NO. 183. AN ACT RELATING TO CREATION OF DESIGNATED GROWTH CENTERS AND DOWNTOWN TAX CREDIT PROGRAM.

(S.142)

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

Sec. 1. 24 V.S.A. § 2790(d) is added to read:

(d) The general assembly finds that Vermont's communities face challenges as they seek to accommodate growth and development while supporting the economic vitality of the state's downtowns, village centers, and new town centers and maintaining the rural character and working landscape of the surrounding countryside. While it is the intention of the general assembly to give the highest priority to facilitating development and growth in downtowns and village centers whenever feasible, when that is not feasible, the general assembly further finds that:

(1) A large percentage of future growth should occur within duly designated growth centers that have been planned by municipalities in accordance with smart growth principles and Vermont's planning and development goals pursuant to section 4302 of this title.

(2) Designated growth centers, if properly located and scaled, will serve to support the state's downtowns, village centers, and new town centers by encouraging new residential neighborhoods and compatible civic, commercial, and industrial uses to locate within proximity to historic community centers.

(3) Designated growth centers will provide a cost-effective means of

allocating and targeting limited municipal and state resources to those areas specifically planned to accommodate and support concentrated development and a large percentage of future growth.

(4) Designated growth centers will provide a mechanism for concentrating private investment in those areas targeted for growth and development through public investments and incentives, and by establishing a process that will effectively reduce cost and delay in the permitting and approval of development.

(5) Designated growth centers will accomplish these goals if they are economically viable, they are appropriately planned to accommodate future growth needs and a mix of uses, they originate at the municipal or regional level, and they are recognized by the state under state planning, financing, and permitting programs.

Sec. 2. 24 V.S.A. § 2791(12)–(14) are added to read:

(12)(A) "Growth center" means an area of land that contains substantially the characteristics specified in subdivision (B) of this subdivision (12) and that is located in one or a combination of the following:

(i) A designated downtown, village center, or new town center;

(ii) An area of land that is in or adjacent to a designated downtown, village center, or new town center, with clearly defined boundaries that have been approved by one or more municipalities in their municipal plans to accommodate a majority of growth anticipated by the municipality or

municipalities over a 20-year period. Adjacent areas shall include those lands which are contiguous to the designated downtown, village center, or new town center. In situations where contiguity is precluded by natural or physical constraints to growth center development, adjacent areas may include lands lying close to and not widely separated from the majority of the lands within the designated growth center. Noncontiguous land included as part of a growth center must exhibit strong land use, economic, infrastructure, and transportation relationships to the designated downtown, village center, or new town center; be planned to function as a single, integrated growth center; and be essential to accommodate a majority of growth anticipated by the municipality or municipalities over a 20-year period.

(B) A growth center contains substantially the following characteristics:

(i) It incorporates a mix of uses that typically include or have the potential to include the following: retail, office, services, and other commercial, civic, recreational, industrial, and residential uses, including affordable housing and new residential neighborhoods, within a densely developed, compact area;

(ii) It incorporates existing or planned public spaces that promote social interaction, such as public parks, civic buildings (e.g., post office, municipal offices), community gardens, and other formal and informal places to gather.

(iii) It is organized around one or more central places or focal points, such as prominent buildings of civic, cultural, or spiritual significance or a village green, common, or square.

(iv) It promotes densities of land development that are significantly greater than existing and allowable densities in parts of the municipality that are outside a designated downtown, village center, growth center, or new town center, or, in the case of municipalities characterized predominately by areas of existing dense urban settlement, it encourages in-fill development and redevelopment of historically developed land.

(v) It is supported by existing or planned investments in infrastructure and encompasses a circulation system that is conducive to pedestrian and other nonvehicular traffic and that incorporates, accommodates, and supports the use of public transit systems.

(vi) It results in compact concentrated areas of land development that are served by existing or planned infrastructure and are separated by rural countryside or working landscape.

(vii) It is planned in accordance with the planning and development goals under section 4302 of this title, and to conform to smart growth principles.

(viii) It is planned to reinforce the purposes of 10 V.S.A. chapter 151.

(13) "Smart growth principles" means growth that:

(A) Maintains the historic development pattern of compact village and urban centers separated by rural countryside.

(B) Develops compact mixed-use centers at a scale appropriate for the community and the region.

(C) Enables choice in modes of transportation.

(D) Protects the state's important environmental, natural and historic features, including natural areas, water quality, scenic resources, and historic sites and districts.

(E) Serves to strengthen agricultural and forest industries and minimizes conflicts of development with these industries.

(F) Balances growth with the availability of economic and efficient public utilities and services.

(G) Supports a diversity of viable businesses in downtowns and villages.

(H) Provides for housing that meets the needs of a diversity of social and income groups in each community.

(I) Reflects a settlement pattern that, at full build-out, is not characterized by:

(i) scattered development located outside of compact urban and village centers that is excessively land consumptive;

(ii) development that limits transportation options, especially for pedestrians;

(iii) the fragmentation of farm and forest land;

(iv) development that is not serviced by municipal infrastructure or that requires the extension of municipal infrastructure across undeveloped lands in a manner that would extend service to lands located outside compact village and urban centers;

(v) linear development along well-traveled roads and highways that lacks depth, as measured from the highway.

(14) "Important natural resources" means headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forest lands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

Sec. 3. 24 V.S.A. § 2792(f) is added to read:

(f) In situations in which the state board is considering applications for designation as a growth center, in addition to the permanent members of the state board, membership shall include as a full voting member a member of the Vermont planners association (VPA) designated by the association; the chair of the natural resources board or a representative of the land use panel of the natural resources board designated by the chair; and a representative of a regional planning commission designated by the Vermont association of regional planning and development agencies (VAPDA) and an alternate representative designated by VAPDA to enable all applications to be considered by a representative from a regional planning commission other than

the one to which the applicant municipality is a member. The alternate designated by VAPDA may vote only when the designated representative does not vote.

Sec. 4. 24 V.S.A. § 2793c is added to read:

§ 2793c. DESIGNATION OF GROWTH CENTERS

(a) Regional planning commission technical planning assistance. Regional planning commissions, pursuant to section 4345a of this title, are uniquely positioned to assist municipalities with growth center planning. To this end, at the request of a municipality contemplating growth center designation, the regional planning commission shall provide technical assistance in support of that designation.

(1) Technical support shall include:

(A) preparing population, housing, and employment growth projections for a period of not less than 20 years;

(B) GIS mapping, including identification of development capacity, land use, existing and planned infrastructure and service areas, important natural resources and historic resources, and physical constraints to development and associated features; and

(C) build-out analyses for potential growth centers to document whether the geographic area of proposed growth centers will accommodate a majority of the projected growth over a 20-year period in a manner that is consistent with the definition under subdivision 2791(12) of this title.

