

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred House Bill No. 739 entitled “An act relating to improving rental
4 housing health and safety” respectfully reports that it has considered the same
5 and recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 * * * Intent and Purpose * * *

8 Sec. 1. INTENT AND PURPOSE

9 (a) The purposes of this act are:

10 (1) to create a Statewide, professional rental housing health and safety
11 inspection and enforcement system within the Department of Public Safety;

12 (2) to create a State Rental Housing Registry and collect important data
13 concerning the rental housing available in this State; and

14 (3) to create a Vermont Housing Incentive Program that will provide
15 small grants to private landlords that help them improve the safety and quality
16 of rental housing without displacing existing tenants.

17 (b) In adopting this act, it is the intent of the General Assembly that:

18 (1) The Department of Public Safety will assume authority for rental
19 housing health and safety inspections.

20 (2) Municipalities, districts, and unorganized towns and gores may
21 operate their own local rental housing health and safety programs under 24

1 VSA chapter 123, a municipal charter, or an agreement with the Division of
2 Fire Safety.

3 (3) Landlords and tenants will benefit from the fair and equal
4 administration of rental housing health and safety laws.

5 (4) The State will have access to data and information necessary to
6 inform good policy choices concerning housing availability and affordability.

7 (5) Landlords will have State financial incentives and regulatory support
8 to improve the quality and safety of rental housing throughout the State.

9 * * * Creation of Professional State-Managed Rental Housing

10 Health and Safety Program * * *

11 Sec. 2. 20 V.S.A. chapter 119 is added to read:

12 CHAPTER 119. RENTAL HOUSING HEALTH AND SAFETY

13 § 2101. DEFINITIONS

14 As used in this chapter:

15 (1) “Building, housing, and health regulations” means any law,
16 ordinance, or governmental regulation concerning health, safety, sanitation, or
17 fitness for habitation, or concerning the construction, maintenance, operation,
18 occupancy, use, or appearance of any premises or dwelling unit.

19 (2) “Commissioner” means the Commissioner of Public Safety or an
20 employee of the Department designated to perform the duties of the
21 Commissioner under this chapter.

1 (3) “Department” means the Department of Public Safety.

2 (4) “Dwelling unit” means a building or the part of a building that is
3 used as a home, residence, or sleeping place by one or more persons who
4 maintain a household.

5 (5) “Landlord” means the owner, lessor, or, where applicable, the
6 sublessor of a residential dwelling unit or the building of which it is a part.

7 (6) “Notice of inspection” means a notice stating that an inspection by
8 the Division of Fire Safety occurred on the premises, the date on which it
9 occurred, and an email address, telephone number, physical address, and postal
10 address to contact for further information regarding the inspection, and which
11 is on postcard stock and at least 5 inches by 8 inches in size.

12 (7) “Premises” means a dwelling unit, its appurtenances and the building,
13 and the grounds, areas, and facilities held out for the use of tenants generally or
14 whose use is promised to the tenant.

15 (8) “Rental agreement” means all agreements, written or oral,
16 embodying terms and conditions concerning the use and occupancy of a
17 dwelling unit and premises.

18 (9) “Rental housing” (A) means all or part of a dwelling unit and its
19 premises that a person offers for rent for any period of time in this State,
20 including:

21 (i) a house, condominium, or other single-family dwelling;

1 (ii) a unit of a multifamily building;

2 (iii) a rented mobile home or a rented mobile home lot; and

3 (iv) housing provided as a benefit of farm employment.

4 (B) does not include rental housing excluded pursuant to 9 VSA 4452,

5 except for those included in subdivision (A)(iii) of this section.

6 (10) “Rental housing health and safety” means the minimum standards

7 and conditions that rental housing must satisfy to meet the requirements of

8 applicable building, housing, and health regulations, and includes satisfactory

9 provision for:

10 (A) sanitation, including kitchen facilities, bathroom facilities, water

11 supply, wastewater disposal, and the collection and removal of trash, recycling,

12 and food scraps;

13 (B) prevention of infestation by animals, insects, and other pests;

14 (C) heating, plumbing, ventilation, electricity, lighting, and other

15 mechanical systems;

16 (D) structural elements.

