

To: Senate Finance Committee
From: Maura Collins, Executive Director of Vermont Housing Finance Agency
Date: April 23, 2024
Re: H.687 amendment

The Vermont Housing Finance Agency (VHFA) is supportive of many pieces of H.687 and appreciates the inclusion of critical programs such as the First-Generation Homebuyer Grant program and the Middle-Income Homeownership Development Program.

Additionally, VHFA is proud to be a longstanding champion for universal design in our housing. One of the first major projects I coordinated for VHFA back in 2004 was a two-day Universal Design conference that brought Ronald Mace, the creator of Universal Design, to our state as we trained architects, builders, and developers in best practices of Universal Design.

Since then, VHFA has had a [Universal Design Policy](#) which takes the state's "adaptable" and "visitable" rules for all housing and expands on their applicability. As the policy explains:

The intent of VHFA's Universal Design policy is to attempt to meet the national standards for visitability for all funded units and add additional functional amenities. VHFA requires that all projects and units meet the Vermont Access Rules for being "adaptable" and "visitable". This predominantly affects residential buildings with 1-3 units, that otherwise would not be considered a "covered multifamily dwelling unit", and some buildings with historic habilitation that may be asking for a waiver from the Vermont Access Rules. In addition, all projects shall attempt to provide as many elements of "Universal Design" as possible and shall indicate what they are able to provide on the attached checklist.

While there are several sections of this bill that take laudable policy goals of the state and try to improve housing through new legislation, [Section 92 of the bill as proposed in the amendment](#) (starting on page 23) is an honorable goal with a flawed implementation. Allowing Section 92 to proceed as written will add costs, delays, and likely prohibit the creation of housing with state funding.

This letter may be just from one agency, but I believe that if a broader community were aware of this language, you would hear an outcry from housing developers, architects, state regulators, other funding agencies, engineers, builders, and more who would raise additional questions and concerns. Below is a brief listing of some of the questions and concerns we have.

Codes and Code Enforcement

Vermont's 2015 Fire Building and Safety Code is based on state-level adaptations of five national recognized codes as described in [page 6 of the code](#) on the Department of Fire Safety's (DFS) website. Yes, the amendment in H.687 uses definitions from the 2017 International Code Council Standard for Accessible and Useable Buildings and Facilities, despite that not being one of the national recognized codes Vermont's DFS has included in their building standards. I am not a building codes expert, but I would ask for the committee to not move forward until they have heard testimony from DFS to explain if the ICC Standard listed in this amendment is in alignment with the other five national recognized codes that make up Vermont's existing building code. I am very worried that there's a risk there could be misalignment between the definitions, applications, and implementation of the ICC Standard alongside the International Building Code, which most of Vermont's standard is based on.

Besides the ICC, the amendment opens the door to basing definitions on "other codes," which are unnamed. Instead of providing reassurance that another code could be *more* in alignment with Vermont's existing building codes, this open-ended phrase risks that even *another* code could be applied that doesn't conform with any of the building codes already mentioned.

I am not clear if DFS has testified if they are willing and able to enforce these provisions. DFS is responsible for all residential building code compliance and would need to weigh in on their ability to fold this into the existing building code requirements and then also inspect, monitor, and ensure compliance. I want to be very clear that affordable housing funders such as VHFA cannot step into this role since we do not have the technical staff to provide such a review.

Applicability to Types of Housing

For sale units have long been exempt from such accessibility requirements for a number of reasons. For one, they serve fewer households. Rental units turn over every 2-3 years on average versus a for-sale home which often can be owned by one household for decades. Yet this amendment includes for-sale homes in its purview.

Another reason accessibility requirements do not apply to homeownership is because once a home is purchased, any accessibility features can then be modified, making their installation a wasted exercise. But this amendment restricts home buyers from making any changes to the accessibility features, which will limit the market of who would be interested in buying a home with such restrictions, which will lower the sales price of the home, which will lower the appraisal and assessed value (leading to lower taxes for the town), and potentially limit buyers' ability to obtain a conventional mortgage on the property. Again, I ask if DFS has considered monitoring the compliance of accessibility features in owned homes.

The amendment speaks to this covering "constructed" homes, but for most housing funders that term often includes rehabilitated units. Does this amendment apply to any type of existing structure that is converted to housing? Does it include gut rehabilitation projects? When it discusses receiving state funding, does energy related investments that are funded by the Inflation Reduction Act but administered by state agencies trigger this requirement? Does the use of state-funded rental assistance trigger it? There are many questions about applicability that need far more time to assess and consider.

Affordable housing funders such as VHFA periodically must issue waivers from accessibility rules based on analysis of the project characteristics. For example, there are existing and historic structures that simply cannot meet high levels of accessibility but are still worthy of state investment. Under this language the [Access Board](#) will also need to grant a waiver. That is redundant and unnecessary and adds another layer to the development process.

Page 25 mentions giving priority to tenants with a disability but there's no provision for matching the features of the unit with the disability. [According to AHS](#), 22% of Vermonters have a disability but only 11% of Vermonters have a mobility disability. Therefore, many people with disabilities have no need for the physical accommodations yet this amendment is requiring housing providers to prioritize people with disability regardless of their need for or interest in one of these physically accessible units. Additionally, there are existing priorities for housing developments governed by state and federal funders that this may conflict with, which could lead to prolonged vacancies and non-compliance with either federal funding rules or this state requirement. There are other ways to achieve this goal, though. The [Housing Navigator Massachusetts](#) site is a registry of all affordable and accessible rental apartments in the state. The state could consider funding and supporting such an effort for Vermont.

Impact on Housing

The amendment proposes that all housing constructed using state funding after July 1, 2025, fall under this requirement. Considering it is typical for a housing development to take 14-16 months to construct, this means that there are already housing under construction that will now need to meet these standards despite them already receiving all funding, permits, approvals, financing, and being fully designed and underway. Many more developments plan to break ground this month and next which will now need to stop to consider how to meet this requirement if this passes.

Passing this section of the amendment will add confusion and cost to affordable housing. The confusion will be due to not fully understanding the definitions of what qualifies, which code will be used, who will enforce compliance, and the

impact of the immediate timing requirements. And since any confusion creates delays, this will increase the cost of affordable apartments and for-sale homes. This is not to mention the cost to install the measures proposed. I am unable to quantify these costs since I am not sure how the ICC requirements align or not with the existing codes or what the design restrictions may be for each property. But I am sure that this has the potential to create an unfunded mandate at a time when the cost per apartment is over \$500,000 for affordable housing rental homes.

When the public – and lawmakers – are shocked at the high price of affordable housing development there is often a claim that others could build housing at a lower price point. Sometimes that may be true. But publicly supported housing has additional public policy goals beyond shelter when we create these homes. With affordable housing we often also get a redeveloped downtown, a net-zero energy building, homes for people with no incomes such as those exiting homelessness, and more. It is important for this committee to recognize that requirements like this will add cost, complexity and delay housing production. At worst it may prevent development altogether.

Please either take considerable testimony on these and other questions raised about Section 92 of the amendment or eliminate it if clarity on these issues can't be resolved. It is a very worthy public policy goal to increase accessibility and visitability of more homes in Vermont, but this section as written needs considerable attention before it can be implemented.