

Section by Section Summary

S.163 – An act relating to housing safety and rehabilitation

~~(As passed Senate)~~

(As passed House General, Housing and Military Affairs)

Secs. 1–6: Rental Housing Health and Safety

Secs. 7 – 11: Registration of Residential Contractors

Secs. 12: Rental Housing Incentive Program

Sec. 13: State Treasurer Recommendation for Financing Affordable Housing

Secs. 1–6: Rental Housing Health and Safety

Sec. 1. 18 V.S.A. § 5

Sec. 1 specifies in statute that the Department of Health:

(7) is the leader on State rental housing health laws; and

(8) has the duty to provide policy assistance and technical support, and legal guidance to municipalities concerning the interpretation, implementation, and enforcement of State rental housing health and safety laws.

Sec. 2. 18 V.S.A. § 603

Sec. 2 amends current law governing the investigation of rental housing and the inspection reports that local health officers must issue following an investigation.

(a)(3)(B) – after providing a copy of an inspection report to a landlord and affected tenants, the new subdivision (B) requires a health inspector to provide information on each inspection:

(B)(i) if a municipality has established a code enforcement office, provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or

(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose.

(a)(5) – requires municipalities to make inspection reports available as a public record.

(b)(1) – increases the civil penalty for a housing code violation from \$100 to \$200 per day.

(b)(2)(A) - if cumulative penalties are \$800 or less, permits enforcement through the Judicial Bureau

(b)(2)(B) – specifies that the waiver penalty [the amount you pay right now to end a Judicial Bureau proceeding] is 50 percent of the full penalty amount

(b)(3) – if penalties exceed \$800, enforcement **shall may** be through superior court

Sec. 3. 4 V.S.A. § 1102

Sec. 3 gives Judicial Bureau jurisdiction over violations of State or municipal rental housing health and safety laws when the amount of the cumulative penalties imposed pursuant to 18 V.S.A. § 603 is \$800.00 or less.

Sec. 4. DHCD – Rental Housing Data

Sec. 4 directs the Department of Housing and Community Development, with the full cooperation and assistance of partners specified in subsection (b) to design a comprehensive rental housing data management system, through which the Department is able to collect, organize, and make available to the public information concerning rental housing in this State, including:

- (1) location of building;
- (2) age of building;
- (3) number of units;
- (4) type of units;
- (5) School Property Account Number;
- (6) owner name and contact information; and
- (7) manager name and contact information.

Sec. 5. DOH – Health Inspection Reports

Sec. 5 directs the Department of Health to create and manage an electronic system to collect and maintain health inspection reports submitted by local health officers pursuant to 18 V.S.A. § 603.

Sec. 5. Rental Housing Health and Safety Enforcement System; Recommendations

(a) Directs the Department of Health and the Department of Public Safety, in collaboration with the Rental Housing Advisory Board, to report recommendations by 1/15/20 for a comprehensive system for the professional enforcement of State rental housing health and safety laws, including:

- (1) an outline of options, including an option for a State government–run system, with a timeline and budget for each;
- (2) a needs assessment; and
- (3) any additional recommendations

(b) By 9/30/2019 - Department of Health interim progress report

(c) By 8/1/2019 - each municipality in this State shall provide to the Department of Health summary information on its inspection activity from July 1, 2018 through June 30, 2019 to assist the Department in completing the needs assessment

Sec. 6 – Duties Contingent Upon Funding

DHCD duties in Sec. 4 (rental housing data management system), to update and maintain RentalCodes.org, and to design and implement VHIP in Sec. 12, are contingent on funding

DOH duties to provide direct assistance to municipalities are contingent on funding for a new position

Secs. 7–11: Registration of Residential Contractors

Sec. 7 – 3 V.S.A. § 122

Sec. 8 adds (48) Residential Contractors to the list of professions regulated by OPR.

Sec. 8 – 26 V.S.A. chapter 105

Sec. 9 creates the substantive requirements for registration (and possible voluntary certification) for residential contractors.

§ 5401. Registration Required

- requires a person to register with OPR prior to offering or contracting with a homeowner to perform construction, remodeling, or home improvement work on a dwelling unit, building, or premises used primarily for residential purposes, in exchange for consideration of more than ~~\$2,000.00~~ \$2,500.00, including labor and materials.

§ 5402. Exemptions

- exempts from the chapter
 - (1) an employee acting within the scope of his or her employment for a business organization registered under this chapter;
 - (2) a professional engineer, licensed architect, or a tradesperson licensed by the Department of Public Safety acting within the scope of his or her license;

- (3) delivery or installation of consumer appliances, audio-visual equipment, telephone equipment, or computer network equipment;
- (4) landscaping;
- (5) work on a structure that is not attached to a residential building;
- (6) work that would otherwise require registration that a person performs in response to an emergency, provided the person applies for registration within a reasonable time after performing the work.

