

1 S.163

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

4 Date:

5 Subject: Housing; health and safety; rehabilitation; weatherization

6 Statement of purpose of bill as introduced: This bill proposes to adopt
7 miscellaneous housing proposals relating to health and safety, rehabilitation,
8 and weatherization, including by ensuring compliance with rental housing
9 codes, requiring the registration of contractors, and creating a rehabilitation
10 and weatherization incentive program.

11 An act relating to housing safety and rehabilitation

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

13 * * * Housing Health and Safety; Rental Housing

14 Health Code Enforcement * * *

15 Sec. 1. 18 V.S.A. § 5 is amended to read:

16 § 5. DUTIES OF DEPARTMENT OF HEALTH

17 The Department of Health shall:

18 (1) Conduct studies, develop State plans, and administer programs and
19 State plans for hospital survey and construction, hospital operation and
20 maintenance, medical care, and treatment of substance abuse.

1 (2) Provide methods of administration and such other action as may be
2 necessary to comply with the requirements of federal acts and regulations as
3 relate to studies, development of plans and administration of programs in the
4 fields of health, public health, health education, hospital construction and
5 maintenance, and medical care.

6 (3) Appoint advisory councils, with the approval of the Governor.

7 (4) Cooperate with necessary federal agencies in securing federal funds
8 ~~which~~ that become available to the State for all prevention, public health,
9 wellness, and medical programs.

10 (5) Seek accreditation through the Public Health Accreditation Board.

11 (6) Create a State Health Improvement Plan and facilitate local health
12 improvement plans in order to encourage the design of healthy communities
13 and to promote policy initiatives that contribute to community, school, and
14 workplace wellness, which may include providing assistance to employers for
15 wellness program grants, encouraging employers to promote employee
16 engagement in healthy behaviors, and encouraging the appropriate use of the
17 health care system.

18 (7) Serve as the leader on State rental housing health laws.

19 (8) Provide policy assistance, technical support, and legal guidance to
20 municipalities concerning the interpretation, implementation, and enforcement
21 of State rental housing health and safety laws.

1 Sec. 2. 18 V.S.A. § 603 is amended to read:

2 § 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

3 (a)(1) When conducting an investigation of rental housing, a local health
4 officer shall issue a written inspection report on the rental property using the
5 protocols for implementing the Rental Housing Health Code of the Department
6 or the municipality, in the case of a municipality that has established a code
7 enforcement office.

8 (2) A written inspection report shall:

9 (A) contain findings of fact that serve as the basis of one or more
10 violations;

11 (B) specify the requirements and timelines necessary to correct a
12 violation;

13 (C) provide notice that the landlord is prohibited from renting the
14 affected unit to a new tenant until the violation is corrected; and

15 (D) provide notice in plain language that the landlord and agents of
16 the landlord must have access to the rental unit to make repairs as ordered by
17 the health officer consistent with the access provisions in 9 V.S.A. § 4460.

18 (3) A local health officer shall:

19 (A) provide a copy of the inspection report to the landlord and any
20 tenants affected by a violation by delivering the report electronically, in

1 person, by first class mail, or by leaving a copy at each unit affected by the
2 deficiency; and

3 (B) provide information on each inspection to the Department within
4 seven days of issuing the report using an electronic system designed for that
5 purpose.

6 (4) If an entire property is affected by a violation, the local health officer
7 shall post a copy of the inspection report in a common area of the property and
8 include a prominent notice that the report shall not be removed until authorized
9 by the local health officer.

10 (5) A municipality shall make an inspection report available as a public
11 record.

12 (b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more
13 than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the
14 date provided in the written inspection report, or when a unit is re-rented to a
15 new tenant prior to the correction of a violation.

16 (2)(A) If the cumulative amount of penalties imposed pursuant to this
17 subsection is \$800.00 or less, the local health officer, Department of Health, or
18 State's Attorney may bring a civil enforcement action in the Judicial Bureau
19 pursuant to 4 V.S.A. chapter 29.

20 (B) The waiver penalty for a violation in an action brought pursuant
21 to this subsection is 50 percent of the full penalty amount.

