program. The Coordinator may examine any records relating to applications and may conduct such program and fiscal audits as the Coordinator deems necessary. (Added 1997, No. 43, § 1; amended 1997, No. 120 (Adj. Sess.), § 1a.)

#### **§ 280f. Applicability of general provisions**

The definitions under section 212 of this chapter shall not apply to this subchapter. (Added 1997, No. 43, § 1.)

#### **§ 280g. State Infrastructure Bank Program; duties; powers**

(a) The Board, in addition to any other powers and duties conferred or imposed on it by this chapter or any other law, shall have the following powers and duties:

(1) to apply for, receive, administer, and comply with the conditions and requirements respecting any grant, gift, or appropriation of property, services, or monies;

(2) to make loans to or enter into leases with qualified borrowers to finance the costs of qualified projects, to acquire, hold, and sell borrower obligations evidencing the loans at such prices and in such manner as the Board shall deem advisable, and to pledge borrower obligations to secure bonds issued pursuant to this subchapter;

(3) to enter into guarantees secured solely by, or purchase insurance or other credit enhancement through, amounts on deposit in the Program;

(4) to enter into contracts, arrangements, and agreements to provide any other form of financial assistance through amounts on deposit in the Program that the Board may consider appropriate;

(5) to enter into contracts, arrangements, and agreements with other persons and execute and deliver all trust agreements, loan agreements, and other instruments necessary or convenient to the exercise of the powers granted in this subchapter;

(6) to enter into an agreement, contract, or other arrangement directly or indirectly with the Agency or Authority or with a private enterprise in furtherance of and in accordance with the provisions of ISTEA or the NHS Act, as applicable;

(7) to obtain insurance necessary or convenient to the exercise of the power granted in this subchapter;

(8) to engage accounting, management, legal, financial, consulting, and other professional services necessary to the conduct of the Program;

(9) to distribute the benefits conferred by this subchapter throughout the State.

(10) [Repealed.]

(b) In its administration of the Program as provided in this subchapter, the Program shall comply with applicable federal requirements under ISTEA and the NHS Act and other applicable federal programs. The Program shall not be authorized or empowered to be or to constitute a bank, trust company, or licensed lender under the jurisdiction or under the control of the Department of Financial Regulation or the Comptroller of the Currency or the Treasury Department of the United States, or to be or constitute a bank, banker, or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers' law of the United States or Vermont.

(c) The Agency shall provide technical assistance to either the Board, Program, or the Vermont Economic Development Authority to ensure compliance pursuant to subsection (b) of this section.

(d) [Repealed.] (Added 1997, No. 43, § 1; amended 1997, No. 144 (Adj. Sess.), § 20; 2011, No. 78 (Adj. Sess.), § 2, eff. April 2, 2012; 2011, No. 153 (Adj. Sess.), § 28.)

#### **§ 280h. Receipt and administration of Program funds**

(a) The Authority shall receive in trust, hold, administer, and disburse in and from the Program exclusively for the benefit of the beneficiaries the following monies:

(1) federal grants and awards or other federal assistance received by the Agency or the State and eligible for deposit therein under applicable federal law;

(2) amounts appropriated by the State to the Program for purposes of the Program;

(3) loan and lease payments and other payments received by the Program in respect of providing financial assistance to qualified borrowers;

(4) investment earnings on monies in the Program; and

(5) any other amounts required to be credited to the Program by any law or by any resolution, loan agreement, or trust agreement or which the State or the Secretary shall otherwise determine to deposit therein.

(b) Application of amounts in the Program shall be subject to the requirements of this subchapter and the provisions of any applicable loan agreement or trust agreement and, with respect to amounts held pursuant to grants or awards made under 23 U.S.C. § 101 et seq., or 49 U.S.C. § 5301 et seq., or any other federal law, to the applicable requirements of federal law. The Authority shall be the custodian of the Fund as provided in this subchapter, and, subject to any applicable trust agreement, the Authority is authorized to invest monies held in the Program in such investments as may be legal investments for funds of the State, subject, however, with respect to funds deposited in the Program pursuant to section 350 of the NHS Act, to the provisions of section 350(e)(3) of the NHS Act. (Added 1997, No. 43, § 1.)

