

Historic Property Stabilization and Rehabilitation Special Fund

2017 Annual Report





Fuller Farmhouse, Hubbardton, Vermont

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**Submitted to the House Committee on Corrections and Institutions
and the Senate Committee on Institutions
in accordance with 29 V.S.A. §155(c)**

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Executive Summary

The Historic Property Stabilization and Rehabilitation Fund (Fund) finances stabilization and rehabilitation of state-owned historic properties. The Fund was intended to provide net proceeds realized from the sale and/or lease of other vacant or underutilized historic properties owned by the state. This pilot program was to fill a funding gap and provide a higher level of stewardship for state-owned historic resources by allowing private sector partnerships to stabilize and rehabilitate underutilized properties. Sale or lease of any of the eligible properties was not to yield much money, because transfers and leases were coordinated with local municipality and/or non-profit organization with a preservation and history focus.

The Legislative Joint Fiscal Committee approved the proposal for implementing the Fund at its July 21, 2011, meeting. The Vermont Department of Buildings and General Services (BGS), Vermont Division for Historic Preservation (VDHP), and the Vermont Advisory Council on Historic Preservation have worked diligently to transfer, sell, or deaccession properties approved for inclusion in the Fund.

In 2011, the General Assembly approved fourteen historic properties as eligible for this Fund. In 2015, eight properties remained on the list, two of which were added in 2014. In 2016, two properties remained on the list, both pending demolition by July 2017.

Reducing the monies to \$50,000, the General Assembly repealed the Fund in 2016 (H. 878) and Governor Shumlin signed this on July 2, 2016.

Accomplishments in 2017

The appropriated funding amount of \$100,000 was reduced to \$50,000, with those funds to be allocated to the demolition of the Fuller Farmhouse and the Bishop's Cabin.

Farmhouse, St. Albans: Removed from List (H. 878, 2016)

Arsenal and Fairbanks Buildings, Vergennes: Removed from List (H. 878, 2016)

Fuller Farmhouse, Hubbardton: Archaeological and historical studies completed by VDHP staff have aided in recording the archaeological significance of the land associated with the Fuller Farmhouse at the Hubbardton Battlefield, leading to a determination that the property should not be deaccessioned or leased. Removal of any acreage associated with the Revolutionary War battlefield (July 7, 1777) in Hubbardton because of the proposed sale of Fuller Farmhouse would compromise the historical integrity of the site. In 2015, VDHP received a grant from the National Park Services' American Battlefield Protection Program to study the boundaries and national significance of the battlefield, which includes the site where the farmhouse is located. Accordingly, these sensitive archaeological sites must be protected. The 1920s house is non-contributing resource to the battlefield.

VDHP consulted with the Town of Hubbardton Select board and Hubbardton Historical Society, which sought to obtain use of the building as a museum. Funding for the needed renovations to the building and the establishment of a museum was not secured by the town or historical society; VDHP was informed on April 16, 2016 of their desire not to pursue this plan. VDHP, in coordination with BGS, oversaw the demolish of the building in July 2017. The foundation was capped to preserve any potential archaeological sites. The barn shall be retained. The General Assembly approved this action. (H. 878, 2016)

Eureka Schoolhouse and Baltimore Covered Bridge, Springfield: Removed from List (H. 878, 2016)

Bishop’s Cabin, Orwell: Demolished and materials removed in 2016; the General Assembly approved this action. (H. 878, 2016)

Burtch-Udall House, Quechee: Removed from List (H. 878, 2016)

Kent Tavern Museum, Calais: Removed from List (H. 878, 2016)

Property	Town	Dept	Proposed Action	2017 Finding/Action	Income to Fund
Farmhouse and barn, 3469 Lower Newton Rd	St. Albans	BGS	Subdivide and sell the house, barn, and up to 10 acres	Removed from List (H. 878)	\$0
Arsenal & Fairbanks buildings	Vergennes	BGS		Removed from List (H. 878)	\$0
Fuller Farmhouse	Hubbardton	VDHP	Demolish house and cap foundation	Building demolished and foundation capped (Barn retained)	\$0
Eureka Schoolhouse and Baltimore Covered Bridge	Springfield	VDHP	Continue use as state historic site open to public	Removed from List (H. 878)	\$0
Bishop’s Cabin	Orwell	VDHP	Demolish cabin and preserve archaeological site	Building demolished Removed from List (H. 878)	\$0
Burtch-Udall (Theron Boyd House)	Quechee	VDHP	Identify opportunities for leasing, partnering, or otherwise enhancing use of property	Tours by appointment. Outreach to three interested neighbor for leases of land; two lease agreements signed and one pending. Removed from List (H. 878)	\$0
Kent Tavern Museum	Calais	VDHP	Identify opportunities for leasing, partnering, or otherwise enhancing property	Tours by appointment. Removed from List (H. 878)	\$0

