



VERMONT LEGISLATIVE  
**Joint Fiscal Office**

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## Fiscal Note

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### **S.100 – An act relating to housing opportunities made for everyone**

As recommended by the House Committee on General and Housing<sup>1</sup>

#### **Bill Summary**

**T**his bill makes changes to land use regulations, municipal zoning law, Act 250, and other laws pertaining to the construction and maintenance of housing supply in Vermont. The bill also appropriates funds to housing development and retention programs.

#### **Fiscal Impacts**

- The bill proposes appropriations totaling \$115.35 million from the General Fund in fiscal year 2024 for housing development initiatives.
- Changes to the Act 250 permit process proposed in sections 16-17a would result in decreased Act 250 permit revenues in fiscal years 2024 through 2026.
- The new enhanced designation program proposed in sections 18-21 would result in cost pressures for the Natural Resources Board of approximately \$100,000 one-time in fiscal year 2024 and up to \$250,000 per year for necessary new staffing potentially starting in fiscal year 2024. This bill does not contain appropriations to cover these new costs or authorize new positions.
- There are additional provisions that propose reports and a study committee that are estimated to have negligible costs to the State.

#### **Background and Details**

The following sections propose changes to Act 250 that would impact State revenues and result in new cost pressures for the Natural Resources Board.

##### **Sections 16-17a**

These sections contain provisions that would result in reduced Act 250 permitting activity and reduced revenues to the Act 250 Permit Fund through July 1, 2026. Representatives from the Natural Resources Board, which administers the Act 250 permit program, indicated that a robust analysis of these provisions using the permitting data that is readily available would be both time and labor-intensive. The Board noted

<sup>1</sup>[https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20General/Bills/S.100/Drafts.%20Amendments%20and%20Legal%20Documents/S.100~David%20Hall~House%20Committee%20on%20General%20and%20Housing%20Committee%20Report%20\(8-4-0\)~4-13-2023.pdf](https://legislature.vermont.gov/Documents/2024/WorkGroups/House%20General/Bills/S.100/Drafts.%20Amendments%20and%20Legal%20Documents/S.100~David%20Hall~House%20Committee%20on%20General%20and%20Housing%20Committee%20Report%20(8-4-0)~4-13-2023.pdf)

that housing projects make up about 30 percent of overall permitting activity and generally yield higher fee amounts due to the higher average cost of housing construction relative to other types of construction. The Board estimates that, under current law, Act 250 permit revenues will total approximately \$2.7 million in fiscal year 2024.

The changes to Act 250 listed above would have a material impact on annual Act 250 permit revenues in fiscal years 2024 and 2026. However, given the lack of data, it is difficult predict how many projects would happen regardless of this legislation (for which the permitting changes would effectively result in forgone revenue for the State), and how many projects would not happen but for this legislation, which would not negatively impact Act 250 fee revenues.

### **Sections 18-21**

Section 19 establishes an enhanced designation process for municipalities that meet certain criteria. Subdivision and development in approved enhanced designation areas would be exempt from the Act 250 permit process per section 18. The bill charges the Natural Resources Board with drafting model bylaws that municipalities seeking an enhanced designation may adopt. It also charges the Board with reviewing and determining the status of enhanced designation applications.

Per the Natural Resources Board, a limited-service facilitator would be needed to coordinate the model bylaw creation and enhanced designation processes with stakeholders. This would have an estimated one-time cost of \$100,000 in fiscal year 2024. S.100 does not currently contain an appropriation for this purpose.

The Natural Resources Board also notes that a new staff attorney and possibly a new compliance and enforcement officer would be needed to ensure compliance with the model bylaws and enhanced designation requirements. These positions would have a combined annual cost of \$250,000. S.100 neither authorizes nor appropriates funding for these positions.

The following sections contain appropriations or they contain provisions that could result in costs to the State.

### **Section 25**

This section proposes the establishment of a Building Energy Code Study Committee with fifteen members that would be authorized to meet up to six times during the summer and fall of 2023 and report back with findings and recommendations on or before December 1, 2023. Legislative members would be eligible to receive compensation for meeting attendance, as well as any other members that would not otherwise be compensated by an employer for this work. All costs for the work of the study committee would be funded through the Legislature's budget. Estimated costs for this study committee are approximately \$6,000 in fiscal year 2024. No appropriation is included in the bill.

### **Section 25**

Section 25 appropriates \$150,000 from the General Fund to the Human Rights Commission in fiscal year 2024 to hire one full-time exempt litigator position. The litigator will be tasked with prosecuting violations of Vermont antidiscrimination laws, including fair housing laws.

### **Section 29**

Section 29 proposes to require the Executive Director of the Division of Fire Safety to report possible updates to the Vermont Fire and Building Safety Code on or before January 15, 2024. This provision would require staff time and the fiscal impact is unknown.

### **Section 30**

Section 30 appropriates \$2.5 million from the General Fund to the Agency of Human Services in fiscal year 2024 to provide eviction rescue funding on behalf of tenants with unpaid rent at risk of eviction.