#### **§ 280i. Disbursement and use of funds**

(a) Subject to limitations under ISTEA and the NHS Act and other federal laws, other laws respecting the use of particular monies in the Program, and the provisions of any applicable trust agreement, amounts in the Program may be used only:

(1) to provide financial assistance, including through loans and leases, to finance or refinance the costs of qualified projects and to provide for all or any part of the interest costs on loans made by the Program during the construction of such qualified projects;

(2) to guarantee or purchase insurance or other credit enhancement for bonds of qualified borrowers issued to finance the costs of qualified projects;

(3) to provide reserves for or otherwise secure bonds issued pursuant to this subchapter and to provide insurance or other credit enhancement for such bonds;

(4) to provide a subsidy for, or to otherwise assist, qualified borrowers in the payment of debt service costs on loans made by the Program;

(5) to provide reserves for, or to otherwise secure, amounts payable by qualified borrowers on loans made by and leases with the Program in the event of default by a particular qualified borrower or, on a parity basis, by any qualified borrower;

(6) to earn interest on the Fund; and

(7) for the costs of administering the Program; provided, however, that not more than two percent of the federal funds contributed to the Program pursuant to section 350 of the NHS Act may be expended for such administrative costs.

(b) For necessary and convenient administration of the Fund, the Program shall establish the highway account and the transit account, as provided in section 280n of this title, and one or more additional accounts and sub-accounts within the Vermont Economic Development Authority as shall be necessary to meet the requirements of the NHS Act and any other applicable federal law requirements or as the program shall otherwise deem necessary or desirable in order to implement the provisions of this subchapter or to comply with any trust agreement. The Program may also establish in any trust agreement or otherwise, as the Secretary shall determine, one or more other funds and accounts for revenues and other funds not required to be held in the Program, and to apply and disburse such funds for the purposes of the Program. (Added 1997, No. 43, § 1.)

#### **§ 280j. Powers and duties of the Secretary**

The Secretary is authorized and directed to take all necessary or incidental actions to secure for the State the benefits of ISTEA and the NHS Act, and any similar programs, including exercise of the powers:

(1) to cooperate with appropriate federal agencies in all matters related to the administration of the Program as contemplated by 23 U.S.C. § 129(a)(7) and section 350 of the NHS Act;

(2) to prepare and submit to the appropriate federal agencies applications for grants and to enter into grant agreements, cooperative agreements, operating agreements, and other agreements with the United States relating to the purposes of the Program; and

(3) to prepare and submit to the appropriate federal agencies and the Vermont General Assembly, annual and other reports and audits, in form and content satisfying federal requirements, relating to the Program. (Added 1997, No. 43, § 1.)

#### **§ 280k. Powers and duties of the Program**

The Program is authorized and directed to take all necessary or incidental actions to secure for the State the benefits of ISTEA and the NHS Act, and any similar programs, including exercise of the powers:

(1) to establish and collect such fees, charges, and interest rates in compliance with federal requirements and as the Board determines to be reasonable, and to hold, apply and disburse such funds within or without the Program to implement the purposes of this subchapter;

(2) to establish, jointly with the Authority, fiscal controls and accounting procedures for the Program. (Added 1997, No. 43, § 1.)

#### **§ 280l. Applications for financial assistance**

(a) Any qualified borrower may file an application with the Board to obtain financial assistance from the Program. The application shall be filed in such manner and contain or be accompanied by such information as the Program may require.

(b) In addition to other requirements prescribed by the Board, an application shall:

(1) describe the nature and purpose of the proposed transportation project, including the need for the project and the reasons why the project is in the public interest;

(2) state the estimated costs of the project and the proposed sources of funding, if any, in addition to the financial assistance being sought from the Program;

(3) state the economic development benefit;

(4) demonstrate that the project has the support of the regional planning commission or the metropolitan planning organization, as the case may be, in which the project is located, which support shall not be given unless the project is in conformance with the regional plan;

(5) demonstrate conformance with Agency of Transportation design standards and level of improvement policies; and

(6) demonstrate that the public benefits of the project outweigh its public costs.

(c) Before any financial assistance under this chapter is approved for an Agency of Transportation project, the applicant shall demonstrate that:

(1) the project is part of the State's current year transportation capital program approved by the General Assembly under 19 V.S.A. § 10g(c); or

(2) if the Legislature is not in session, the project is approved by a committee, composed of the Joint Fiscal Committee, the Chair of the House Committee on Transportation or designee, and the Chair of the Senate Committee on Transportation or designee. (Added 1997, No. 43, § 1.)

#### **§ 280m. Loan and lease terms**

(a) The Board shall determine the form and content of any borrower obligation, including the term and rate or rates of interest on any loan or lease.