The lack of revenue from this pilot program has suggested it is not overwhelmingly successful. Therefore, during the 2016 session, the General Assembly repealed the Fund. The remaining activities included:

- Funds reduction from \$100,000 to \$50,000 in July 2016 (FY17)
 - The fund covered the costs for razing Bishop’s Cabin and removal of the materials in winter 2016 (FY16). Total costs \$17,083.
 - The fund was to cover the cost for razing Fuller Farmhouse, removal of the materials, and capping of the foundation in July 2017 (contract was executed June 2017). Total cost \$18,100.
 - The funds to cover this \$18,100 expenditure were recaptured by the legislature in July 2017. Although the expense had already been incurred, the funds were not encumbered in the Vision system. To address this issue, VDHP paid the contractor’s bill out of its Major Maintenance funding from the Capital Construction Bill. To allow VDHP and BGS to properly close out this program and all related accounts, \$18,100 of the recaptured funds (out of the \$32,917 total recapture) should be reinstated so that they can be credited back to the Major Maintenance funding for State Historic Sites.
- Fund was terminated in July 2017 (end of FY17).
- Because the Fund’s operations have been completed, this will be the final report for this Fund.

Annual Review of the Fund by BGS and the Vermont Advisory Council on Historic Preservation:

The Fund is a self-contained, funded program, revenue to expenditures. The Fund was seeded with a \$100,000 appropriation and possible net proceeds from the sale or lease of properties approved in ACT 40 of 2011. The annual balance is limited to \$250,000. Any unencumbered overage returns to the General Fund for reallocation.

In accordance with the Fund management process, approved by the Legislative Joint Fiscal Committee in July 2011, meetings were held to discuss and review the status of the program. The annual review meeting between BGS and VDHP was held on September 17, 2017, to discuss the status and sunset of the Fund per recent legislation.

A draft of this report was distributed to the Vermont Advisory Council on Historic Preservation (Council) in and was discussed at their November 2017, meeting. The Council unanimously made the following motion:

The Council has reviewed and concurs with the Draft 2017 Annual Report to the General Assembly on the Historic Property Stabilization & Rehabilitation Special Fund.

The Fund: Program Description and Process

1. Purpose of the fund

Act No. 40 (“An act relating to capital construction and state bonding”) established the Historic Property Stabilization and Rehabilitation Special Fund (Fund) during the 2011 Legislative session. An innovative partnership between the BGS and VDHP, the Fund finances stabilization and rehabilitation of state-owned historic properties from the net proceeds realized from the sale and/or lease of other under-utilized historic properties owned by the state. The Fund is a pilot program at this time; it only includes historic properties owned by BGS and VDHP as designated by the General Assembly.

The Fund:

- Fills a funding gap and provides a higher level of stewardship for state-owned historic resources.
- allowed the state to comply with 22 V.S.A. §14, which directs state agencies to develop plans for maintaining historic properties under their ownership and to institute procedures to assure plans and programs contribute to the preservation of historic properties in their portfolio, while avoiding unreasonable economic burden to the state.
- ensured the historic integrity of properties sold or leased with historic preservation easements or covenants.
- allowed the state to form private-sector partnerships in order to stabilize and rehabilitate underutilized properties.
- was a self-contained special fund program.

2. Statutory Authority

The Fund was established by Act No. 40 during the 2011 Legislative session by amending 29 V.S.A. §155. Act No. 41 during the 2012 Legislative session amended the law. The Fund is managed by and under the authority and control of the Commissioner of BGS. (See Appendix II for the full text.)

During the 2012 legislative session, the General Assembly amended 29 V.S.A. §155 to:

- 1) Include net revenue from “lease” of properties, along with sale, into the Fund.
- 2) Clarified that, if the Fund balance exceeds \$250,000 as of November 15 in any year, then the general assembly shall reallocate “funds not subject to encumbrances for other purposes.”