§ 5403. Mandatory Registration and Voluntary Certification Distinguished

(a) – recognizes that mandatory registration is intended to protect against fraud, deception, breach of contract, and violations of law, but not to establish professional qualifications or standards of workmanship.

(b) – authorizes OPR to (1) adopt rules for voluntary certification; (2) establish minimum qualifications and performance standards, and (3) discipline certificants.

§ 5405. Duties of the Director

(a) The Director of Professional Regulation shall:

- (1) provide information to the public
- (2) administer fees
- (3) receive applications, issue registrations and certifications, etc.
- (4) maintain a registry of registrants and certificants.

(b) The Director may adopt rules to implement the chapter.

§ 5406. Advisors

- Directs the SoS to appoint two advisors for the implementation of chapter. Advisors must be registered, have at least 3 years' experience, and remain active in the profession during their service.

§ 5407. Fees

- (1) Registration, individual: \$75.00.
- (2) Registration, business organization: \$250.00.
- (3) State certifications: \$75.00 for a first certification and \$25.00 for each additional certification.

§ 5408. Eligibility

An applicant must: (1) be in compliance with chapter; (2) be in compliance with laws respecting child support, taxes, judgment orders, and workers' compensation; and

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

§ 5409. Requirements of Registrants

(a) Insurance. Registrant must maintain professional liability insurance of \$300,000.00 per claim and \$1,000,000.00 aggregate

(b) Written Contract.

(1) registrant must execute a written contract prior to receiving a deposit or commencing residential construction work if the estimated value of the labor and materials exceeds ~~\$1,000.00~~ \$2,500.00.

(2) A contract shall specify:

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

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

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

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

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

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

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

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

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

§ 5410. Prohibitions and Remedies

Section 5410 specifies the activities that constitute unprofessional conduct under the chapter and that enforcement will be through the office of OPR and may include fines of \$1,000 per violation and possible revocation of registration.

Sec. 9 – OPR Positions

(a) creates two new positions in the licensing division.

(b) specifies that any funding necessary to support the positions shall be derived from the Office's Professional Regulatory Fee Fund and not from the General Fund.

Sec. 10. Implementation

(1) The initial biennial registration term for residential contractors pursuant to 26 V.S.A. chapter 105 created in Sec. 8 of this act shall begin on April 1, 2020.

(2) The Secretary of State may begin receiving applications for the initial registration term on December 1, 2019.

Sec. 11 – Status Report

- Requires SoS to report on implementation of residential contractor chapter by 1/15/2021

Secs. 12: Rental Housing Incentive Program

Sec. 12 – Rental Housing Incentive Program; 10 V.S.A. § 699

(a) – Purpose - to incentivize private apartment owners to make improvements to both housing quality and weatherization

(b) – Creation - DHCD to provide funding to regional nonprofit housing partner organizations to provide incentive grants to private landlords for the rehabilitation and improvement, including weatherization, of existing rental housing stock.

(c) – Administration – DHCD must require a nonprofit regional housing partner organization that receives funding under this program

- to develop a standard application form for property owners that describes the application process and includes clear instructions and examples to help property owners apply,
- a selection process that ensures equitable selection of property owners, and
- a grants management system that ensures accountability for funds awarded to property owners.

(d) - Grant Guidelines –

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

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

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

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

(5) Only existing properties that are vacant or blighted¹ are eligible for grants.

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

(e) – Definitions -

¹ See subsection (e) for definitions of “blighted” and “vacant”

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

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

Sec. 13 – State Treasurer Recommendation for Financing Affordable Housing Initiative

Directs Treasurer, on or before January 15, 2020, to evaluate and report on options for funding and financing affordable housing in the State, including:

(1) a plan to build upon the success of the affordable housing bond for the creation or preservation 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

(3) the plan shall assume that the 1,000 units shall be in addition to what would otherwise have been created or preserved by State funding through the Vermont Housing and Conservation Board equal to its FY 2019 base general fund and capital appropriations, and the other resources it typically leverages; and

(4) provisions for meeting housing needs consistent with publicly developed plans such as Vermont’s Consolidated Plan, the 2017 Vermont Roadmap to End Homelessness, and Vermont Housing Finance Agency’s Qualified Action Plan 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;

(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 other disability, or leaving incarceration; and

(D) providing for the housing needs of households with extremely low income.