**Section 31**

Section 31 appropriates \$200,000 from the General Fund to the Department of Housing and Community Development (DHCD) in fiscal year 2024 to expand home-sharing opportunities throughout the State.

**Section 32**

Section 32 appropriates \$500,000 from the General Fund to DHCD in fiscal year 2024 to provide financial support for home repair, home improvement, housing transition, park infrastructure, legal assistance, and technical assistance for mobile homes and mobile home parks.

**Section 34**

Section 34 appropriates \$2.0 million from the General Fund to the Vermont Housing Finance Agency (VHFA) in fiscal year 2024 for grants through the First-Generation Homebuyer Program. As amended by Section 33 of this bill, the program will provide financial assistance to first-time homebuyers whose parents or legal guardians have never owned a home or lost ownership of a home due to foreclosure, short sale, or deed-in-lieu of foreclosure and have not owned a home since. Individuals who have at any time been placed in foster care qualify as well.

Act 182 of 2022 gave VFHA the discretion to reserve funding and adopt guidelines to provide grants to first-time homebuyers who are also first-generation homebuyers. Of the funds appropriated to DHCD in Act 74 of 2021, \$1.0 million was transferred to VHFA to provide grants to first-generation homebuyers. Providing this assistance in the form of grants rather than loans could result in fewer available funds in the future.

From 2015 through March, 2022, the VHFA ASSIST Down Payment and Closing Cost Assistance program provided \$7,474,098 in loans to 1,565 borrowers. Under current conditions, if the fund does not experience any losses, just over \$10 million in VHFA's revolving loan fund will be available to loan out through 2026. First-generation homebuyers would likely make up a very small subset of the overall program participant population, but because they would receive grants rather than loans the overall amount of the fund could decrease over time.

**Section 37**

Section 37 appropriates \$20.0 million from the General Fund to VHFA in fiscal year 2024 for the Middle-Income Homeownership Development Program. The Agency will use the funds to provide subsidies for new construction or rehabilitation of affordable owner-occupied housing available for purchase by income-eligible homebuyers. Income-eligible homebuyers are defined as those with annual income that does not exceed 150% of area median income. Subsidies available cannot exceed 35% of eligible development costs.

**Section 39**

Section 39 appropriates \$20.0 million from the General Fund to VHFA in fiscal year to implement the Rental Housing Revolving Loan Program. The program will provide subsidized loans for rental housing developments targeted toward middle-income households.

Loans cannot exceed the lesser of the following: 35% of project costs that are attributable to affordable rental units or \$150,000 per unit for each unit that is affordable to renters with annual income between 65 and 80% of area median income and \$100,000 per unit for each unit that is affordable to households with annual income between 81% and 150% of area median income. All affordable units that receive loans through the program must remain affordable for either seven years or until the full amount of the loan has been repaid plus three years, whichever is longer.

To be eligible for the loans a project must create two or more new rental housing units. Projects can include both market rate and affordable units, but at least 25% of units in the project must be affordable. Affordable units must be affordable to households with annual income between 60% and 150% of area median income.

#### **Section 41**

Section 41 appropriates \$20.0 million from the General Fund to DHCD in fiscal year 2023 for the Vermont Rental Housing Improvement Program (VHIP). The Department will award the funding to statewide or regional nonprofit housing organizations to provide competitive grants and forgivable loans to private landlords for the rehabilitation, including weatherization, of eligible rental housing units.

Eligible units cannot be offered for short-term rental. Units are deemed eligible if they are non-code compliant, a newly created accessory dwelling unit, a newly created unit within an existing structure, a newly created single-unit structure, or a newly created unit within a newly created structure that contains five or fewer residential units. Loans or grants cannot exceed \$50,000 per unit and the landlord must contribute matching funds or in-kind services that equal or exceed 20% of the value of the grant or loan.

Units must be made available for a minimum period of five years to individuals exiting homelessness or are actively working with an immigrant or refugee settlement program. In instances where an eligible tenant cannot be found, landlords may rent the unit to a tenant with an annual income equal to or less than 80% of area median income. If an eligible tenant still cannot be found, the landlord may rent to other households subject to approval from the Department.

#### **Section 42**

Section 42 appropriates \$50.0 million from the General Fund to the Vermont Housing and Conservation Board (VHCB) in fiscal year 2024 to provide affordable mix-income rental housing and homeownership units. Funds may also be used for improvements to manufactured homes and communities, recovery residences, and housing available to farm workers and refugees. VHCB will also use the funds to expand shelter capacity and permanent homes for individuals experiencing homelessness

#### **Section 43**

Section 43 proposes to require the Auditor of Accounts to submit a plan for a performance audit of the residential housing development and approval process in Vermont. The plan would include a cost estimate and timetable for the audit. This plan would be due on or before January 15, 2024. This would require some staff time in fiscal year 2024 and the General Assembly would then need to decide whether to provide funding for the performance audit in a future year.