17 (11) “Tenant” means a person entitled under a rental agreement to

18 occupy a residential dwelling unit to the exclusion of others.

19 (12) “Violation” means a condition in or on the premises of rental

20 housing that fails to meet one or more requirements of applicable rental

21 housing health and safety standards.

1 § 2102. DUTIES OF COMMISSIONER

2 The Commissioner shall:

3 (1) adopt rules to establish legal standards for rental housing health and
4 safety and to protect the occupants of rental housing;

5 (2) design and implement a State program for conducting inspections of
6 rental housing, investigating complaints, and enforcing violations; and

7 (3) coordinate with State agencies and departments and with local health
8 officials to:

9 (A) identify the respective duties and scope of jurisdiction for rental
10 housing health and safety among municipal, district, State, and other
11 government entities; and

12 (B) exchange information concerning rental housing health and
13 safety that is necessary for State and local officials to perform their respective
14 duties.

15 § 2103. INSPECTION; ENFORCEMENT

16 (a) The Commissioner shall conduct inspections of rental housing to ensure
17 compliance:

18 (1) pursuant to a program adopted pursuant to subdivision 2102(2) of
19 this title;

20 (2) in response to a complaint; or

1 (3) if the Commissioner has a reasonable belief that a violation has
2 occurred.

3 (b) When conducting an investigation of rental housing, the Commissioner
4 shall:

5 (1) if possible, obtain the email and mailing address of the tenant whose
6 dwelling unit is being inspected, and

7 (2) provide a notice of the inspection to each tenant affected.

8 (c) Every inspection report of rental housing which specifies violations of
9 this chapter shall,

10 (1) include in a prominent way and location, a notice that the landlord is
11 prohibited from renting any affected unit to a new tenant until the violation is
12 corrected,

13 (2) provide notice in plain language that the landlord and agents of the
14 landlord must have access to the rental unit to make repairs as ordered by the
15 Commissioner consistent with the access provisions of 9 VSA § 4460, and

16 (3) be available to the public upon request.

17 (d) Within three days of when an inspection is completed, or as soon as
18 possible thereafter if there are extenuating circumstances, the Commissioner
19 shall provide a copy of the report to the landlord and any tenants affected by a
20 violation by delivering the report electronically, in person, by first class mail,
21 or by leaving a copy at each unit affected by the deficiency.

1 (e) To enforce a violation of this subchapter, the Commissioner may take
2 one or more of the actions authorized for enforcement of fire safety statutes
3 and regulations

4 § XXXX. EXEMPTIONS

5 Rental housing units subject to the jurisdiction of municipal housing
6 programs organized pursuant to 24 V.S.A. chapter 123 are exempt from the
7 provisions of this chapter. This chapter shall not be interpreted to limit or
8 decrease the authority of the exempt municipal housing program in regard to
9 building, housing, and fire safety codes. A municipal program may lose this
10 exemption if the commissioner of public safety determines that any of the
11 following is true:

12 (1) The habitability and enforcement criteria are less stringent than those
13 of the state program.

14 (2) The municipal program does not conduct inspections in response to
15 complaints, and

16 (3) Any other aspect of the municipal program is less stringent than the
17 state program.

18 § 2106. STATE RENTAL HOUSING REGISTRY

19 (a) The Department of Health, in coordination with the Commissioner,
20 shall create and maintain a registry of the rental housing in this State.

1 (b) Except as provided in subsection (c) of this section, an owner of rental
2 housing shall:

3 (1) register with the Department of Health and provide the information
4 concerning the rental housing that the Department requires;

5 (2) pay an annual registration fee of \$35.00 per dwelling unit, unless the
6 owner is required to register the unit with a municipal, district, or other local
7 government entity that operates a rental housing health and safety program;
8 and

9 (c) (1) An owner of a mobile home lot within a defined mobile home
10 park who has registered the lot with the Department of Housing and
11 Community Development and who does not own a mobile home on the lot is
12 exempt from registering the lot with the Department of Health.

