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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 a~~ 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 If a mobile home park owner  
 13 violates a violation of this chapter, the 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, If a mobile home park owner violates this chapter, a

1 leaseholder may bring an action against the park owner for a violation of  
2 sections 6236–6243 of this title.

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

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

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

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

13 Subchapter 3. Habitability

14 \* \* \*

15 § 6262. PARK OWNER OBLIGATIONS; WARRANTY OF  
16 HABITABILITY; RULES

17 (a) In any lot rental agreement, the park owner shall be deemed to covenant  
18 and warrant to deliver over and maintain, throughout the period of the tenancy,  
19 premises which are safe, clean, and fit for human habitation. This warranty  
20 requires the park owner to provide adequate and reliable utility services,  
21 including safe electrical service, potable water, and sewage disposal to a

1 location on each lot from which these utilities can be connected to the mobile  
2 home. The warranty also requires the park owner to assure that the roads,  
3 common areas, and facilities within the mobile home park are safe and fit for  
4 the purpose for which they were reasonably intended.

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

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

16 § 6263. HABITABILITY; LEASEHOLDER REMEDIES

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

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

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

7           (2)(B) ~~Obtain~~ obtain injunctive relief.;

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

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

12          (b) For purposes of subsection (a) of this section, a mobile home park  
 13 owner's failure to maintain the roads and other common areas within the  
 14 mobile home park in a condition that reasonably ensures ingress and egress by  
 15 emergency vehicles shall be deemed noncompliance that materially affects  
 16 health and safety. Subject to the prerequisites set forth in subsection (a) of this  
 17 section, failure of a mobile home park owner to maintain minimum and  
 18 reasonable road conditions within a mobile home park that would allow access  
 19 by emergency response vehicles in violation of State and/or local law shall be  
 20 deemed a violation of the warranty of habitability that materially affects health

and safety. This section shall not create a higher road standard or result in modifications to existing road standards within mobile home parks.

(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

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