(b) Notwithstanding subsection (a) of this section, loans and leases financed through the application of federal monies pursuant to 23 U.S.C. § 129 or section 350 of the NHS Act shall:

(1) bear interest at or below market rates or otherwise as may be specified therein;

(2) have a repayment term of not longer than 30 years;

(3) be subject to repayment commencing not later than five years after the facility financed with the proceeds of such loan has been completed or, in the case of a highway project, the facility has opened to traffic; and

(4) be made only after all federal environmental requirements applicable to the qualified project have been complied with and all federal environmental permits obtained.

(c) Notwithstanding any provisions of this subchapter to the contrary, the Secretary may waive any of the requirements contained in this section if such waiver would not cause the loan or the Program to violate the requirements of ISTEA or the NHS Act or any other applicable federal requirement. (Added 1997, No. 43, § 1.)

#### **§ 280n. Program Fund; accounts**

(a) A State Infrastructure Bank Program Fund is created as a special fund subject to the provisions of 32 V.S.A. chapter 7, subchapter 5. The Fund shall be administered by the Authority for the purposes of the Program, in accordance with the provisions of this subchapter.

(b) The State Infrastructure Bank Program Fund shall receive funds from the following sources:

(1) any amounts required under section 350 of the NHS Act or any other federal law or program to be deposited in the highway account and such funds shall not be commingled with any other amounts on deposit in the Program;

(2) any amounts required under section 350 of the NHS Act or any other federal law or program to be deposited in the transit account and such funds shall not be commingled with any other amounts on deposit in the Program;

(3) any other State or federal funds appropriated for the Program by the General Assembly, any repayments of principal and interest of Program loans, any private monies related to the administration and operation of the Program;

(4) any grants received for the benefit of the Program.

(c) Notwithstanding 32 V.S.A. § 588(4)(A), monies may be disbursed from the Fund for Program purposes without an annual appropriation.

(d) The liabilities or obligations of the Authority with regard to its activities under the Program shall not extend beyond the funds that are deposited in the State Infrastructure Bank Program Fund, and shall not constitute a debt or pledge of the faith and credit of the State or any subdivision of the State.

(e) Any monies held in the Program shall be used solely as provided in this subchapter, subject to the applicable federal requirements.

(f) Expenditures from the Program shall be made for the following purposes:

(1) for the payment of the principal, including sinking fund payments of and premium, if any, and interest on bonds of the Authority in connection with the Program, as described in section 280o of this title, issued for the purpose of financing or refinancing any cost of a qualified project;

(2) for providing financial assistance to qualified borrowers to finance qualified projects;

(3) for the maintenance of, or provision for, any reserves, additional security, insurance, or other form of credit enhancement required or provided for in any trust agreement entered into pursuant to section 280q of this title to secure such bonds; and

(4) administration costs of the Program or for any of the foregoing. (Added 1997, No. 43, § 1.)

#### **§ 280o. Issuance of revenue bonds**

(a) The Authority may issue bonds to finance or refinance any cost of a qualified project or provide other financial assistance, the proceeds of which are to be deposited in the Program, or used to refinance existing obligations (whether obligations of the Authority or another entity), used to fund the cost of a qualified project.

(b) Such bonds shall be special revenue bonds of the State payable solely from revenues, credited to the Program.

(c) Notwithstanding the provisions of any law to the contrary, such bonds shall not be general obligations of the State.

(d) Bonds may be issued provided that such issuance meets the requirements of section 244 and subsections 254(b), (c), (d), (f), and (g) of this title.

(e) Sections 250, 252, and subsections 253(b), (c), and (d) of this title shall also apply to bonds issued under this subchapter, except that any reference to industrial facilities therein shall also apply to eligible projects under this subchapter.

(f) Bonds may be secured by a trust agreement entered into by the Authority, which trust agreement may pledge or assign, in whole or in part, any loan agreements or governmental obligations, and all or any part of the monies credited to the Program, subject to applicable federal requirements, and any funds or accounts established under a trust agreement, any contract or other rights to receive the same, whether then existing or coming into existence and whether then held or thereafter acquired, and the proceeds thereof. (Added 1997, No. 43, § 1.)