13 (2) An owner of a mobile home lot within a defined mobile home park
14 who has registered the lot with the Department of Housing and Community
15 Development and who owns a mobile home on the lot which is available for
16 rent or rented, must register the property with the Department of Health and
17 pay a fee equal to the fee required by subdivision (b)(2) of this section less any
18 fee paid within the previous twelve months pursuant to 10 VSA 6254(c).

19 (d) An owner of rental housing who fails to register in accordance with
20 this section shall pay a late registration fee of \$150.00 and may be subject to
21 administrative penalties not to exceed \$5,000 for each violation.

1 (e) The Commissioner of Health may use the enforcement powers in
2 Title 18 Chapter 3 to enforce any violation of this section. If the Commissioner
3 determines that a violation is continuing, each day’s continuance may be
4 deemed a separate offense beginning form the date the violator is served with
5 notice of the violation.

6 Sec. 3. DEPARTMENT OF PUBLIC SAFETY AND DEPARTMENT OF
7 HEALTH; POSITIONS; APPROPRIATION

8 (a) The Department of Public Safety is authorized to create five full-time,
9 classified Rental Housing Health and Safety Inspector positions in order to
10 conduct rental housing health and safety inspections and enforcement pursuant
11 to 20 V.S.A. chapter 119.

12 (b) The Department of Health is authorized to create one full-time classified
13 position to administer the registry, and two full-time classified positions to
14 enforce compliance with registry requirements.

15 (c) The Department of Health is appropriated \$ 25,000 to upgrade the
16 existing Essential Maintenance Practices database to allow owners of rental
17 properties built in 1978 or later to register their properties on that database. In
18 addition, the Department of Health is appropriated up to \$175,000 to be added
19 to the funding previously appropriated to the Vermont Department of Health
20 designated for the design and implementation of the improved Essential
21 Maintenance Practices database, which additional funding shall be to design

1 and build functionality to allow all owners of rental properties to register their
2 rental units.

3 (d) The Department of Housing and Community Development is authorized
4 to create the Vermont Housing Incentive Program pursuant to 10 V.S.A.
5 chapter 29, subchapter 3 and is appropriated \$1,000,000 for that purpose.

6 (e) \$800,000 is appropriated to the Department for Children and Families,
7 Office of Economic Opportunity to increase its assistance for rental arrearages
8 to eligible recipients under its Housing Opportunities Grant Program.

9 (f) It is the intent of the General Assembly to fund the implementation of
10 the provisions in this act other than those related to subsections (d) and (e) of
11 this section from the registration fees collected by the Department of Health
12 pursuant to 20 V.S.A. § 2106.

13 * * * Conforming Changes to Current Law Governing the Department of
14 Health, State Board of Health, and Local Health Officials * * *

15 Sec. 4. 18 V.S.A. § 2 is amended to read:

16 § 2. DEFINITIONS

17 The following words and phrases, as used in this title, will have the
18 following meanings unless the context otherwise requires:

19 (1) “Department” means the Department of Health.

20 (2) “Board” means the State Board of Health.

1 (b) Upon discovery of violation or a public health hazard or public health
2 risk that involves a public water system, a food or lodging establishment, or
3 any other matter regulated by Department rule, the local health officer shall
4 immediately notify the Division of Environmental Health. Upon discovery of
5 any other violation, public health hazard, or public health risk, the local health
6 officer shall notify the Division of Environmental Health within 48 hours of
7 discovery of such violation or hazard and of any action taken by the officer.

8 § 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

9 ~~(a)(1) When conducting an investigation of rental housing, a local health~~
10 ~~officer shall issue a written inspection report on the rental property using the~~
11 ~~protocols for implementing the Rental Housing Health Code of the Department~~
12 ~~or the municipality, in the case of a municipality that has established a code~~
13 ~~enforcement office.~~

14 ~~(2) A written inspection report shall:~~

15 ~~(A) contain findings of fact that serve as the basis of one or more~~
16 ~~violations;~~

17 ~~(B) specify the requirements and timelines necessary to correct a~~
18 ~~violation;~~

