Introduced by Senators Sirotkin, Clarkson, Balint and Hooker

Referred to Committee on

Date:

Subject: Housing

Statement of purpose of bill as introduced: This bill proposes to adopt miscellaneous provisions to promote access to affordable housing.

An act relating to promoting affordable housing

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

Sec. 1. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

* * *

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational, and other public sites; buildings and facilities, including hospitals, libraries, power generating plants
and transmission lines, water supply, lines, facilities, and service areas;

sewage disposal, lines, facilities, and service areas; refuse disposal, storm

drainage, and other similar facilities and activities; and recommendations to

meet future needs for community facilities and services, with indications of

priority of need, costs, and method of financing.

* * *

(10) A housing element that shall include a recommended program for

addressing low and moderate income persons’ housing needs as identified by

the regional planning commission pursuant to subdivision 4348a(a)(9) of this

title. The program should account for permitted accessory dwelling units, as

defined in subdivision 4412(1)(E) shall comply with the requirements of 4412

of this title, which to provide affordable housing.

* * *

Sec. 2. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

(a) Notwithstanding any existing bylaw, the following land development

provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable

housing.

* * *
(D) Bylaws shall designate appropriate districts and reasonable regulations for multiunit or multifamily dwellings. No bylaw shall have the effect of excluding these multiunit or multifamily dwellings from the municipality. Within any regulatory district that allows multiunit residential dwellings, no bylaw shall have the effect of prohibiting multiunit residential dwellings of four or fewer units as an allowed, permitted use, or of conditioning approval based on the character of the area.

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to an owner-occupied single-family dwelling. A bylaw may require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. An accessory dwelling unit means an efficiency or one-bedroom apartment a distinct unit that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, provided there is compliance with all the following:

(i) The property has sufficient wastewater capacity.

(ii) The unit does not exceed 30 percent of the total habitable floor area of the single-family dwelling.
(iii) Applicable setback, coverage, and parking requirements specified in the bylaws are met.

(F) Nothing in subdivision (a)(1)(E) of this section shall be construed to prohibit:

(i) a bylaw that is less restrictive of accessory dwelling units; or

(ii) a bylaw that requires conditional use review for one or more of the following that is involved in creation of an accessory dwelling unit:

(I) a new accessory structure;

(II) an increase in the height or floor area of the existing dwelling; or

(III) an increase in the dimensions of the parking areas

regulates short-term rental units distinctly from residential rental units.

* * *

(2) Existing small lots. Any lot that is legally subdivided, is in individual and separate and nonaffiliated ownership from surrounding properties, and is in existence on the date of enactment of any bylaw, including an interim bylaw, may be developed for the purposes permitted in the district in which it is located, even though the small lot no longer conforms to minimum lot size requirements of the new bylaw or interim bylaw.
(A) A municipality may prohibit development of a lot not served by
and able to connect to municipal sewer and water service if either of the
following applies:

(i) the lot is less than one-eighth acre in area; or
(ii) the lot has a width or depth dimension of less than 40 feet.

* * *

(b) Inclusionary Growth.

(1) Except in a municipality that has reported substantial municipal
constraints in accordance with subdivision (b)(2) of this section and
notwithstanding any existing bylaw other than flood hazard and fluvial erosion
area bylaws adopted pursuant to section 4424 of this title, the following land
development provisions shall apply in every municipality:

(A) No bylaw shall have the effect of prohibiting the creation of
residential lots of at least:

(i) 10,890 square feet or one-quarter acre within any regulatory
district allowing residential uses served by and able to connect to a water
system operated by a municipality; or

(ii) 5,400 square feet or one-eighth acre within any regulatory
district allowing residential uses served by and able to connect to a water and
sewer system operated by a municipality.
(B) The appropriate municipal panel or administrative officer, as applicable, shall condition any subdivision approval on obtaining a State wastewater permit pursuant to 10 V.S.A. chapter 64.

