

1 S.100

2 Introduced by Committee on Economic Development, Housing and General
3 Affairs

4 Date:

5 Subject: Commerce and trade; housing

6 Statement of purpose of bill as introduced: This bill proposes to promote
7 affordable and sustainable housing through bonding for affordable housing
8 development; through changes to State and municipal land use laws
9 concerning affordable and priority housing projects; through education and
10 outreach to municipalities concerning municipal authority on water and sewer
11 connections; and through allowing captive insurance companies to participate
12 in the tax credit for affordable housing.

13 An act relating to promoting affordable and sustainable housing

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

15 * * * Housing Bond; Property Transfer Tax; Housing Projects * * *

16 Sec. 1. VERMONT HOUSING AND CONSERVATION BOARD;

17 HOUSING FOR ALL

18 (a) Findings and purpose.

19 (1) The General Assembly finds that investments are needed to help
20 house the most vulnerable as well as creating more homes for workers.

1 (2) The shortage of affordable and available homes has been highlighted
2 recently by:

3 (A) the Vermont Futures Project of the Vermont Chamber of
4 Commerce, which set a growth target of 5,000 new and improved housing
5 units annually;

6 (B) a national consultant's recommendations for a Roadmap to End
7 Homelessness, which calls for 368 new units for permanent supportive housing
8 and 1,251 new homes affordable at 30 percent of median or below over the
9 next five years; and

10 (C) the 2015 statewide housing needs assessment by Bowen National
11 Research, which found the largest gaps in housing affordable to households
12 below 30 percent of median and between 85 percent and 120 percent, and a
13 lack of housing availability across the income spectrum.

14 (3) The purpose of this section is to promote the development and
15 improvement of housing for Vermonters.

16 (b) The Vermont Housing and Conservation Board shall use the proceeds
17 of bonds, notes, and other obligations issued by the Vermont Housing Finance
18 Agency pursuant to 10 V.S.A. § 621(22) and transferred to the Vermont
19 Housing and Conservation Trust Fund to fund the creation and improvement of
20 ownership and rental housing for Vermonters with very low to middle income
21 in areas targeted for growth and reinvestment, as follows:

1 (1) not less than 25 percent of the housing shall be targeted to
2 Vermonters with very low income, meaning households below 50 percent of
3 area median income; and

4 (2) not less than 25 percent shall be targeted to Vermonters with
5 moderate income, meaning households between 80 and 120 percent of median
6 income.

7 Sec. 2. 32 V.S.A. § 9610 is amended to read:

8 § 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
9 RETURNS

10 (a) Not later than 30 days after the receipt of any property transfer return, a
11 town clerk shall file the return in the office of the town clerk and electronically
12 forward a copy of the acknowledged return to the Commissioner; provided,
13 however, that with respect to a return filed in paper format with the town, the
14 Commissioner shall have the discretion to allow the town to forward a paper
15 copy of that return to the department.

16 (b) The copies of property transfer returns in the custody of the town clerk
17 may be inspected by any member of the public.

18 (c) Prior to distributions of property transfer tax revenues under 10 V.S.A.
19 § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. §~~ subdivision 435(b)(10) of this
20 title, one percent of the revenues received from the property transfer tax shall

1 be deposited in a special fund in the Department of Taxes for Property
2 Valuation and Review administration costs.

3 (d)(1) Prior to any distribution of property transfer tax revenue under
4 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
5 subsection (c) of this section, \$2.5 million of the revenue received from the
6 property transfer tax shall be transferred to the Vermont Housing Finance
7 Agency to pay the principal of and interest due on the bonds, notes, and other
8 obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
9 § 621(22), the proceeds of which the Vermont Housing and Conservation
10 Board shall use to create affordable housing pursuant to 10 V.S.A. chapter 15.

11 (2) As long as the bonds, notes, and other obligations incurred pursuant
12 to subdivision (1) of this subsection remain outstanding, the rate of tax
13 imposed pursuant to section 9602 of this title shall not be reduced below a rate
14 estimated, at the time of any reduction, to generate annual revenues of at least
15 \$12 million.

16 * * * Vermont Housing Finance Agency; Authority to Issue Bonds for
17 Affordable Housing * * *

18 Sec. 3. 10 V.S.A. § 621 is amended to read:

19 § 621. GENERAL POWERS AND DUTIES

20 The Agency shall have all of the powers necessary and convenient to carry
21 out and effectuate the purposes and provisions of this chapter, including

1 without limitation those general powers provided a business corporation by
2 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation
3 by 11B V.S.A. § 3.02 and including, without limiting the generality of the
4 foregoing, the power to:

5 * * *

6 (22) issue bonds, notes, and other obligations secured by the property
7 transfer tax revenues transferred to the Agency pursuant to 32 V.S.A.
8 § 9610(d).

