

S: TO THE HOUSE OF REPRESENTATIVES:

The Committee on General, Housing and Military Affairs to which was
referred Senate Bill No. 257

entitled “An act relating to residential rental agreements

It is hereby enacted by” respectfully reports that it has considered the

General Assembly of same and recommends that the State of Vermont House

propose to the Senate that the bill be amended by striking out all after the

enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

As used in this chapter:

* * *

(9) “Sublease” means a rental agreement, written or oral, embodying
terms and conditions concerning the use and occupancy of a dwelling unit and
premises between two tenants, a sublessor and a sublessee.

(10) “Tenant” means a person entitled under a rental agreement to
occupy a residential dwelling unit to the exclusion of others.

Sec. 2. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not
apply to any of the following:

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

Style Definition: Normal: Tab stops: Not at 0.2" + 0.4" + 0.6" + 0.8" + 1" + 1.2"

Style Definition: Heading 1: Tab stops: Not at 0.2" + 0.4" + 0.6" + 0.8" + 1" + 1.2"

Style Definition: Header: Tab stops: Not at 0.2" + 0.4" + 0.6" + 0.8" + 1" + 1.2"

Style Definition: Footer: Tab stops: Not at 0.2" + 0.4" + 0.6" + 0.8" + 1" + 1.2"

Style Definition: Balloon Text: Tab stops: Not at 0.2" + 0.4" + 0.6" + 0.8" + 1" +

Formatted: Section start: Continuous, Footer distance from edge: 0.6"

Formatted: Indent: First line: 0.2", Tab stops: Not at 4.25" + 5.25"

Formatted: Tab stops: 0.2", Left + 0.4", Left + 0.6", Left + 0.8", Left + 1", Left + 1.2", Left

Formatted: Font:

Formatted: Normal, Line spacing: single

Formatted: Font: No underline

Formatted: Keep with next, Tab stops: 0.2", Left + 0.4", Left + 0.6", Left + 0.8", Left + 1", Left + 1.2", Left

Formatted: Font:

Formatted: Normal, Line spacing: single, Keep with next

Formatted: Normal, Line spacing: single

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

* * *

(7) transient residence in a campground, which for the purposes of this chapter means any property used for seasonal or short-term vacation or recreational purposes on which are located cabins, tents, or lean-tos, or campsites designed for temporary set-up of portable or mobile camping, recreational, or travel dwelling units, including tents, campers, and recreational vehicles such as motor homes, travel trailers, truck campers, and van campers; or

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance temporary housing assistance, regardless of whether the occupancy is subject to a tax levied under 32 V. S.A. chapter 225; or

(9) occupancy of a dwelling unit without right or permission by a person who is not a tenant.

Sec. 3. 9 V.S.A. § 4456b is added to read:

§ 4456b. SUBLEASES; LANDLORD AND TENANT RIGHTS AND

OBLIGATIONS

(a)(1) A landlord may condition or prohibit subleasing a dwelling unit under the terms of a written rental agreement, and may require a tenant to

Formatted: Keep with next, Tab stops: 0.2", Left + 0.4", Left + 0.6", Left + 0.8", Left + 1", Left + 1.2", Left

Formatted: Keep with next, Tab stops: 0.2", Left + 0.4", Left + 0.6", Left + 0.8", Left + 1", Left + 1.2", Left

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

1 provide ~~actual~~written notice of the name and contact information of any
2 sublessee occupying the dwelling unit.

3 (2) If the terms of a written rental agreement prohibit subleasing the
4 dwelling unit, the landlord or tenant may ~~give~~bring an action for ejection
5 pursuant to 12 V.S.A. §§ 4761 and 4853b against a person ~~who is not a tenant~~
6 ~~and that~~ is occupying the dwelling unit without right or permission ~~notice~~
7 ~~against trespass pursuant to 13 V.S.A. § 3705(a)~~. This subdivision (2) shall
8 ~~not be construed to limit the rights and remedies available to a landlord~~
9 ~~pursuant to this chapter.~~

10 (b) In the absence of a written rental agreement, a tenant shall provide the
11 landlord with ~~actual~~written notice of the name and contact information of any
12 sublessee occupying the dwelling unit.