(C) No bylaw shall have the effect of prohibiting or requiring conditional use approval for a two-unit dwelling on any lot within any regulatory district allowing residential uses served by and able to connect to a water and sewer system operated by a municipality to any greater extent than a one-unit dwelling would be prohibited or restricted within such district with no additional review, dimensional, or other controls than would be required for a single-family dwelling without a second unit.

(D) When a bylaw establishes a parking minimum for residential properties, each residential parking space that will be leased separately from residential units shall count as two spaces for purposes of meeting the parking minimum for any proposed development located within a half mile of a transit stop. The parking space lease costs shall be reasonably proportional to the production, operation, and maintenance cost of the space to reduce generalized subsidy of leased spaces by other residents. A municipality may condition the municipal land permit on continuation of the separate leasing of parking spaces and residential units.
(2) A municipality may opt out of the requirements of subdivision (1) of
this subsection by filing a Substantial Municipal Constraint Report with the
Department of Housing and Community Development.

(A) The Substantial Municipal Constraint Report shall demonstrate
that:

(i) the municipality’s bylaws comply with all of the requirements
of subsection (a) of this section; and

(ii) the municipality has documented substantial municipal
constraints on its municipal water, municipal sewer, or other services that
prevent the adoption of bylaws that conform to the requirements of subdivision
(1) of this subsection (b).

(B) On or before January 1, 2021, the Department of Housing and
Community Development shall provide a template and guidance on the form
and content of the Substantial Municipal Constraint Report.

(C) The Department of Housing and Community Development shall
post all Substantial Municipal Constraint Reports on the Department’s website,
and shall promptly provide a copy to the municipality’s regional planning
commission, the State program directors for municipal and water sewer
funding, the Vermont Community Development Board, the Vermont
Downtown Development Board, the Vermont Housing and Conservation
Board, and the Natural Resources Board, as well as any person requesting
notice. Any person may provide comment on the municipality’s report to the Commissioner of Housing and Development within 60 days of the filing. The Department shall post all comments with the Report on the Department’s website.

(D) A municipality that has filed a Substantial Municipal Constraint Report shall update the Report each time it updates its municipal plan or bylaws. Failure to update the Report shall disqualify the municipality from the incentives identified in subdivision (3) of this subsection (b) and may subject the municipality to review by the Commissioner of Housing and Community Development pursuant to section 4351 of this title.

(3) Incentives and funding.

(A) On or before July 1, 2021, any municipality that requests technical assistance from a regional planning commission to update local bylaws to address inclusionary growth as described in subdivision (1) of this subsection (b) shall receive priority technical assistance through additional funding made available to the applicable regional planning commission by section 4306 of this title or municipal funding made available through the Municipal Planning Grant Program established by section 4306 of this title and may use resources developed by the Department of Housing and Community Development to assist with the updates.
(B) The following State funding programs shall prioritize funding in municipalities that have updated their bylaws to comply with this subsection or are actively pursuing actions that will bring their bylaws into compliance with this section:

(i) State funding for Municipal Water and Sewer Systems;

(ii) Municipal Planning Grants under section 4306 of this title;

(iii) Vermont Community Development Program under 10 V.S.A. chapter 29, subchapter 1; and

(iv) Neighborhood Development Area Historic Tax Credits under 32 V.S.A. § 5930cc.

(4) A municipality that has adopted bylaws that comply subdivision (1) of this subsection (b) may adopt bylaws that allow land development that has been restricted by covenants, conditions, or restrictions in conflict with the goals of this chapter and duly adopted municipal policies. This subsection shall not affect the enforceability of any existing deed restrictions.

Sec. 3. 27 V.S.A. § 545 is added to read:

§ 545. COVENANTS, CONDITIONS, AND RESTRICTIONS OF SUBSTANTIAL PUBLIC INTEREST

Deed restrictions, covenants, or similar binding agreements running with the land added after July 1, 2020 that prohibit or have the effect of prohibiting land development allowed under the municipal bylaws in a municipality that
has adopted a bylaw in accordance with 24 V.S.A. § 4412(b)(4) shall not be valid.

