

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 Sec. 1. 20 V.S.A. chapter 173 is amended to read:

8 CHAPTER 173: PREVENTION AND INVESTIGATION OF FIRES;
9 PUBLIC BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS

10 * * *

11 Subchapter 2: Fire Safety Division; Public Buildings; Building Codes; Rental
12 Housing Health and Safety; Building Energy Standards

13 * * *

14 § 2730. DEFINITIONS

15 (a) As used in this subchapter, “public building” means:

16 * * *

17 (D) a building in which people rent accommodations, whether
18 overnight or for a longer term;

19 * * *

20 (2) Use of any portion of a building in a manner described in this
21 subsection shall make the entire building a “public building” for purposes of

1 this subsection. For purposes of this subsection, a “person” does not include an
2 individual who is directly related to the employer and who resides in the
3 employment-related building.

4 (b) The term “public building” does not include:

5 (1) An owner-occupied single family residence, unless used for a
6 purpose described in subsection (a) of this section.

7 * * *

8 (4) A single family residence with an accessory dwelling unit as
9 permitted under 24 V.S.A. § 4406(4)(D).

10 (c) For the purpose of this subchapter, subchapter 3 of this chapter, and
11 chapter 174 of this title, the words “premises,” “building,” and “structure,” or
12 any part thereof shall mean “public building” as defined in this section.

13 * * *

14 § 2731. RULES; INSPECTIONS; VARIANCES

15 (a) Rules. The Commissioner is authorized to adopt rules regarding the
16 construction, health, safety, sanitation, and fitness for habitation of buildings,
17 maintenance and operation of premises, and prevention of fires and removal of
18 fire hazards, and to prescribe standards necessary to protect the public,
19 employees, and property against harm arising out of or likely to arise out of
20 fire.

21 (b) Inspections.

1 (1) The Commissioner shall conduct inspections of premises to assure
2 that the rules adopted under this subchapter are being observed and may
3 establish priorities for enforcing these rules and standards based on the relative
4 risks to persons and property from fire of particular types of premises. The
5 Commissioner may also conduct inspections to assure that buildings are
6 constructed in accordance with approved plans and drawings.

7 (2) When conducting an investigation of a building in which people rent
8 accommodations, the Commissioner shall

9 (A) issue a written inspection report on the building that:

10 (i) contains findings of fact that serve as the basis of one or more
11 violations;

12 (ii) specifies the requirements and timelines necessary to correct a
13 violation;

14 (iii) provides notice that the landlord is prohibited from renting the
15 affected unit to a new tenant until the violation is corrected; and

16 (iv) provides notice in plain language that the landlord and agents
17 of the landlord must have access to the rental unit to make repairs as ordered
18 by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;

19 (B) 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;

3 (C) if an entire property is affected by a violation, post a copy of the
4 inspection report in a common area of the property and include a prominent
5 notice that the report shall not be removed until authorized by the
6 Commissioner; and

7 (D) make an inspection report available as a public record.

8 (c) Fees. The following fire prevention and building code fees are
9 established:

10 (1) The permit application fee for a construction plan approval shall be
11 based on \$8.00 per each \$1,000.00 of the total valuation of the construction
12 work proposed to be done for all buildings, but in no event shall the permit
13 application fee exceed \$185,000.00 nor be less than \$50.00.

14 (2) When an inspection is required due to the change in use or ownership
15 of a public building, the fee shall be \$125.00.

16 (3) The proof of inspection fee for fire suppression, alarm, detection, and
17 any other fire protection systems shall be \$30.00.

18 (4) Three-year initial certificate of fitness and renewal fees for
19 individuals performing activities related to fire or life safety established under
20 subsection (a) of this section shall be:

21 (A) Water-based fire protection system design:

1 (i) Initial certification: \$150.00.

2 (ii) Renewal: \$50.00.

3 (B) Water-based fire protection system installation, maintenance,
4 repair, and testing:

5 (i) Initial certification: \$115.00.

6 (ii) Renewal: \$50.00.

7 (C) Gas appliance installation, inspection, and service: \$60.00.

8 (D) Oil burning equipment installation, inspection, and service:
9 \$60.00.

10 (E) Fire alarm system inspection and testing: \$90.00.

11 (F) Limited oil burning equipment installation, inspection, and
12 service: \$60.00.

13 (G) Domestic water-based fire protection system installation,
14 maintenance, repair, and testing:

15 (i) Initial certification: \$60.00.

16 (ii) Renewal: \$20.00.

17 (H) Fixed fire extinguishing system design, installation, inspection,
18 servicing, and recharging:

19 (i) Initial certification: \$60.00.

