

1 S.135

2 Senators Balint, Baruth, Clarkson, Mullin, and Sirotkin move to amend the
3 bill by striking out Secs. H.1–J.1 in their entirety and inserting in lieu thereof
4 Secs. H.1–K.1 to read:

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

6 Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND
7 OUTREACH; DELEGATION; SEWERAGE AND WATER
8 SERVICE CONNECTIONS

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

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

20 (c) On or before January 15, 2018, the Secretary of Natural Resources shall
21 submit a report to the Senate Committees on Natural Resources and Energy

1 and on Economic Development, Housing and General Affairs and the House
2 Committees on Natural Resources, Fish and Wildlife and on Commerce and
3 Economic Development summarizing the education and outreach conducted or
4 planned by the Secretary under the requirements of this section and whether
5 any municipality has sought delegation of sewer and water service connection
6 permitting under 10 V.S.A. § 1976 since the effective date of this act.

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

8 Sec. H.2. 24 V.S.A. § 4303 is amended to read:

9 § 4303. DEFINITIONS

10 The following definitions shall apply throughout this chapter unless the
11 context otherwise requires:

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

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

20 Owner-occupied housing for which the total annual cost of
21 ownership, including principal, interest, taxes, insurance, and condominium

1 association fees, does not exceed 30 percent of the gross annual income of a
2 household at 120 percent of the highest of the 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 ~~(B) Housing that is rented by its inhabitants whose gross annual~~
11 ~~household income does not exceed 80 percent of the county median income, or~~
12 ~~80 percent of the standard metropolitan statistical area income if the~~
13 ~~municipality is located in such an area, as defined by the U.S. Department of~~
14 ~~Housing and Urban Development, and the total annual cost of the housing,~~
15 ~~including rent, utilities, and condominium association fees, is not more than 30~~
16 ~~percent of the household's gross annual income. Rental housing for which the~~
17 ~~total annual cost of renting, including rent, utilities, and condominium~~
18 ~~association fees, does not exceed 30 percent of the gross annual income of a~~
19 ~~household at 80 percent of the highest of the following:~~

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

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

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

6 * * *

7 * * * Act 250; Priority Housing Projects * * *

8 Sec. H.3. 10 V.S.A. § 6001 is amended to read:

9 § 6001. DEFINITIONS

10 In this chapter:

11 * * *

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

13 * * *

14 (iv) The construction of housing projects such as cooperatives,
15 condominiums, or dwellings, or construction or maintenance of mobile homes
16 or mobile home parks, with 10 or more units, constructed or maintained on a
17 tract or tracts of land, owned or controlled by a person, within a radius of five
18 miles of any point on any involved land, and within any continuous period of
19 five years. However:

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

1 (aa) ~~275 or more, in a municipality with a population of~~
2 ~~15,000 or more; [Repealed.]~~

3 (bb) ~~150 or more, in a municipality with a population of~~
4 ~~10,000 or more but less than 15,000; [Repealed.]~~

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

7 (dd) 50 or more, in a municipality with a population of
8 3,000 or more but less than 6,000;_

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

11 (ff) ~~notwithstanding~~ Notwithstanding subdivisions ~~(aa)~~(cc)
12 through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction
13 involves the demolition of one or more buildings that are listed on or eligible
14 to be listed on the State or National Register of Historic Places. However,
15 demolition shall not be considered to create jurisdiction under this subdivision
16 if the Division for Historic Preservation has determined that the proposed
17 demolition will have no adverse effect, will have no adverse effect if specified
18 conditions are met, or will have an adverse effect that will be adequately
19 mitigated. Any imposed conditions shall be enforceable through a grant
20 condition, deed covenant, or other legally binding document.

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

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

5 * * *

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

7 * * *

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

16 * * *

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

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

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

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

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

12 (28) “Mixed use” means construction of both mixed income housing
13 and construction of space for any combination of retail, office, services,
14 artisan, and recreational and community facilities, provided at least 40 percent
15 of the gross floor area of the buildings involved is mixed income housing.

16 “Mixed use” does not include industrial use.

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

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

1 ~~Housing and Urban Development, and the total annual cost of the housing,~~
2 ~~including principal, interest, taxes, insurance, and condominium association~~
3 ~~fees is not more than 30 percent of the household's gross annual income.~~

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

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

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

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

15 (B) ~~Housing that is rented 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 rent, utilities, and condominium association fees, is not more than 30~~
21 ~~percent of the household's gross annual income. Rental housing for which the~~

1 total annual cost of renting, including rent, utilities, and condominium
2 association fees, does not exceed 30 percent of the gross annual income of a
3 household at 80 percent of the highest of the following:

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

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

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

11 * * *

12 (35) “Priority housing project” means a discrete project located on a
13 single tract or multiple contiguous tracts of land that consists exclusively of:

14 (A) mixed income housing or mixed use, or any combination thereof,
15 and is located entirely within a designated downtown development district,
16 designated new town center, designated growth center, or designated village
17 center that is also a designated neighborhood development area under
18 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. H.4. 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~~ any applicable
4 jurisdictional threshold 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 any applicable jurisdictional threshold specified in
8 subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions
9 of any existing permit or permit amendment issued under this chapter that
10 applies to the tract or tracts on which the project will be located. If such a
11 priority housing project will not comply with one or more of these conditions,
12 an application may be filed pursuant to section 6084 of this title.