1 (3) If the cumulative amount of penalties imposed pursuant to this
2 subsection is more than \$800.00, or if injunctive relief is sought, the local
3 health officer, Department of Health, or State's Attorney shall commence an
4 action in the Civil Division of the Superior Court for the county in which a
5 violation occurred.

6 (c) If a local health officer fails to conduct an investigation pursuant to
7 section 602a of this title or fails to issue an inspection report pursuant to this
8 section, a landlord or tenant may request that the Department, at its discretion,
9 conduct an investigation or contact the local board of health to take action.

10 Sec. 3. 4 V.S.A. § 1102 is amended to read:

11 § 1102. JUDICIAL BUREAU; JURISDICTION

12 (a) The Judicial Bureau is created within the Judicial Branch under the
13 supervision of the Supreme Court.

14 (b) The Judicial Bureau shall have jurisdiction of the following matters:

15 * * *

16 (21) Violations of State or municipal rental housing health and safety
17 laws when the amount of the cumulative penalties imposed pursuant to
18 18 V.S.A. § 603 is \$800.00 or less.

19 * * *

20 (c) The Judicial Bureau shall not have jurisdiction over municipal parking
21 violations.

1 (d) Three hearing officers appointed by the Court Administrator shall
2 determine waiver penalties to be imposed for violations within the Judicial
3 Bureau's jurisdiction, except:

4 ~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for
5 civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of
6 municipal violations, the issuing law enforcement officer shall indicate the
7 appropriate full and waiver penalty on the complaint.

8 Sec. 4. DEPARTMENT OF HOUSING AND COMMUNITY

9 DEVELOPMENT; COLLECTION OF RENTAL HOUSING DATA

10 (a) On or before January 15, 2020, the Department of Housing and
11 Community Development shall design and implement a comprehensive rental
12 housing data management system, through which the Department is able to
13 collect, organize, and make available to the public information concerning
14 rental housing in this State, including:

15 (1) location of building;

16 (2) age of building;

17 (3) number of units;

18 (4) type of units;

19 (5) School Property Account Number;

20 (6) owner name and contact information; and

21 (7) manager name and contact information.

1 (b) In performing its duties pursuant to this section, the Department shall
2 consult, and shall have the full cooperation and assistance of:

3 (1) the Department of Taxes and other agencies and departments as
4 necessary;

5 (2) the Vermont Assessors and Listers Association;

6 (3) the Vermont Center for Geographic Information;

7 (4) the Vermont Enhanced 911 Board;

8 (5) the Vermont Housing Finance Agency;

9 (6) the Vermont League of Cities and Towns;

10 (7) representatives of the Regional Planning Commissions;

11 (8) the Agency of Digital Services; and

12 (9) any other affected stakeholders.

13 Sec. 5. DEPARTMENT OF HEALTH; HEALTH INSPECTION REPORTS

14 The Department of Health shall create and manage an electronic system to
15 collect and maintain health inspection reports submitted by local health
16 officers pursuant to 18 V.S.A. § 603.

17 Sec. 6. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT

18 SYSTEM; RECOMMENDATIONS; REPORT

19 (a) On or before January 15, 2020, in collaboration with the Rental
20 Housing Advisory Board, the Department of Health and the Department of
21 Public Safety shall develop recommendations for the design and

1 implementation of a comprehensive system for the professional enforcement of
2 State rental housing health and safety laws, which shall include:

3 (1) an outline of options, including an option for a State government–
4 run system, with a timeline and budget for each;

5 (2) a needs assessment outlining the demand for inspections based on
6 inspection information collected through the electronic system created
7 pursuant to Sec. 5 of this act, summary information for fiscal year 2019
8 inspection reports provided pursuant to subsection (c) of this section, summary
9 information from municipalities with self-governed rental housing health code
10 programs, and other stakeholders and relevant sources; and

11 (3) any additional recommendations from the Rental Housing Advisory
12 Board, the Department of Public Safety, the Department of Housing and
13 Community Development, or other executive branch agencies.

14 (b) On or before September 30, 2019, the Department of Health shall
15 provide an interim progress report to the Senate Committee on Economic
16 Development, Housing and General Affairs and the House Committee on
17 General, Housing, and Military Affairs.

