

Vermont Statutes
Title 10: Conservation and Development
Chapter 15: Vermont Housing and Conservation Trust Fund

Subchapter 1. General Provisions

§ 301. Short Title

This chapter may be cited as the "Vermont Housing and Conservation Trust Fund Act."
(Added 1987, No. 88, § 1, eff. June 11, 1987.)

§ 302. Policy, findings and purpose

- (a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, historic properties, important natural areas and recreational lands are of primary importance to the economic vitality and quality of life of the state.
- (b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, Vermont should encourage and assist in creating affordable housing and in preserving the state's agricultural land, historic properties, important natural areas and recreational lands.
- (c) It is the purpose of this chapter to create the Vermont housing and conservation trust fund to be administered by the Vermont housing and conservation board to further the policies established by subsections (a) and (b) of this section. (Added 1987, No. 88, § 1, eff. June 11, 1987.)

§ 303. Definitions

As used in this chapter:

- (1) "Board" means the Vermont housing and conservation board established by this chapter.
- (2) "Fund" means the Vermont housing and conservation trust fund established by this chapter.
- (3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:
 - (A) the preservation, rehabilitation or development of residential dwelling units which are affordable to lower income Vermonters;
 - (B) the retention of agricultural land for agricultural use;
 - (C) the protection of important wildlife habitat and important natural areas;
 - (D) the preservation of historic properties or resources;
 - (E) the protection of areas suited for outdoor public recreational activity;
 - (F) the development of capacity on the part of an eligible applicant to engage in an eligible activity.
- (4) "Eligible applicant" means any municipality, department of state government as defined in 10 V.S.A. § 6302(a), nonprofit organization qualifying under section 501(c)(3) of the Internal Revenue Code or cooperative housing organization, the purpose of which is the creation or retention of affordable housing for lower income

Vermonters and the bylaws of which require that such housing be maintained as affordable housing for lower income Vermonters on a perpetual basis.

- (5) "Lower income" means less than or equal to the median income based on statistics from state or federal sources.
- (6) "Important natural area" means any area containing one or more endangered species as defined in 10 V.S.A., chapter 123 or any area essential to maintaining the ecological diversity or natural heritage of the state.
- (7) "Historic property or resource" means any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of this state, its communities or the nation. (Added 1987, No. 88, § 1, eff. June 11, 1987.)

Subchapter 2. Establishment and Organization

§ 311. Creation of the Vermont housing and conservation board.

- (a) There is created and established a body politic and corporate to be known as the "Vermont housing and conservation board" to carry out the provisions of this chapter. The board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the state. The board is exempt from licensure under chapter 73 of Title 8.
- (b) The board shall consist of nine members, including ex officio the commissioner of agriculture, food and markets, the secretary of commerce and community development, the secretary of natural resources and the executive director of the Vermont housing finance agency, or their designees, and five public members who shall be residents of the state and who shall in the opinion of the governor be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreational lands. At least one member shall be a representative of lower income Vermonters and one member shall be a farmer as defined in 32 V.S.A. § 3752(7). The public members shall be appointed by the governor with the advice and consent of the senate for three-year terms beginning on February 1 of the year in which the appointment is made, except that the first members appointed by the governor to the board shall be appointed, one for a term of one year, two for a term of two years and two for a term of three years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.
- (c) Annually, the board shall elect from among its public members a chair and vice-chair. The board may elect such officers as it may determine. Meetings shall be held at the call of the chair or at the request of three members. A majority of the sitting members shall constitute a quorum and action taken by the board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.
- (d) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each such member shall be reimbursed from the fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.
- (e) The board shall employ an executive director to administer, manage and direct the affairs and business of the board, subject to the policies, control and direction of the members. The board may employ technical experts and such other officers, agents and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties and compensation. The board shall use the office of the attorney general for legal services. (Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1987, No. 203 (Adj. Sess.), § 18, eff. May 27, 1988; 1995, No. 190 (Adj. Sess.), § 1(b).)

§ 312. Creation of Vermont housing and conservation trust fund.

There is created a special fund in the state treasury to be known as the "Vermont housing and conservation trust fund." The fund shall be administered by the board and expenditures therefrom shall only be made to implement and effectuate the policies and purposes of this chapter. The fund shall be comprised of 50 percent of the revenue from

the property transfer tax under [chapter 231](#) of [Title 32](#) and any moneys from time to time appropriated to the fund by the general assembly or received from any other source, private or public, approved by the board. Unexpended balances and any earnings shall remain in the fund for use in accord with the purposes of this chapter. (Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1997, No. 156 (Adj. Sess.), § 40; 1999, No. 49, § 79.)