(2) These projections and build-out analyses may be prepared on a municipal or regional basis.

(b) Growth center designation application assistance.

(1) By October 1, 2006, the chair of the land use panel of the natural resources board and the commissioner of housing and community affairs jointly shall constitute a planning coordination group which shall develop a coordinated process to:

(A) ensure consistency between regions and municipalities regarding growth centers designation and related planning;

(B) provide municipalities with a preapplication review process within the planning coordination group early in the local planning process;

(C) coordinate state agency review on matters of agency interest; and

(D) provide the state board with ongoing, coordinated staff support and expertise in land use, community planning, and natural resources protection.

(2) This program shall include the following:

(A) The preparation of a "municipal growth centers planning manual and implementation checklist" to assist municipalities and regional planning commissions to plan for growth center designation. The implementation manual shall identify state resources available to assist municipalities and shall include a checklist indicating the issues that should be addressed by the municipality in planning for growth center designation. The manual shall

address other relevant topics in appropriate detail, such as: methodologies for conducting growth projections and build-out analyses; defining appropriate boundaries that are not unduly expansive; enacting plan policies and implementation bylaws that accommodate reasonable densities, compact settlement patterns, and an appropriate mix of uses within growth centers; planning for infrastructure, transportation facilities, and open space; avoiding or mitigating impacts to important natural resources and historic resources; and strategies for maintaining the rural character and working landscape outside growth center boundaries.

(B) A preapplication review process that allows municipalities to submit a preliminary application to the planning coordination group, consisting of a draft growth center map and a brief explanation of planning and implementation policies that the municipality anticipates enacting in order to guide development inside the growth center and maintain the rural character of the surrounding area, to the extent that it exists. Department and land use panel staff shall solicit comments from state agencies regarding areas of respective agency interest; evaluate the preliminary application for conformance with the requirements of this section; identify potential issues related to the growth center boundary and implementation tools; and provide recommendations for addressing those issues through adjustment to the growth centers boundary, revisions to planned implementation tools, or consideration of alternative implementation tools. Preliminary review shall be available to

municipalities while they are engaged in the municipal planning process so that recommendations may be considered prior to the adoption of the municipal plan and associated implementation measures.

(C) Ongoing assistance to the state board to review applications for growth center designation, including coordinating review by state agencies on matters of agency interest and evaluating applications and associated plan policies and implementation measures for conformance with the definition under subdivision 2791(12) of this title and any designation requirements established under subsection (e) of this section.

(D) The Vermont municipal planning grant program shall make funding for activities associated with growth centers planning a priority funding activity, and the Vermont community development program shall make funding for activities associated with growth centers planning a priority funding activity under the planning grant program.

(c) Public involvement and review. Any decision to apply for growth center designation shall be made by vote of the municipal legislative body, subject to the process established under sections 1972 and 1973 of this title.

(d) Application and designation requirements. Any application for designation as a growth center shall be to the state board and shall include the following:

(1) a demonstration that the growth center proposal meets the definition of a growth center established in subdivision 2791(12) of this title;

(2) a map and a conceptual plan for the growth center;

(3) identification of important natural resources and historic resources within the proposed growth center, the anticipated impacts on those resources, and any proposed mitigation;

(4) when the secretary of agriculture, food and markets has developed guidelines in compliance with 6 V.S.A. § 8, the applicant shall demonstrate that the approved municipal plan and the regional plan both have been updated during any five-year plan readoption that has taken place since the date the secretary of agriculture developed those guidelines, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible;

(5) a demonstration:

(A) that the applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;

(B) that the approved plan contains provisions that are appropriate to implement the designated growth center proposal;

(C) that the applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center;

(D) that the approved plan and the implementing bylaws further the goal of retaining a more rural character in the area surrounding the growth center, to the extent that a more rural character exists, and provide reasonable

protection for important natural resources and historic resources located outside the proposed growth center;

(6) a capital budget and program adopted in accordance with section 4426 of this title, together with a demonstration that existing and planned infrastructure is adequate to implement the growth center;

(7) a build-out analysis and needs study that demonstrates that the growth center:

(A) is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in a manner that is consistent with the definition under subdivision 2791(12) of this title; and

(B) does not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development, or result in a scattered or low-density pattern of development at the conclusion of the 20 year planning period.

(8) a demonstration:

(A) that the growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses that is consistent with the anticipated demand for those uses within the municipality and region;

(B) that the proposed growth center growth cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.

(e) Designation decision.

(1) Within 90 days of the receipt of a completed application, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard, the state board formally shall designate a growth center if the state board finds, in a written decision:

(A) that the growth center proposal meets the definition of a growth center established in subdivision 2791(12) of this title;

(B) that the applicant has identified important natural resources and historic resources within the proposed growth center and the anticipated impacts on those resources, and has proposed mitigation;

(C) that the approved municipal plan and the regional plan both have been updated during any five-year plan readoption that has taken place since the date the secretary of agriculture, food and markets has developed guidelines in compliance with 6 V.S.A. § 8, have been used to identify areas proposed for agriculture, and have been designed so as to avoid the conversion of primary agricultural soils, wherever possible;

(D)(i) that the applicant has a regionally confirmed planning process and an approved municipal plan, pursuant to section 4350 of this title;

(ii) that the approved plan contains provisions that are appropriate to implement the designated growth center proposal;

(iii) that the applicant has adopted bylaws in conformance with the municipal plan that implement the provisions in the plan that pertain to the designated growth center;

(iv) that the approved plan and the implementing bylaws further the goal of retaining a more rural character in the areas surrounding the growth center, to the extent that a more rural character exists, and provide reasonable protection for important natural resources and historic resources located outside the proposed growth center.

(E) that the applicant has adopted a capital budget and program in accordance with section 4426 of this title, and that existing and planned infrastructure is adequate to implement the growth center;

(F) that the growth center is of an appropriate size sufficient to accommodate a majority of the projected population and development over a 20-year planning period in a manner that is consistent with the definition under subdivision 2791(12) of this title, and that the growth center does not encompass an excessive area of land that would involve the unnecessary extension of infrastructure to service low-density development or result in a scattered or low-density pattern of development at the conclusion of the 20-year planning period;

(G)(i) that the growth center will support and reinforce any existing designated downtown, village center, or new town center located in the municipality or adjacent municipality by accommodating concentrated residential neighborhoods and a mix and scale of commercial, civic, and industrial uses consistent with the anticipated demand for those uses within the municipality and region;

(ii) that the proposed growth center growth cannot reasonably be achieved within an existing designated downtown, village center, or new town center located within the applicant municipality.

(2) The board, as a condition of growth center designation, may require certain regulatory changes prior to the effective date of designation. In addition, the growth center designation may be modified, suspended, or revoked if the applicant fails to achieve the required regulatory changes within a specified period of time. As an option, municipalities applying for growth center designation may make certain regulatory changes effective and contingent upon formal designation.