13 Sec. 4. ~~1312~~ V.S.A. § ~~3705~~4761 is amended to read:

14 ~~§ 3705. UNLAWFUL TRESPASS~~

15 (a)(1) ~~A person shall be imprisoned for not more than three months or fined~~
16 ~~not more than \$500.00, or both, if, without right or permission, he or she is~~
17 ~~occupying a dwelling unit for which a written rental agreement has prohibited~~
18 ~~subleasing pursuant to 9 V.S.A. § 4456b as to which notice against trespass is~~
19 ~~given, or, without legal authority or the consent of the person in lawful~~
20 ~~possession, he or she enters or remains on any land or in any place as to which~~
21 ~~notice against trespass is given. Notice against trespass may be given by:~~

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

1 (a)(1) In an action for ejectment, the landlord, the landlord’s agent, or the
2 tenant may file a motion for a judgment that the plaintiff is entitled to
3 immediate possession of the premises on the grounds that the defendant is a
4 person that is occupying a dwelling unit without right or permission and the
5 written rental agreement for the dwelling unit prohibits subleasing pursuant to
6 9 V.S.A. § 4456b(a)(2).

7 (2) The motion may be filed and served with the complaint or at any
8 time after the complaint has been filed. The motion shall be accompanied by
9 an affidavit setting forth particular facts in support of the motion and a copy of
10 the lease agreement.

11 (b) A hearing on the motion shall be held any time after 10 days’ notice to
12 the parties.

13 (c) At any time before the hearing, the defendant may oppose the motion
14 pursuant to Rule 78(b) of the Vermont Rules of Civil Procedure by filing an
15 affidavit, a signed written statement, or a memorandum in opposition to the
16 motion. The affidavit, signed written statement, or memorandum shall set
17 forth particular facts to show that a genuine dispute of fact exists in relation to
18 the motion.

19 (d)(1) If the defendant fails to appear for the hearing, or to file an affidavit,
20 signed written statement, or memorandum in opposition to the plaintiff’s
21 motion, or has failed to file an answer in the time provided pursuant to Rule 12

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

1 of the Vermont Rules of Civil Procedure, the plaintiff shall be entitled to
2 judgment by default for immediate possession of the premises.

3 (2) If the court finds that the defendant is a person that is occupying the
4 dwelling unit without right or permission and the written rental agreement for
5 the dwelling unit prohibits subleasing pursuant to 9 V.S.A. § 4456b(a)(2), the
6 court shall grant the plaintiff's motion and issue judgment in favor of the
7 plaintiff for immediate possession of the premises.

8 (e) If the court issues judgment in favor of the plaintiff pursuant to
9 subsection (d) of this section, the court shall, on the date judgment is entered,
10 issue a writ of possession directing the sheriff of the county in which the
11 property or a portion thereof is located to serve the writ upon the defendant
12 and, no sooner than five days after the writ is served, to put the plaintiff into
13 possession.

14 (f) At any time prior to the execution of the writ of possession, the
15 defendant may file an affidavit, signed written statement, or a motion with the
16 court setting forth facts demonstrating that the defendant is occupying the
17 premises lawfully. The court shall treat an affidavit, signed written statement,
18 or a motion filed under this subsection as a motion pursuant to Rule 59 or 60 of
19 the Vermont Rules of Civil Procedure, as appropriate.

20 Sec. 6. EFFECTIVE DATE

21 This act shall take effect on July 1, 2016.

Formatted: Tab stops: 0.2", Left + 0.4", Left + 0.6", Left + 0.8", Left + 1", Left + 1.2", Left

AS PASSED BY SENATE
2016)
4/27/2016 – DJL 09:39 AM

(Draft No. 2.1 – S.257
Page 27 of 47

Formatted: Page Number

Formatted: Normal

Formatted: Normal, Tab stops: 5.31", Right

1
2
3
4
5
6

(Committee vote: _____)

Formatted: Tab stops: 3.31", Left

_____ Representative _____

_____ FOR THE COMMITTEE _____

Formatted: No underline