

H. 907 Rental Safety Legislation Summary (04/04/2018)
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I wanted to provide a review of what is proposed in [H. 907](#) and a few thoughts on how we got to these recommendations. You will hear from others on the various problems with our current Rental Safety programs, and how they do or don't work. The Legislature itself over the last two decades has acknowledged that there are problems, and has requested that several study committees look at the issues. The last study committee was completed in February 2010. I served as Chair of the two year study. Recommendations can be found in this report [Rental Housing Safety Committee Report Act 176](#).

Unfortunately, in part because to the recession, there has not been a lot of follow through on many of the recommendations. As the problems have continued a working group got together recently to propose a few steps that hopefully can move some of these issues forward.

The last study committee had recommended that in the long term the State should create an Office of Rental Housing Code Enforcement, with responsibility for overseeing, adopting and supporting enforcement of rental housing codes. What responsibilities that Office might have and how it would be staffed depends on how strongly communities or consortia of communities are required to take responsibility for the safety and quality of their local rental housing stock. Over the years Landlords, Tenants, State Agencies, Municipalities, and Legislators have struggled with how and with whom to vet various policy and programs ideas. Right now there is no one clearly identified place where this discussion can happen.

The Dept. of Public Safety oversees compliance with fire and life safety, electrical and plumbing codes, and building code requirements using state employees. A number of municipalities take on this responsibility directly. The Agency of Natural Resources oversees wastewater and potable water supply issues. The Dept. of Health oversees the Rental Housing Health Code (RHHC) which deals with more basic health and safety requirements. Currently the law requires that the towns are primarily responsible for enforcing the RHHC often using volunteer health officers.

Sec 1 and 2 - Rental Advisory Board

Since Vermont has no one State agency responsible for reviewing the various policy and implementation issues that arise around the condition, inspection, and availability of rental housing, these sections establish a Residential Rental Housing Advisory Board, propose the composition and duties of the Advisory Board, and tasks them to provide recommendations on certain issues by January 2019. These recommendations should include ideas for incentives and programs to assist landlords with repairs.

Sec 3 – Health Dept. Report

The Dept. of Health (DOH) currently oversees the Town Health Officer (THO) program and the Rental Housing Health Code (RHHC). There has been testimony and reports on a variety of challenges of the program. The Legislature needs to get DOH's complete and professional opinion on the best way to structure the RHHC programs and present recommendations by January 2019. This section also asks DOH to start keeping data on the number and type of complaints received by THO's and specially assign someone in the DOH to be responsible for program oversight.

The proposals to set up a Rental Housing Advisory Board and a report by DOH are intended to provide recommendations on overall systems and options, and a venue for ongoing policy review and future legislation. If stakeholders are interested in changing our current system of code inspection and enforcement, this is where that could be discussed. However, in the meantime there is a need for some more immediate clarifications.

Sec 4 – THO Inspections

Current law says that the THO shall “upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation”. The only thing this section adds is a clarification that an investigation can be also conducted “upon request of a landlord or tenant”.

Over the last few years the Dept. of Health has done a very good job in providing education, written materials and recommendations for town health officers. The primary purpose of Section 5 is to reinforce the use of those materials and have consistency town to town in compliance and enforcement of the Rental Housing Health Code. This is the link to the DOH handbook [Town Health Officer Manual](#).

Sec 5 – Inspection Reports for Serious Health and Safety Violations

This section is intended to offer a few best practices under current law to improve the process for health and safety violations caused either by the landlord or the tenant:

- *THO’s must do an investigation upon complaint now; this is not new. For rental housing, the new provision just explicitly says the inspection report shall be in writing using Dept. of Health protocols for implementing the Rental Housing Health Code (or those of the municipality if they have a code enforcement office).*
- *The written inspection report must specify timelines and requirements for correcting the problem.*
- *Landlords are already implicitly prohibited by the Warranty of Habitability and the RHC from re-renting dwellings with existing health code violations until the violation is corrected. This provision would have THOs explicitly include reminder language to that effect in their written reports. The enforcement of this provision is no different than the enforcement of any other violation.*
- *The current tools for enforcement of a violation of the RHC are awkward in the absence of explicit municipal ordinances and should be reviewed more completely; however clearer written inspection reports hopefully will increase compliance. A provision is added so that a town may (but is not required to) impose a fine if a violation is not corrected by the specified timeline. This could happen if desired by the town without them having to enact special ordinances and may be a quicker and easier tool than going right to a civil court action.*
- *The written inspection report must be given to the landlord and tenants.*
- *If the local THO fails to conduct an investigation, the landlord or the tenant may request DOH “at its discretion”, conduct an investigation or contact the local board of health to take action. It is not intended that the DOH take over all inspections but that they actively engage with the town and get the appropriate follow through.*

Sec 6 – Landlord Certificates

Having a list of rental property owners and addresses is critical to better understand Vermont’s rental housing stock. According to the U.S Census there are 77,000 rental units in VT, which results in \$846 million dollars in annual activity. Rental housing is one of the few businesses in the state that is not required in some fashion to register. This type of registry could be accomplished in several ways. A number of towns have independent registries and charge a fee for that to help fund compliance activities. The Dept. of Health maintains a partial registry for the Lead Paint compliance program. Many towns collect this information through their Grand List and that could be required statewide. *However, the Dept. of Taxes (as of 2016) already collects the necessary information through the Landlord Certificate associated with the rent rebate program. This seemed the most expeditious way to collect needed information on rental housing, without creating a new program. The intent of this provision is to allow the Tax Dept. to make non- confidential information public upon request.*