

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing and Military Affairs to which was  
3 referred Senate Bill No. 257 entitled “An act relating to residential rental  
4 agreements” respectfully reports that it has considered the same and  
5 recommends that the House propose to the Senate that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

8 Sec. 1. 9 V.S.A. § 4451 is amended to read:

9 § 4451. DEFINITIONS

10 As used in this chapter:

11 \* \* \*

12 (9) “Sublease” means a rental agreement, written or oral, embodying  
13 terms and conditions concerning the use and occupancy of a dwelling unit and  
14 premises between two tenants, a sublessor and a sublessee.

15 (10) “Tenant” means a person entitled under a rental agreement to  
16 occupy a residential dwelling unit to the exclusion of others.

17 Sec. 2. 9 V.S.A. § 4452 is amended to read:

18 § 4452. EXCLUSIONS

19 Unless created to avoid the application of this chapter, this chapter does not  
20 apply to any of the following:

21 \* \* \*

1 (7) transient residence in a campground, which for the purposes of this  
2 chapter means any property used for seasonal or short-term vacation or  
3 recreational purposes on which are located cabins, tents, or lean-tos, or  
4 campsites designed for temporary set-up of portable or mobile camping,  
5 recreational, or travel dwelling units, including tents, campers, and recreational  
6 vehicles such as motor homes, travel trailers, truck campers, and van  
7 campers; ~~or~~

8 (8) transient occupancy in a hotel, motel, or lodgings during the time the  
9 occupant is a recipient of General Assistance or Emergency Assistance  
10 temporary housing assistance, regardless of whether the occupancy is subject  
11 to a tax levied under 32 V. S.A. chapter 225; or

12 (9) occupancy of a dwelling unit without right or permission by a person  
13 who is not a tenant.

14 Sec. 3. 9 V.S.A. § 4456b is added to read:

15 § 4456b. SUBLEASES; LANDLORD AND TENANT RIGHTS AND

16 OBLIGATIONS

17 (a)(1) A landlord may condition or prohibit subleasing a dwelling unit  
18 under the terms of a written rental agreement, and may require a tenant to  
19 provide written notice of the name and contact information of any sublessee  
20 occupying the dwelling unit.

1           (2) If the terms of a written rental agreement prohibit subleasing the  
2           dwelling unit, the landlord or tenant may bring an action for ejectment  
3           pursuant to 12 V.S.A. §§ 4761 and 4853b against a person that is occupying  
4           the dwelling unit without right or permission. This subdivision (2) shall not be  
5           construed to limit the rights and remedies available to a landlord pursuant to  
6           this chapter.

7           (b) In the absence of a written rental agreement, a tenant shall provide the  
8           landlord with written notice of the name and contact information of any  
9           sublessee occupying the dwelling unit.

10          Sec. 4. 12 V.S.A. § 4761 is amended to read:

11          § 4761. WHEN MAINTAINABLE; PARTIES

12           A person having claim to the seisin or possession of lands, tenements or  
13           hereditaments shall have an action of ejectment, according to the nature of the  
14           case, which shall be brought as well against the landlord, if any, as against the  
15           tenant in possession of the premises, or against a person that is occupying a  
16           dwelling unit, for which subleasing is prohibited pursuant to a written rental  
17           agreement, without right or permission pursuant to 9 V.S.A. § 4456b(a)(2);  
18           and, if otherwise brought, on motion, the same shall be abated. Tenants in  
19           common of lands may join in an action concerning their common interest in  
20           such lands.

1 Sec. 5. 12 V.S.A. § 4853b is added to read:

2 § 4853b. UNLAWFUL OCCUPANT; EXPEDITED HEARING

3 (a)(1) In an action for ejectment, the landlord, the landlord’s agent, or the  
4 tenant may file a motion for a judgment that the plaintiff is entitled to  
5 immediate possession of the premises on the grounds that the defendant is a  
6 person that is occupying a dwelling unit without right or permission and the  
7 written rental agreement for the dwelling unit prohibits subleasing pursuant to  
8 9 V.S.A. § 4456b(a)(2).

9 (2) The motion may be filed and served with the complaint or at any  
10 time after the complaint has been filed. The motion shall be accompanied by  
11 an affidavit setting forth particular facts in support of the motion and a copy of  
12 the lease agreement.

13 (b) A hearing on the motion shall be held any time after 10 days’ notice to  
14 the parties.

15 (c) At any time before the hearing, the defendant may oppose the motion  
16 pursuant to Rule 78(b) of the Vermont Rules of Civil Procedure by filing an  
17 affidavit, a signed written statement, or a memorandum in opposition to the  
18 motion. The affidavit, signed written statement, or memorandum shall set  
19 forth particular facts to show that a genuine dispute of fact exists in relation to  
20 the motion.

1        (d)(1) If the defendant fails to appear for the hearing, or to file an affidavit,  
2        signed written statement, or memorandum in opposition to the plaintiff's  
3        motion, or has failed to file an answer in the time provided pursuant to Rule 12  
4        of the Vermont Rules of Civil Procedure, the plaintiff shall be entitled to  
5        judgment by default for immediate possession of the premises.

6        (2) If the court finds that the defendant is a person that is occupying the  
7        dwelling unit without right or permission and the written rental agreement for  
8        the dwelling unit prohibits subleasing pursuant to 9 V.S.A. § 4456b(a)(2), the  
9        court shall grant the plaintiff's motion and issue judgment in favor of the  
10       plaintiff for immediate possession of the premises.

11       (e) If the court issues judgment in favor of the plaintiff pursuant to  
12       subsection (d) of this section, the court shall, on the date judgment is entered,  
13       issue a writ of possession directing the sheriff of the county in which the  
14       property or a portion thereof is located to serve the writ upon the defendant  
15       and, no sooner than five days after the writ is served, to put the plaintiff into  
16       possession.

17       (f) At any time prior to the execution of the writ of possession, the  
18       defendant may file an affidavit, signed written statement, or a motion with the  
19       court setting forth facts demonstrating that the defendant is occupying the  
20       premises lawfully. The court shall treat an affidavit, signed written statement,

1 or a motion filed under this subsection as a motion pursuant to Rule 59 or 60 of  
2 the Vermont Rules of Civil Procedure, as appropriate.

3 Sec. 6. EFFECTIVE DATE

4 This act shall take effect on July 1, 2016.

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7 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

9

Representative \_\_\_\_\_

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FOR THE COMMITTEE