

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing, and Military Affairs to which was
3 referred Senate Bill No. 163 entitled “An act relating to housing safety and
4 rehabilitation” respectfully reports that it has considered the same and
5 recommends that the House propose to the Senate to amend the bill by striking
6 out all after the enacting clause and inserting in lieu thereof the following:

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

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

10 § 5. DUTIES OF DEPARTMENT OF HEALTH

11 The Department of Health shall:

12 (1) Conduct studies, develop State plans, and administer programs and
13 State plans for hospital survey and construction, hospital operation and
14 maintenance, medical care, and treatment of substance abuse.

15 (2) Provide methods of administration and such other action as may be
16 necessary to comply with the requirements of federal acts and regulations as
17 relate to studies, development of plans and administration of programs in the
18 fields of health, public health, health education, hospital construction and
19 maintenance, and medical care.

20 (3) Appoint advisory councils, with the approval of the Governor.

1 (4) Cooperate with necessary federal agencies in securing federal funds
2 ~~which~~ that become available to the State for all prevention, public health,
3 wellness, and medical programs.

4 (5) Seek accreditation through the Public Health Accreditation Board.

5 (6) Create a State Health Improvement Plan and facilitate local health
6 improvement plans in order to encourage the design of healthy communities
7 and to promote policy initiatives that contribute to community, school, and
8 workplace wellness, which may include providing assistance to employers for
9 wellness program grants, encouraging employers to promote employee
10 engagement in healthy behaviors, and encouraging the appropriate use of the
11 health care system.

12 (7) Serve as the leader on State rental housing health laws.

13 (8) Provide policy assistance and technical support to municipalities
14 concerning the implementation and enforcement of State rental housing health
15 and safety laws.

16 Sec. 2. 18 V.S.A. § 603 is amended to read:

17 § 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

18 (a)(1) When conducting an investigation of rental housing, a local health
19 officer shall issue a written inspection report on the rental property using the
20 protocols for implementing the Rental Housing Health Code of the Department

1 or the municipality, in the case of a municipality that has established a code
2 enforcement office.

3 (2) A written inspection report shall:

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

6 (B) specify the requirements and timelines necessary to correct a
7 violation;

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

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

13 (3) A local health officer shall:

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

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

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

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

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

10 (b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more
11 than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the
12 date provided in the written inspection report, or when a unit is re-rented to a
13 new tenant prior to the correction of a violation.

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

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

20 (3) If the cumulative amount of penalties imposed pursuant to this
21 subsection is more than \$800.00, or if injunctive relief is sought, the local

1 health officer, Department of Health, or State’s Attorney may commence an
2 action in the Civil Division of the Superior Court for the county in which a
3 violation occurred.

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

8 Sec. 3. 4 V.S.A. § 1102 is amended to read:

9 § 1102. JUDICIAL BUREAU; JURISDICTION

10 (a) The Judicial Bureau is created within the Judicial Branch under the
11 supervision of the Supreme Court.

12 (b) The Judicial Bureau shall have jurisdiction of the following matters:

13 * * *

14 (21) Violations of State or municipal rental housing health and safety
15 laws when the amount of the cumulative penalties imposed pursuant to
16 18 V.S.A. § 603 is \$800.00 or less.

17 * * *

18 (c) The Judicial Bureau shall not have jurisdiction over municipal parking
19 violations.

1 (d) Three hearing officers appointed by the Court Administrator shall
2 determine waiver penalties to be imposed for violations within the Judicial
3 Bureau's jurisdiction, except:

4 ~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for
5 civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of
6 municipal violations, the issuing law enforcement officer shall indicate the
7 appropriate full and waiver penalty on the complaint.

8 Sec. 4. DEPARTMENT OF HOUSING AND COMMUNITY

9 DEVELOPMENT; COLLECTION OF RENTAL HOUSING DATA

10 (a) On or before January 15, 2020, the Department of Housing and
11 Community Development shall design a comprehensive rental housing data
12 management system, through which the Department is able to collect,
13 organize, and make available to the public information concerning rental
14 housing in this State, including:

15 (1) location of building;

16 (2) age of building;

17 (3) number of units;

18 (4) type of units;

19 (5) School Property Account Number;

20 (6) owner name and contact information; and

21 (7) manager name and contact information.

1 (b) In performing its duties pursuant to this section, the Department shall
2 consult, and shall have the full cooperation and assistance of:

3 (1) the Department of Taxes and other agencies and departments as
4 necessary;

5 (2) the Vermont Assessors and Listers Association;

6 (3) the Vermont Center for Geographic Information;

7 (4) the Vermont Enhanced 911 Board;

8 (5) the Vermont Housing Finance Agency;

9 (6) the Vermont League of Cities and Towns;

10 (7) representatives of the Regional Planning Commissions;

11 (8) the Agency of Digital Services; and

12 (9) any other affected stakeholders.

13 Sec. 5. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT
14 SYSTEM; RECOMMENDATIONS; REPORT

15 (a) On or before January 15, 2020, in collaboration with the Rental
16 Housing Advisory Board, the Department of Health and the Department of
17 Public Safety shall develop recommendations for the design and
18 implementation of a comprehensive system for the professional enforcement of
19 State rental housing health and safety laws, which shall include:

20 (1) an outline of options, including an option for a State government-
21 run system, with a timeline and budget for each;

1 (2) a needs assessment outlining the demand for inspections based on
2 inspection information collected pursuant to 18 V.S.A. § 603(a)(3) and
3 subsection (c) of this section and other stakeholders and relevant sources; and

4 (3) any additional recommendations from the Rental Housing Advisory
5 Board, the Department of Public Safety, the Department of Housing and
6 Community Development, or other executive branch agencies.