9 Sec. 4. 10 V.S.A. § 631(1) is added to read:

10 (1)(1) The bonds, notes, and other obligations authorized to be issued
11 pursuant to subdivision 621(22) of this title shall be secured by a pledge of the
12 property transfer tax revenues to be transferred to the Agency pursuant to
13 32 V.S.A. § 9610(d) and shall mature not later than June 30, 2038.

14 (2) The Agency may issue the bonds, notes, and other obligations in one
15 or more series at one time or from time to time, provided that the aggregate
16 annual debt service on the bonds, notes, and other obligations shall not exceed
17 \$2.5 million at any time.

18 (3) The Agency shall transfer the proceeds of the bonds, notes, and other
19 obligations, less issuance fees and costs and required reserves, to the Vermont
20 Housing and Conservation Trust Fund established pursuant to section 312 of

1 this title, for use by the Vermont Housing and Conservation Board as provided
2 in chapter 15 of this title.

3 (4) The Agency, the Vermont Housing and Conservation Board, and the
4 State Treasurer may execute one or more agreements governing the terms and
5 conditions under which the property transfer tax revenues that secure the
6 bonds, notes, and obligations will be transferred to the Agency, and any other
7 issues they determine appropriate.

8 Sec. 5. REPEAL

9 The following shall be repealed on July 1, 2038:

10 (1) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable
11 housing debt repayment).

12 (2) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA)
13 authority to issue debt obligations secured by property transfer tax).

14 (3) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

15 Sec. 6. 10 V.S.A. § 323 is amended to read:

16 § 323. ANNUAL REPORT

17 Prior to January 31 of each year, the ~~board~~ Board shall submit a report
18 concerning its activities to the ~~governor~~ Governor and legislative committees
19 on agriculture, natural resources and energy, appropriations, ways and means,
20 finance, and institutions. The report shall include, ~~but not be limited to,~~ the
21 following:

1 (1) a list and description of activities funded by the ~~board~~ Board during
2 the preceding year, including commitments made to fund projects through
3 housing bond proceeds, and project descriptions, levels of affordability, and
4 geographic location;

5 * * *

6 * * * Municipal Outreach; Sewerage and Water Service Connections * * *

7 Sec. 7. AGENCY OF NATURAL RESOURCES; EDUCATION AND
8 OUTREACH; DELEGATION; SEWERAGE AND WATER
9 SERVICE CONNECTIONS

10 (a) The Secretary of Natural Resources, after consultation with the
11 Vermont League of Cities and Towns, shall conduct outreach and education
12 for municipalities regarding the ability of a municipality under 10 V.S.A.
13 § 1976 to be delegated the authority to permit the connection of a municipal
14 sewer or water service line to subdivided land, a building, or a campground.

15 (b) The education and outreach shall specify the conditions or requirements
16 for delegation, how a municipality can seek delegation, and contact
17 information or other resource to provide additional information regarding
18 delegation. The education and outreach may include educational materials,
19 workshops, or classes regarding the ability of a municipality to be delegated
20 under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

1 (c) On or before January 15, 2018, the Secretary of Natural Resources shall
2 submit a report to the Senate Committees on Natural Resources and Energy
3 and Economic Development, Housing and General Affairs and the House
4 Committees on Natural Resources, Fish and Wildlife and on Commerce and
5 Economic Development summarizing the education and outreach conducted or
6 planned by the Secretary under the requirements of this section and whether
7 any municipality has sought delegation of sewer and water service connection
8 permitting under 10 V.S.A. § 1976 since the effective date of this act.