18 (c) On or before August 1, 2019, each municipality in this State shall
19 provide to the Department of Health summary information on its inspection
20 activity from July 1, 2018 through June 30, 2019 in order to assist the

1 Department in completing the needs assessment pursuant to subdivision (a)(2)
2 of this section.

3 Sec. 7. APPROPRIATIONS; POSITIONS

4 In fiscal year 2020, the amount of \$150,000.00 is appropriated from the
5 General Fund as follows:

6 (1) the amount of \$100,000.00 to the Department of Health for one full-
7 time equivalent position, the duties of which shall include:

8 (A) collecting and maintaining data concerning inspection reports;

9 (B) providing additional training to town health officers concerning
10 best practices, the health officer role and responsibilities, and rental housing
11 health and safety issues;

12 (C) providing additional guidance and support to municipalities
13 concerning difficult rental housing enforcement issues; and

14 (D) other duties related to developing and planning for a more
15 professionalized health and safety code enforcement system; and

16 (2) the amount of \$50,000.00 to the Department of Housing and
17 Community Development for information technology, data collection, and
18 support to the Department and the Agency of Digital Services to update and
19 maintain the RentalCodes.org website, or a similar resource, that provides easy
20 access to information for consumers, landlords, municipal officials, and the
21 public concerning rental housing health and safety laws.

1 Sec. 8. 3 V.S.A. § 122 is amended to read:

2 § 122. OFFICE OF PROFESSIONAL REGULATION

3 The Office of Professional Regulation is created within the Office of the
4 Secretary of State. The Office of Professional Regulation shall have a director
5 ~~who shall be~~ who is an exempt employee appointed by the Secretary of State
6 ~~and shall be an exempt employee.~~ The following boards or professions are
7 attached to the Office of Professional Regulation:

8 * * *

9 (48) Residential Contractors

10 Sec. 9. 26 V.S.A. chapter 105 is added to read:

11 CHAPTER 105. RESIDENTIAL CONTRACTORS

12 Subchapter 1. General Provisions

13 § 5401. REGISTRATION REQUIRED

14 A person shall register with the Office of Professional Regulation prior to
15 offering or contracting with a homeowner to perform construction, remodeling,
16 or home improvement work on a dwelling unit, building, or premises used
17 primarily for residential purposes, in exchange for consideration of more than
18 \$1,000.00, including labor and materials.

1 § 5402. EXEMPTIONS

2 This chapter does not apply to:

3 (1) an employee acting within the scope of his or her employment for a
4 business organization registered under this chapter;

5 (2) a professional engineer, licensed architect, or a tradesperson licensed
6 by the Department of Public Safety acting within the scope of his or her
7 license;

8 (3) delivery or installation of consumer appliances, audio-visual
9 equipment, telephone equipment, or computer network equipment;

10 (4) landscaping;

11 (5) work on a structure that is not attached to a residential building;

12 (6) work that would otherwise require registration that a person
13 performs in response to an emergency, provided the person applies for
14 registration within a reasonable time after performing the work.

15 § 5403. MANDATORY REGISTRATION AND VOLUNTARY

16 CERTIFICATION DISTINGUISHED

17 (a)(1) The system of mandatory registration established by this chapter is
18 intended to protect against fraud, deception, breach of contract, and violations
19 of law, but is not intended to establish standards for professional qualifications
20 or workmanship that is otherwise lawful.

1 (2) The provisions of 3 V.S.A. § 129a, with respect to a registration,
2 shall be construed in a manner consistent with the limitations of this
3 subsection.

4 (b) The Director of Professional Regulation, in consultation with public
5 safety officials and recognized associations or boards of builders, remodelers,
6 architects, and engineers, may:

7 (1) adopt rules providing for the issuance of voluntary certifications, as
8 defined in subdivision 3101a(1) of this title, that signify demonstrated
9 competence in particular subfields and specialties related to residential
10 construction;

11 (2) establish minimum qualifications, and standards for performance and
12 conduct, necessary for certification; and

13 (3) discipline a certificant for violating adopted standards or other law,
14 with or without affecting the underlying registration.

