

H.123

Introduced by Representatives Botzow of Pownal, Bissonnette of Winooski,  
Christie of Hartford, Deen of Westminster, Donovan of  
Burlington, Keenan of St. Albans City, Marcotte of Coventry,  
Russell of Rutland City, Stevens of Waterbury, and Townsend  
of South Burlington

Referred to Committee on

Date:

Subject: Commerce and trade; housing; mobile home parks and mobile homes

Statement of purpose of bill as introduced: This bill proposes to expand  
statutory authority for compliance and enforcement of laws governing mobile  
home parks and habitability standards.

An act relating to mobile home parks, habitability standards, and  
compliance

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

~~Sec. 1. 10 V.S.A. § 6205 is amended to read:~~

~~§ 6205. ENFORCEMENT; PENALTIES~~

~~(a) Any person who violates or fails to comply with this chapter or with  
any conditions, restrictions, or limitations contained in a permit issued under  
this chapter shall be fined not more than \$1,000.00 or imprisoned for not more~~

1 ~~than six months, or both. A mobile home park owner who violates or fails to~~  
2 comply with a provision of this chapter commits an unfair and deceptive act in  
3 commerce in violation of 9 V.S.A. § 2453 and shall be subject to the  
4 enforcement provisions and penalties available under 9 V.S.A. chapter 63  
5 (consumer protection).

6 (b) ~~The superior court for the county in which a violation of this chapter~~  
7 ~~occurs shall have jurisdiction, on application by the department in the case of~~  
8 ~~violations of sections 6236–6243 of this title, to enjoin and restrain the~~  
9 ~~violation, but any election by the department to proceed under this subsection~~  
10 ~~shall not limit or restrict the authority of the state to prosecute for the offense~~  
11 ~~under subsection (a) of this section. In addition to the enforcement authority~~  
12 available under subsection (a) of this section, for a violation of this chapter, the  
13 Department shall have the authority:

14 (1) to impose an administrative penalty of up to \$5,000.00 per violation;  
15 (2) to bring a civil action for damages or injunctive relief, or both, in the  
16 Superior Court for the unit in which a violation occurred; and  
17 (3) to refer a violation to the Attorney General or State's Attorney for  
18 enforcement pursuant to subsection (a) of this section.

19 (c)(1) ~~A~~ In addition to the enforcement authority provided in subsections  
20 (a) and (b) of this section, a leaseholder may bring an action against the park  
21 owner for a violation of sections 6236–6243 of this title.

1 ~~(2) The action shall be filed in superior court Superior Court for the unit~~  
2 in which the alleged violation occurred.

3 ~~(3) No action may be commenced by the leaseholder unless the~~  
4 leaseholder has first notified the park owner of the violation by certified mail at  
5 least 30 days prior to bringing the action.

6 ~~(4) During the pendency of an action brought by a leaseholder, the~~  
7 leaseholder shall pay rent in an amount designated in the lease, or as provided  
8 by law, which rental amount shall be deposited in an escrow account as  
9 directed by the ~~court~~ Court.

10 Sec. 2. 10 V.S.A. chapter 153, subchapter 3 is amended to read:

11 Subchapter 3. Habitability

12 \* \* \*

13 § 6262. PARK OWNER OBLIGATIONS; WARRANTY OF  
14 HABITABILITY; RULES

15 (a) In any lot rental agreement, the park owner shall be deemed to covenant  
16 and warrant to deliver over and maintain, throughout the period of the tenancy,  
17 premises which are safe, clean, and fit for human habitation. This warranty  
18 requires the park owner to provide adequate and reliable utility services,  
19 including safe electrical service, potable water, and sewage disposal to a  
20 location on each lot from which these utilities can be connected to the mobile  
21 home. The warranty also requires the park owner to assure that the roads,

1 ~~common areas, and facilities within the mobile home park are safe and fit for~~  
2 the purpose for which they were reasonably intended.

