

1 H.365

2 Introduced by Representative Cheney of Norwich

3 Referred to Committee on

4 Date:

5 Subject: Natural resources; conservation and development; land use; Act 250;
6 flood hazard areas; river corridors

7 Statement of purpose of bill as introduced: This bill proposes amendments
8 concerning jurisdiction under 10 V.S.A. chapter 151 (Act 250) within flood
9 hazard areas and river corridors.

10 An act relating to Act 250 jurisdiction in flood hazard areas and river
11 corridors

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

13 Sec. 1. 10 V.S.A. § 6001 is amended to read:

14 § 6001. DEFINITIONS

15 ~~When used in~~ In this chapter:

16 * * *

17 (3)(A) "Development" means:

18 (i) The construction of improvements on a tract or tracts of land,
19 owned or controlled by a person, involving more than 10 acres of land within a
20 radius of five miles of any point on any involved land, for commercial or

1 industrial purposes in a municipality that has adopted permanent zoning and
2 subdivision bylaws.

3 (ii) The construction of improvements for commercial or
4 industrial purposes on more than one acre of land that is:

5 (I) within a municipality that has not adopted permanent zoning
6 and subdivision bylaws;

7 (II) within an area of special flood hazard under 44 C.F.R.
8 § 59.1; or

9 (III) within a river corridor as defined in 24 V.S.A. § 4303.

10 * * *

11 (ix) The construction of one or more dwelling units or
12 single-family residences within an area of special flood hazard under 44 C.F.R.
13 § 59.1 or within a river corridor as defined in 24 V.S.A. § 4303.

14 (B)(i) Smart Growth Jurisdictional Thresholds. Notwithstanding the
15 provisions of subdivision (3)(A) of this section, if a project consists
16 exclusively of any combination of mixed income housing or mixed use ~~and~~ is
17 located entirely within a growth center designated pursuant to 24 V.S.A.
18 § 2793c or within a downtown development district designated pursuant to
19 24 V.S.A. § 2793, and is located outside an area of special flood hazard under
20 44 C.F.R. § 59.1 and outside a river corridor as defined in 24 V.S.A. § 4303,
21 “development” means:

1 * * *

2 (ii) Mixed Income Housing Jurisdictional Thresholds.

3 Notwithstanding the provisions of subdivision (3)(A) of this section, if a
4 project consists exclusively of mixed income housing and is located entirely
5 within a Vermont neighborhood, but outside a growth center designated
6 pursuant to 24 V.S.A. § 2793c ~~and~~, outside a downtown development district
7 designated pursuant to 24 V.S.A. § 2793, outside an area of special flood
8 hazard under 44 C.F.R. § 59.1, and outside a river corridor as defined in
9 24 V.S.A. § 4303, “development” means:

10 * * *

11 Sec. 2. 10 V.S.A. § 6081 is amended to read:

12 § 6081. PERMITS REQUIRED; EXEMPTIONS

13 (a) No person shall sell or offer for sale any interest in any subdivision
14 located in this ~~state~~ State, or commence construction on a subdivision or
15 development, or commence development without a permit. This section shall
16 not prohibit the sale, mortgage₂ or transfer of all, or an undivided interest in all,
17 of a subdivision unless the sale, mortgage₂ or transfer is accomplished to
18 circumvent the purposes of this chapter.

19 (b) Subsection (a) of this section shall not apply to a subdivision exempt
20 under the regulations of the ~~department of health~~ Department of Health in
21 effect on January 21, 1970 or any subdivision which has a permit issued prior

1 to June 1, 1970 under the ~~board of health~~ Board of Health regulations, or has
2 pending a bona fide application for a permit under the regulations of the ~~board~~
3 ~~of health~~ Board of Health on June 1, 1970, with respect to plats on file as of
4 June 1, 1970 provided such permit is granted prior to August 1, 1970.

5 Subsection (a) of this section shall not apply to development which is not also
6 a subdivision, which has been commenced prior to June 1, 1970, if the
7 construction will be completed by March 1, 1971. Subsection (a) of this
8 section shall not apply to a state highway on which a hearing pursuant to
9 19V.S.A. § 222 has been held prior to June 1, 1970. Subsection (a) of this
10 section shall not apply to any telecommunications facility in existence prior to
11 July 1, 1997, unless that facility is a “development” as defined in subdivision
12 6001(3) of this title. Subsection (a) of this section shall apply to any
13 substantial change in such excepted subdivision or development.

14 Subsection (a) also shall apply to the expansion of any such excepted
15 development through the construction of improvements exceeding 300 square
16 feet within any five-year period if the development is located within an area of
17 special flood hazard under 44 C.F.R. § 59.1 or a river corridor as defined in
18 24 V.S.A. § 4303.

19 * * *

1 Sec. 3. 10 V.S.A. § 6086 is amended to read:

2 § 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

3 * * *

4 (g) The Board shall adopt rules that pertain to development that is subject
5 to jurisdiction under this chapter solely because the development is located
6 within an area of special flood hazard under 44 C.F.R. § 59.1 or within a river
7 corridor as defined in 24 V.S.A. § 4303. These rules shall waive or
8 conditionally waive those criteria of subsection (a) of this section that the
9 Board determines are not applicable to such development. However, the Board
10 shall not waive subdivisions (a)(1)(D) (floodways), (E) (streams), and (F)
11 (shorelines) of this section.

12 Sec. 4. EFFECTIVE DATE; IMPLEMENTATION

13 This act shall take effect on July 1, 2013. On or before March 1, 2014, the
14 Natural Resources Board shall adopt rules under Sec. 3 of this act (issuance of
15 permit; conditions and criteria).