Sec. 4. REPORT ON SUBSTANTIAL MUNICIPAL CONSTRAINTS

On or before January 15, 2023, the Department of Housing and Community Development shall report to the General Assembly on any Substantial Municipal Constraint Reports received. The report shall address the number of municipalities that have reported substantial municipal constraints, the nature of the constraints, the impact on the development of housing in those municipalities, and any steps the Department recommends towards reducing or eliminating constraints.

Sec. 5. 10 V.S.A. § 6001(35) is amended to read:

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

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.
Sec. 6. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p)
of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Upon receiving notice and a copy of the permit issued by an appropriate municipal panel pursuant to 24 V.S.A. § 4460(f), a previously issued permit for a development or subdivision located in a downtown development area or a new neighborhood is extinguished.
(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]

* * *

Sec. 7. REPEAL
The following are repealed:

(1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).

(2) 10 V.S.A. § 6086b (downtown development).

Sec. 8. 24 V.S.A. § 4460 is amended to read:

§ 4460. APPROPRIATE MUNICIPAL PANELS

* * *

(f)(1) This subsection shall apply to a subdivision or development that:

(A) was previously permitted pursuant to 10 V.S.A. chapter 151;

(B) is located in a downtown development district or neighborhood development area designated pursuant to chapter 76A of this title; and

(C) has applied for a permit or permit amendment required by zoning regulations or bylaws adopted pursuant to this subchapter.

(2) The appropriate municipal panel reviewing a municipal permit or permit amendment pursuant to this subsection shall include conditions contained within a permit previously issued pursuant to 10 V.S.A. chapter 151 unless the panel determines that the permit condition pertains to any of the following:

(A) the construction phase of the project that has already been constructed;

(B) compliance with another State permit that has independent jurisdiction;
(C) federal or State law that is no longer in effect or applicable;

(D) an issue that is addressed by municipal regulation and the project will meet the municipal standards; or

(E) physical or use condition that is no longer in effect or applicable, or that will no longer be in effect or applicable once the new project is approved.

(3) After issuing or amending a permit containing conditions pursuant to this subsection, the appropriate municipal panel shall provide notice and a copy of the permit to the Natural Resources Board.

(4) The appropriate municipal panel’s determinations shall be made following notice and hearing as provided in section 4464(a)(1) of this title and to those persons requiring notice pursuant to 10 V.S.A.§ 6084(b). The notice shall explicitly reference the existing Act 250 permit.

(5) The appropriate municipal panel’s decision shall be issued in accord with section 4464(b) of this title and shall include specific findings with respect to its determinations pursuant to subdivision (2) of this subsection (f).

(6) Any final action by the appropriate municipal panel affecting a condition of a permit previously issued pursuant to 10 V.S.A. chapter 151 shall be recorded in the municipal land records.

Sec. 9. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS
(b) Within 45 days of receipt of a completed application, the State Board shall designate a downtown development district if the State Board finds in its written decision that the municipality has:

(1) Demonstrated a commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, or through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in subdivisions 4414(1)(E) and (F) of this title, or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title.

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:
(1) The municipality has a duly adopted and approved plan and a planning process that is confirmed in accordance with section 4350 of this title and has adopted bylaws and regulations in accordance with sections 4414, 4418, and 4442 of this title.

(2) A preapplication meeting with Department staff was held to review the program requirements and to preliminarily identify possible neighborhood development areas.

(3) The proposed neighborhood development area is within a neighborhood planning area or such extension of the planning area as may be approved under subsection (d) of this section.

(4) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are generally within walking distance from the municipality’s downtown, village center, or new town center designated under this chapter or from locations within the municipality’s growth center designated under this chapter that are planned for higher density development.

