

H.680

Introduced by Representative Johnson of Canaan

Referred to Committee on

Date:

Subject: Housing; agriculture; farm tenant

Statement of purpose: This bill proposes to recodify the farm tenant law so that a farm employee's right to occupy farm housing that he or she receives as a benefit to employment on the farm terminates when employment on the farm terminates.

An act relating to termination of occupancy of farm employee housing

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

Sec. 1. 9 V.S.A. § 4469a is added to read:

4469a. TERMINATION OF OCCUPANCY OF FARM EMPLOYEE

HOUSING

(a) For the purposes of this section:

(1) "Farm employee" means an individual employed by a farm employer for farming operations.

(2) "Farm employer" means a person earning at least one-half of his or her annual gross income from the business of farming as that term is defined in Section 1.175-3 of the regulations issued by the United States Department of

1 the Treasury under the Internal Revenue Code of the United States, as
2 amended.

3 (3) "Housing provided as a benefit of farm employment" means housing
4 owned or controlled by the farm employer, whether located on or off the farm
5 premises, and provided for the occupancy of the farm employee and the farm
6 employee's family or household members for no payment other than the farm
7 employee's labor. Payment of utility and fuel charges paid by the farm
8 employee does not affect the designation of housing provided as a benefit of
9 farm employment.

10 (b) Unless otherwise provided in a written employment contract, a farm
11 employer who provides housing to a farm employee and the farm employee's
12 family or household members as a benefit of the employment may terminate
13 that benefit and all rights of the employee and the employee's family or
14 household members to occupy the housing when the employee's employment
15 is terminated.

16 (c) The termination of the housing benefit shall be by written notice served
17 upon the former farm employee by a law enforcement officer in accordance
18 with Rule 4 of the Vermont Rules of Civil Procedure. The notice shall be
19 served together with a summons and complaint seeking a writ of possession
20 under this section to remove the former farm employee from occupancy of the

1 farm housing. The notice shall include the following statements, in boldface
2 print:

3 “Your employment and housing benefit have been terminated.

4 “Your employer has filed a legal proceeding in _____ County superior
5 court to obtain a court order directing you and any family or household
6 member cohabitating in the dwelling to vacate and leave the dwelling and
7 remove all of your possessions. The address and telephone number of the
8 court are as follows:_____.

9 “The court will hold a hearing on your former employer’s request for a
10 court order directing you to leave and vacate the dwelling. The hearing will be
11 held on _____ at _____ in the _____ am/pm at the
12 courthouse at the address listed above. You have the right to be served with
13 notice of the hearing at least ten days prior to the hearing date. You have the
14 right to appear at this hearing. At the hearing, your former employer must
15 prove that the dwelling is needed for housing a replacement employee, and that
16 your failure to vacate is causing actual hardship.

17 “If you believe that your employment was terminated wrongfully, that your
18 dwelling house was not habitable, or if you have any other claim against your
19 former employer, you may file a counterclaim against your former employer as
20 explained in the summons and complaint that are being served upon you with
21 this notice.

1 “Filing a counterclaim against your former employer will not delay or stop
2 the court from ordering you to leave and vacate the dwelling.

3 “You may wish to seek legal advice from a licensed attorney. If you
4 believe you cannot afford an attorney, you may contact the clerk of the court
5 listed above for information about the availability of an attorney at public
6 expense, although you may not be entitled to an attorney at public expense.”

7 (d) A farm employer shall be entitled to a show cause hearing on an
8 expedited basis for the purpose of demonstrating that the failure of the former
9 farm employee to vacate the farm housing is causing an actual hardship to the
10 farm employer. The show cause hearing shall be held not less than 10 calendar
11 days after service on the former employee of the notice described in subsection
12 (c) of this section. The issue before the court at the hearing shall be whether
13 the farm employer has suffered actual hardship because of the unavailability of
14 the farm housing for a replacement employee.

15 (e) If the court finds that the farm employer has suffered actual hardship
16 because of the unavailability of the farm housing for a replacement employee,
17 the court shall enter an order approving a writ of possession, which shall be
18 executed no sooner than five days nor later than 30 days after the writ is
19 served, to put the plaintiff into possession.

20 (f) If the court does not make a finding on behalf of the farm employer, the
21 farm employer may seek an eviction pursuant to sections 4467 and 4468 of this

1 chapter and subchapter 3 of chapter 169 of Title 12. In any action pursuant to
2 this section, the farm employer may file a motion for payment of the
3 reasonable rental value of the premises into court pursuant to 12 V.S.A.
4 § 4853a.

5 (g) The right of a former farm employee to pursue any claim that he or she
6 may have against the former farm employer by way of a counterclaim in a civil
7 action brought pursuant to this section is expressly preserved. The assertion of
8 a counterclaim shall not have the effect of delaying or preventing the removal
9 of the employee from the housing, nor shall the employee be entitled to obtain
10 injunctive relief in the form of repossession of farm housing. A former
11 employee who prevails on a counterclaim shall be entitled to relief as provided
12 by applicable law.

13 (h) Sections 4455, 4461, and 4467 of this chapter shall not apply to housing
14 provided to a farm employee as a benefit of the employment.

15 Sec. 2. EFFECTIVE DATE

16 This act shall take effect on July 1, 2010.