20 (ii) Renewal: \$20.00.

1 (I) Emergency generator installation, maintenance, repair, and testing:
2 \$30.00;

3 (J) Chimney and solid fuel burning appliance cleaning, maintenance,
4 and evaluation: \$30.00.

5 (d) Permit processing. The Commissioner shall make all practical efforts to
6 process permits in a prompt manner. The Commissioner shall establish time
7 limits for permit processing as well as procedures and time periods within
8 which to notify applicants whether an application is complete.

9 (e) Variances; exemptions. The Commissioner may grant variances or
10 exemptions from rules adopted under this subchapter where strict compliance
11 would entail practical difficulty, unnecessary hardship, or is otherwise found
12 unwarranted, provided that:

13 (1) any such variance or exemption secures the public safety and health;

14 (2) any petitioner for such a variance or exemption can demonstrate that
15 the methods, means, or practices proposed to be taken in lieu of compliance
16 with the rule or rules provide, in the opinion of the Commissioner, equal
17 protection of the public safety and health as provided by the rule or rules;

18 (3) the rule or rules from which the variance or exemption is sought has
19 not also been adopted as a rule or standard under 21 V.S.A. chapter 3,
20 subchapters 4 and 5; and

1 (4) any such variance or exemption does not violate any of the provisions
2 of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

3 * * *

4 § 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE
5 STRUCTURE

6 (a) Whenever the commissioner finds that premises or any part of them
7 does not meet the standards adopted under this subchapter, the commissioner
8 may order it repaired or rehabilitated. If it is not repaired or rehabilitated
9 within a reasonable time as specified by the commissioner in his or her order,
10 the commissioner may order the premises or part of them closed, if by doing so
11 the public safety will not be imperiled; otherwise he or she shall order
12 demolition and removal of the structure, or fencing of the premises. Whenever
13 a violation of the rules is deemed to be imminently hazardous to persons or
14 property, the commissioner shall order the violation corrected immediately. If
15 the violation is not corrected, the commissioner may then order the premises or
16 part of them immediately closed and to remain closed until the violation is
17 corrected.

18 (b) Whenever a structure, by reason of age, neglect, want of repair, action of
19 the elements, destruction, either partial or total by fire or other casualty or
20 other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous
21 as to constitute a material menace or damage in any way to adjacent property,

1 or to the public, and has so remained for a period of not less than one week, the
2 commissioner may order such structure demolished and removed.

3 (c) Orders issued under this section shall be served by certified mail with
4 return receipt requested or in the discretion of the commissioner, shall be
5 served in the same manner as summonses are served under the Vermont Rules
6 of Civil Procedure promulgated by the supreme court, to all persons who have
7 a recorded interest in the property recorded in the place where land records for
8 the property are recorded, including owners, tenants, mortgagees, attaching
9 creditors, lien holders, and public utilities or water companies serving the
10 premises.

11 § 2734. PENALTIES

12 (a) A person who violates any provision of this subchapter or any order or
13 rule issued pursuant thereto shall be fined not more than \$10,000.00. The
14 state's attorney of the county in which such violation occurs shall prosecute the
15 violation and may commence a proceeding in the superior court to compel
16 compliance with such order or rule, and such court may make orders and
17 decrees therein by way of writ of injunction or otherwise.

18 (b) A person who fails to comply with a lawful order issued under authority
19 of this subchapter in case of sudden emergency shall be fined not more than
20 \$20,000.00. A person who fails to comply with an order requiring notice shall
21 be fined \$200.00 for each day's neglect commencing with the effective date of

1 such order or the date such order is finally determined if an appeal has been
2 filed.

3 (c) The commissioner may, after notice and opportunity for hearing, assess
4 an administrative penalty of not more than \$1,000.00 for each violation of this
5 subchapter or any rule adopted under this subchapter. Penalties assessed
6 pursuant to this subsection shall be based on the severity of the violation. An
7 election by the commissioner to proceed under this subsection shall not limit or
8 restrict the commissioner’s authority under subsection (a) of this section.

9 (d) Violation of any rule adopted under this subchapter shall be prima facie
10 evidence of negligence in any civil action for damage or injury which is the
11 result of the violation.