(3) Except as otherwise provided in this section, growth center designation shall extend for a period of 20 years. The state board shall review a growth center designation no less frequently than every five years, after providing notice as required in the case of a proposed municipal plan or amendment under subsection 4384(e) of this title, and after providing an opportunity for the public to be heard. For each applicant, the state board may

adjust the schedule of review under this subsection so as to coincide with the review of the related and underlying designation of a downtown, village center, or new town center. If, at the time of the review, the state board determines that the growth center no longer meets the standards for designation established in this section, it may take any of the following actions:

(A) require corrective action;

(B) provide technical assistance through the coordinated assistance program; or

(C) remove the growth center's designation, with that removal not affecting any of the growth center's previously awarded benefits.

(4) At any time a municipality shall be able to apply to the state board for amendment of a designated growth center or any related conditions or other matters, according to the procedures that apply in the case of an original application.

(f) Review by land use panel and issuance of Act 250 findings of fact and conclusions of law. Subsequent to growth center designation by the state board, an applicant municipality may submit a request for findings of fact and conclusions of law under specific criteria of 10 V.S.A. § 6086(a) to the land use panel of the natural resources board for consideration in accordance with the following:

(1) In requesting findings of fact, the applicant municipality shall specify any criteria for which findings and conclusions are requested and the nature and scope of the findings that are being requested.

(2) The panel shall notify all landowners of land located within the proposed growth center, entities that would be accorded party status before a district commission under 10 V.S.A. § 6085(c)(1)(C) and (D), and all owners of land adjoining the proposed growth center of a hearing on the issue. The panel may fashion alternate and more efficient means of providing adequate notice to persons potentially affected under this subdivision. Persons notified may appear at the hearing and be heard, as may any other person who has a particularized interest protected by 10 V.S.A. chapter 151 that may be affected by the decision.

(3) The panel shall review the request in accordance with and shall issue findings of fact and conclusions of law under the applicable criteria of 10 V.S.A. § 6086(a) which are deemed to have been satisfied by the applicant's submissions during the formal designation process, any additional submissions, as well as associated municipal plan policies, programs, and bylaws. Findings and conclusions of law shall be effective for a period of five years, unless otherwise provided. The panel, before issuing its findings and conclusions, may require specific changes in the proposal, or regulatory changes by the municipality, as a condition for certain findings and conclusions. These findings and conclusions shall be subject to appeal to the

environmental court pursuant to 10 V.S.A. chapter 220 within 30 days of issuance.

(4) During the period of time in which a growth center designation remains in effect, any findings and conclusions issued by the panel or any final adjudication of those findings and conclusions shall be applicable to any subsequent application for approval by a district commission under chapter 151 of Title 10 and shall be binding upon the district commission and the persons provided notice in the land use panel proceeding, according to the rules of the land use panel, provided the proposed development project is located within the designated growth center.

(5) In any application to a district commission under chapter 151 of Title 10 for approval of a proposed development or subdivision to be located within the designated growth center, the district commission shall review de novo any relevant criteria of 10 V.S.A. § 6086(a) that are not subject to findings of fact and conclusions of law issued by the land use panel pursuant to this section.

(6) The decision of the state board pursuant to this section shall not be binding as to the criteria of 10 V.S.A. § 6086(a) in any proceeding before the panel or a district commission.

(g) Review by district commission. In addition to its other powers, in making its determinations under 10 V.S.A. § 6086, a district commission may consider important resources within a proposed growth center that have been

identified in the designation process and the anticipated impacts on those resources, and may require that reasonable mitigation be provided as an alternative to permit denial.

(h) Concurrent designation. A municipality may seek designation of a growth center concurrently with the designation of a downtown pursuant to section 2793 of this title, the designation of a village center pursuant to section 2793a of this title, or the designation of a new town center pursuant to section 2793b of this title.

(i) Benefits from designation. A growth center designated by the state board pursuant to this section is eligible for the following development incentives and benefits:

(1) Financial incentives.

(A) A municipality may use tax increment financing for infrastructure and improvements in its designated growth center pursuant to the provisions of Title 24 and Title 32. A designated growth center under this section shall be presumed to have met any locational criteria established in Vermont statutes for tax increment financing. The state board may consider project criteria established under those statutes and, as appropriate, may make recommendations as to whether any of those project criteria have been met.

(B) Vermont economic development authority (VEDA) incentives shall be provided to designated growth centers.

(2) State assistance and funding for growth centers.

(A) It is the intention of the general assembly to give the highest priority to facilitating development and growth in designated downtowns and village centers whenever feasible. The provisions in this section and elsewhere in law that provide and establish priorities for state assistance and funding for designated growth centers are not intended to take precedence over any other provisions of law that provide state assistance and funding for designated downtowns and village centers.

(B) On or before January 15, 2007, the secretary of administration, in consultation with the secretaries of natural resources, transportation, commerce and community development, and agriculture, food and markets, shall report to the general assembly on the priorities and preferences for state assistance and funding granted in law to downtown centers, village centers, and designated growth centers, and the manner in which such priorities are applied.

(3) State infrastructure and development assistance.

(A) With respect to state grants and other state funding, priority should be given to support infrastructure and other investments in public facilities located inside a designated growth center to consist of the following:

(i) Agency of natural resources funding of new, expanded, upgraded, or refurbished wastewater management facilities serving a growth center in accordance with the agency's rules regarding priority for pollution abatement, pollution prevention, and the protection of public health and water quality.

(ii) Technical and financial assistance for brownfields remediation under the Vermont brownfields initiative.

(iii) Community development block grant (CDBG) program implementation grants.

(iv) Technical, financial, and other benefits made available by statute or rule.

(B) Whenever the commissioner of the department of buildings and general services or other state officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a designated growth center after determining that the option of utilizing existing space in a downtown development district pursuant to subdivision 2794(a)(13) of this title or within a designated village center pursuant to subdivision 2793a(c)(6) of this title or within a designated new town center pursuant to subdivision 2793b(c)(2) of this title is not feasible, the option of locating in a designated growth center shall be given thorough investigation and priority in consultation with the legislative body of the municipality.

(4) State investments. The state shall:

(A) Expand the scope of the downtown transportation fund, as funds are available, to include access to downtowns with the first priority being projects located in designated downtowns, the second priority being projects located in designated village centers, and the third priority being projects located in designated growth centers.

(B) Extend priority consideration for transportation enhancement improvements located within or serving designated downtowns, village centers, and growth centers.

(C) Grant to projects located within designated growth centers priority consideration for state housing renovation and affordable housing construction assistance programs.

(5) Regulatory incentives.