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified undeveloped flood hazard and fluvial erosion areas. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the
availability of land for housing within the neighborhood planning area, and the
smart growth principles. Based on those considerations, the municipality shall
select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of
“important natural resources” as defined in subdivision 2791(14) of this title.
If an “important natural resource” is included within a proposed neighborhood
development area, the applicant shall identify the resource, explain why the
resource was included, describe any anticipated disturbance to such resource,
and describe why the disturbance cannot be avoided or minimized. If the
neighborhood development area includes flood hazard areas or river corridors,
the local bylaws must contain provisions deemed adequate by the Agency of
Natural Resources to ensure that new infill development within an existing
settlement occurs outside the floodway, new development is elevated or flood
proofed at least two feet above Base Flood Elevation, or otherwise reasonably
safe from flooding, and will not exacerbate fluvial erosion hazards within the
river corridor.

(B) Is served by planned or existing transportation infrastructure that
conforms with “complete streets” principles as described under 19 V.S.A. §
309d and establishes pedestrian access directly to the downtown, village
center, or new town center.
(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) The within the neighborhood development area, the municipal bylaws allow as of right minimum lot sizes of one-quarter of an acre or less and minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater.

(A) The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

(A)(B) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.
(B)(C) Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential density uses and building heights;

(C) minimize the required lot sizes, setbacks, and parking requirements, and street widths; and

(D) require conformance with “complete streets” principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

(9) Residents hold a right to utilize household energy conserving devices.
(10) The application includes a map or maps that, at a minimum, identify:

(A) “important natural resources” as defined in subdivision 2791(14) of this title;

(B) existing slopes of 25 percent or steeper;

(C) public facilities, including public buildings, public spaces, sewer or water services, roads, sidewalks, paths, transit, parking areas, parks, and schools;

(D) planned public facilities, roads, or private development that is permitted but not built;

(E) National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government;

(F) designated downtown, village center, new town center, or growth center boundaries as approved under this chapter and their associated neighborhood planning area in accordance with this section; and

(G) delineated areas of land appropriate for residential development and redevelopment under the requirements of this section.

(11) The application includes the information and analysis required by the Department’s guidelines under section 2792 of this title.
(d) Designation process. Within 45 days of receipt of a complete application for designation of a neighborhood development area, the State Board, after opportunity for public comment, shall approve a neighborhood development area if the Board determines that the applicant has met the requirements of this section.

(1) When approving a neighborhood development area, the State Board shall consult with the applicant about any changes the Board considers making to the boundaries of the proposed area. After consultation with the applicant, the Board may change the boundaries of the proposed area.

(2) A neighborhood development area may include one or more areas of land extending beyond the delineated neighborhood planning area, provided that at least 80 percent but no fewer than seven of the members of the State Board present find that:

(A) including the extended area beyond the neighborhood planning area is consistent with the goals of section 4302 of this title;

(B) residential development opportunities within the neighborhood planning area are limited due to natural constraints and existing development;

(C) the extended area represents a logical extension of an existing compact settlement pattern and is consistent with smart growth principles; and

(D) the extended area is adjacent to existing development.
(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

(1) The State Board, on its motion, may review compliance with the designation requirements at more frequent intervals.

(2) If the underlying downtown, village center, new town center, or growth center designation terminates, the neighborhood development area designation also shall terminate.

(3) If at any time the State Board determines that the designated neighborhood development area no longer meets the standards for designation established in this section, it may take any of the following actions:

(A) require corrective action within a reasonable time frame;

(B) remove the neighborhood development area designation; or

(C) prospectively limit benefits authorized in this chapter.

(4) Action taken by the State Board under subdivision (3) of this subsection shall not affect benefits already received by the municipality or a land owner in the designated neighborhood development area.

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any
a proposed development within that area shall be eligible for each of the
benefits listed in this subsection. These benefits shall accrue upon approval by
the district coordinator, who shall review, provided that the project meets the
density requirements set forth in subdivision (c)(7) of this section to determine
benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter
151 on whether the density requirements are met, as determined by the
administrative officer, as defined in 24 V.S.A. chapter 117. These benefits are:

(1) The application fee limit for wastewater applications stated in 3
V.S.A. § 2822(j)(4)(D).

(2) The application fee reduction for residential development stated in
10 V.S.A. § 6083a(d).