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

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

4 ~~(3) A local health officer shall:~~

5 ~~(A) provide a copy of the inspection report to the landlord and any~~
6 ~~tenants affected by a violation by delivering the report electronically, in~~
7 ~~person, by first class mail, or by leaving a copy at each unit affected by the~~
8 ~~deficiency; and~~

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

13 ~~(ii) if a municipality has not established a code enforcement office,~~
14 ~~provide information on each inspection to the Department within seven days of~~
15 ~~issuing the report using an electronic system designed for that purpose, or~~
16 ~~within 14 days by mail if the municipality is unable to utilize the electronic~~
17 ~~system.~~

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

1 ~~(5) A municipality shall make an inspection report available as a public~~
2 ~~record.~~

3 ~~(b)(1) A local health officer may impose a civil penalty of not more than~~
4 ~~\$200.00 per day for each violation that is not corrected by the date provided in~~
5 ~~the written inspection report, or when a unit is re-rented to a new tenant prior~~
6 ~~to the correction of a violation.~~

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

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

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

18 ~~(c) If a local health officer fails to conduct an investigation pursuant to~~
19 ~~section 602a of this title or fails to issue an inspection report pursuant to this~~
20 ~~section, a landlord or tenant may request that the Department, at its discretion,~~

1 ~~conduct an investigation or contact the local board of health to take action.~~

2 [Repealed.]

3 * * *

4 * * * Vermont Housing Incentive Program * * *

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

6 Subchapter 3. Housing; Incentives

7 § 699. VERMONT RENTAL HOUSING INCENTIVE PROGRAM

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

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

18 (c) Administration. The Department shall require any regional nonprofit
19 housing partner organization that receives funding under this program to
20 develop a standard application form for property owners that describes the
21 application process and includes clear instructions and examples to help

1 property owners apply, a selection process that ensures equitable selection of
2 property owners, and a grants management system that ensures accountability
3 for funds awarded to property owners.

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

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

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

11 (3) No property owner may receive a grant

12 (A) for more than four rental units within five years, (B) unless, if
13 landlords are required to register on a state rental housing registry, all
14 properties of the owner are on the registry.

15 (4) Each project funded must result in all building codes being met and
16 all permits received, and, wherever possible, include a weatherization
17 component.

18 (5) Only existing properties that are vacant or blighted are eligible for
19 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. 7. DUTY CONTINGENT UPON FUNDING

12 The duty to design and implement a Vermont Rental Housing Incentive
13 Program pursuant to Sec. 6 of this act and the duty to create a housing registry
14 pursuant to Sec. 2 of this act is contingent upon the appropriation of funds for
15 each purpose in fiscal year 2021.

16 Sec. 8. TRANSITION PROVISIONS

17 (a) Notwithstanding any provision of law to the contrary:

18 (1) Until the Commissioner of Public Safety adopts rules governing
19 rental housing health and safety pursuant to 20 V.S.A. § 2102, the Department
20 of Health and the Department of Public Safety have concurrent authority to
21 enforce the Vermont Rental Housing Health Code adopted by the Department

1 of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. §
2 801(b)(11).

3 (2) The Commissioner of Public Safety may immediately adopt a rule
4 incorporating the Rental Housing Health Code without following the
5 procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.

6 (3) Except as provided in subdivision (2) of this subsection (a), the
7 Commissioner of Public Safety shall comply with the requirements for general
8 rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental
9 housing health and safety.

10 (b) Upon the adoption of rules governing rental housing health and safety
11 pursuant to the authority in 20 V.S.A. § 2012:

12 (1) the Department of Public Safety is the State government entity with
13 primary authority to enforce State laws governing rental housing health and
14 safety;

15 (2) the Department of Public Safety and local health officials have
16 concurrent authority to enforce State and local laws governing rental housing
17 health and safety pursuant to 20 V.S.A. chapter 119 and 18 V.S.A. chapter 11;
18 and

19 (3) the Department of Health, the State Board of Health, and local health
20 officials have concurrent authority to enforce State and local laws governing

1 public health hazards and public health risks, as those terms are defined in
2 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

3 * * * Effective Date * * *

4 Sec. 9. EFFECTIVE DATE

5 This act shall take effect on July 1, 2020.

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12 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE