

1 H.241

2 Introduced by Representatives Malcolm of Pawlet, Potter of Clarendon,
3 Lawrence of Lyndon, Stevens of Shoreham, Ainsworth of
4 Royalton, Botzow of Pownal, Bray of New Haven, Partridge of
5 Windham and Taylor of Barre City

6 Referred to Committee on

7 Date:

8 Subject: Conservation; economic development; forestry

9 Statement of purpose: This bill proposes to amend the Vermont agricultural
10 credit program to provide financial assistance to the forestry, timber
11 harvesting, and forest products industries in the state.

12 An act relating to amending the Vermont agricultural credit program to
13 include forestry, timber harvesting, and forest products manufacturing

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

15 Sec. 1. FINDINGS

16 The general assembly finds that:

17 (1) The forests of Vermont are integral to the economy, culture, beauty,
18 and appeal of the state.

19 (2) Forest-based manufacturing and forest-related recreation and tourism
20 contribute \$1.5 billion to the Vermont economy annually.

1 (3) Revenues from forest-related recreation and tourism activities
2 totaled \$485 million in 2005.

3 (4) Forest-based manufacturing contributes approximately 10 percent of
4 Vermont's total manufacturing sales.

5 (5) The forest-based manufacturing industry provides employment for
6 6,379 people and generates a payroll of over \$207.4 million.

7 (6) Forest-based recreation and tourism provide employment for over
8 6,300 people and generate payrolls of \$93.0 million.

9 (7) Each 1,000 acres of forestland in Vermont supports 1.4 forest-based
10 manufacturing, forestry, and logging jobs and 1.4 forest-related tourism and
11 recreation jobs.

12 (8) Wood provides the energy for approximately six percent of electrical
13 and heating use in Vermont.

14 (9) The forests of Vermont also help maintain the environment and
15 health of Vermont by aiding the filtering of clean water and clean air and by
16 providing wildlife habitat to a diversity of animals.

17 (10) Despite the significant, unparalleled contributions of the forests,
18 forest-based manufacturing, and forest-related recreation and tourism to the
19 state's economy, jobs, energy, and environment, the forestry and forest
20 products industries receive considerably less support and financial assistance
21 afforded other Vermont industries, such as agriculture.

1 farmers, timber harvesters, and forest products manufacturers who are not
2 having their credit needs fully met by conventional ~~agricultural~~ credit sources
3 at reasonable rates and terms. The program is intended to meet, either in
4 whole or in part, the credit needs of eligible agricultural facilities ~~and~~, farm
5 operations, timber harvesters, and forest products manufacturers in fulfillment
6 of one or more of the purposes listed in this subsection by making direct loans
7 and participating in loans made by other agricultural credit providers:

8 (1) to encourage diversification, cooperative farming and the
9 development of innovative farming techniques;

10 (2) to increase energy efficiency and reduce energy consumption in
11 agricultural facilities, including the construction of water pollution control
12 facilities which implement best management practices for farm waste
13 abatement pursuant to chapter 215 of Title 6;

14 (3) to encourage innovative and diversified processing, marketing, and
15 distribution of Vermont agricultural products and forest products;

16 (4) to assist beginning farmers to start new farms and new agricultural
17 facilities to commence or strengthen their operations;

18 (5) to assist or financially strengthen existing farms, timber harvesting
19 operations, and forest product manufacturers; and

1 indebtedness incurred for farm ownership, ownership of a forest products
2 manufacturing facility, or operating loan purposes, or ~~both~~ any of these.

3 (5) "Authority" means the Vermont economic development authority.

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

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

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

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

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

15 (8) "Farm operation" shall mean the cultivation of land or other uses of
16 land for the production of food, fiber, horticultural, orchard, maple syrup,
17 Christmas trees, or forest crops; the raising, boarding, and training of equines,
18 and the raising of livestock; or any combination of the foregoing activities.