(A) Master plan permit application. At any time while designation of a growth center is in effect, any person or persons who exercise ownership or control over an area encompassing all or part of the designated growth center or any municipality within which a growth center has been formally designated may apply for a master plan permit for that area or any portion of that area to the district commission pursuant to the rules of the land use panel. Municipalities making an application under this subdivision are not required to exercise ownership of or control over the affected property. The district commission shall be bound by any conclusions or findings of the land use panel, or any final adjudication of those findings and conclusions, pursuant to subsection (f) of this section but shall consider de novo any of the criteria of 10 V.S.A. § 6086(a) that were not subject to the final issuance of findings and conclusions by the land use panel pursuant to that subsection. In approving a master permit, the district commission may set forth specific conditions that an applicant for an individual project permit will be required to meet.

(B) Individual project permits within a designated growth center. The district commission shall review individual Act 250 permit applications in accordance with the specific findings of fact and conclusions of law issued by the land use panel under this section, if any, and in accordance with the conditions, findings, and conclusions of any applicable master plan permit. Any person proposing a development or subdivision within a designated growth center where no master plan permit is in effect shall be required to file an application with the district environmental commission for review under the criteria of 10 V.S.A. § 6086(a).

Sec. 5. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

(1) Zoning districts. A municipality may define different and separate zoning districts, and identify within these districts which land uses are permitted as of right, and which are conditional uses requiring review and approval, including the districts set forth in this subdivision (1).

(A) Downtown, village center, ~~and~~ new town center, and growth center districts. The definition or purpose stated for local downtown, village center, ~~or~~ new town center, or growth center zoning districts should conform with the applicable definitions in section 2791 of this title. Municipalities may

adopt downtown, village center, ~~or~~ new town center, or growth center districts without seeking state designation under ~~section 2793~~ chapter 76A of this title. A municipality may adopt a manual of graphic or written design guidelines to assist applicants in the preparation of development applications. The following objectives should guide the establishment of boundaries, requirements, and review standards for these districts:

* * *

Sec. 6. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

When used in this chapter:

* * *

(3)(A) "Development" means:

* * *

(B) Notwithstanding the provisions of subdivision (3)(A) of this section, if a project consists exclusively of any combination of mixed income housing or mixed use and is located entirely within a growth center designated pursuant to 24 V.S.A. § 2793c or within a downtown development district designated pursuant to 24 V.S.A. § 2793, "development" means:

* * *

(iv) Construction of mixed income housing with ~~20~~ 25 or more housing units or a mixed use project with ~~20~~ 25 or more housing units, in a municipality of less than 5,000.

* * *

(C) For the purposes of determining jurisdiction under subdivisions (3)(A) and (3)(B) of this section:

(i) Housing units constructed by a person partially or completely outside a designated downtown development district or designated growth center shall not be counted to determine jurisdiction over housing units constructed by a person entirely within a designated downtown development district or designated growth center.

(ii) Within any continuous period of five years, housing units constructed by a person entirely within a designated downtown district or designated growth center shall be counted together with housing units constructed by a person partially or completely outside a designated downtown development district or designated growth center to determine jurisdiction over the housing units constructed by a person partially or completely outside the designated downtown development district or designated growth center and within a five-mile radius.

(iii) All housing units constructed by a person within a designated downtown development district or designated growth center within any

continuous period of five years, commencing on or after the effective date of this subdivision, shall be counted together.

* * *

(v) Notwithstanding subdivision (3)(C)(iii) of this section, any affordable housing units, as defined by this section, that are subject to housing subsidy covenants as defined in 27 V.S.A. § 610 that preserve their affordability for a period of 99 years or longer, and that are constructed by a person within a designated downtown development district, designated village center, or designated growth center, shall count toward the total number of housing units used to determine jurisdiction only if they were constructed within the previous 12-month period, commencing on or after the effective date of this subdivision.

* * *

(8) "~~Forest and secondary agricultural~~ Productive forest soils" means those soils which are not primary agricultural soils but which have a reasonable potential for commercial forestry ~~or commercial agriculture,~~ and which have not ~~yet~~ been developed. In order to qualify as productive forest ~~or secondary agricultural~~ soils, the land containing such soils shall be ~~characterized by~~ of a size and location, relative to adjoining land uses, natural ~~conditions~~ condition, and ownership patterns so that those soils will be capable of supporting or contributing to ~~present or potential~~ a commercial forestry ~~or commercial agriculture~~ operation. ~~If a tract of land includes other than forest~~

~~or secondary agricultural soils only the forest or secondary agricultural soils shall be impacted by criteria relating specifically to such soils.~~ Land use on those soils may include commercial timber harvesting and specialized forest uses, such as maple sugar or Christmas tree production.

* * *

(15) "Primary agricultural soils" means ~~soils which have a potential for growing food and forage crops, are sufficiently well drained to allow sowing and harvesting with mechanized equipment, are well supplied with plant nutrients or highly responsive to the use of fertilizer, and have~~ soil map units with the best combination of physical and chemical characteristics that have a potential for growing food, feed, and forage crops, have sufficient moisture and drainage, plant nutrients or responsiveness to fertilizers, few limitations for cultivation or limitations which may be easily overcome~~. In order to qualify as primary agricultural soils, the~~, and an average slope ~~of the land containing such soils~~ that does not exceed 15 percent~~, and such land is~~. Present uses may be cropland, pasture, regenerating forests, forestland, or other agricultural or silvicultural uses. However, the soils must be of a size and location, relative to adjoining land uses, so that those soils will be capable, following removal of any identified limitations, of supporting or contributing to an economic or commercial agricultural operation. ~~If a tract of land includes other than primary agricultural soils, only the primary agricultural soils shall be impacted by criteria relating specifically to such soils.~~ Unless contradicted by the

qualifications stated in this subdivision, primary agricultural soils shall include important farmland soils map units with a rating of prime, statewide, or local importance as defined by the Natural Resources Conservation Service (N.R.C.S.) of the United States Department of Agriculture (U.S.D.A.).

* * *

(29) "Affordable housing" means either of the following:

(A) ~~Owner-occupied housing in which the owner's~~ Housing that is owned by its occupants whose gross annual household income does not exceed 80 percent of the county median ~~household~~ income, ~~for which the annual housing costs, which include payment of~~ or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, ~~and~~ insurance, ~~are~~ and condominium association fees, is not more than 30 percent of the gross annual household income.

(B) ~~Rental housing in which the renter's~~ Housing that is rented by the occupants whose gross annual household income does not exceed 80 percent of the county median ~~household~~ income, ~~and for which the annual housing costs, which include~~ or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including rent ~~and,~~ utilities ~~expenses~~, ~~are~~ and

condominium association fees, is not more than 30 percent of the gross annual household income.

(30) "Designated growth center" means a growth center designated by the Vermont downtown development board under the provisions of 24 V.S.A. chapter 76A.