- 3) Clarified the purposes of the Fund to state that “rehabilitation and stabilization” include “payment of costs of historic resource evaluations and archaeological investigations, for building assessments related to a potential sale, or lease, for one-time fees for easement stewardship and monitoring, and for related one-time expenses.”
- 4) Clarified that “lease” of historic properties are included in the Fund.

The Legislative Joint Fiscal Committee approved the proposal for implementing the Fund at its July 21, 2011, meeting. The Fund was repealed by the committee in 2016.

3. Summary

All state agencies own and manage historic properties and there are not enough monies to maintain and manage all of them. BGS owns and/or administers over 150 buildings that have been identified as historic. VDHP owns and maintains 83 buildings, structures, and sites. Most are actively used for state programs and services under a stable preservation maintenance program. Several of those owned by VDHP are open to the public. Some, however, are vacant or underutilized, with little prospect for productive use. In times of tight budgets, maintenance is often lacking and many of the buildings considered neglected. The establishment of the Fund was an innovative response to this problem, one that prioritized underutilized properties for stabilization and rehabilitation, provided a revenue stream to help fund needed repairs, and fostered the lease or sale of properties that would better serve non-state purposes. Included in the list of properties for possible lease or sale were some owned by VDHP that were not related to the mission of the state historic sites program. Several of these properties (such as Bishop’s Cabin, in Orwell, and Fuller Farmhouse, in Hubbardton) are not open to the public.

The Fund is not meant as a substitute for capital budget support for the state historic sites that are maintained by VDHP and open to the public. Maintenance and operation of the state-owned historic sites regularly open to the public continue to be funded in the capital budget. Two properties currently not officially open to the public -- Kent Tavern Museum and the Theron Boyd House – were added to the Fund to supplement capital budget appropriations for work necessary to stabilize and maintain them. They have since been removed from the Fund.

It was the intention of the State that historic properties be kept by the State in its portfolio. However, if the Commissioner of BGS determines, based upon a recommendation from the Fund Advisory Group, that an investment from the Fund is necessary to secure a building from further deterioration, or to conduct an archaeological study, or for any other necessary purpose PRIOR to transfer or sale, then use of the Fund was appropriate, and the historic property could be removed from the State’s portfolio.

Deaccessioning, transfer or sale of historic buildings was based on the following criteria:

- a building was not suited to serve a mission-related purpose;
- a building would better serve the public in non-state ownership and/or use; and/or
- there was better opportunity for long-term preservation than if the building remained in state ownership.

Prior to transferring a property to a municipal or non-profit entity, it was important to ascertain that entity’s commitment and ability to sustain future operating and maintenance costs.

Each year, BGS and VDHP held an Annual Review meeting to review activities and accomplishments of the program during the previous year, selected the priority projects that will be funded in the following calendar year, and ensured that no funds above \$250,000 remain unobligated.

4. Management of the Fund

The BGS Commissioner managed the program associated with the Fund with a dedicated Fund Advisory Group consisting of a BGS Commissioner designee; the State Curator and Assistant State Curator; the State Historic

Preservation Officer or designee, and State Historic Sites Chief or designee; and the Commissioner of the Department of Housing and Community Development or designee. The Advisory Group makes recommendations to the BGS Commissioner on the operations of the Fund.

The BGS Commissioner, working with the Fund Advisory Group, submitted a Report to the Legislature by January 15 of each year, developed on the following timetable and outline:

- Annual Review meeting between BGS and VDHP held each year
- Draft of Report circulated to Advisory Council on Historic Preservation each year
- The Report included information on deposits, disbursements, properties sold and stabilized or rehabilitated, and plans for future property transfers, leases and stabilization or rehabilitation of state-owned properties, and recommendations for changes and improvements in the program.

The Advisory Group meet and requested disbursements from the Fund as needed. Requests were presented to the BGS Commissioner for his/her review and final approval.

5. Deposits into the Fund

The Fund received \$100,000 in the FY12 capital bill. This was reduced to \$50,000 in the FY17 capital bill.

The FY12 capital bill authorized the deposit of net revenues from:

- the sale of 3469 Lower Newton Road, St. Albans
- the sale or lease of the Fuller Farmhouse at the Hubbardton Battlefield, Hubbardton
- from the donation of the Hyde Log Cabin, Grand Isle
- from the sale or lease of the Bishop Cabin at Mount Independence
- from the donation of the Bradley Law Office, Westminster
- from the donation or sale of the Eureka Schoolhouse, Springfield

BGS Commissioner was to deposit net revenues into the Fund. The Fund balance on November 15 of any year was capped at \$250,000. Unobligated monies in excess of that amount were to be reallocated by the General Assembly for other purposes in the next enacted capital appropriations bill. BGS Commissioner was authorized to seek needed appropriations through the Capital Budget.

