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HOUSE COMMITTEE ON NATURAL
RESOURCES, FISH AND WILDLIFE

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MEMORANDUM

To: House Committee on Commerce and Economic Development,
Rep. William Botzow II, Chair

From: House Committee on Natural Resources, Fish and Wildlife,
Rep. David L. Deen, Chair

Date: April 14, 2017

Subject: S.135; Recommendation of changes in Sec. H.3,
at 10 V.S.A. § 6001(3)(D)(viii), and Sec. H.5, at 10 V.S.A. § 6084(f)

On behalf of the House Committee on Natural Resources, Fish and Wildlife, this memorandum recommends to the House Committee on Commerce and Economic Development that the language as it appears in Sec. H.3 of S.135 at 10 V.S.A. § 6001(3)(D)(viii)¹ be replaced with the following:

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

This proposal does not involve substantive changes. It simply splits subdivision (viii) into two subdivisions (I) and (II). The change separates two related, but different, provisions: subdivision (I) sets forth the new exemption from the definition of “development,” while subdivision (II) qualifies that exemption by making it clear that the exemption from “development” may not apply if the

¹ The language, in a single subdivision(viii), now reads:

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

construction of the priority housing project involves the demolition of one or more historic buildings.

This memorandum also recommends to the House Committee on Commerce and Economic Development that the language as it appears in Sec. H.5 of S.135 at 10 V.S.A. § 6084(f)² be replaced with the following:

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

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the **existing** permit or **existing** permit amendment, **which contains the condition or conditions proposed to be changed**, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party **obtained** party status.

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

The proposed language, highlighted in yellow, also does not involve substantive changes. It merely clarifies the distinction between the new and existing permits or permit amendments, and it makes a few other technical edits.

² The language now reads:

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

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

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