#### **§ 280p. Additional security agreements, insurance, and credit enhancements**

The Authority is also authorized to enter into additional security, insurance, or other forms of credit enhancement that may be secured on a parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit enhancement 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 trust agreement or credit enhancement agreement in the records of the Authority, and no filing need be made under any other provision of law. Any such trust agreement or credit enhancement agreement may establish provisions defining defaults and establishing remedies and other matters relating to the rights and security of the holders of the bonds or other secured parties as determined by the Authority, including provisions relating to the establishment of reserves, the issuance of additional or refunding bonds, whether or not secured on a parity basis, the application of receipts, monies, or funds pledged pursuant to such agreement, hereinafter referred to as "pledged funds," and other matters deemed necessary or desirable by the Authority for the security of such bonds, and may also regulate the custody, investment, and application of monies. (Added 1997, No. 43, § 1.)

#### **§ 280q. Loans to qualified borrowers to finance qualified projects**

(a) Any qualified borrower may apply to the Program for a loan to assist in financing the cost of a qualified project. At the option of the Board, and subject to applicable federal requirements, a loan may be made as secured loans or as unsecured general obligations of a qualified borrower. Each loan shall be made pursuant to a loan agreement between the Program and the qualified borrower acting by and through the officer or officers, board, committee, or other body authorized by law, or otherwise its chief executive officer.

(b) A qualified borrower may receive, apply, pledge, assign, and grant security interests in project revenues, and, in the case of a governmental unit, its general revenues to secure its obligations under loan agreements and borrower obligations as provided in this subchapter and may fix, revise, charge, and collect fees, rates, rents, assessments, and other charges of general or special application for the operation or services of any qualified project, the system of which it is a part and any other revenue producing facilities from which the qualified borrower derives project revenues to meet its obligations under any loan agreements or borrower obligation, or otherwise to provide for the construction, maintenance, and operation of a qualified project.

(c) For the purposes of entering into a loan and establishing the authorized terms and conditions thereof and for issuing any government obligations, a governmental unit shall be deemed to have the powers expressly granted to governmental units in this subchapter and the powers granted to the governmental unit in any bond act applicable to it specifically or as a member of a class of governmental instrumentalities. Liberal construction shall be given in support of the broadest interpretation of governmental unit powers derived from either this subchapter or any bonds act, provided that nothing in this subchapter shall be construed as affecting the manner of voting and other procedures of any governmental unit by the governing body thereof or any limitations on indebtedness of governmental units. (Added 1997, No. 43, § 1.)

#### **§ 280r. Powers and privileges of government units**

In order to provide for the collection and enforcement of fees, rates, rents, assessments, and other charges for the operation of any qualified project, the system of which it is a part and any other revenue producing facilities from which the governmental unit derives project revenues, in addition to any other authority provided by law or any applicable bond act, governmental units are hereby granted all the powers and privileges granted to them by law with respect to any similar fee, rate, rent, assessment, or other charge. Any governmental unit may enter into agreements with the Agency:

(1) regarding the operation of a pricing system for the services producing facilities from which the governmental unit derives project revenues. Such agreements may include provisions defining the costs of such services, the qualified project and such local system and other facilities, and covenants or agreements regarding the fixing and collection of fees, rates, rents, assessments, and other charges for such costs and the maintenance of such pricing system at levels sufficient to pay or provide for all such costs and any payments due the department under any loan agreement or governmental obligations;

(2) regarding the operation of an enterprise fund established for any qualified project, and the system of which it is a part and any other revenue producing facilities from which the governmental unit derives project revenues. Such agreements may include fiscal and accounting controls and procedures, provisions regarding the custody, safeguarding, and investment of project revenues and other amounts credited thereto, the establishment of reserves and other accounts and funds and the application of any surplus funds. (Added 1997, No. 43, § 1.)

#### **§ 280s. Borrower obligations**

(a) Subject to the provisions of this subchapter, governmental obligations issued by a governmental unit shall conform to the requirements of subchapter 4 of this chapter.

(b) Notwithstanding any law to the contrary, if a governmental unit has authorized a loan in accordance with this subchapter and the issuance of governmental obligations under any bond act, the governmental unit may, subject to the loan agreement and the approval of the Board, issue notes to the Authority or any other person in anticipation of the receipt of the proceeds of the loan. The issue of such notes shall be governed by the provisions of this subchapter relating to the issue of governmental obligations other than notes, to the extent applicable, provided the maturity date of such notes shall not exceed three years from the date of issue of such notes or the expected date of completion of the project financed thereby, as determined by the Board, if later. Notes issued for less than the maximum maturity date may be renewed by the issue of other notes maturing no later than the maximum maturity date.

