



To: Senate Judiciary Committee

February 16, 2018

Vermont REALTORS® represents approximately 1700 real estate agents who work directly for the citizens and property owners of Vermont. We have a genuine interest in preserving the quality of our real estate inventory and we understand that our environment has a direct impact on value. We are supportive of most of the clean water efforts that are in the Legislatures processes.

Duplication of Existing Programs

We are generally supportive of S.260 but we oppose the inclusion of the “Citizens Right to Action” also known as “Citizen Suits” portion in the bill. This would be an expensive duplication of efforts as there is already a mechanism that requires the Department of Environmental Conservation (DEC) to respond to complaints and the federal Clean Water Act already includes citizen suits.

Legislation Via Courtroom and Closed Doors

After some review of National Citizen Suits its quite apparent that this is a complex and evolving issue. A report titled “Sue and Settle Updated: Damage Done” by the U.S. Chamber of Commerce outlines how “sue and settle” has been used to legislate via courtroom and closed doors rather than representative government. It is referred to as “sue and settle” in the report as most defendants choose to settle than become involved in costly legal battles. The report also shows a maintained 100% increase in these “Sue and Settle” cases over previous years starting in 2012, apparently demonstrating this as a growing advocacy model. According to the report these settlements often require heavy financial burdens on the states and do not include the extra federal appropriations needed to complete the required work.

Potential for Abuse

We are very aware of the potential for abuse. Our association receives multiple calls every week with citizens looking to use law against their neighbor for competitive and often vindictive reasons. The examples are broad and usually include someone’s perception of how a law works. Some continue to pursue their loose legal interpretations even after they are told they are wrong.

Waste of State Resources

S.260s apparent primary intent is to create a permanent funding structure and administration of clean water projects. We are already aware of the extremely limited State resources available and believe citizens suits would be another hinderance on our agencies ability to accomplish its clean water obligations.

Vermont REALTORS® asks that you remove Citizens Right to Action from S.260.

Thank you,
Matthew Musgrave
Government Affairs Director

https://www.uschamber.com/sites/default/files/u.s._chamber_sue_and_settle_2017_updated_report.pdf