9 * * * Municipal Land Use and Development; Affordable Housing * * *

10 Sec. 8. 24 V.S.A. § 4303 is amended to read:

11 § 4303. DEFINITIONS

12 The following definitions shall apply throughout this chapter unless the
13 context otherwise requires:

14 (1) “Affordable housing” means either of the following:

15 (A) ~~Housing that is owned by its inhabitants whose gross annual~~
16 ~~household income does not exceed 80 percent of the county median income, or~~
17 ~~80 percent of the standard metropolitan statistical area income if the~~
18 ~~municipality is located in such an area, as defined by the U.S. Department of~~
19 ~~Housing and Urban Development, and the total annual cost of the housing,~~
20 ~~including principal, interest, taxes, insurance, and condominium association~~
21 ~~fees is not more than 30 percent of the household’s gross annual income.~~

1 Owner-occupied housing for which the total annual cost of
2 ownership, including principal, interest, taxes, insurance, and condominium
3 association fees, does not exceed 30 percent of the gross annual income of a
4 household at 120 percent of the highest of the following:

5 (i) the county median income, as defined by the U.S. Department
6 of Housing and Urban Development;

7 (ii) the standard metropolitan statistical area median income if the
8 municipality is located in such an area, as defined by the U.S. Department of
9 Housing and Urban Development; or

10 (iii) the statewide median income, as defined by the
11 U.S. Department of Housing and Urban Development.

12 ~~(B) Housing that is rented by its inhabitants whose gross annual~~
13 ~~household income does not exceed 80 percent of the county median income, or~~
14 ~~80 percent of the standard metropolitan statistical area income if the~~
15 ~~municipality is located in such an area, as defined by the U.S. Department of~~
16 ~~Housing and Urban Development, and the total annual cost of the housing,~~
17 ~~including rent, utilities, and condominium association fees, is not more than 30~~
18 ~~percent of the household's gross annual income.~~

19 Rental housing for which the total annual cost of renting, including
20 rent, utilities, and condominium association fees, does not exceed 30 percent of

1 the gross annual income of a household at 80 percent of the highest of the
2 following:

3 (i) the county median income, as defined by the U.S. Department
4 of Housing and Urban Development;

5 (ii) the standard metropolitan statistical area median income if the
6 municipality is located in such an area, as defined by the U.S. Department of
7 Housing and Urban Development; or

8 (iii) the statewide median income, as defined by the
9 U.S. Department of Housing and Urban Development.

10 * * *

11 * * * Act 250; Priority Housing Projects * * *

12 Sec. 9. 10 V.S.A. § 6001 is amended to read:

13 § 6001. DEFINITIONS

14 In this chapter:

15 * * *

16 (3)(A) “Development” means each of the following:

17 * * *

18 (iv) The construction of housing projects such as cooperatives,
19 condominiums, or dwellings, or construction or maintenance of mobile homes
20 or mobile home parks, with 10 or more units, constructed or maintained on a
21 tract or tracts of land, owned or controlled by a person, within a radius of five

1 miles of any point on any involved land, and within any continuous period of
2 five years. However:

3 (I) A priority housing project shall constitute a development
4 under this subdivision (iv) only if the number of housing units in the project is:

5 (aa) ~~275 or more, in a municipality with a population of~~
6 ~~15,000 or more; [Repealed.]~~

7 (bb) ~~150 or more, in a municipality with a population of~~
8 ~~10,000 or more but less than 15,000; [Repealed.]~~

9 (cc) 75 or more, in a municipality with a population of 6,000
10 or more but less than 10,000;

11 (dd) 50 or more, in a municipality with a population of
12 3,000 or more but less than 6,000;

13 (ee) 25 or more, in a municipality with a population of less
14 than 3,000; ~~and~~

15 (ff) ~~notwithstanding~~ Notwithstanding subdivisions (aa)(cc)
16 through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction
17 involves the demolition of one or more buildings that are listed on or eligible
18 to be listed on the State or National Register of Historic Places. However,
19 demolition shall not be considered to create jurisdiction under this subdivision
20 if the Division for Historic Preservation has determined that the proposed
21 demolition will have no adverse effect, will have no adverse effect if specified

1 conditions are met, or will have an adverse effect that will be adequately
2 mitigated. Any imposed conditions shall be enforceable through a grant
3 condition, deed covenant, or other legally binding document.

4 (II) The determination of jurisdiction over a priority housing
5 project shall count only the housing units included in that discrete project.

6 (III) Housing units in a priority housing project shall not count
7 toward determining jurisdiction over any other project.

8 * * *

9 (D) The word “development” does not include:

10 * * *

11 (viii) The construction of a priority housing project in a
12 municipality with a population of 10,000 or more. However, if the
13 construction of the project involves demolition of one or more buildings that
14 are listed or eligible to be listed on the State or National Register of Historic
15 Places, this exemption shall not apply unless the Division for Historic
16 Preservation has made the determination described in subdivision
17 (3)(A)(iv)(I)(ff) of this section and any imposed conditions are enforceable in
18 the manner set forth in that subdivision.