Historic properties transferred out of state ownership were protected with a covenant and/or historic preservation easement as VDHP deemed necessary. The intent was to protect the exterior of the building, any outstanding interior features and/or associated collections, and, if warranted, associated property and landscape features, and/or archaeological sites. VDHP recommended historic features that should be protected, and required that the property owner obtain VDHP's prior written approval before undertaking any construction, alteration, rehabilitation, or other activity that might affect the protected features of the historic property.

6. Disbursements from the Fund

The Fund was to be used for: 1) rehabilitation or stabilization of state-owned historic properties; 2) payment of costs of historic resource evaluations, archaeological investigations, and/or building assessments related to potential sale, transfer, or lease; 3) easement stewardship fees; and 4) other related expenses. The Fund was available for payment of easement stewardship fees that cover baseline documentation and annual stewardship monitoring.

Appendix I

Act No. 40 An act relating to capital construction and state bonding. (H. 446). Approved May 20, 2011. 29 V.S.A. §155 was amended during the 2012 legislative session.

REPEALED H. 878 (2016 legislative session)

Sec. 25. PROPERTY TRANSACTIONS; MISCELLANEOUS

(f) Following consultation with the state advisory council on historic preservation as required by 22 V.S.A. §742(7) and pursuant to 29 V.S.A. §166, the commissioner of buildings and general services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(b) The commissioner of buildings and general services on behalf of the division for historic preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by Sec. 30 of this act:

- (1) Fuller farmhouse at the Hubbardton Battlefield state historic site, authority to sell or enter into a long-term lease with covenants.
- (2) Hyde log cabin in Grand Isle, authority to donate property free of covenants to Grand Isle or, in the alternative, to donate the building to Hyde Park, or in the alternative to sell the property.
- (3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to sell or enter into a long-term lease with covenants on the land.
- (4) Eureka Schoolhouse in Springfield, authority to transfer with covenants to a local organization or, in the alternative, to sell the property.
- (5) Bradley Law Office in Westminster, authority to transfer with covenants to a local organization.

Sec. 30. 29 V.S.A. §155 is added to read:

§155. HISTORIC PROPERTY STABILIZATION AND REHABILITATION SPECIAL FUND

(a) There is established a special fund managed by and under the authority and control of the commissioner, comprising net revenue from the sale or lease of underutilized state-owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the fund; provided, however, that if the fund balance exceeds \$250,000.00 as of November 15 in any year, then the general assembly shall reallocate the funds not subject to encumbrances for other purposes in the next enacted capital appropriations bill.

(b) Monies in the fund shall be available to the department for the rehabilitation or stabilization of state-owned historic properties that are authorized by the general assembly to be in the fund program, for payment of costs of historic resource evaluations and archaeological investigations, for building assessments related to a potential sale or lease, for one-time fees for easement stewardship and monitoring, and for related one-time expenses.

(c) On or before January 15 of each year, the department shall report to the house committee on corrections and institutions and the senate committee on institutions concerning deposits into and disbursements from the fund

occurring in the previous calendar year, the properties sold, leased, and stabilized or rehabilitated during that period, and the department's plans for future stabilization or rehabilitation of state-owned historic properties.

(d) Annually, the list presented to the general assembly of state-owned property the commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the commissioner has identified as underutilized state-owned historic property pursuant to subsection (b) of this section.

(e) For purposes of this section, "historic property" has the same meaning as defined in 22 V.S.A. §701.

Sec. 31. TRANSITION; FUNDING

(a) On or before July 15, 2011, the department of buildings and general services and the division for historic preservation shall develop a proposal for the program required in Sec. 30, 29 V.S.A. §155(b), of this act and shall present the proposal to the chairs of the house committee on corrections and institutions and the senate committee on institutions. The chairs shall review the proposal and recommend to the joint fiscal committee whether or not to approve the proposal. After review of the proposal and the chairs' recommendations, the joint fiscal committee shall approve the proposal, disapprove the proposal, or direct the departments to amend and resubmit the proposal to the chairs by a date certain.

(b) Of the funds appropriated in Sec. 6(a)(3) of this act, the sum of \$100,000 is allocated in fiscal year 2012 to the historic property stabilization and rehabilitation special fund created in Sec. 30 of this act.