13 * * *

14 Sec. H.5. 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 Sec. H.6. 30 V.S.A. § 55 is added to read:

14 § 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

15 A priority housing project as defined in 10 V.S.A. § 6001 shall meet or
16 exceed the stretch codes established under this subchapter by the Department
17 of Public Service.

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

7 * * *

8 * * * Vermont State Housing Authority; Powers * * *

9 Sec. H.10. 24 V.S.A. § 4005 is amended to read:

10 § 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT,
11 MEMBERS, POWERS

12 * * *

13 (e) Notwithstanding any provision of law, no person, ~~domestic or foreign,~~
14 shall be authorized to administer allocations of money under 42 U.S.C.A.
15 § 1437a or 1437f or other federal statute authorizing rental subsidies for the
16 benefit of persons of low or moderate income, except:

17 (1) ~~a subcontractor of the State Authority; or~~

18 (2) a State public body authorized by law to administer such allocations;

19 (3) a person authorized to administer such allocations pursuant to an
20 agreement with the State Authority; or

1 (4) an organization, of which the State Authority is a promoter, member,
2 associate, owner, or manager, that is authorized by a federal agency to
3 administer such allocations in this State.

4 (f) In addition to the powers granted by this chapter, the State Authority
5 shall have all the powers necessary or convenient for the administration of
6 federal monies pursuant to subsection (e) of this section, including the power:

7 (1) to enter into one or more agreements for the administration of
8 federal monies;

9 (2) to be a promoter, partner, member, associate, owner, or manager of
10 any partnership, limited liability company, joint venture, association, trust, or
11 other organization;

12 (3) to conduct its activities, locate offices, and exercise the powers
13 granted by this title within or outside this State;

14 (4) to carry on a business in the furtherance of its purposes; and

15 (5) to do all things necessary or convenient, consistent with law, to
16 further the activities and affairs of the Authority.

17 * * * Repeal of Sunset on Sales and Use Tax Exemption;

18 Airplanes and Airplane Parts * * *

19 Sec. I.1. REPEALS

20 The following are repealed:

1 Sec. J.2. 32 V.S.A. § 5404a is amended to read:

2 § 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
3 FINANCING DISTRICTS

4 * * *

5 (f) A municipality that establishes a tax increment financing district under
6 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties
7 contained within the district and apply up to 75 percent of the State education
8 property tax increment, and not less than an equal share plus five percent of the
9 municipal tax increment, as defined in 24 V.S.A. § 1896, to repayment of
10 financing of the improvements and related costs for up to 20 years pursuant to
11 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council
12 pursuant to this section, subject to the following:

13 (1) In a municipality with one or more approved districts, the Council
14 shall not approve an additional district until the municipality retires the debt
15 incurred for all of the districts in the municipality.

16 (2) The Council shall not approve more than two districts in a single
17 county, and not more than an additional 14 districts in the State, provided:

18 (A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted
19 against the limits imposed in this subdivision (2).

20 (B) The Council shall consider complete applications in the order
21 they are submitted, except that if during any calendar month the Council

1 receives applications for more districts than are actually available in a county,
2 the Council shall evaluate each application and shall approve the application
3 that, in the Council’s discretion, best meets the economic development needs
4 of the county.

5 (C) If, while the General Assembly is not in session, the Council
6 receives applications for districts that would otherwise qualify for approval
7 but, if approved, would exceed the 14-district limit in the State, the Council
8 shall make one or more presentations to the Emergency Board concerning the
9 applications, and the Emergency Board may, in its discretion, increase the 14-
10 district limit.

11 (3)(A) A municipality shall immediately notify the Council if it resolves
12 not to incur debt for an approved district within five years of approval or a
13 five-year extension period as required in 24 V.S.A. § 1894.

14 (B) Upon receiving notification pursuant to subdivision (3)(A) of this
15 subsection, the Council shall terminate the district and may approve a new
16 district, subject to the provisions of this section and 24 V.S.A. chapter 53,
17 subchapter 5.

18 (4) The Council shall not approve any additional districts on or after
19 July 1, 2024.