19 Farm operation also includes the storage, preparation, retail sale, and
20 transportation of agricultural commodities accessory to the cultivation or use
21 of such land.

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

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

9 (11) "Operating loan" means a loan to purchase livestock, farm
10 equipment, or fixtures to pay annual operating expenses of a farm operation ~~or~~,
11 agricultural facility, timber harvester, or forest products manufacturer; to pay
12 loan closing costs; and to refinance indebtedness incurred for farm ownership
13 or operating loan purposes; or both.

14 (12) "Program" means the Vermont agricultural and forestry credit
15 program established by this chapter.

16 (13) ~~"Project" or "Project,"~~ "agricultural ~~project" project,"~~ "timber
17 harvesting project," or "forest products manufacturing project" means the
18 creation, establishment, acquisition, construction, expansion, improvement,
19 strengthening, reclamation, operation, or renovation of an agricultural facility
20 ~~or~~, farm operation, timber harvesting project, or forest products manufacturing
21 facility.

1 (14) “Resident” means a person who is or will be domiciled in this state
2 as evidenced by an intent to maintain a principal dwelling place in the state
3 indefinitely and to return there if temporarily absent, coupled with an act or
4 acts consistent with that intent, including but not limited to the filing of a
5 Vermont income tax return within 18 months of the application for a loan
6 under this chapter. In the case of a limited liability company, partnership,
7 corporation or other business entity, resident means a business entity formed
8 under the laws of Vermont, the majority of which is owned and operated by
9 Vermont residents who are natural persons.

10 (15) “Forestland” means land capable of supporting timber harvesting.

11 (16) “Forest products manufacturer” means a person engaged in
12 processing, preparing, or producing logs, pulpwood, veneer, bolt wood, wood
13 chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, nursery
14 products, furniture, or other finished wood products.

15 (17) “Timber harvester” means a person engaged in harvesting trees
16 from forestland in the state under a contract or subcontract, directly or
17 indirectly, for a forest landowner or as a forest landowner.

18 § 374c. INCORPORATION; BOARD OF DIRECTORS

19 The Vermont economic development authority shall incorporate a nonprofit
20 corporation to administer the Vermont agricultural and forestry credit program
21 and to fulfill the goals and purposes of this chapter. The board of directors of

1 the authority shall contain members who represent or have knowledge of
2 agriculture, farming, timber harvesting, or forest products manufacturing. The
3 voting members of the authority shall be the board of directors of the
4 corporation, and the manager of the authority shall serve as the president and
5 chief executive officer of the corporation. Such corporation shall be organized
6 and operate under the nonprofit corporation laws of the state of Vermont to the
7 extent not inconsistent herewith. The authority will have the power to contract
8 with the corporation to provide staff and management needs of the corporation.

9 § 374d. GENERAL POWERS

10 The corporation shall have the powers necessary to carry out the purposes
11 and provisions of this chapter, including those general powers provided a
12 business corporation by section 302 of Title 11A. In addition, the corporation
13 shall have the power to:

14 * * *

15 (11) take title, by foreclosure or other process available under the law, to
16 any real or personal property where such action is necessary to protect any loan
17 previously made by the corporation, pay all costs arising out of the legal action
18 and acquisition from monies held in the fund, and sell or transfer any such
19 property to any responsible buyer. If the transfer or conveyance of assets
20 acquired under this subdivision cannot be effected with reasonable promptness,
21 the corporation may, in order to minimize financial losses and sustain a farm

1 operation ~~or~~, agricultural facility, timber harvesting operation, or forest
2 products manufacturing facility, lease the assets owned by it to responsible
3 persons on such terms and conditions as the corporation deems reasonable;

4 * * *

5 (16) sell loans, or portions thereof, in order to provide further funding
6 for lending under this chapter. Proceeds from sales of loans shall be deposited
7 in the agricultural and forestry credit development fund established under
8 section 374e of this title;

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

11 (18) do all things necessary to carry out the purposes and provisions of
12 this chapter.