(c) A governmental unit may issue governmental obligations to refund or pay at maturity or earlier redemption any governmental obligations outstanding under any loan agreement or to refund or pay any other debt of the governmental unit issued to finance the qualified project to which such loan agreement pertains. Governmental obligations for refunding may be issued in sufficient amounts to pay or provide for the principal of the obligations refunded, any redemption premium thereon, any interest accrued and to accrue to the date of payment of such obligations, the costs of issuance of such refunding obligations and any reserves required by the applicable loan agreement. An issue of refunding governmental obligations, the amount and dates of maturity or maturities and other details thereof, the security thereof and the rights, duties, and obligations of the governmental unit with respect thereto shall be governed by the provisions of this subchapter relating to the issue of governmental obligations other than refunding obligations as the same may be applicable.

(d) Except as otherwise provided in this subchapter, the applicable bond act, or by agreement between the Board and a governmental unit, all governmental obligations shall be general obligations of the governmental unit issuing the same for which its full faith and credit are pledged and for the payment of which all taxable property in the governmental unit shall be subject to ad valorem taxation without limitation as to rate or amount except as otherwise provided by law. (Added 1997, No. 43, § 1.)

#### **§ 280t. Security agreements securing borrower obligations; pledges of general revenues or project revenues**

(a) Governmental obligations may be secured by one or more security agreements between the governmental unit and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the State, or directly between the Board and the governmental unit. A borrower obligation, other than governmental

obligations, may be secured by one or more security agreements between the Board and the qualified borrower. Any security agreements entered into pursuant to this section shall be in such form and shall be executed as provided in the applicable loan agreement or as otherwise agreed to between the Board and the qualified borrower.

(b) Any security agreement directly or indirectly securing governmental obligations, other than governmental obligations issued in accordance with this subchapter, may pledge or assign, and create security interests in, all or any part of the general revenues of the governmental unit. Any security agreement securing borrower obligations issued in accordance with this section may pledge or assign, and create security interests in, all or any part of the project revenues of the qualified borrower, but, in the case of a governmental unit, shall not otherwise pledge or assign any other general revenues of the governmental unit unless otherwise authorized by the applicable bond act. Any security agreement may contain such provisions for protecting and enforcing the rights, security, and remedies of the Board, or the holders of the borrower obligations, as may be determined by the Board and the qualified borrower, including provisions defining defaults and providing for remedies, including the acceleration of maturities, and:

(i) in the case of borrower obligations issued under this section, the appointment of a receiver of the project financed thereby and the system of which it is a part; and

(2) in the case of public entities, the use of a State aid intercept mechanism; and covenants setting forth the duties of, and limitations on, the qualified borrower in relation to the custody, safeguarding, investment, and application of monies, including general revenues and project revenues, the issue of additional and refunding borrower obligations and other bonds, notes, or obligations on a parity or superior thereto, the establishment of reserves, the establishment of sinking funds for the payment of borrower obligations, and the use of surplus proceeds. A security agreement securing borrower obligations issued in accordance with this section also may include covenants and provisions not in violation of law regarding the acquisition, construction, operation, and carrying out of the qualified project financed by such obligations, the system of which it is a part and any other revenue producing facilities from which the qualified borrower may pledge or assign any of its project revenues as appropriate, as security for payments made thereon.

(c) Any pledge of general revenues or project revenues made by a qualified borrower shall be valid and binding and shall be deemed continuously perfected for the purposes of the State commercial code, Title 9 and Title 9A, and any other law from the time made. The general revenues, project revenues, monies, rights, and proceeds so pledged and then held or thereafter acquired or received by the qualified borrower shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act, and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise, regardless of whether such parties have notice thereof. Neither the security agreement or any other agreement by which a pledge is created need be filed or recorded except in the records of the governmental unit and no filing need be made under the provisions of the State commercial code.

(d) In the case of a governmental unit, a pledge of general revenues or project revenues in accordance with this subchapter shall constitute a sufficient appropriation thereof for the purposes of any provisions for appropriation for so long as such pledge shall be in effect and, notwithstanding any law to the contrary, such revenues shall be applied as required by the pledge and the security agreement evidencing the same without further appropriation. (Added 1997, No. 43, § 1.)

#### **§ 280u. Guarantees; other credit enhancement**

(a) The Board may provide guarantees secured solely by, or purchase of insurance or other enhancements through, amounts on deposit in the program, to qualified borrowers in accordance with the provisions of this section.