20 * * *

1 (h) Criteria for approval. To approve utilization of incremental revenues
2 pursuant to subsection (f) of this section, the Vermont Economic Progress
3 Council shall do all the following:

4 (1) Review each application to determine that the ~~new real property~~
5 proposed infrastructure improvements and the proposed development would
6 not have occurred or would have occurred in a significantly different and less
7 desirable manner but for the proposed utilization of the incremental tax
8 revenues. The review shall take into account:

9 (A) the amount of additional time, if any, needed to complete the
10 proposed development within the tax increment district and the amount of
11 additional cost that might be incurred if the project were to proceed without
12 education property tax increment financing;

13 (B) how the proposed development components and size would
14 differ, if at all, without education property tax increment financing, including,
15 if applicable to the development, the number of units of affordable housing, as
16 defined in 24 V.S.A. § 4303; and

17 (C) the amount of additional revenue expected to be generated as a
18 result of the proposed development; the percentage of that revenue that shall be
19 paid to the education fund; the percentage that shall be paid to the
20 municipality; and the percentage of the revenue paid to the municipality that

1 shall be used to pay financing incurred for development of the tax increment
2 financing district.

3 (2) Process requirements. Determine that each application meets all of
4 the following four requirements:

5 (A) The municipality held public hearings and established a tax
6 increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

7 (B) The municipality has developed a tax increment financing district
8 plan, including: a project description; a development financing plan; a pro
9 forma projection of expected costs; a projection of revenues; a statement and
10 demonstration that the project would not proceed without the allocation of a
11 tax increment; evidence that the municipality is actively seeking or has
12 obtained other sources of funding and investment; and a development schedule
13 that includes a list, a cost estimate, and a schedule for public improvements
14 and projected private development to occur as a result of the improvements.

15 (C) The municipality has approved or pledged the utilization of
16 incremental municipal tax revenues for purposes of the district in the same
17 proportion as the utilization of education property tax revenues approved by
18 the Vermont Economic Progress Council for the tax increment financing
19 district.

20 (D) The proposed infrastructure improvements and the projected
21 development or redevelopment are compatible with approved municipal and

1 regional development plans, and the project has clear local and regional
2 significance for employment, housing, and transportation improvements.

3 (3) Location criteria. Determine that each application meets one of the
4 following criteria:

5 (A) The development or redevelopment is compact, high density, and
6 located in or near existing industrial areas.

7 (B) The proposed district is within an approved growth center,
8 designated downtown, designated village center, ~~or~~ new town center, or
9 neighborhood development area.

10 (C) The development will occur in an area that is economically
11 distressed, which for the purposes of this subdivision means that the ~~area has~~
12 ~~experienced patterns of increasing unemployment, a drop in average wages, or~~
13 ~~a decline in real property values~~ municipality in which the area is located has:

14 (i) a median family income that is 80 percent or less of the
15 statewide median family income as reported by the Vermont Department of
16 Taxes for the most recent year for which data is available;

17 (ii) an annual average unemployment rate that is at least one
18 percent greater than the latest annual average statewide unemployment rate as
19 reported by the Vermont Department of Labor; or

1 (iii) a median sales price for residential properties under six acres
2 that is 80 percent or less than the statewide median sales price for residential
3 properties under six acres as reported by the Vermont Department of Taxes.

4 (4) Project criteria. Determine that the proposed development within a
5 tax increment financing district will accomplish at least ~~three~~ two of the
6 following ~~five~~ four criteria:

7 ~~(A) The development within the tax increment financing district~~
8 ~~clearly requires substantial public investment over and above the normal~~
9 ~~municipal operating or bonded debt expenditures.~~

10 ~~(B)~~ The development includes new or rehabilitated affordable
11 housing ~~that is affordable to the majority of the residents living within the~~
12 ~~municipality and is developed at a higher density than at the time of~~
13 ~~application. “Affordable” has the same meaning as in 10 V.S.A. § 6001(29),~~
14 as defined in 24 V.S.A. § 4303.

15 ~~(C)~~(B) The project will affect the remediation and redevelopment of
16 a brownfield located within the district. As used in this section, “brownfield”
17 means an area in which a hazardous substance, pollutant, or contaminant is or
18 may be present, and that situation is likely to complicate the expansion,
19 development, redevelopment, or reuse of the property.

20 ~~(D)~~(C) The development will include at least one entirely new
21 business or business operation or expansion of an existing business within the

1 district, and this business will provide new, quality, full-time jobs that meet or
2 exceed the prevailing wage for the region as reported by the department of
3 labor.

4 ~~(E)~~(D) The development will enhance transportation by creating
5 improved traffic patterns and flow or creating or improving public
6 transportation systems.

7 * * *

8 Sec. J.3. IMPLEMENTATION

9 Secs. J.1 and J.2 of this act shall apply only to tax increment financing
10 district applications filed, and districts approved, on or after the date of passage
11 of this act.

12 Sec. K.1. EFFECTIVE DATES

13 (a) This section and Secs. J.1–J.3 (tax increment financing districts) shall
14 take effect on passage.

15 (b) The remaining sections of this act shall take effect on July 1, 2017.