15 Subchapter 2. Administration

16 § 5405. DUTIES OF THE DIRECTOR

17 (a) The Director of Professional Regulation shall:

18 (1) provide information to the public concerning registration,
19 certification, appeal procedures, and complaint procedures;

20 (2) administer fees established under this chapter;

1 (3) receive applications for registration or certification, issue
2 registrations and certifications to applicants qualified under this chapter, deny
3 or renew registrations or certifications, and issue, revoke, suspend, condition,
4 and reinstate registrations and certifications as ordered by an administrative
5 law officer; and

6 (4) prepare and maintain a registry of registrants and certificants.

7 (b) The Director, after consultation with an advisor appointed pursuant to
8 section 5406 of this title, may adopt rules to implement this chapter.

9 § 5406. ADVISORS

10 (a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A.
11 § 129b to serve as advisors in matters relating to residential contractors and
12 construction.

13 (b) To be eligible to serve, an advisor shall:

14 (1) register under this chapter;

15 (2) have at least three years' experience in residential construction

16 immediately preceding appointment; and

17 (3) remain active in the profession during his or her service.

18 (c) The Director of Professional Regulation shall seek the advice of the
19 advisors in implementing this chapter.

1 § 5407. FEES

2 A person regulated under this chapter shall pay the following fees at initial
3 application and biennial renewal:

4 (1) Registration, individual: \$75.00.

5 (2) Registration, business organization: \$250.00.

6 (3) State certifications: \$75.00 for a first certification and \$25.00 for
7 each additional certification.

8 Subchapter 3. Registrations

9 § 5408. ELIGIBILITY

10 To be eligible for registration, the Director of Professional Regulation shall
11 find that the applicant:

12 (1) is in compliance with the provisions of this chapter and rules
13 adopted pursuant to this chapter;

14 (2) is in compliance with State laws respecting child support, taxes,
15 judgment orders, and workers' compensation; and

16 (3) has satisfied any judgment order related to the provision of
17 professional services to a homeowner.

18 § 5409. REQUIREMENTS OF REGISTRANTS

19 (a) Insurance. A person registered under this chapter shall maintain
20 professional liability insurance in the amount of \$300,000.00 per claim and

1 \$1,000,000.00 aggregate, evidence of which may be required as a precondition
2 to issuance or renewal of a registration.

3 (b) Writing.

4 (1) A person registered under this chapter shall execute a written
5 contract prior to receiving a deposit or commencing residential construction
6 work if the estimated value of the labor and materials exceeds \$1,000.00.

7 (2) A contract shall specify:

8 (A) Price. One of the following provisions for the price of the
9 contract:

10 (i) a maximum price for all work and materials;

11 (ii) a statement that billing and payment will be made on a time
12 and materials basis, not to exceed a maximum price; or

13 (iii) a statement that billing and payment will be made on a time
14 and materials basis and that there is no maximum price.

15 (B) Work dates. Estimated start and completion dates.

16 (C) Scope of work. A description of the services to be performed and
17 a description of the materials to be used.

18 (D) Change order provision. A description of how and when
19 amendments to the contract may be approved and recorded.

20 (3) The parties shall record an amendment to the contract in a signed
21 writing.

1 (c) Down payment. Unless a contract specifies that billing and payment
2 will be made on a time and materials basis and that there is no maximum price,
3 the contract may require a down payment of up to one-third of the contract
4 price, or of the price of materials, whichever is greater.

5 § 5410. PROHIBITIONS AND REMEDIES

6 (a) A person who does not register pursuant to this chapter when required
7 engages in unauthorized practice pursuant to 3 V.S.A. § 127.

8 (b) The Office of Professional Regulation may discipline a registrant or
9 certificant for unprofessional conduct as provided in 3 V.S.A. § 129a, except
10 that 3 V.S.A. § 129a(b) does not apply to a registrant.

11 (c) The following conduct by a registrant, certificant, applicant, or person
12 who later becomes an applicant constitutes unprofessional conduct:

13 (1) failure to enter into a written contract when required by this chapter;

14 (2) failure to maintain liability or workers' compensation insurance as
15 required by law;

16 (3) committing a deceptive act in commerce in violation of 9 V.S.A.
17 § 2453;

18 (4) falsely claiming certification under this chapter, provided that this
19 subdivision does not prevent accurate and nonmisleading advertising or
20 statements related to credentials that are not offered by this State; and

1 (5) selling or fraudulently obtaining or furnishing a certificate of
2 registration, certification, license, or any other related document or record, or
3 assisting another person in doing so, including by reincorporating or altering a
4 trade name for the purpose or with the effect of evading or masking revocation,
5 suspension, or discipline against a registration issued under this chapter.