(b) All of the assets and obligations directly covered by guarantees or other forms of credit enhancement shall be assets or obligations of governmental units or private entities that are, without guarantee or enhancement, listed by a nationally recognized statistical rating organization at a rating not below the third highest rating of such organization.

(c) The assets and obligations that may be directly covered by guarantees issued by the Board are:

(i) bonds, debentures, notes, evidence of debt, loans, and interest therein, of qualified borrowers, the proceeds of which are to be used for a qualified project; and

(2) leases of personal, real, or mixed property to be used for a qualified project.

(d) The Program may charge and collect premiums or other fees for the guarantees or other credit enhancement provided pursuant to this subchapter, including fees for services performed in connection with the approval and processing of the guarantees or the credit enhancement provided pursuant to this subchapter. (Added 1997, No. 43, § 1.)

#### **§ 280v. Termination of the Program; remaining assets and liabilities**

The Program shall continue until terminated by law; provided, however, that no such law shall take effect so long as there shall be outstanding bonds secured by the fund unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the Program, assets that remain after provision for the payment or satisfaction of all bonds issued pursuant to this subchapter shall vest in the State, in the Transportation Fund and General Fund in equal proportion to the percentages of funds initially invested in the bank. For the purpose of this section only, federal transportation funds invested in the bank shall be considered State transportation funds. (Added 1997, No. 43, § 1.)

#### **§ 280w. Records of receipts, expenditures, and disbursements**

The Authority, in cooperation with the Agency, shall at all times keep full and accurate accounts of all receipts, expenditures, and disbursements from the Program and all assets and liabilities of the Program incurred pursuant to this subchapter that shall be open to inspection by any officer or duly appointed agent of the State. (Added 1997, No. 43, § 1.)

#### **§ 280x. Obligations; credit of the State not pledged**

Obligations issued under the provisions of this subchapter shall not be deemed to constitute a debt or liability of the State. Each obligation issued under this subchapter shall contain on the face thereof a statement to the effect that the Authority shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor, and that neither the faith and credit nor the taxing power of the State is pledged to the payment of the principal or the interest on such obligations. (Added 1997, No. 43, § 1.)

#### **§ 280y. Public records**

The Authority shall establish policies and procedures to ensure that information relating to the cost of any qualified project is considered a public record, and subject to the provisions of 1 V.S.A. chapter 5, subchapter 2. (Added 1997, No. 43, § 1.)

### ***Subchapter 12: VERMONT ENTREPRENEURIAL LENDING PROGRAM***

#### **§ 280aa. Findings and purpose**

(a)(1) Vermont-based businesses in seed, start-up, and growth stages are a vital source of innovation, employment, and economic growth in Vermont. The continued development and success of these businesses is dependent upon the availability of flexible, risk-based capital.

(2) Because the primary assets of Vermont-based businesses in seed, start-up, and growth stages often consist almost entirely of intellectual property or insufficient tangible assets to support conventional lending, these companies frequently may not have access to conventional means of raising capital, such as asset-based bank financing.

(b) To support the growth of Vermont-based businesses in seed, start-up, and growth stages and the resultant creation of higher-wage employment in Vermont, the General Assembly hereby creates in this subchapter the Vermont Entrepreneurial Lending Program. (Added 2009, No. 54, § 28, eff. June 1, 2009; amended 2013, No. 179 (Adj. Sess.), § F.100; 2013, No. 199 (Adj. Sess.), § 4.)

#### **§ 280bb. Vermont Entrepreneurial Lending Program**

(a) There is created the Vermont Entrepreneurial Lending Program to be administered by the Vermont Economic Development Authority. The Program shall seek to meet the working capital and capital-asset financing needs of Vermont-based businesses in seed, start-up, and growth stages. The Program shall specifically seek to fulfill capital requirement needs that are unmet in Vermont, including:

- (1) loans to manufacturing businesses and software developers with innovative products that typically reflect long-term, organic growth;
- (2) loans up to \$1,000,000.00 in growth-stage companies that do not meet the underwriting criteria of other public and private entrepreneurial financing sources;
- (3) loans to businesses that are unable to access adequate capital resources because the primary assets of these businesses are typically intellectual property or similar nontangible assets; and
- (4) loans to advanced manufacturers and other Vermont businesses for product development and intellectual property design.

(b) The Authority shall adopt regulations, policies, and procedures for the Program as are necessary to increase the amount of investment funds available to Vermont businesses whose capital requirements are not being met by conventional lending sources.

