

1 H.259

2 Introduced by Representative Tate of Mendon

3 Referred to Committee on

4 Date:

5 Subject: Residential rental agreements; court procedure; ejection

6 Statement of purpose of bill as introduced: This bill proposes to expedite the  
7 eviction process; to permit municipal police officers and constables to serve a  
8 writ of possession and to place a landlord in possession of a premises  
9 following an eviction; to permit a court to decide a motion to pay rent into  
10 court without a hearing; and to require defendants in an eviction proceeding to  
11 file a verified answer supported by an affidavit.

12 An act relating to residential eviction proceedings

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

14 Sec. 1. 9 V.S.A. § 4467 is amended to read:

15 § 4467. TERMINATION OF TENANCY; NOTICE

16 (a) Termination for nonpayment of rent. The landlord may terminate a  
17 tenancy for nonpayment of rent by providing actual notice to the tenant of the  
18 date on which the tenancy will terminate which shall be at least ~~14~~ seven days  
19 after the date of the actual notice. The rental agreement shall not terminate if  
20 the tenant pays or tenders rent due through the end of the rental period in

1 which payment is made or tendered. Acceptance of partial payment of rent  
2 shall not constitute a waiver of the landlord's remedies for nonpayment of rent  
3 or an accord and satisfaction for nonpayment of rent.

4 (b) Termination for breach of rental agreement.

5 (1) The landlord may terminate a tenancy for failure of the tenant to  
6 comply with a material term of the rental agreement or with obligations  
7 imposed under this chapter by actual notice given to the tenant at least  
8 ~~30~~ 14 days prior to the termination date specified in the notice.

9 (2) When termination is based on criminal activity, illegal drug activity,  
10 or acts of violence, any of which threaten the health or safety of other  
11 residents, the landlord may terminate the tenancy immediately by providing  
12 actual notice to the tenant ~~of the date on which the tenancy will terminate~~  
13 ~~which shall be at least 14 days from the date of the actual notice.~~

14 (c) Termination for no cause. In the absence of a written rental agreement,  
15 the landlord may terminate a tenancy for no cause as follows:

16 (1) If rent is payable on a monthly basis, by providing actual notice to  
17 the tenant of the date on which the tenancy will terminate which shall be:

18 ~~(A) for tenants who have resided continuously in the same premises~~  
19 ~~for two years or less, at least 60 days after the date of the actual notice;~~



1 Sec. 2. 12 V.S.A. § 4854 is amended to read:

2 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

3 (a) If the court finds that the plaintiff is entitled to possession of the  
4 premises, the plaintiff shall have judgment for possession and rents due,  
5 damages, and costs, and when a written rental agreement so provides, the court  
6 may award reasonable attorney's fees.

7 (b)(1) A writ of possession shall issue on the date judgment is entered,  
8 unless the court for good cause orders a stay.

9 (2) The clerk of the court shall serve the writ on all parties that have  
10 entered an appearance in the proceeding pursuant to Rule 77 of the Vermont  
11 Rules of Civil Procedure. If a defendant has not entered an appearance in the  
12 proceeding, the writ shall direct a police officer or constable of the  
13 municipality or the sheriff of the county in which the property, or a portion  
14 thereof, is located to serve the writ upon the defendant. If the police officer or  
15 constable of the municipality or the sheriff of the county is unable to serve the  
16 writ upon the defendant following three attempts to do so, he or she may serve  
17 the writ by leaving a copy of it at the defendant's dwelling.

18 (3) The writ shall direct a police officer or constable of the municipality  
19 or the sheriff of the county in which the property, or a portion thereof, is  
20 located to serve the writ upon the defendant and, no sooner than ten days after  
21 the writ is served, to put the plaintiff into possession no sooner than five

1 calendar days after the writ is served. Notwithstanding any provision of Rule 6  
2 of the Vermont Rules of Civil Procedure to the contrary, the time period before  
3 a municipal police officer, constable, or sheriff may put a plaintiff into  
4 possession pursuant to a writ issued under this subsection shall include  
5 intermediate Saturdays, Sundays, and legal holidays.

6 Sec. 3. 12 V.S.A. § 4853a is amended to read:

7 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

8 \* \* \*

9 (b) ~~A~~ If the court determines that a hearing is necessary, it shall hold a  
10 hearing on the motion shall be held any time after 10 days' notice to the  
11 parties. If the tenant appears at the hearing and has not been previously  
12 defaulted, the court shall not enter judgment by default unless the tenant fails  
13 to file a written answer within 10 days after the hearing. Any rent escrow  
14 order shall remain in effect notwithstanding the issuance of a default judgment  
15 but shall cease upon execution of a writ of possession.

16 \* \* \*

17 (h) If the tenant fails to pay rent into court in the amount and on the dates  
18 ordered by the court, the landlord shall be entitled to judgment for immediate  
19 possession of the premises. The court shall forthwith issue a writ of possession  
20 directing a police officer or constable of the municipality or the sheriff of the  
21 county in which the property, or a portion thereof, is located to serve the writ

1 upon the defendant and, no sooner than ~~five~~ three days after the writ is served,  
2 or, in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 30  
3 days after the writ is served, to put the plaintiff into possession.

4 Sec. 4. 12 V.S.A. § 4852 is amended to read:

5 § 4852. MODE OF PROCESS; DECLARATION; TRIAL BY JURY

6 (a) The complaint shall describe the lands or tenements in question and  
7 state that the defendant is in possession of them and that the tenant holds  
8 possession unlawfully and against the right of the plaintiff. A copy of the  
9 rental agreement, if any, and any notice to terminate the defendant's tenancy  
10 shall be attached to the complaint.

11 (b) The process may issue as a summons or writ of attachment, requiring  
12 the defendant to appear and answer to the complaint of the plaintiff ~~which shall~~  
13 ~~state that the defendant is in the possession of the lands or tenements in~~  
14 ~~question (describing them), which the tenant holds unlawfully and against the~~  
15 ~~right of the plaintiff. A copy of the rental agreement, if any, and any notice to~~  
16 ~~terminate the defendant's tenancy shall be attached to the complaint. The~~  
17 ~~defendant's answer shall be verified under oath or supported by an affidavit~~  
18 ~~setting forth particular facts in support of it. Knowingly providing a false~~  
19 ~~statement in a verified answer or affidavit submitted pursuant to this subsection~~  
20 ~~shall constitute false swearing in violation of 13 V.S.A. § 2904.~~

21 (c) Either party shall have the right to a trial by jury.

1 Sec. 5. 12 V.S.A. § 4853a(a) is amended to read:

2 (a) ~~In any action against a tenant for possession, the landlord may file a~~  
3 ~~motion for an order that the tenant pay rent into court. The motion may be filed~~  
4 ~~and served with the complaint or at any time after the complaint has been filed.~~  
5 ~~The motion shall be accompanied by affidavit setting forth particular facts in~~  
6 ~~support of the motion.~~ [Repealed.]

7 Sec. 6. 12 V.S.A. § 4853a(a) is amended to read:

8 (a) In any action against a tenant for possession brought ~~in accordance with~~  
9 pursuant to this chapter, 9 V.S.A. chapter 137, 10 V.S.A. chapter 153, or  
10 11 V.S.A. chapter 14, the landlord may file a motion for an order that the  
11 tenant pay rent into court. The motion may be filed and served with the  
12 complaint or at any time after the complaint has been filed. The motion shall  
13 be accompanied by affidavit setting forth particular facts in support of the  
14 motion.

15 Sec. 7. EFFECTIVE DATE

16 This act shall take effect on July 1, 2017.