6 Sec. 10. CREATION OF POSITIONS WITHIN THE OFFICE OF
7 PROFESSIONAL REGULATION; LICENSING.

8 (a) There are created within the Secretary of State's Office of Professional
9 Regulation two new positions in the licensing division.

10 (b) Any funding necessary to support the positions created in subsection (a)
11 of this section and the implementation of 26 V.S.A. chapter 105 created in
12 Sec. 9 of this act shall be derived from the Office's Professional Regulatory
13 Fee Fund and not from the General Fund.

14 Sec. 11. SECRETARY OF STATE; STATUS REPORT

15 On or before January 15, 2021, the Office of Professional Regulation shall
16 report to the House Committees on Commerce and Economic Development
17 and on Government Operations and to the Senate Committees on Economic
18 Development, Housing and General Affairs and on Government Operations
19 concerning the implementation of 26 V.S.A. chapter 105, including:

20 (1) the number of registrations and certifications;

21 (2) the resources necessary to implement the chapter;

1 (3) the number and nature of any complaints or enforcement actions;

2 and

3 (4) any other issues the Office deems appropriate.

4 * * * Housing Rehabilitation and Weatherization; Vermont Rental

5 Housing Incentive Program * * *

6 Sec. 12. 10 V.S.A. chapter 29, subchapter 3 is amended to read:

7 Subchapter 3. ~~Vermont Economic Progress Council~~ Housing Incentive

8 Program

9 § 699. RENTAL HOUSING INCENTIVE PROGRAM

10 (a) Purpose. Recognizing that Vermont's rental housing stock is some of
11 the oldest in the country, and that much of it needs updating to meet code
12 requirement and other standards, this section is intended to incentivize private
13 apartment owners to make significant improvements to both housing quality
14 and weatherization by providing small grants that would be matched by the
15 private apartment owner.

16 (b) Creation of Program. The Department of Housing and Community
17 Development shall design and implement a Vermont Rental Housing Incentive
18 Program to provide funding to regional nonprofit housing partner organizations
19 to provide incentive grants to private landlords for the rehabilitation and
20 improvement, including weatherization, of existing rental housing stock.

1 (c) Administration. The Department shall require any nonprofit regional
2 housing partner organization that receives funding under this program to
3 develop a standard application form for property owners that describes the
4 application process and includes clear instructions and examples to help
5 property owners apply, a selection process that ensures equitable selection of
6 property owners, and a grants management system that ensures accountability
7 for funds awarded to property owners.

8 (d) Grant Guidelines. The Department shall ensure that all grants comply
9 with the following guidelines:

10 (1) Each grant shall be capped at a standard limit set by the
11 Department, which shall not exceed \$7,000.00 per rental unit.

12 (2) Each grant shall be matched by the property owner at least two-to-
13 one. The required match shall be met through dollars raised and not through
14 in-kind services.

15 (3) No property owner may receive a grant for more than four rental
16 units.

17 (4) Each project funded must include a weatherization component and
18 must result in all building codes being met and all permits received.

19 (5) Only existing properties that are vacant or blighted are eligible for
20 grants.

1 (6) At least 50 percent of the rental units assisted must have rents that
2 are affordable to households earning no more than 80 percent of area median
3 income.

4 (e) As used in this section:

5 (1) “Blighted” means that a rental unit is not fit for human habitation
6 and does not comply with the requirements of applicable building, housing,
7 and health regulations.

8 (2) “Vacant” means that a rental unit has not been leased or occupied for
9 at least 90 days prior to the date a property owner submits a grant application
10 and remains unoccupied at the time the grant is awarded.

11 Sec. 13. RENTAL HOUSING INCENTIVE PROGRAM; APPROPRIATION

12 In fiscal year 2020, the amount of \$850,000.00 is appropriated from the
13 General Fund to the Agency of Commerce and Community Development to
14 support the Rental Housing Incentive Program.

15 * * * Effective Date * * *

16 Sec. 14. EFFECTIVE DATE

17 This act shall take effect on July 1, 2019.