Sec. 7. 10 V.S.A. § 6086(a)(9) is amended to read:

(9) Is in conformance with a duly adopted capability and development plan, and land use plan when adopted. However, the legislative findings of ~~sections~~ subdivisions 7(a)(1) through 7(a)(19) of this act shall not be used as criteria in the consideration of applications by a district commission.

* * *

(B) Primary agricultural soils. A permit will be granted for the development or subdivision of primary agricultural soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not ~~significantly reduce~~ result in any reduction in the agricultural potential of the primary agricultural soils; or~~,~~:

(i) ~~the applicant can realize a reasonable return on the fair market value of his land only by devoting the primary agricultural soils to uses which will significantly reduce their agricultural potential~~ the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and

(ii) except in the case of an application for a project located in a designated growth center, there are no ~~nonagricultural or secondary~~ lands other than primary agricultural soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and

(iii) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of agricultural potential ~~by providing for reasonable population densities, reasonable rates of growth, and the use of cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage~~ of the primary agricultural soils through innovative land use design resulting in compact development patterns, so that the remaining primary agricultural soils on the project tract are capable of supporting or contributing to an economic or commercial agricultural operation; and

(iv) ~~the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential~~ suitable mitigation will be provided for any reduction in the agricultural potential of the primary agricultural soils caused by the development or subdivision, in accordance with section 6093 of this title and rules adopted by the land use panel.

(C) ~~Forest and secondary agricultural~~ Productive forest soils. A permit will be granted for the development or subdivision of productive forest

~~or secondary agricultural~~ soils only when it is demonstrated by the applicant that, in addition to all other applicable criteria, either, the subdivision or development will not ~~significantly reduce~~ result in any reduction in the potential of those soils for commercial forestry~~, including but not limited to specialized forest uses such as maple production or Christmas tree production, potential of those or adjacent primary agricultural soils for commercial agriculture~~; or:

(i) ~~the applicant can realize a reasonable return on the fair market value of his land only by devoting the forest or secondary agricultural soils to uses which will significantly reduce their forestry or agricultural potential~~ the development or subdivision will not significantly interfere with or jeopardize the continuation of agriculture or forestry on adjoining lands or reduce their agricultural or forestry potential; and

(ii) except in the case of an application for a project located in a designated growth center, there are no ~~nonforest or secondary agricultural~~ lands other than productive forest soils owned or controlled by the applicant which are reasonably suited to the purpose of the development or subdivision; and

(iii) except in the case of an application for a project located in a designated growth center, the subdivision or development has been planned to minimize the reduction of ~~forestry and agricultural potential by providing for reasonable population densities, reasonable rates of growth, and the use of~~

~~cluster planning and new community planning designed to economize on the cost of roads, utilities and land usage~~ the potential of those productive forest soils through innovative land use design resulting in compact development patterns, so that the remaining forest soils on the project tract may contribute to a commercial forestry operation.

Sec. 8. 10 V.S.A. § 6093 is added to read:

§ 6093. MITIGATION OF PRIMARY AGRICULTURAL SOILS

(a) Mitigation for loss of primary agricultural soils. Suitable mitigation for the conversion of primary agricultural soils necessary to satisfy subdivision 6086(a)(9)(B)(iv) of this title shall depend on where the project tract is located.

(1) Project located in growth center. If the project tract is located in a designated growth center, an applicant who complies with subdivision 6086(a)(9)(B)(iv) of this title shall deposit an offsite mitigation fee into the Vermont housing and conservation trust fund established under section 312 of this title for the purpose of preserving primary agricultural soils of equal or greater value with the highest priority given to preserving prime agricultural soils as defined by the U.S. Department of Agriculture. Any required offsite mitigation fee shall be derived by:

(A) determining the number of acres of primary agricultural soils affected by the proposed development or subdivision;

(B) multiplying the number of affected acres of primary agricultural soils by a factor resulting in a ratio established as follows:

(i) for development or subdivision within a designated growth center, the ratio shall be 1:1;

(ii) for residential construction that has a density of at least eight units of housing per acre, of which at least eight units per acre or at least 40 percent of the units, on average, in the entire development or subdivision, whichever is greater, meets the definition of affordable housing established in this chapter, no mitigation shall be required. However, all affordable housing units shall be subject to housing subsidy covenants, as defined in 27 V.S.A. § 610, that preserve their affordability for a period of 99 years or longer. For purposes of this section, housing that is rented shall be considered affordable housing when its inhabitants have a gross annual household income that does not exceed 60 percent of the county median income or 60 percent of the standard metropolitan statistical area income if the municipality is located in such an area.

(C) multiplying the resulting product by a "price-per-acre" value, which shall be based on the amount that the secretary of agriculture, food and markets has determined to be the recent, per-acre cost to acquire conservation easements for primary agricultural soils in the same geographic region as the proposed development or subdivision.

(2) Project located outside designated growth center. If the project tract is not located in a designated growth center, mitigation shall be provided on site in order to preserve primary agricultural soils for present and future

agricultural use, with special emphasis on preserving prime agricultural soils. Preservation of primary agricultural soils shall be accomplished through innovative land use design resulting in compact development patterns which will maintain a sufficient acreage of primary agricultural soils on the project tract capable of supporting or contributing to an economic or commercial agricultural operation and shall be enforceable by permit conditions issued by the district commission. The number of acres of primary agricultural soils to be preserved shall be derived by:

(A) determining the number of acres of primary agricultural soils affected by the proposed development or subdivision; and

(B) multiplying the number of affected acres of primary agricultural soils by a factor based on the quality of those primary agricultural soils, and other factors as the secretary of agriculture, food and markets may deem relevant, including the soil's location; accessibility; tract size; existing agricultural operations; water sources; drainage; slope; the presence of ledge or protected wetlands; the infrastructure of the existing farm or municipality in which the soils are located; and the N.R.C.S. rating system for Vermont soils. This factor shall result in a ratio of no less than 2:1, but no more than 3:1, protected acres to acres of impacted primary agricultural soils.

(3) Mitigation flexibility.

(A) Notwithstanding the provisions of subdivision (1) of this subsection pertaining to a development or subdivision on primary agricultural

soils within a designated growth center, the district commission may, in appropriate circumstances, require onsite mitigation with special emphasis on preserving prime agricultural soils if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of section 4302 of Title 24. In this situation, the approved plans must designate specific soils that shall be preserved inside growth centers. For projects located within a designated growth center, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of 1:1.

(B) Notwithstanding the provisions of subdivision (2) of this subsection pertaining to a development or subdivision on primary agricultural soils outside a designated growth center, the district commission may, in appropriate circumstances, approve off-site mitigation or some combination of onsite and off-site mitigation if that action is deemed consistent with the agricultural elements of local and regional plans and the goals of section 4302 of Title 24. For projects located outside a designated growth center, all factors used to calculate suitable mitigation acreage or fees, or some combination of these measures, shall be as specified in this subsection, subject to a ratio of no less than 2:1, but no more than 3:1.