12 * * *

13 § 2736. MUNICIPAL ENFORCEMENT

14 (a) The legislative body of a municipality may appoint one or more trained
15 and qualified officials and may establish procedures to enforce rules and
16 standards adopted under subsection 2731(a) of this title. After considering the
17 type of buildings within the municipality, if the commissioner determines that
18 the training, qualifications and procedures are sufficient, he or she may assign
19 responsibility to the municipality for enforcement of some or all of these rules
20 and standards. The commissioner may also assign responsibility for
21 enforcement of the rules of the access board adopted under section 2902 of this

1 title. The commissioner shall provide continuing review, consultation, and
2 assistance as may be necessary. The assignment of responsibility may be
3 revoked by the commissioner after notice and an opportunity for hearing if the
4 commissioner determines that the training, qualifications, or procedures are
5 insufficient. The assignment of responsibility shall not affect the
6 commissioner's authority under this subchapter.

7 (b) If a municipality assumes responsibility under subsection (a) of this
8 section for performing any functions that would be subject to a fee established
9 under subsection 2731(a) of this title, the municipality may establish and
10 collect reasonable fees for its own use, and no fee shall be charged for the
11 benefit of the state.

12 (c) Subject to rules adopted under section 2731 of this title, municipal
13 officials appointed under this section may enter any premises in order to carry
14 out the responsibilities of this section. The officials may order the repair,
15 rehabilitation, closing, demolition, or removal of any premises to the same
16 extent as the commissioner may under section 2732 of this title.

17 (d) Upon a determination by the commissioner that a municipality has
18 established sufficient procedures for granting variances and exemptions, such
19 variances and exemptions may be granted to the same extent authorized under
20 subsection 2731(b) of this title.

1 (e) The results of all activities conducted by municipal officials under this
2 section shall be reported to the commissioner periodically upon request.

3 (f) Nothing in this section shall be interpreted to decrease the authority of
4 municipal officials under other laws, including laws concerning building codes
5 and laws concerning housing codes.

6 * * *

7 Sec. 2. 32 V.S.A. 6069a is added to read:

8 § 6069A. STATE RENTAL HOUSING REGISTRY

9 (a) The Department of Taxes, in coordination with the Departments of
10 Public Safety and of Housing and Community Development, shall create and
11 maintain a registry of the rental housing in this State.

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

14 (1) register with the Department of Taxes and provide the information
15 concerning the rental housing that the Department of Taxes requires; and

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

19 (c)(1) An owner of a mobile home lot within a mobile home park who has
20 registered the lot with the Department of Housing and Community

1 Development and who does not own a mobile home on the lot is exempt from
2 registering the lot with the Department of Taxes.

3 (2) An owner of a mobile home lot within a mobile home park who has
4 registered the lot with the Department of Housing and Community
5 Development and who owns a mobile home on the lot that is available for rent
6 or rented shall register the property with the Department of Taxes and pay a
7 fee equal to the fee required by subdivision (b)(2) of this section less any fee
8 paid within the previous twelve months pursuant to 10 VSA 6254(c).

9 (d) An owner of rental housing who fails to register in accordance with this
10 section shall pay a late registration fee of \$150.00 and may be subject to
11 administrative penalties not to exceed \$5,000.00 for each violation.

12 (e) The Commissioner of Taxes may use the enforcement powers in Title 32
13 to enforce any violation of this section. If the Commissioner determines that a
14 violation is continuing, each day's continuance may be deemed a separate
15 offense beginning from the date the violator is served with notice of the
16 violation.

17 Sec. 3. DEPARTMENT OF PUBLIC SAFETY AND DEPARTMENT OF
18 HEALTH; POSITIONS; APPROPRIATION

19 (a) The Department of Public Safety is authorized to create five full-time,
20 classified Inspector positions in order to conduct rental housing health and

1 safety inspections and enforcement pursuant to 20 V.S.A. chapter 173,
2 subchapter 2.

3 (b) The Department of Taxes is authorized to create one full-time classified
4 position to administer the registry created in 32 V.S.A. § 6069a, and two full-
5 time classified positions to enforce compliance with registry requirements.

6 (c) The Department of Health is appropriated \$ 25,000 to upgrade the
7 existing Essential Maintenance Practices database to allow owners of rental
8 properties built in 1978 or later to register their properties on that database.
9 In addition, the Department of Health is appropriated up to \$175,000 to be
10 added to the funding previously appropriated to the Vermont Department of
11 Health designated for the design and implementation of the improved Essential
12 Maintenance Practices database, which additional funding shall be to design
13 and build functionality to allow all owners of rental properties to register their
14 rental units.

15 (d) It is the intent of the General Assembly to fund the implementation of
16 the provisions in this act from the registration fees collected by the Department
17 of Taxes pursuant to 32 V.S.A. § 6069a.

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

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

21 § 2. DEFINITIONS

1 (3) prevent, remove, or destroy any public health hazard, or mitigate any
2 significant public health risk in accordance with the provisions of this title;

3 (4) in consultation with the Department, take the steps necessary to
4 enforce all orders issued pursuant to chapter 3 of this title.