7 (b) On or before September 30, 2019, the Department of Health shall
8 provide an interim progress report to the Senate Committee on Economic
9 Development, Housing and General Affairs and the House Committee on
10 General, Housing, and Military Affairs.

11 (c) On or before August 1, 2019, each municipality in this State shall
12 provide to the Department of Health summary information on its inspection
13 activity from July 1, 2018 through June 30, 2019 in order to assist the
14 Department in completing the needs assessment pursuant to subdivision (a)(2)
15 of this section.

16 Sec. 6. DUTIES CONTINGENT UPON FUNDING

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

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

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

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

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

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

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

15 Sec. 7. 3 V.S.A. § 122 is amended to read:

16 § 122. OFFICE OF PROFESSIONAL REGULATION

17 The Office of Professional Regulation is created within the Office of the
18 Secretary of State. The Office of Professional Regulation shall have a director
19 ~~who shall be~~ who is an exempt employee appointed by the Secretary of State
20 ~~and shall be an exempt employee.~~ The following boards or professions are
21 attached to the Office of Professional Regulation:

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(48) Residential Contractors

Sec. 8. 26 V.S.A. chapter 105 is added to read:

CHAPTER 105. RESIDENTIAL CONTRACTORS

Subchapter 1. General Provisions

§ 5401. REGISTRATION REQUIRED

A person shall register with the Office of Professional Regulation prior to offering or contracting with a homeowner to perform construction, remodeling, or home improvement work on a residential dwelling unit or on a building or premises with four or fewer residential dwelling units, in exchange for consideration of more than \$2,500.00, including labor and materials.

§ 5402. EXEMPTIONS

This chapter does not apply to:

- (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;

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

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

5 § 5403. MANDATORY REGISTRATION AND VOLUNTARY

6 CERTIFICATION DISTINGUISHED

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

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

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

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

1 § 5406. ADVISORS

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

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

6 (1) register under this chapter;

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

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

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

12 § 5407. FEES

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

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

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

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

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

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

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

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

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

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

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

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

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

19 § 5410. PROHIBITIONS AND REMEDIES

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

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

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

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

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

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

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

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

1 Sec. 9. CREATION OF POSITIONS WITHIN THE OFFICE OF
2 PROFESSIONAL REGULATION; LICENSING.

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

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

9 Sec. 10. IMPLEMENTATION

10 Notwithstanding 26 V.S.A. § 5401:

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

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

16 Sec. 11. SECRETARY OF STATE; STATUS REPORT

17 On or before January 15, 2021, the Office of Professional Regulation shall
18 report to the House Committees on Commerce and Economic Development
19 and on Government Operations and to the Senate Committees on Economic
20 Development, Housing and General Affairs and on Government Operations
21 concerning the implementation of 26 V.S.A. chapter 105, including:

- 1 (1) the number of registrations and certifications;
2 (2) the resources necessary to implement the chapter;
3 (3) the number and nature of any complaints or enforcement actions;
4 and
5 (4) any other issues the Office deems appropriate.

6 * * * Housing Rehabilitation and Weatherization; Vermont Rental

7 Housing Incentive Program * * *

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

9 Subchapter 3. ~~Vermont Economic Progress Council~~ Housing

10 Incentive Program

11 § 699. RENTAL HOUSING INCENTIVE PROGRAM

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

18 (b) Creation of Program. The Department of Housing and Community
19 Development shall design and implement a Vermont Rental Housing Incentive
20 Program to provide funding to regional nonprofit housing partner organizations

1 to provide incentive grants to private landlords for the rehabilitation and
2 improvement, including weatherization, of existing rental housing stock.

3 (c) Administration. The Department shall require any nonprofit regional
4 housing partner organization that receives funding under this program to
5 develop a standard application form for property owners that describes the
6 application process and includes clear instructions and examples to help
7 property owners apply, a selection process that ensures equitable selection of
8 property owners, and a grants management system that ensures accountability
9 for funds awarded to property owners.

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

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

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

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

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

1 the Vermont Department of Housing and Community Development, and the
2 Vermont Affordable Housing Coalition, for the creation or preservation of
3 1,000 housing units over five years for Vermonters with incomes up to
4 120 percent of the area median income as determined by the U.S. Department
5 of Housing and Urban Development. In creating the plan, the State Treasurer
6 and the other entities listed in this subdivision (a)(1) shall also consult with the
7 business community, public and private housing developers, and experts in
8 housing finance and affordable housing initiatives both in Vermont and
9 nationwide;

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

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

19 (4) provisions for meeting housing needs consistent with publicly
20 developed plans such as Vermont’s Consolidated Plan, the 2017 Vermont

1 Roadmap to End Homelessness, and Vermont Housing Finance Agency's

2 Qualified Action Plan in the following areas:

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

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

6 (C) providing service-supported housing in coordination with the
7 Agency of Human Services, including for those who are elderly, homeless, in
8 recovery, experiencing severe mental illness or other disability, or leaving
9 incarceration; and

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

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

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

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* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

(a) This act shall take effect on July 1, 2019.

(Committee vote: _____)

Representative _____

FOR THE COMMITTEE