(4) Industrial parks.

(A) Notwithstanding any provision of this chapter to the contrary, a conversion of primary agricultural soils located in an industrial park as defined

in subdivision 212(7) of this title and permitted under this chapter and in existence as of January 1, 2006, shall be allowed to pay a mitigation fee computed according to the provisions of subdivision (1) of this subsection, except that it shall be entitled to a ratio of 1:1, protected acres to acres of affected primary agricultural soil. If an industrial park is developed to the fullest extent before any expansion, this ratio shall apply to any contiguous expansion of such an industrial park that totals no more than 25 percent of the area of the park or no more than 10 acres, whichever is larger; provided any expansion based on percentage does not exceed 50 acres. Any expansion larger than that described in this subdivision shall be subject to the mitigation provisions of this subsection at ratios that depend upon the location of the expansion.

(B) In any application to a district commission for expansion of an existing industrial park, compact development patterns shall be encouraged that assure the most efficient use of land and the realization of maximum economic development potential through appropriate densities. Industrial park expansions and industrial park infill shall not be subject to requirements established in subdivision 6086(a)(9)(B)(iii) of this title, nor to requirements established in subdivision (9)(C)(iii).

(b) Easements required for protected lands. All primary agricultural soils preserved for commercial or economic agricultural use by the Vermont housing and conservation board pursuant to this section shall be protected by

permanent conservation easements (grant of development rights and conservation restrictions) conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity.

Sec. 8a. Sec. 7 of No. 44 of the Acts of 1995, as amended by Sec. 1 of No. 14 of the Acts of 2001, is amended to read:

Sec. 7. APPLICATION DEADLINE

Applications to participate in the program established under 10 V.S.A. § 6615a shall not be accepted after July 1, ~~2006~~ 2012.

Sec. 9. 10 V.S.A. § 8503(b) is amended to read:

(b) This chapter shall govern:

(1) All appeals from an act or decision of a district commission under chapter 151 of this title, excluding appeals of application fee refund requests.

(2) Appeals from district coordinator jurisdictional opinions under chapter 151 of this title.

(3) Appeals from findings of fact and conclusions of law issued by the land use panel in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793c(f).

Sec. 10. PLANNING AND RESOURCES

(a)(1) By no later than January 15, 2007 the secretary of agriculture, food and markets in compliance with the requirements of 6 V.S.A. § 8 shall

establish guidelines to assist the municipal and regional planning commissions of the state in identifying agricultural lands, and shall provide those guidelines to the senate and house committees on agriculture and on natural resources and energy.

(2) By no later than March 15, 2007, the secretary shall compile the inventory of the amount of agricultural land conserved in the state, and in each county, the percentage of land conserved, the density of land conserved, and other related and relevant information.

(b) By no later than January 1, 2007, the secretary of agriculture, food and markets shall report to the general assembly with a work plan and budget estimate for the following:

(1) a state soils inventory to be developed by the agency of agriculture, food and markets working with the federal Natural Resources Conservation Service and the Vermont center for geographic information. The soils inventory shall be produced in map form and shall include, in digitized form to the extent available, the location of prime and statewide agricultural soils in the state that remain undeveloped. The agency shall present the inventory to the committees on agriculture and on natural resources and energy of the general assembly;

(2) an analysis of options and recommendations with respect to how to treat the state's remaining primary agricultural soils that are not developed, including recommendations as to how these soils can be put into productive

use and how to give a higher priority to their conservation. These recommendations shall be developed by a six member working group consisting of the secretary of agriculture, food and markets, or the secretary's designee, a representative of the Vermont housing and conservation board, and a member appointed by each of the following entities: the Vermont farm bureau, the Vermont land trust, the Vermont natural resources council, and the Vermont association of planning and development agencies. The secretary of agriculture, food and markets shall call the first meeting of the group, and the group shall elect a chair and vice chair. The working group shall consider such factors as soil type, availability of necessary infrastructure, proximity to local and regional markets, and how best to encourage the agricultural use of smaller parcels. The recommendations shall be made available to regional and municipal planning commissions;

(3) completion of soils mapping of Essex and Caledonia counties and certification of the soils mapping of Chittenden County by the federal Natural Resources Conservation Service.

(c) The working group specified in subdivision (b)(2) of this section shall, with a long term perspective for a range of growth and development scenarios, identify and evaluate options by which the state might best establish long range agricultural lands conservation goals and maximize public and private resources to achieve these goals. The group also shall develop

recommendations on how to balance long term agricultural land conservation with local land use preferences and local development needs.

(d)(1) By January 15, 2007, the secretary of commerce and community affairs, the chair of the land use panel, and one or more representatives of the downtown board established in 24 V.S.A. chapter 76A shall report to the general assembly with a budget estimate of resources needed to implement this act.

(2) The secretary of agriculture, food and markets, the commissioner of education, the commissioner of taxes, and a representative of the Vermont housing and conservation board shall report to the general assembly by January 15, 2007 on the effect of school construction on the loss of primary agricultural lands and on the financial effect of agricultural lands mitigation on school spending.

Sec. 11. TRANSITION

Following or concurrent with the filing of a "notice of intent" to file an application for growth center designation with the state board, a municipality with a proposed growth center identified in a regionally approved town plan may apply by June 1, 2008 to the planning and coordination group established under 24 V.S.A. § 2793c and seek approval for the designated growth center agricultural mitigation benefits as described in 10 V.S.A. § 6093. The planning and coordination group shall recommend to the expanded downtown development board (state board) that the benefits of 10 V.S.A. § 6093 be

granted to the municipality if it determines that the growth center in question meets the definition set forth in 24 V.S.A. § 2791(12), and that the municipality certifies that it is actively engaged in a planning process leading to the filing of a complete application for growth center designation. The state board will review the information provided by the municipality and the recommendations of the planning and coordination group and shall award the benefit, if warranted. The temporary grant of the primary agricultural soils mitigation benefit shall not exceed 18 months. In its discretion, the downtown board may approve a reasonable extension of the grant of the primary agricultural soils mitigation benefit, provided that the municipality continues to make progress toward filing a complete application in accordance with the requirements of this section. This section shall be repealed on September 1, 2008.

* * * Vermont Downtown and Village Center Tax Credit Program * * *

Sec. 12. 32 V.S.A. chapter 151, subchapter 11J is added to read:

Subchapter 11J. Vermont Downtown and Village Center Tax Credit Program

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) "Qualified applicant" means an owner or lessee of a qualified building involving a qualified project, but does not include a religious entity

operating with a primarily religious purpose; a state or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) "Qualified building" means a building built prior to 1983, located within a designated downtown or village center, which upon completion of the project supported by the tax credit will be an income-producing building not used solely as a single-family residence.

(3) "Qualified code improvement project" means a project:

(A) To install or improve platform lifts suitable for transporting personal mobility devices, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the department of public safety.