19 * * *

20 (27) “Mixed income housing” means a housing project in which the
21 following apply:

1 (A) Owner-occupied housing. At the option of the applicant, owner-
2 occupied housing may be characterized by either of the following:

3 (i) at least 15 percent of the housing units have a purchase price
4 which at the time of first sale does not exceed 85 percent of the new
5 construction, targeted area purchase price limits established and published
6 annually by the Vermont Housing Finance Agency; or

7 (ii) at least 20 percent of the housing units have a purchase price
8 which at the time of first sale does not exceed 90 percent of the new
9 construction, targeted area purchase price limits established and published
10 annually by the Vermont Housing Finance Agency;

11 (B) Rental ~~Housing~~ housing. At least 20 percent of the housing units
12 that are rented constitute affordable housing and have a duration of
13 affordability of ~~no~~ not less than ~~20~~ 15 years.

14 (28) “Mixed use” means construction of both mixed income housing
15 and construction of space for any combination of retail, office, services,
16 artisan, and recreational and community facilities, provided at least 40 percent
17 of the gross floor area of the buildings involved is mixed income housing.
18 “Mixed use” does not include industrial use.

19 (29) “Affordable housing” means either of the following:

20 (A) ~~Housing that is owned by its inhabitants whose gross annual~~
21 ~~household income does not exceed 80 percent of the county median income, or~~

1 ~~80 percent of the standard metropolitan statistical area income if the~~
2 ~~municipality is located in such an area, as defined by the U.S. Department of~~
3 ~~Housing and Urban Development, and the total annual cost of the housing,~~
4 ~~including principal, interest, taxes, insurance, and condominium association~~
5 ~~fees is not more than 30 percent of the household's gross annual income.~~

6 Owner-occupied housing for which the total annual cost of
7 ownership, including principal, interest, taxes, insurance, and condominium
8 association fees, does not exceed 30 percent of the gross annual income of a
9 household at 120 percent of the highest of the following:

10 (i) the county median income, as defined by the U.S. Department
11 of Housing and Urban Development;

12 (ii) the standard metropolitan statistical area median income if the
13 municipality is located in such an area, as defined by the U.S. Department of
14 Housing and Urban Development; or

15 (iii) the statewide median income, as defined by the
16 U.S. Department of Housing and Urban Development.

17 (B) ~~Housing that is rented by its inhabitants whose gross annual~~
18 ~~household income does not exceed 80 percent of the county median income, or~~
19 ~~80 percent of the standard metropolitan statistical area income if the~~
20 ~~municipality is located in such an area, as defined by the U.S. Department of~~
21 ~~Housing and Urban Development, and the total annual cost of the housing,~~

1 ~~including rent, utilities, and condominium association fees, is not more than 30~~
2 ~~percent of the household's gross annual income.~~

3 Rental housing for which the total annual cost of renting, including
4 rent, utilities, and condominium association fees, does not exceed 30 percent of
5 the gross annual income of a household at 80 percent of the highest of the
6 following:

7 (i) the county median income, as defined by the U.S. Department
8 of Housing and Urban Development;

9 (ii) the standard metropolitan statistical area median income if the
10 municipality is located in such an area, as defined by the U.S. Department of
11 Housing and Urban Development; or

12 (iii) the statewide median income, as defined by the
13 U.S. Department of Housing and Urban Development.

14 * * *

15 (35) "Priority housing project" means a discrete project located on a
16 single tract or multiple contiguous tracts of land that consists exclusively of:

17 (A) mixed income housing or mixed use, or any combination thereof,
18 and is located entirely within a designated downtown development district,
19 designated new town center, designated growth center, or designated village
20 center that is also a designated neighborhood development area under
21 24 V.S.A. chapter 76A; or

1 (B) mixed income housing and is located entirely within a designated
2 Vermont neighborhood or designated neighborhood development area under
3 24 V.S.A. chapter 76A.

4 * * *

5 Sec. 10. 10 V.S.A. § 6081 is amended to read:

6 § 6081. PERMITS REQUIRED; EXEMPTIONS

7 (a) No person shall sell or offer for sale any interest in any subdivision
8 located in this State, or commence construction on a subdivision or
9 development, or commence development without a permit. This section shall
10 not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all,
11 of a subdivision unless the sale, mortgage, or transfer is accomplished to
12 circumvent the purposes of this chapter.