(3) The exclusion from the land gains tax provided by 32 V.S.A. §
10002(p).

(g) Neighborhood development area incentives for municipalities. Once a
municipality has a designated neighborhood development area, it may receive:

(1) priority consideration for municipal planning grant funds; and

(2) training and technical assistance from the Department to support an
application for benefits from the Department.

(h) Alternative designation. If a municipality has completed all of the
planning and assessment steps of this section but has not requested designation
of a neighborhood development area, an owner of land within a neighborhood
planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the designation. The State Board shall provide the municipality with at least 14 days’ prior written notice of the Board’s meeting to consider the application, and the municipality shall submit to the State Board the municipality’s response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain shall be eligible for the benefits granted to neighborhood development areas, subject to approval by the administrative officer, as provided in subsection (f) of this section.

Sec. 11. 32 V.S.A. § 5930aa is amended to read:

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) “Qualified applicant” means an owner or lessee of a qualified building involving a qualified project, but does not include a State or federal
agency or a political subdivision of either; or an instrumentality of the United States.

(2) “Qualified building” means a building built at least 30 years before the date of application, located within a designated downtown or village center, or neighborhood development area, which upon completion of the project supported by the tax credit will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) “Qualified code improvement project” means a project:

(A) to install or improve platform lifts suitable for transporting personal mobility devices, limited use or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety;

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or
(C) to redevelop a contaminated property in a designated downtown, or village center, or neighborhood development area under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) “Qualified expenditures” means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) “Qualified façade improvement project” means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown or designated village center, or neighborhood development area. Façade façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) “Qualified historic rehabilitation project” means an historic rehabilitation project that has received federal certification for the rehabilitation project.

(7) “Qualified project” means a qualified code improvement, qualified façade improvement, or qualified historic rehabilitation project as defined by this subchapter.

(8) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.
Sec. 12. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) In 2017, the General Assembly, in partnership with the Vermont Housing Conservation Board, the Vermont Housing Finance Agency, the State Treasurer, and other affordable housing stakeholders, provided for the funding and creation of an affordable housing bond to support the development of affordable housing throughout the State.

(2) To date, the Vermont Housing Conservation Board has committed over $24.8 million of the total $37 million bond proceeds, leveraging another $140 million through partner programs and supporting the creation of approximately 550 housing units. The remaining bond proceeds are expected to be fully committed by the end of 2019. The Vermont Housing Conservation Board is on track to meet or exceed the production and leveraging goals of the bond and meet the income targeting requirements.

(3) The General Assembly finds that additional investments are needed to help create more affordable housing options for Vermonters.

(b) Purpose and intent.

(1) The purpose of Secs. 1–7 of this act is to promote the development and improvement of affordable housing for current and future Vermont residents throughout the State.
(2) It is the intent of the General Assembly to authorize the Vermont Housing Finance Agency to issue a new housing bond, or a series of housing bonds, between FY 2022 and FY 2027 and transfer the proceeds to the Vermont Housing Conservation Board to support the development of additional affordable housing.

Sec. 13. 10 V.S.A. § 315 is added to read:

§ 315. HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(23) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income up to 120 percent of the area median, in areas targeted for growth and reinvestment. The Board shall use the proceeds to fund housing that meets community needs and in consideration of the following priorities:

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

(2) addressing blighted properties and other existing housing stock requiring reinvestment including in mobile home parks; and
(3) providing service-supported housing in coordination with the Agency of Human Services including those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

Sec. 14. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the Board shall submit a report concerning its activities to the Governor and to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish & Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include the following:

(1) a list and description of activities funded by the Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to sections 314 and 315 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

Sec. 15. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically
forward a copy of the acknowledged return to the Commissioner; provided,
however, that with respect to a return filed in paper format with the town, the
Commissioner shall have the discretion to allow the town to forward a paper
copy of that return to the Department.