(B) To abate lead paint conditions or other substances hazardous to human health or safety in a qualified building.

(C) To redevelop a contaminated property in a designated downtown or village center under a plan approved by the secretary of natural resources pursuant to 10 V.S.A. § 6615a.

(4) "Qualified expenditures" means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) "Qualified façade improvement project" means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown or designated village center. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont division for historic preservation.

(6) "Qualified historic rehabilitation project" means an historic rehabilitation project that has received federal certification for the rehabilitation project.

(7) "Qualified project" means a qualified code improvement, façade improvement, or historic rehabilitation project as defined by this subchapter.

(8) "State board" means the Vermont downtown development board established pursuant to chapter 76A of Title 24.

§ 5930bb. ELIGIBILITY AND ADMINISTRATION

(a) Qualified applicants may apply to the state board to obtain the tax credits provided by this subchapter for qualified code improvement, façade improvement, or historic rehabilitation projects at any time before one year after completion of the qualified project.

(b) To qualify for any of the tax credits under this subchapter, expenditures for the qualified project must exceed $5,000.00.

(c) Application shall be made in accordance with the guidelines set by the state board.

§ 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX CREDITS

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the state board, to claim against the taxpayer's state individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of ten percent of qualified rehabilitation expenditures as defined in the Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

(b) Façade improvement tax credit. The qualified applicant of a qualified façade improvement project shall be entitled, upon the approval of the state board, to claim against the taxpayer's state individual income tax, state corporate income tax, or bank franchise or insurance premiums tax liability a credit of 25 percent of qualified expenditures up to a maximum tax credit of $25,000.00.

(c) Code improvement tax credit. The qualified applicant of a qualified code improvement project shall be entitled, upon the approval of the state board, to claim against the taxpayer's state individual income tax, state corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of $12,000.00 for installation or improvement of a platform lift, a maximum tax credit of $50,000.00 for installation or improvement of an elevator, a

maximum tax credit of $50,000.00 for installation or improvement of a sprinkler system, and a maximum tax credit of $25,000.00 for the combined costs of all other qualified code improvements.

§ 5930dd. CLAIMS; AVAILABILITY

(a) A taxpayer claiming credit under this subchapter shall submit to the department of taxes with the first return on which a credit is claimed a copy of the state board's tax credit allocation.

(b) A credit under this subchapter shall be available for the first tax year in which the qualified project is complete.

(c) If within five years after the date of the credit allocation to the applicant no claim for tax credit has been filed, the tax credit allocation shall be rescinded.

(d) Any unused credit under this section may be carried forward for no more than nine tax years following the first year for which the tax credit is claimed.

(e) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of a bank credit certificate that a bank may accept in return for cash, or may accept for adjusting the rate or term of the applicant's mortgage or loan related to an ownership or leasehold interest in the qualified building. The amount of the bank credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting a bank credit certificate shall provide to the state board a copy of

any returns on which any portion of the allocated credit under this section was claimed. A bank that purchases a bank credit certificate may use it to reduce its franchise tax liability under section 5836 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years.

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2007 and thereafter, the state board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) The total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed $1,500,000.00.

(2) A total annual allocation of no more than 30 percent of these tax credits in combination with sales tax reallocation may be awarded in connection with all of the projects in a single municipality.

(3) Façade tax credits shall not be available for projects that qualify for the federal rehabilitation tax credit.

(4) No credit shall be allowed under this subchapter for the cost of acquiring any building or interest in a building.

(5) Credit under any one subsection of 5930cc of this subchapter may not be allocated more often than once every two years with respect to the same building.

§ 5930ff. RECAPTURE

If within five years after completion of the qualified project either of the following events occurs, the applicant shall be liable for a recapture penalty in an amount equal to the total tax credit claimed plus an amount equal to any value received from a bank for a bank credit certificate; and any credit allocated but unclaimed shall be disallowed to the applicant:

(1) The state board finds that any work performed on the qualified project is inconsistent with the approved application; or the applicant knowingly failed to supply any information, or supplied incorrect or untrue information required by the state board or failed to comply with any award condition required by the state board.

(2) The National Park Service revoked certification for unapproved alterations or for work not done as described in the historic preservation certification application.

Sec. 13. 32 V.S.A. § 9819(b) and (c) are amended to read:

(b)(1) ~~In any fiscal year after 1998~~ Beginning in fiscal year 2007, the Vermont downtown development board, established under 24 V.S.A. § 2792, may certify for allocation to municipalities sales tax revenues under this section, so that the total shall not exceed ~~$1,000,000.00~~ $1,500,000.00, when considered together with the following:

(A) ~~credits~~ Credits awarded under ~~sections 5930n and 5930p~~ subsections 5930cc(a) and (b) of this title, concerning ~~substantial historic~~

~~rehabilitation and historic and older building rehabilitation;~~ qualified historic rehabilitation projects and qualified façade improvement projects.

(B) ~~credits~~ Credits awarded under ~~section 5930q~~ subsection 5930cc(c) of this title, concerning ~~platform lifts, elevators and sprinklers; and~~

~~(C) credits awarded under section 5930r of this title, concerning village general stores and post office structures~~ qualified code improvement projects.

(2) A total annual allocation of no more than ~~40~~ 30 percent of these tax credits in combination with sales tax reallocation may be awarded in connection with all of the projects in a single municipality.

(c) For the purposes of this section:

* * *

(2) "Qualified project" means expansion or rehabilitation of contiguous real property that is or will be used at the completion of the expansion or rehabilitation as a structure in a downtown development district designated under chapter 76A of Title 24, but only to the extent that the expansion or rehabilitation becomes an integral component of the real property and the project does not seek qualification for either tax credit authorized under ~~section 5930n or 5930p~~ subsection 5930cc(a) or (b) of this title. "Qualified project" also means new construction of contiguous real property that will be used at the completion of the construction as a structure in a downtown development district designated under chapter 76A of Title 24 but only to the extent that the

new construction is compatible with the buildings that contribute to the integrity of the district in terms of materials, features, size, scale and proportion, and massing of buildings.

Sec. 14. 24 V.S.A. § 2793a(c) is amended to read:

(c) A village center designated by the state board pursuant to subsection (a) of this section is eligible for the following development incentives and benefits:

* * *

(4) ~~a state tax credit of five percent under section 5930n of Title 32 to owners or lessees of certified historic structures located in village centers for qualified expenditures;~~

~~(5) a state tax credit of 50 percent under section 5930r of Title 32 to owners or lessees of buildings in village centers that serve as general stores or house post offices;~~ The following state tax credits for projects located in a designated village center:

(A) A state historic rehabilitation tax credit of ten percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.

(B) A state façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).

(C) A state code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(c).