13 * * *

14 (o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A.
15 § ~~2793~~ chapter 76A is removed, subsection (a) of this section shall apply to
16 any subsequent substantial change to a priority housing project that was
17 originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the
18 basis of that designation.

19 (p)(1) No permit or permit amendment is required for any change to a
20 project that is located entirely within a downtown development district
21 designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of

1 any combination of mixed use and mixed income housing, and the cumulative
2 changes within any continuous period of five years, commencing on or after
3 the effective date of this subsection, remain below the jurisdictional threshold
4 specified in subdivision 6001(3)(A)(iv)(I) of this title.

5 (2) No permit or permit amendment is required for a priority housing
6 project in a designated center other than a downtown development district if
7 the project remains below the jurisdictional threshold specified in subdivision
8 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any
9 existing permit or permit amendment issued under this chapter that applies to
10 the tract or tracts on which the project will be located. If such a priority
11 housing project will not comply with one or more of these conditions, an
12 application may be filed pursuant to section 6084 of this title.

13 * * *

14 Sec. 11. 10 V.S.A. § 6084 is amended to read:

15 § 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF

16 REVIEW

17 * * *

18 (f) This subsection concerns an application for a permit amendment to
19 change the conditions of an existing permit or permit amendment in order to
20 authorize the construction of a priority housing project described in
21 subdivision 6081(p)(2) of this title.

1 (1) The District Commission may authorize a district coordinator to
2 issue such an amendment, without notice and a hearing, if the applicant
3 demonstrates that all parties to the permit or permit amendment or their
4 successors in interest have consented to the proposed changes to conditions
5 relative to the criteria for which the party retained party status.

6 (2) If the applicant is not able to obtain the consent of a party or parties
7 or their successors in interest with respect to one or more of the conditions
8 proposed to be changed, the applicant shall file a permit application pursuant to
9 this section. However, review by the District Commission shall be limited to
10 whether the changes to conditions not consented to by the party or parties or
11 their successors in interest enable positive findings under subsection 6086(a)
12 and are authorized under subsection 6086(c) of this title.

13 * * * ACCD; Publication of Median Household Income and Qualifying Costs
14 for Affordable Housing * * *

15 Sec. 12. 3 V.S.A. § 2472 is amended to read:

16 § 2472. DEPARTMENT OF HOUSING AND COMMUNITY
17 DEVELOPMENT

18 (a) The Department of Housing and Community Development is created
19 within the Agency of Commerce and Community Development. The
20 Department shall:

21 * * *

1 (5) In conjunction with the Vermont Housing Finance Agency, annually
 2 publish data and information to enable the public to determine income levels
 3 and costs for owner-occupied and rental housing to qualify as affordable
 4 housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

5 (A) the median income for each Vermont county, as defined by the
 6 U.S. Department of Housing and Urban Development;

7 (B) the standard metropolitan statistical area median income for each
 8 municipality is located in such an area, as defined by the U.S. Department of
 9 Housing and Urban Development; and

10 (C) the statewide median income, as defined by the U.S. Department
 11 of Housing and Urban Development.

12 * * *

13 * * * Downtown Tax Credits * * *

14 Sec. 13. 32 V.S.A. § 5930ee is amended to read:

15 § 5930ee. LIMITATIONS

16 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
 17 credits to all qualified applicants under this subchapter, provided that:

18 (1) the total amount of tax credits awarded annually, together with sales
 19 tax reallocated under section 9819 of this title, does not exceed ~~\$2,200,000.00~~
 20 \$2,400,000.00;

21 * * *

1 * * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

2 Sec. 14. 32 V.S.A. § 5930u is amended to read:

3 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

4 (a) As used in this section:

5 * * *

6 (5) "Credit certificate" means a certificate issued by the allocating
7 agency to a taxpayer that specifies the amount of affordable housing tax credits
8 that can be applied against the taxpayer's individual or corporate income tax,
9 or franchise, captive insurance premium, or insurance premium tax liability as
10 provided in this subchapter.

11 * * *

12 (c) Amount of credit. A taxpayer who makes an eligible cash contribution
13 shall be entitled to claim against the taxpayer's individual income, corporate,
14 franchise, captive insurance premium, or insurance premium tax liability a
15 credit in an amount specified on the taxpayer's credit certificate. The first-year
16 allocation of a credit amount to a taxpayer shall also be deemed an allocation
17 of the same amount in each of the following four years.

18 * * *

19 * * * Effective Date * * *

20 Sec. 15. EFFECTIVE DATE

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