13 § 374e. AGRICULTURAL AND FORESTRY CREDIT DEVELOPMENT
14 FUND

15 The agricultural and forestry credit development fund is created and shall be
16 used by the corporation for the purposes of this chapter. All reasonable
17 administrative expenses of the corporation shall be paid from the fund. The
18 fund shall be credited with any appropriations made by the general assembly,
19 all payments of principal and interest received from loans transferred or
20 assigned to or made by the corporation, any available grants or gifts made to
21 the corporation, the proceeds of any sale, transfer, pledge, mortgage,

1 (2) an owner, prospective purchaser, or lessee of agricultural or forested
2 land in the state or of depreciable machinery, equipment, or livestock to be
3 used in the state;

4 (3) a person of sufficient education, training, or experience in the
5 operation and management of an agricultural facility ~~or~~ farm operation, timber
6 harvesting operation, or forest products manufacturing facility of the type for
7 which the applicant requests the loan;

8 (4) an operator or proposed operator of an agricultural facility ~~or~~ farm
9 operation, timber harvesting operation, or forest products manufacturing
10 facility for whom the loan reduces investment costs to an extent that offers the
11 applicant a reasonable chance to succeed in the operation and management of
12 an agricultural facility ~~or~~ farm operation, timber harvesting operation, or forest
13 products manufacturing facility;

14 (5) a creditworthy person under such standards as the corporation may
15 establish;

16 (6) able to provide and maintain adequate security for the loan by a
17 mortgage on real property or a security agreement and perfected financing
18 statement on personal property;

19 (7) able to demonstrate that the applicant is responsible and able to
20 manage responsibilities as owner or operator of the farm operation ~~or~~,

1 agricultural facility, timber harvesting operation, or forest products
2 manufacturing facility;

3 (8) able to demonstrate that the applicant has made adequate provision
4 for insurance protection of the mortgaged or secured property while the loan is
5 outstanding;

6 (9) a person who possesses the legal capacity to incur loan obligations;

7 (10) in compliance with such other reasonable eligibility standards as
8 the corporation may establish;

9 (11) able to demonstrate that the project plans comply with all
10 regulations of the municipality where it is to be located and of the state of
11 Vermont;

12 (12) able to demonstrate that the making of the loan will be of public
13 use and benefit;

14 (13) able to demonstrate that the proposed loan will be adequately
15 secured by a mortgage on real property with a satisfactory maturity date in no
16 event later than 20 years from the date of inception of the mortgage, or by a
17 security agreement on personal property with a satisfactory maturity date in no
18 event longer than the average remaining useful life of the assets in which the
19 security interest is being taken; and

20 (14) there will be sufficient projected cash flow to service a reasonable
21 level of debt, including the loan or loans, being considered by the corporation.

1 Sec. 3. VERMONT ECONOMIC DEVELOPMENT AUTHORITY

2 On or before January 15, 2011, the Vermont economic development
3 authority shall report to the house and senate committees on agriculture, the
4 house and senate committees on natural resources and energy, the house
5 committee on commerce, and the senate committee on finance regarding
6 assistance provided to the forestry and forest products industries from the
7 Vermont agricultural and forestry credit fund. The report shall include:

8 (1) An accounting of the applications received from and the assistance
9 granted to the forestry and forest products manufacturing industries from the
10 agricultural and forestry credit fund;

11 (2) A summary of why any applications for assistance received from the
12 forestry and forest products manufacturing industry were denied;

13 (3) A recommended program for providing assistance to members of the
14 forestry and forest products manufacturing industries that would otherwise not
15 qualify for assistance from the agricultural and forestry credit fund. The
16 recommended program shall include the proposed funding that would be
17 available for assistance, the eligibility requirements for loans under the
18 program, and any security that the program would require, such as a cash
19 reserve to address delinquent loans.