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S.163

Introduced by Committee on Economic Development, Housing and General
Affairs

Date: March 19, 2019

Subject: Housing; health and safety; rehabilitation; weatherization

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

An act relating to housing safety and rehabilitation

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

* * * Housing Health and Safety; Rental Housing
Health Code Enforcement * * *

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

§ 5. DUTIES OF DEPARTMENT OF HEALTH

The Department of Health shall:

(1) Conduct studies, develop State plans, and administer programs and
State plans for hospital survey and construction, hospital operation and
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
7 officer shall post a copy of the inspection report in a common area of the
8 property and include a prominent notice that the report shall not be removed
9 until authorized 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 (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. 1. 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.~~

Sec. 4. [Deleted.]

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
2 of 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.

Sec. 7. DUTIES CONTINGENT UPON FUNDING

(a) The following duties imposed on the Department of Housing and Community Development are contingent upon the appropriation of funds in fiscal year 2020 for the purposes specified:

(1) to implement a rental housing data management system pursuant to Sec. 4 of this act;

(2) to update and maintain the RentalCodes.org website, or a similar resource, that provides easy access to information for consumers, landlords, municipal officials, and the public concerning rental housing health and safety laws; and

(3) to design and implement a Vermont Rental Housing Incentive Program pursuant to Sec. 12 of this act.

(b) The following duties imposed on the Department of Health are contingent upon the appropriation of funds in fiscal year 2020 for one additional full-time equivalent position:

(1) to provide additional training to town health officers concerning best practices, the health officer role and responsibilities, and rental housing health and safety issues; and

(2) to provide additional guidance and support to municipalities concerning difficult rental housing enforcement issues.

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

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

2 CHAPTER 105. RESIDENTIAL CONTRACTORS

3 Subchapter 1. General Provisions

4 ~~§ 5401. REGISTRATION REQUIRED~~

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

§ 5401. REGISTRATION REQUIRED

A person shall register with the Office of Professional Regulation prior to offering or contracting with a homeowner to perform construction, remodeling, or home improvement work on a residential dwelling unit or on a building or premises with four or fewer residential dwelling units, in exchange for consideration of more than \$2,000.00, including labor and materials.

10 § 5402. EXEMPTIONS

11 This chapter does not apply to:

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

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

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

1 (4) landscaping;

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

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

6 § 5403. MANDATORY REGISTRATION AND VOLUNTARY
7 CERTIFICATION DISTINGUISHED

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

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

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

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

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

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

5 Subchapter 2. Administration

6 § 5405. DUTIES OF THE DIRECTOR

7 (a) The Director of Professional Regulation shall:

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

10 (2) administer fees established under this chapter;

11 (3) receive applications for registration or certification, issue
12 registrations and certifications to applicants qualified under this chapter, deny
13 or renew registrations or certifications, and issue, revoke, suspend, condition,
14 and reinstate registrations and certifications as ordered by an administrative
15 law officer; and

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

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

1 § 5406. ADVISORS

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

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

6 (1) register under this chapter;

7 (2) have at least three years' experience in residential construction
8 immediately preceding appointment; and

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

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

12 § 5407. FEES

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

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

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

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

1 Subchapter 3. Registrations

2 § 5408. ELIGIBILITY

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

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

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

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

11 § 5409. REQUIREMENTS OF REGISTRANTS

12 (a) Insurance. A person registered under this chapter shall maintain
13 professional liability insurance in the amount of \$300,000.00 per claim and
14 \$1,000,000.00 aggregate, evidence of which may be required as a precondition
15 to issuance or renewal of a registration.

16 (b) Writing.

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

20 (2) A contract shall specify:

1 (A) Price. One of the following provisions for the price of the
2 contract:

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

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

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

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

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

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

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

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

19 § 5410. PROHIBITIONS AND REMEDIES

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

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

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

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

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

9 (3) committing a deceptive act in commerce in violation of 9 V.S.A.
10 § 2453;

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

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

1 Sec. 10. CREATION OF POSITIONS WITHIN THE OFFICE OF
2 PROFESSIONAL REGULATION; LICENSING.

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

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

9 Sec. 11. SECRETARY OF STATE; STATUS REPORT

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

15 (1) the number of registrations and certifications;

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

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

18 and

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

20 * * * Housing Rehabilitation and Weatherization; Vermont Rental
21 Housing Incentive Program * * *

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

1 Subchapter 3. ~~Vermont Economic Progress Council~~ Housing Incentive
2 Program

3 § 699. RENTAL HOUSING INCENTIVE PROGRAM

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

10 (b) Creation of Program. The Department of Housing and Community
11 Development shall design and implement a Vermont Rental Housing Incentive
12 Program to provide funding to regional nonprofit housing partner
13 organizations to provide incentive grants to private landlords for the
14 rehabilitation and improvement, including weatherization, of existing rental
15 housing stock.

16 (c) Administration. The Department shall require any nonprofit regional
17 housing partner organization that receives funding under this program to
18 develop a standard application form for property owners that describes the
19 application process and includes clear instructions and examples to help
20 property owners apply, a selection process that ensures equitable selection of
21 property owners, and a grants management system that ensures accountability
22 for funds awarded to property owners.

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

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

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

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

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

12 (5) Only existing properties that are vacant or blighted are eligible for
13 grants.

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

17 (e) As used in this section:

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

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

4 ~~Sec. 13. RENTAL HOUSING INCENTIVE PROGRAM, APPROPRIATION~~

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

** * * Affordable Housing * * **

*Sec. 13. STATE TREASURER RECOMMENDATION FOR FINANCING
OF AFFORDABLE HOUSING INITIATIVE*

(a) Evaluation. On or before January 15, 2020, the State Treasurer shall evaluate options for financing affordable housing in the State. The evaluation shall include:

(1) a plan, formed in consultation with interested stakeholders, for the creation of 1,000 housing units over five years for Vermonters with incomes up to 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development;

(2) alternatives for financing the plan that take into consideration the use of appropriations, general obligation bonds, revenue bonds, investments, new revenues, and other financing mechanisms, including initiatives undertaken by other states;

(3) an assumption that the 1,000 units shall be in addition to what would otherwise have been produced through projected base appropriations available to the Vermont Housing and Conservation Board over five years commencing with FY 2021; and

(4) provision for meeting housing needs in the following areas:

(A) creating new multifamily and single-family homes;

(B) addressing blighted properties and other existing housing stock requiring reinvestment, including in mobile home parks; and

(C) providing service-supported housing in coordination with the Agency of Human Services, including for those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

(b) Cooperation. In conducting the evaluation described in subsection (a) of this section, the State Treasurer shall have the cooperation of the Agency on Commerce and Community Development and the Department of Taxes.

(c) Report. The State Treasurer shall submit a report with recommendations based on the evaluation described in subsection (a) of this section to the Senate Committees on Economic Development, Housing and General Affairs, on Appropriations, and on Finance and the House Committees on General, Housing, and Military Affairs, on Appropriations, and on Ways and Means. The report shall also include a legislative proposal to implement the recommendations proposed in the report.

1

* * * Effective Date * * *

2

Sec. ~~14~~ ~~13~~ 14. EFFECTIVE DATE

3

This act shall take effect on July 1, 2019.