

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~~ 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.