3 (b) ~~The department~~ Department, in cooperation with the ~~agency of natural~~  
4 ~~resources, the department of public safety and the department of health~~ Agency  
5 of Natural Resources, the Department of Public Safety, and the Department of  
6 Health, shall, by rule, adopt standards for safety, cleanliness and fitness for  
7 human habitation regarding the rental of a mobile home lot within a mobile  
8 home park, including standards for road conditions that will ensure emergency  
9 vehicle access to homes within a mobile home park.

10 (c) No rental agreement shall contain any provision by which the  
11 leaseholder waives the protections of the implied warranty of habitability. Any  
12 such waiver shall be deemed contrary to public policy and shall be  
13 unenforceable and void.

14 § 6263. HABITABILITY; LEASEHOLDER REMEDIES

15 (a)(1) If the mobile home park owner fails to comply with the obligation of  
16 habitability, the park owner shall be deemed to have notice of the  
17 noncompliance if the park owner receives actual notice of the noncompliance  
18 from the leaseholder, a governmental entity, or a qualified independent  
19 inspector.

20 (2) If the park owner has received notice from any of those sources and  
21 fails to make repairs within a reasonable time and the noncompliance

1 ~~materially affects health and safety, the leaseholder may pursue any of the~~

2 following remedies:

3       ~~(1)(A) Withhold~~ withhold payment of lot rent during the period of  
4 the noncompliance;

5       ~~(2)(B) Obtain~~ obtain injunctive relief;

6       ~~(3)(C) Recover~~ recover damages, costs, and reasonable attorney  
7 attorney's fees; or

8       ~~(4)(D) Terminate~~ terminate the rental agreement on reasonable  
9 notice.

10       (b) For purposes of subsection (a) of this section, a mobile home park  
11 owner's failure to maintain the roads and other common areas within the  
12 mobile home park in a condition that reasonably ensures ingress and egress by  
13 emergency vehicles shall be deemed noncompliance that materially affects  
14 health and safety.

15       (c) The remedies under this section are not available to a leaseholder if the  
16 noncompliance was caused by the negligent or deliberate act or omission of the  
17 leaseholder or of a person on the premises with the leaseholder's consent.

18 § 6264. MINOR DEFECTS; REPAIR AND DEDUCT

19       (a)(1) If the park owner fails to repair a minor defect or noncompliance  
20 with this chapter or noncompliance with a material provision of the rental  
21 agreement within 30 days of receipt of written notice, the leaseholder may

1 ~~repair the defect or noncompliance and deduct from the rent the actual and~~  
2 reasonable cost, not to exceed one-half of one month's lot rent.

3 (2) No major work on water, sewer, or electrical systems may be  
4 performed under this section.

5 (3) The leaseholder shall provide the owner with written notice of the  
6 cost of the repair or service when the cost is deducted from the rent.

7 (4) The leaseholder shall be responsible for any damage caused by the  
8 repair or attempts to repair.

9 (b) The remedies under this section are not available to a leaseholder if the  
10 noncompliance was caused by the negligent or deliberate act or omission of the  
11 leaseholder or a person on the premises with the leaseholder's consent.

12 Sec. 3. EFFECTIVE DATE

13 This act shall take effect on July 1, 2015.

*Sec. 1. 10 V.S.A. § 6205 is amended to read:*

*§ 6205. ENFORCEMENT; PENALTIES*

*(a) ~~Any person who violates or fails to comply with this chapter or with any conditions, restrictions, or limitations contained in a permit issued under this chapter shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both~~ A mobile home park owner who violates or fails to comply with a provision of this chapter violates 9 V.S.A. § 2453.*

~~(b) The superior court for the county in which a violation of this chapter occurs shall have jurisdiction, on application by the department in the case of violations of sections 6236-6243 of this title, to enjoin and restrain the violation, but any election by the department to proceed under this subsection shall not limit or restrict the authority of the state to prosecute for the offense under subsection (a) of this section. If a mobile home park owner violates this chapter, the Department shall have the authority:~~