§ 313. Expenditure of bond proceeds.

Any proceeds of state bonds issued in support of activities under this chapter shall be used exclusively for the funding of long-term, tangible capital investments and those capital expenses allowed under federal laws governing the use of state bond proceeds as determined with the guidance of the state of Vermont's bond counsel. No bond proceeds shall be used to fund the operational expenses of the board. For purposes of this section, "operational expenses" shall include costs related to persons directly employed or under contract to provide administrative, clerical, financial, lobbying, policy analysis, or research services. (Added 1991, No. 256 (Adj. Sess.), § 21a, eff. June 9, 1992.)

§ 314. Repealed. 1973, No. 197 (Adj. Sess.), § 4.

Subchapter 3. Powers and Duties

§ 321. General powers and duties.

- (a) The board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided to a business corporation by section 1852 of [Title 11](#) and including, without limiting the generality of the foregoing, the power to:
 - (1) upon application from an eligible applicant in a form prescribed by the board, provide funding in the form of grants or loans for eligible activities;
 - (2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this state to carry out the purposes of this chapter;
 - (3) issue rules in accordance with [3 V.S.A. chapter 25](#) for the purpose of administering the provisions of this chapter.
 - (4) transfer funds to the department of housing and community affairs to carry out the purposes of this chapter.
- (b) The board shall seek out and fund not-for-profit organizations and municipalities that can assist any region of the state which has high housing prices, high unemployment and low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing. The board shall administer the "HOME" affordable housing program which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The state of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and outcomes that VHCB will annually report on to the Vermont department of housing and community affairs.
- (c) On behalf of the state of Vermont, the board shall seek and administer federal farmland protection funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter.
- (d) The board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and state bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the

location of the proposed grant activity. (Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1991, No. 93, § 16a, eff. June 26, 1991; 1995, No. 46, § 27; No. 62, § 54, eff. April 26, 1995; amended § b, added § c, 2005.)

§ 322. Allocation system.

- (a) In determining the allocation of funds available for the purposes of this chapter, the board shall give priority to projects which combine the dual goals of creating affordable housing and conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreation lands and also shall consider, but not be limited to, the following factors:
- (1) the need to maintain balance between the dual goals in allocating resources;
 - (2) the need for a timely response to unpredictable circumstances or special opportunities to serve the purposes of this chapter;
 - (3) the level of funding or other participation by private or public sources in the activity being considered for funding by the board;
 - (4) what resources will be required in the future to sustain the project;
 - (5) the need to pursue the goals of this chapter without displacing lower income Vermonters;
 - (6) the long-term effect of a proposed activity and, with respect to affordable housing, the likelihood that the activity will prevent the loss of subsidized housing units and will be of perpetual duration.
 - (7) geographic distribution of funds.
- (b) The board's allocation system shall include a method, defined by rule, that evaluates the need for, impact and quality of activities proposed by applicants. (Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1997, No. 156 (Adj. Sess.), § 45, eff. April 29, 1998.)

§ 323. Annual report

Prior to January 31 of each year, the board shall submit a report concerning its activities to the governor and legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions. The report shall include, but not be limited to, the following:

- (1) a list and description of activities funded by the board during the preceding year;
- (2) a list of contributions received by the board, whatever their form or nature, and the source thereof, unless anonymity is a condition of a particular contribution;
- (3) a full financial report of the board's activities, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;
- (4) if more than 70 percent of the funds allocated by the board during the previous year were allocated to either one of the dual goals of this chapter, as established in section 302(a) of this title, the board shall set forth its reasons for not allocating funds more equally between the two. (Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1991, No. 93, § 16, eff. June 26, 1991.)

§ 324. Stewardship.

If an activity funded by the board involves acquisition by the state of an interest in real property for the purpose of conserving and protecting agricultural land, important natural areas or recreation lands, the board, in its discretion, may make a one-time grant to the appropriate state agency or municipality. The grant shall not exceed ten percent of

the current appraised value of that property interest and shall be used to support its proper management or maintenance or both. (Added 1987, No. 88, § 1, eff. June 11, 1987.)

§ 325. Condemnation prohibited.

The board shall not have the authority or power to acquire property for the purposes of this chapter through condemnation or through the exercise of the power of eminent domain. (Added 1997, No. 88, §1, eff. June 11, 1987.)

§ 325a. Conservation easement review appraisals

The Vermont housing and conservation board shall ensure on a periodic basis that review appraisals are conducted of conservation easements proposed to be acquired pursuant to this chapter. (Added 1995, No. 185 (Adj. Sess), §14a, eff. May 22, 1996.)