(b) The copies of property transfer returns in the custody of the town clerk
may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A.
§ 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two
percent of the revenues received from the property transfer tax shall be
deposited in a special fund in the Department of Taxes for Property Valuation
and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under
10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
subsection (c) of this section, $2,500,000.00 of the revenue received from the
property transfer tax shall be transferred to the Vermont Housing Finance
Agency to pay the principal of and interest due on the bonds, notes, and other
obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
§ 621(22), the proceeds of which the Vermont Housing and Conservation
Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant
to subdivision (1) of this subsection remain outstanding, the rate of tax
imposed pursuant to section 9602 of this title shall not be reduced below a rate
estimated, at the time of any reduction, to generate annual revenues of at least
$12,000,000.00.

(e) Prior to any distribution of property transfer tax revenue under
10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
subsection (c) of this section, $4,000,000.00 of the revenue received from the
property transfer tax shall be transferred to the Vermont Housing Finance
Agency to pay the principal of and interest due on the bonds, notes, and other
obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
§ 621(23), the proceeds of which the Vermont Housing and Conservation
Board shall use to create housing pursuant to 10 V.S.A. § 315.

(f) Provided bonds, notes, and other obligations incurred pursuant to
subsection (d) or (e) of this section, or both, remain outstanding, the rate of tax
imposed pursuant to section 9602 of this title shall not be reduced below a rate
estimated, at the time of any reduction, to generate annual revenues of:

(1) at least $30,000,000.00 while bonds, notes, and other obligations
incurred pursuant to both subsections remain outstanding; and

(2) at least $18,000,000.00 while bonds, notes, and other obligations
incurred pursuant to subsection (d) of this section have been satisfied but
obligations under subsection (e) of this section remain outstanding.
Sec. 16. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d); and

(23) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(e).
Sec. 17. 10 V.S.A. § 631(m) is added to read:

   (m)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(23) of this title shall be secured by a pledge of $4,000,000.00 from the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(e) and shall mature on or before June 30, 2042.

   (2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed $4,000,000.00 at any time.

   (3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 315 of this title.

   (4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.
Sec. 18. FY 2021 RESERVE FUNDING; HOUSING BOND; VERMONT

HOUSING AND CONSERVATION TRUST FUND

In fiscal year 2021, the amount of $4,000,000.00 in revenues generated from the property transfer tax and the revenues generated from the rooms tax on short-term rentals shall be transferred to the Vermont Housing and Conservation Trust Fund to reserve for future debt payments on the new housing bond authorized in Secs. 5 and 6 of this act.

Sec. 19. REPEAL

The following are repealed on July 1, 2042:

(1) 10 V.S.A. § 315 (Vermont Housing and Conservation Board; housing bond and investments).

(2) 10 V.S.A. § 621(23) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations).

(3) 10 V.S.A. § 631(m) (debt obligations issued by VHFA).

(4) 32 V.S.A. § 9610(e)–(f) (property transfer tax priority for housing debt repayment).

Sec. 20. 24 V.S.A. 1892(d) is amended to read:

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district:

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;
(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

(7) the Town of Hartford;

(8) the City of St. Albans;

(9) the City of Barre;

(10) the Town of Milton, Town Core; and

(11) the City of South Burlington;

(12) the Town of Bennington; and

(13) the City of Montpelier.

Sec. 2. SHORT-TERM RENTALS

The Agency of Commerce and Community Development shall adopt rules to collect sufficient data to allow the State to understand the impact of short-term rentals on the availability of housing in this State, while balancing the privacy interests of short-term rental operators and their guests.

Sec. 22. HOMELESSNESS PREVENTION

(a) Consistent with the report mandated in 2019 Acts and Resolves No. 72, Sec. E.300.4, the Secretary of Human Services shall take reasonable measures, including increasing case management services for Vermonters who are homeless, to reduce the loss of specialized federal rental assistance vouchers.
(b) The Secretary shall report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Health and Welfare and to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Human Services, and on Health Care on or before October 15, 2020 on measures taken, and results achieved, in increasing the use of specialized federal assistance vouchers.

Sec. 23. EFFECTIVE DATE

This act shall take effect on July 1, 2020.