(c) When considering entrepreneurial lending through the Program, the Authority shall give additional consideration and weight to an application of a business whose business model and practices will have a demonstrable effect in achieving other public policy goals of the State, including:

- (1) The business will create jobs in strategic sectors such as the knowledge-based economy, renewable energy, advanced manufacturing, wood products manufacturing, and value-added agricultural processing.
- (2) The business is located in a designated downtown, village center, growth center, industrial park, or other significant geographic location recognized by the State.
- (3) The business adopts energy and thermal efficiency practices in its operations or otherwise operates in a way that reflects a commitment to green energy principles.
- (4) The business will create jobs that pay a livable wage and significant benefits to Vermont employees.
- (5) The business will create environmental benefits or will manufacture environmentally responsible products.

(d) The Authority shall include provisions in the terms of a loan made under the Program to ensure that a loan recipient shall maintain operations within the State for a minimum of five years from the date on which the recipient receives the loan funds from the Authority or shall otherwise be required to repay the outstanding funds in full. (Added 2009, No. 54, § 28, eff. June 1, 2009; amended 2013, No. 179 (Adj. Sess.), § F.100; 2013, No. 199 (Adj. Sess.), § 4; 2015, No. 51, § E.1, eff. June 3, 2015.)

#### **Subchapter 13: VERMONT SUSTAINABLE ENERGY LOAN FUND**

##### **§ 280cc. Creation; purpose; definitions**

(a) There is established within the Authority the Vermont Sustainable Energy Loan Fund, referred to in this subchapter as "the Fund," the purpose of which shall be to enable the Authority to make loans and provide other forms of financing for projects that stimulate and encourage development and deployment of sustainable energy projects in the State of Vermont.

(b) In this subchapter:

- (1) "Renewable energy" shall have the same meaning as in 30 V.S.A. § 8002(17).
- (2) "Sustainable energy" means energy efficiency, renewable energy, and technologies that enhance or support the development and implementation of renewable energy or energy efficiency, or both. (Added 2013, No. 87, § 1, eff. June 17, 2013.)

##### **§ 280dd. Loan programs administered within the Fund**

(a) The Fund shall consist of:

(1) Existing sustainable energy loans made by the Authority, the Vermont Small Business Development Corporation, and the Vermont Agricultural Credit Corporation.

(2) Sustainable energy loans originated under the following programs:

(A) The Small Business Energy Efficiency Loan Program, under which the Authority provides loans for qualifying commercial energy efficiency improvements.

(B) The Renewable Energy Loan Program, which the Authority may create to provide loans for qualifying renewable energy projects.

(C) The Agricultural Energy Loan Program, which the Authority may create to provide loans for qualifying agriculture- and forest product-based sustainable energy projects.

(D) The Energy Efficiency Loan Guarantee Program, which the Authority may create to provide loan guarantees to participating lending institutions that enroll loans for sustainable energy projects in the Program.

(3) Programs created by the Authority pursuant to subsection (c) of this section.

(b) The Fund shall be administered by the Authority and shall not be subject to 32 V.S.A. chapter 7, subchapter 5.

(c) The Authority may establish:

(1) New financing programs that the Authority determines are necessary to encourage and promote sustainable energy projects and reduce reliance upon fossil fuel sources.

(2) Policies and procedures for programs within the Fund that the Authority determines are necessary to carry out the purposes of this subchapter.

(d) For all sustainable energy loans, the Authority shall maintain records on the projected reductions in greenhouse gas emissions and, for energy efficiency loans, the projected energy savings from the financed improvements and shall provide data on the projected greenhouse gas emissions reductions and projected energy savings to the Department of Public Service, the Public Utility Commission, and the Agency of Natural Resources on request. The methods used for calculating and reporting this data shall be the same methods used in programs delivered under 30 V.S.A. § 209(d) and (e). The data provided shall be used for the purpose of tracking progress toward the greenhouse gas reduction goals of section 578 of this title and the building efficiency goals of section 581 of this title. (Added 2013, No. 87, § 1, eff. June 17, 2013.)

#### ***Subchapter 14: BROADBAND EXPANSION LOAN PROGRAM***

##### **§ 280ee. Broadband Expansion Loan Program**

(a) Creation. There is established within the Authority the Vermont Broadband Expansion Loan Program, the purpose of which is to enable the Authority to make loans that expand broadband service to unserved and underserved Vermonters as part of a plan to achieve universal broadband coverage in a municipality or communications union district.

(b) Intent. It is understood that loans under the Program may be high-risk loans to likely start-up businesses and therefore losses in the Program may be higher than the Authority's historical loss rate. Loans shall be underwritten by the Authority utilizing underwriting parameters that acknowledge the higher risk nature of these loans. The Authority shall not make a loan unless the Authority has a reasonable expectation of the long-term viability of the business. The Program is intended to provide start-up loans until such time as the borrower can refinance the loans through, for example, the municipal revenue bond market.

(c) Requirements.

(1) The Authority shall make loans for start-up and expansion of broadband projects in unserved and underserved locations as part of a plan to achieve universal broadband coverage in a municipality or communications union district.

(2) The Authority shall establish policies and procedures for the Program necessary to ensure the expansion of broadband availability to the largest number of Vermont addresses as possible. The policies shall specify that:

- (A) loans may be made in an amount of up to \$4,000,000.00;
- (B) eligible borrowers are:
  - (i) communications union districts;
  - (ii) internet service providers working in conjunction with a communications union district to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in the district; and
  - (iii) internet service providers working in conjunction with a municipality that was not part of a communications union district prior to June 1, 2021 to expand broadband service to unserved and underserved locations as part of a plan to achieve universal broadband coverage in such municipality;
- (C) interest and principal may be deferred up to three years;
- (D) a maximum of \$10,800,000.00 in Authority loans may be outstanding under the Program commencing on June 20, 2019;
- (E) the provider shall offer to all customers broadband service that is capable of speeds of at least 100 Mbps symmetrical; and
- (F) not more than one-sixth of the total allowable loans under this Program shall be available to eligible borrowers under subdivision (2)(B)(iii) of this subsection (c).

(3) To ensure the limited funding available through the Program supports the highest-quality broadband available to the most Vermonters and prioritizes delivering services to the unserved and underserved, the Authority shall consult with the Department of Public Service and the Vermont Community Broadband Board.

(d) On or before January 1, 2020, and annually thereafter, the Authority shall submit a report of its activities pursuant to this section to the Senate Committee on Finance and the House Committees on Commerce and Economic Development and on Energy and Digital Infrastructure. Each report shall include operating and financial statements for the two most recently concluded State fiscal years. In addition, each report shall include information on the Program portfolio, including the number of projects financed; the amount, terms, and repayment status of each loan; and a description of the broadband projects financed in whole or in part by the Program. (Added 2019, No. 79, § 15, eff. June 20, 2019; amended 2021, No. 20, § 45; 2021, No. 71, § 9, eff. June 8, 2021.)

#### **§ 280ff. Funding**

- (a) The State Treasurer, in consultation with the Secretary of Administration, shall negotiate an agreement with the Authority incorporating the provisions of this section and consistent with the requirements of this subchapter.
- (b) State appropriations to the Authority are based on the Authority's contributions to loan loss reserves for the Program in accordance with generally accepted accounting principles. Any difference between the actual loan losses incurred by the Authority in a fiscal year shall be adjusted in the following year's appropriation.
  - (1) This is a revolving loan program.
  - (2) The accumulated total of the appropriation shall not exceed \$8,500,000.00 over the life of the Program.
  - (3) The Authority shall absorb its historical loan loss reserve rate before any State funds are expended.
- (4) Additionally, the Authority shall absorb up to \$3,000,000.00 in Program losses shared with the State on a pro rata basis. (Added 2019, No. 79, § 15, eff. June 20, 2019; amended 2021, No. 71, § 10, eff. June 8, 2021.)

#### **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, including agricultural and forest product enterprises, after disasters.

(2) The Authority shall consult with the Secretary of Commerce and Community Development; the Secretary of Agriculture, Food and Markets; and the Commissioner of Forests, Parks and Recreation in determining whether funds shall be made available following a nondeclared 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:

(i) 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.

(e) In determining whether to issue financial assistance from the Vermont Disaster Recovery Loan Fund established by this subchapter 15, the Authority shall consider whether a business has received disaster recovery financial assistance from the State for the same disaster event. (Added 2025, No. 26, § 1, eff. July 1, 2025.)

## SubcChapter 16A: Vermont Agricultural Credit Program

### **§ 374a280hh. Creation of the Vermont Agricultural Credit Program**

(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.

(6) No borrower shall be approved for a loan from the corporation Authority under this

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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-280ii. 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.)~~

#### § 280jj374d. 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;

(12) ~~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;~~

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

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

(15) ~~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;~~

(16) ~~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;~~

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

(18) ~~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-280kk. 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,

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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.)