~~(1) to impose an administrative penalty of up to \$5,000.00 per violation;~~

~~(2) to bring a civil action for damages or injunctive relief, or both, in the Superior Court for the unit in which a violation occurred; and~~

~~(3) to refer a violation to the Attorney General or State's Attorney for enforcement pursuant to subsection (a) of this section.~~

~~(c)(1) A leaseholder may bring an action against the park owner for a violation of sections 6236-6243 of this title.~~

~~(2) The action shall be filed in superior court Superior Court for the unit in which the alleged violation occurred.~~

~~(3) No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the action.~~

~~(4) During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided~~

~~by law, which rental amount shall be deposited in an escrow account as~~  
~~directed by the court~~ Court.

Sec. 2. 10 V.S.A. chapter 153, subchapter 3 is amended to read:

*Subchapter 3. Habitability*

\* \* \*

§ 6262. ~~PARK OWNER OBLIGATIONS; WARRANTY OF~~  
~~HABITABILITY; RULES~~

~~(a) In any lot rental agreement, the park owner shall be deemed to~~  
~~covenant and warrant to deliver over and maintain, throughout the period of~~  
~~the tenancy, premises which are safe, clean, and fit for human habitation. This~~  
~~warranty requires the park owner to provide adequate and reliable utility~~  
~~services, including safe electrical service, potable water, and sewage disposal~~  
~~to a location on each lot from which these utilities can be connected to the~~  
~~mobile home. The warranty also requires the park owner to assure that the~~  
~~roads, common areas, and facilities within the mobile home park are safe and~~  
~~fit for the purpose for which they were reasonably intended.~~

~~(b) The department~~ Department, in cooperation with the ~~agency of natural~~  
~~resources, the department of public safety and the department of health~~ Agency  
of Natural Resources, the Department of Public Safety, and the Department of  
Health, shall, by rule, adopt standards for safety, cleanliness and fitness for



~~human habitation regarding the rental of a mobile home lot within a mobile home park.~~

~~(c) No rental agreement shall contain any provision by which the leaseholder waives the protections of the implied warranty of habitability. Any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.~~

~~§ 6263. HABITABILITY; LEASEHOLDER REMEDIES~~

~~(a)(1) If the mobile home park owner fails to comply with the obligation of habitability, the park owner shall be deemed to have notice of the noncompliance if the park owner receives actual notice of the noncompliance from the leaseholder, a governmental entity, or a qualified independent inspector.~~

~~(2) If the park owner has received notice from any of those sources and fails to make repairs within a reasonable time and the noncompliance materially affects health and safety, the leaseholder may pursue any of the following remedies:~~

~~(1)(A) Withhold ~~Withhold~~ payment of lot rent during the period of the noncompliance;~~

~~(2)(B) Obtain ~~Obtain~~ injunctive relief;~~

~~(3)(C) Recover ~~Recover~~ damages, costs, and reasonable attorney's fees; or~~

~~(4)(D) Terminate terminate the rental agreement on reasonable notice.~~

~~(b)(1) For purposes of subdivision (a)(2) of this section, a mobile home park owner's failure to maintain the roads within a mobile home park in a condition that reasonably ensures access by emergency vehicles shall be deemed noncompliance that materially affects health and safety.~~

~~(2) This subsection does not require a mobile home park owner to create a new road or other improvement, or to modify an existing road or other improvement, within an existing mobile home park.~~

~~(c) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or of a person on the premises with the leaseholder's consent.~~

~~§ 6264. MINOR DEFECTS; REPAIR AND DEDUCT~~

~~(a)(1) If the park owner fails to repair a minor defect or noncompliance with this chapter or noncompliance with a material provision of the rental agreement within 30 days of receipt of written notice, the leaseholder may repair the defect or noncompliance and deduct from the rent the actual and reasonable cost, not to exceed one-half of one month's lot rent.~~

~~(2) No major work on water, sewer, or electrical systems may be performed under this section.~~

~~(3) The leaseholder shall provide the owner with written notice of the cost of the repair or service when the cost is deducted from the rent.~~

~~(4) The leaseholder shall be responsible for any damage caused by the repair or attempts to repair.~~

~~(b) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or a person on the premises with the leaseholder's consent.~~

*Sec. 3. EFFECTIVE DATE*

~~This act shall take effect on July 1, 2015.~~

*Sec. 1. 10 V.S.A. § 6205 is amended to read:*

*§ 6205. ENFORCEMENT; PENALTIES*

~~(a) Any person who violates or fails to comply with this chapter or with any conditions, restrictions, or limitations contained in a permit issued under this chapter shall be fined not more than \$1,000.00 or imprisoned for not more than six months, or both~~ A mobile home park owner who violates or fails to comply with a provision of this chapter violates 9 V.S.A. § 2453.

~~(b) The superior court for the county in which a violation of this chapter occurs shall have jurisdiction, on application by the department in the case of violations of sections 6236-6243 of this title, to enjoin and restrain the violation, but any election by the department to proceed under this subsection shall not limit or restrict the authority of the state to prosecute for the offense~~

~~under subsection (a) of this section~~ If a mobile home park owner violates this chapter, the Department shall have the authority:

(1) to impose an administrative penalty of up to \$5,000.00 per violation;

(2) to bring a civil action for damages or injunctive relief, or both, in the Superior Court for the unit in which a violation occurred; and

(3) to refer a violation to the Attorney General or State's Attorney for enforcement pursuant to subsection (a) of this section.

~~(c)(1)~~ A leaseholder may bring an action against the park owner for a violation of sections 6236–6243 of this title.

(2) The action shall be filed in ~~superior court~~ Superior Court for the unit in which the alleged violation occurred.

(3) No action may be commenced by the leaseholder unless the leaseholder has first notified the park owner of the violation by certified mail at least 30 days prior to bringing the action.

(4) During the pendency of an action brought by a leaseholder, the leaseholder shall pay rent in an amount designated in the lease, or as provided by law, which rental amount shall be deposited in an escrow account as directed by the ~~court~~ Court.

Sec. 2. 10 V.S.A. chapter 153, subchapter 3 is amended to read:

*Subchapter 3. Habitability*

\* \* \*

§ 6262. *PARK OWNER OBLIGATIONS; WARRANTY OF  
HABITABILITY; RULES*

*(a) In any lot rental agreement, the park owner shall be deemed to covenant and warrant to deliver over and maintain, throughout the period of the tenancy, premises which are safe, clean, and fit for human habitation. This warranty requires the park owner to provide adequate and reliable utility services, including safe electrical service, potable water, and sewage disposal to a location on each lot from which these utilities can be connected to the mobile home. The warranty also requires the park owner to assure that the roads, common areas, and facilities within the mobile home park are safe and fit for the purpose for which they were reasonably intended.*

*(b) The ~~department~~ Department, in cooperation with the ~~agency of natural resources, the department of public safety and the department of health~~ Agency of Natural Resources, the Department of Public Safety, and the Department of Health, shall, by rule, adopt standards for safety, cleanliness and fitness for human habitation regarding the rental of a mobile home lot within a mobile home park.*

*(c) No rental agreement shall contain any provision by which the leaseholder waives the protections of the implied warranty of habitability. Any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.*

§ 6263. *HABITABILITY; LEASEHOLDER REMEDIES*

*(a)(1) If the mobile home park owner fails to comply with the obligation of habitability, the park owner shall be deemed to have notice of the noncompliance if the park owner receives actual notice of the noncompliance from the leaseholder, a governmental entity, or a qualified independent inspector.*

*(2) If the park owner has received notice from any of those sources and fails to make repairs within a reasonable time and the noncompliance materially affects health and safety, the leaseholder may pursue any of the following remedies:*

*(1)(A) ~~Withhold~~ withhold payment of lot rent during the period of the noncompliance;*

*(2)(B) ~~Obtain~~ obtain injunctive relief;*

*(3)(C) ~~Recover~~ recover damages, costs, and reasonable ~~attorney~~ attorney's fees; or*

*(4)(D) ~~Terminate~~ terminate the rental agreement on reasonable notice.*

*(b)(1) For purposes of subdivision (a)(2) of this section, a mobile home park owner's failure to maintain the roads within a mobile home park in a condition that reasonably ensures access by emergency vehicles shall be deemed noncompliance that materially affects health and safety.*

(2) This subsection does not require a mobile home park owner to create a new road or other improvement, or to modify an existing road or other improvement, within an existing mobile home park.

(c) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or of a person on the premises with the leaseholder's consent.

§ 6264. MINOR DEFECTS; REPAIR AND DEDUCT

(a)(1) If the park owner fails to repair a minor defect or noncompliance with this chapter or noncompliance with a material provision of the rental agreement within 30 days of receipt of written notice, the leaseholder may repair the defect or noncompliance and deduct from the rent the actual and reasonable cost, not to exceed one-half of one month's lot rent.

(2) No major work on water, sewer, or electrical systems may be performed under this section.

(3) The leaseholder shall provide the owner with written notice of the cost of the repair or service when the cost is deducted from the rent.

(4) The leaseholder shall be responsible for any damage caused by the repair or attempts to repair.

(b) The remedies under this section are not available to a leaseholder if the noncompliance was caused by the negligent or deliberate act or omission of the leaseholder or a person on the premises with the leaseholder's consent.

\* \* \*

*Sec. 3. 10 V.S.A. § 6237 is amended to read:*

*§ 6237. EVICTIONS*

\* \* \*

*(e) A judgment order of eviction pursuant to this section shall provide that a leaseholder shall sell a mobile home or remove a mobile home from the mobile home park:*

*(1) within three months from the date of execution of a writ of possession pursuant to 12 V.S.A. chapter 169; or*

*(2) within another period ordered by the court in its discretion.*

*(f) A leaseholder evicted pursuant to this section shall continue to be responsible for lot rent that accrues until the mobile home is sold or removed from the mobile home park.*

*(g) A park owner shall serve notice of eviction proceedings pursuant to this section and 12 V.S.A. chapter 169 to the leaseholder and to any occupants known to the park owner residing in the mobile home.*

*Sec. 4. 10 V.S.A. § 6248 is amended to read:*

*§ 6248. ABANDONMENT OF MOBILE HOME IN MOBILE HOME PARK*

*(a) A resident or owner of a mobile home in a mobile home park shall be deemed to have abandoned the mobile home if all the following conditions exist:*



~~(1)(A) A a reasonable person would believe that the mobile home is not occupied as a residence;~~

~~(2)(B) ~~The~~ the rent for the lot is at least 30 days delinquent; and~~

~~(3)(C) ~~The~~ the park owner has attempted to contact the resident or owner at the resident or owner's home, last known place of employment, and last known mailing address without success; or~~

~~(2) the owner of the mobile home has been evicted from the mobile home park pursuant to 10 V.S.A. § 6237 and the owner has failed to remove or sell the mobile home within three months after the execution of a writ of possession pursuant to 12 V.S.A. chapter 169 or as otherwise ordered by the court in the ejectment action.~~

~~(b) Abandonment of a mobile home shall be deemed to be a substantial violation of the lease terms and may result in immediate eviction proceedings.~~

~~(e) A mobile home park owner may not commence an action pursuant to section 6249 of this title to sell an abandoned mobile home on which there are delinquent property taxes until 20 days after the date the park owner sends notice of the park owner's intent to commence the action to the town clerk and the tax collector of the town in which the mobile home is located by certified mail, return receipt requested.~~

*Sec. 5. EFFECTIVE DATE*

*This act shall take effect on July 1, 2015.*