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

12 § 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

13 (a)(1) When conducting an investigation of rental housing, a local health
14 officer shall issue a written inspection report on the rental property using the
15 protocols for implementing the ~~Rental Housing Health Code of the Department~~
16 rules adopted by the Department of Public Safety pursuant to 20 V.S.A. § 2731
17 or the municipality, in the case of a municipality that has established a code
18 enforcement office or has been assigned responsibility for enforcement
19 pursuant to 20 V.S.A. § 2736.

20 (2) A written inspection report shall:

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

3 (B) specify the requirements and timelines necessary to correct a
4 violation;

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

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

10 (3) A local health officer shall:

11 (A) provide a copy of the inspection report to the landlord and any
12 tenants affected by a violation by delivering the report electronically, in
13 person, by first class mail, or by leaving a copy at each unit affected by the
14 deficiency; and

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

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

1 that purpose, or within 14 days by mail if the municipality is unable to utilize
2 the electronic system.

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

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

9 (b)(1) A local health officer may impose a civil penalty of not more than
10 \$200.00 per day for each violation that is not corrected by the date provided in
11 the written inspection report, or when a unit is re-rented to a new tenant prior
12 to the correction of a violation.

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

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

19 (3) If the cumulative amount of penalties imposed pursuant to this
20 subsection is more than \$800.00, or if injunctive relief is sought, the local
21 health officer, Department of ~~Health~~ Public Safety, or State's Attorney may

1 commence an action in the Civil Division of the Superior Court for the county
2 in which a violation occurred.

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

8 * * *

9 Sec. 6. TRANSITION PROVISIONS

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

11 (1) Until the Commissioner of Public Safety adopts rules governing
12 rental housing health and safety pursuant to 20 V.S.A. § 2731, the Department
13 of Health and the Department of Public Safety have concurrent authority to
14 enforce the Vermont Rental Housing Health Code adopted by the Department
15 of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. §
16 801(b)(11).

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

20 (3) Except as provided in subdivision (2) of this subsection (a), the
21 Commissioner of Public Safety shall comply with the requirements for general

1 rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental
2 housing health and safety.

3 (b) Upon the adoption of rules governing rental housing health and safety
4 pursuant to the authority in 20 V.S.A. § 2731:

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

8 (2) the Department of Public Safety and local health officials have
9 concurrent authority to enforce State and local laws governing rental housing
10 health and safety pursuant to 20 V.S.A. chapter 173, subchapter 2 and 18
11 V.S.A. chapter 11; and

12 (3) the Department of Health, the State Board of Health, and local health
13 officials have concurrent authority to enforce State and local laws governing
14 public health hazards and public health risks, as those terms are defined in
15 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

16 Sec. 7. VERMONT HOUSING AND CONSERVATION BOARD; FY 2020
17 APPROPRIATION; AFFORDABLE HOUSING PILOT PROJECT

18 In fiscal year 2021, the General Assembly shall appropriate \$1,000,000.00
19 in general funds to the Vermont Housing and Conservation Board to provide
20 additional support to its affordable housing pilot project. Funds shall be used
21 to rehabilitate and repurpose existing housing.

1 Sec. 8. HOUSING BOND; STUDY

2 (a) On or before December 15, 2020, the State Treasurer shall study and
3 write a report on what revenue sources may be used to support a housing bond
4 to fund affordable housing projects in at least ten communities. The report
5 shall include recommendations for any necessary legislative action.

6 (b) The State Treasurer shall submit a copy of the report described in
7 subsection (a) of this section to the House Committees on Commerce and
8 Economic Development and on General, Housing, and Military Affairs and the
9 Senate Committee on Economic Development, Housing and General Affairs.

10 Sec. 9. PENALTIES FOR VACANT PROPERTY; STUDY

11 (a) On or before December 15, 2020, the Secretary of Commerce and
12 Community Development, in consultation with the Executive Director of the
13 Vermont League of Cities and Towns, shall study and write a report on
14 approaches to imposing penalties on property owners who leave property
15 vacant for one year or more. The report shall include recommendations for
16 any necessary legislative action.

17 (b) The Secretary shall submit a copy of the report described in
18 subsection (a) of this section to the House Committees on Commerce and
19 Economic Development and on General, Housing, and Military Affairs and the
20 Senate Committee on Economic Development, Housing and General Affairs.

1 Sec. 10. EFFECTIVE DATE

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

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6

7 (Committee vote: _____)

8

9

Representative _____

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FOR THE COMMITTEE