Appendix II

Title 22: Libraries, History, and Information Technology

Chapter 14: HISTORIC PRESERVATION

22 V.S.A. §701. Definitions

(6) "Historic property" or "resource" means any building, structure, object, district, area or site that is significant in the history, architecture, archaeology or culture of this state, its communities or the nation.

22 V.S.A. §743. Cooperation of agencies

An agency, department, division or commission shall:

(1) Consult the Vermont advisory council on historic preservation before demolishing, altering or transferring any property that is potentially of historical, architectural, archaeological or cultural significance, including any property listed on the state register. An agency, department, division or commission shall submit its annual capital improvement plan to the council.

(2) Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation or restoration, of properties under its ownership that are listed on the state or National Register; the measures and procedures shall comply with applicable standards prescribed by the state historic preservation division.

(3) Develop plans for the maintenance, through preservation, rehabilitation or restoration, of historic properties under their ownership in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public interest.

(4) Institute procedures to assure that its plans, programs, codes and regulations contribute to the preservation and enhancement of sites, structures and objects of historical, architectural, archaeological or cultural significance. (Added 1975, No. 109, § 4.)

22 V.S.A. §742. Duties and powers of the council

(7) Provide an advisory and coordinative mechanism by which state undertakings of every kind which are potentially deleterious to historic preservation may be discussed, and, where possible, resolved, giving due consideration to the competing public interests which may be involved. The head of any state agency or department having direct or indirect jurisdiction over a proposed state or state-assisted undertaking, or independent agency having authority to build, construct, license, permit, authorize or approve any undertaking, shall prior to the approval of the state funds for the undertaking, or prior to any approval, license, permit or authorization as the case may be, take into account the effect of the undertaking on any historic property that is included in the state register of historic places. Where, in the judgment of the council such undertaking will have an adverse effect upon any listed district, area, site, building, structure or object, the head of the state agency or department shall afford the council reasonable opportunity to comment with regard to the undertaking.

(8) Advise on any participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties and sites and approve any participation in the review of nonfederal undertakings, including, but not limited to proceedings under the state land use and development act (10 V.S.A. chapter 151).

22 V.S.A. §765. Transfer of state property

When transferring real property under its jurisdiction that contains significant archaeological, aboriginal or other anthropological resources, the state, may, upon the recommendation of the state historic preservation officer, with the advice of the state archaeologist, condition the transfer upon such covenants, deed restrictions or other

contractual arrangements as will limit the future use of the property in such a way as will protect those resources. (Added 1975, No. 109, §4; amended 1995, No. 46, §47.)

22 V.S.A. §766. Reservation of lands to be sold

Upon written notice to the head of a state agency administering state lands, given by the state historic preservation officer, with the advice of the state archaeologist, the agency head shall reserve from sale any state lands, including lands forfeited to the state for nonpayment of taxes, on which sites or artifacts are located or may be found, as designated by the state archaeologist under section 763 of this title, provided, however, that the reservation of the lands from sale may be confined to the actual location of the site or artifacts. When the sites or artifacts have been explored, excavated or otherwise examined to the extent desired by the state archaeologist, he or she shall then file with the agency head a statement releasing the lands and permitting their sale. (Added 1975, No. 109, § 4; amended 1995, No. 46, § 48.)

22 V.S.A. §767. Cooperation between agencies

All state agencies, departments, institutions and commissions, as well as all municipalities, shall cooperate fully with the state archaeologist in the preservation, protection, excavation, and evaluation of specimens and sites; and to that end:

- (1) When any state, regional or municipal agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any state, state assisted, state licensed, or contracted project, activity, or program adversely affects or may adversely affect scientific, historical, or archaeological data, the agency shall notify the state archaeologist and shall provide him or her with information concerning the project, program, or activity. The provisions of this chapter shall be made known to contractors by the state agencies doing the contracting.
- (2) The state archaeologist, upon notification or determination that scientific, historical, or archaeological data including specimens, is or may be adversely affected, shall, after reasonable notice to the responsible agency, conduct or cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in its opinion should be recovered in the public interest.
- (3) The division shall initiate actions within 60 days of notification under subdivision (1) of this subsection and within such time as agreed upon in other cases. The responsible agency is authorized and directed to expend agency funds for the purpose of recovering the data, including analysis and publications, and the costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a state agency. (Added 1975, No. 109, §4.)