~~(6) whenever~~ (5) Whenever the commissioner of the department of buildings and general services or other state officials in charge of selecting a site are planning to lease or construct buildings suitable to being located in a village center after determining that the option of utilizing existing space in a downtown development district pursuant to subdivision 2794(a)(14) of this title is not feasible, the option of utilizing existing space in a designated village center shall be given thorough investigation and priority, in consultation with the community.

Sec. 15. 24 V.S.A. § 2794(a) is amended to read:

(a) Upon designation by the Vermont downtown development board under section 2793 of this title, a downtown development district and projects in a downtown development district shall be eligible for the following:

(1) ~~priority~~ Priority consideration by any agency of the state administering any state or federal assistance program providing funding or other aid to a municipal downtown area with consideration given to such factors as the costs and benefits provided and the immediacy of those benefits, provided the project is eligible for the assistance program~~;~~.

(2) ~~a state tax credit of ten percent under section 5930n of Title 32 to owners or long term lessees of certified historic structures located in downtown development districts that meet the requirements for the federal rehabilitation tax credit;~~ The following state tax credits:

(A) A state historic rehabilitation tax credit of 10 percent under 32 V.S.A. § 5930cc(a) that meets the requirements for the federal rehabilitation tax credit.

(B) A state façade improvement tax credit of 25 percent under 32 V.S.A. § 5930cc(b).

(C) A state code improvement tax credit of 50 percent under 32 V.S.A. § 5930cc(c).

(3) ~~a state tax credit of 25 percent under section 5930p of Title 32 to owners or lessees of older and historic buildings located in downtown development districts for qualified expenditures;~~

~~(4) a~~ A planning grant, in an amount not to exceed $8,000.00 per site, for an initial site assessment of a suspected contaminated site, if the site otherwise qualifies under the community development block grant program in chapter 29 of Title 10~~;~~.

~~(5) financing~~ (4) Financing of transportation projects under the state infrastructure bank, created under chapter 12 of Title 10~~;~~.

~~(6) assistance~~ (5) Assistance from the secretary of the agency of natural resources for current owners and prospective purchasers who otherwise qualify under the redevelopment of contaminated sites program under subsection 6615a(f) of Title 10, or in the case of current owners, who are innocent owners. For the purposes of this subsection, an "innocent owner" is an owner who did not do any of the following:

(A) ~~hold~~ Hold an ownership interest in the property or in any related fixtures or appurtenances, excluding a secured lender's holding indicia of ownership in the property primarily to assure the repayment of a financial obligation at the time of any disposal of hazardous materials on the property~~;~~.

(B) ~~directly~~ Directly or indirectly cause or contribute to any releases or threatened releases of hazardous materials at the property~~;~~.

(C) ~~operate~~ Operate, or control the operation, at the property of a facility for the storage, treatment, or disposal of hazardous materials at the time of the disposal of hazardous materials at the property~~;~~.

(D) ~~dispose~~ Dispose of, or arrange for the disposal of hazardous materials at the property~~; or~~.

(E) ~~generate~~ Generate the hazardous materials that were disposed of at the property~~;~~.

~~(7) technical~~ (6) Technical assistance by the department of housing and community affairs with regard to planning and coordination issues, including but not limited to, adaptive reuse of buildings within the district, development of a marketing plan for the downtown district that includes a heritage tourism component, development of a program to encourage merchants and building owners to rehabilitate, restore, and improve building façades, and, in coordination with the agency of transportation, planning for multi-modal transportation needs of the community~~;~~.

~~(8) hospitality~~ (7) Hospitality training to be arranged by the department of tourism and marketing~~;~~.

~~(9) promotion~~ (8) Promotion of the downtown development district by the department of tourism and marketing as part of the department's integrated marketing and promotion program~~;~~.

~~(10) consistent~~ (9) Consistent with the department's available resources and subject to the department's priority for ensuring public safety, technical support from the department of ~~labor and industry~~ public safety for the rehabilitation of older and historic buildings~~;~~.

~~(11) a~~ (10) A rebate of the cost of a qualified sprinkler system in an amount not to exceed $2,000.00 for building owners or lessees. Rebates shall be paid by the department of ~~labor and industry~~ public safety. To be qualified, a sprinkler system must be a complete automatic fire sprinkler system installed in accord with department of ~~labor and industry~~ public safety rules in an older or historic building that is certified for a state tax credit under ~~either section 5930n or section 5930p~~ subsection 5930cc(a) or (b) of Title 32 and is located in a downtown development district. A total of no more than $40,000.00 of rebates shall be granted in any calendar year by the department. If in any year applications for rebates exceed this amount, the department shall grant rebates for qualified systems according to the date the building was certified for a state tax credit under ~~section 5930n or section 5930p~~ subsection 5930cc(a) or (b) of Title 32 with the earlier date receiving priority~~;~~.

~~(12) participation~~ (11) Participation in the downtown transportation and related capital improvement fund program established by section 2796 of this title~~;~~.

~~(13) when considering leasing existing space or constructing a building,~~

(12) Priority for locating proposed state functions by the commissioner of buildings and general services or other state officials, in consultation with the legislative body of a municipality and based on the suitability of the state function to a downtown location~~, shall give priority to locating proposed state functions in a downtown;~~.

~~(14) a~~ (13) A reallocation of receipts related to the tax imposed on sales of construction materials as provided in 32 V.S.A. § 9819~~;~~.

~~(15) a state tax credit under section 5930q of Title 32 for the installation or improvement of platform lifts, elevators or sprinkler systems;~~

~~(16) the~~ (14) The authority to create a special taxing district pursuant to chapter 87 of this title for the purpose of financing both capital and operating costs of a project within the boundaries of a downtown development district.

Sec. 16. EFFECTIVE DATE; TAX CREDIT FILING LIMITATIONS; CARRY FORWARD PROVISIONS

(a) This act shall take effect July 1, 2006.

(b) The tax credits created in Sec. 12 of this act are enacted to replace the tax credits in sections 5930n, 5930p, 5930q, and 5930r of Title 32. After June 30, 2006, the Vermont downtown development board established under

chapter 76A of Title 24 may no longer allocate tax credits under the following sections of Title 32:

(1) Section 5930n, tax credit for substantial rehabilitation of historic buildings also claiming federal rehabilitation credit.

(2) Section 5930p, rehabilitation tax credit for older or historic buildings.

(3) Section 5930q, tax credit for platform lifts, elevators, or sprinkler systems.

(4) Section 5930r, tax credit for code improvements to commercial buildings.

(c) All provisions of sections 5930n, 5930p, 5930q, or 5930r shall remain in effect for credits allocated prior to the effective date of this act, except that, for any credit allocated prior to the date of this act, if within five years after the date of this act no claim for that tax credit has been filed, that allocation shall be rescinded. The downtown development board may extend the five-year period for filing the initial claim for up to an additional five years.

Approved: May 24, 2006