

1 Introduced by Committee on Economic Development and Housing and

2 General Affairs

3 Referred to Committee on

4 Date:

5 Subject: Housing; health and safety; rehabilitation; weatherization

6 Statement of purpose of bill as introduced: This bill proposes to adopt
7 miscellaneous housing proposals relating to health and safety, rehabilitation,
8 and weatherization, including by ensuring compliance with rental housing
9 codes, requiring residential contractors to register with the Secretary of State,
10 the expansion of rehabilitation and weatherization programs.

11 An act relating to housing safety, rehabilitation and weatherization
12 initiatives

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

14 by the General Assembly of the State of Vermont:

15 * * * Housing Health and Safety;

16 Rental Housing Health Code Enforcement * * *

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

18 § 5. DUTIES OF DEPARTMENT OF HEALTH

19 The Department of Health shall:

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

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

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

10 (4) Cooperate with necessary federal agencies in securing federal funds
11 which become available to the State for all prevention, public health, wellness,
12 and medical programs.

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

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

1 (7) Serve as the leader ~~and primary State authority for the~~
2 ~~implementation and enforcement of~~ State rental housing health ~~and safety~~
3 laws.

4 (8) Provide policy assistance, technical support, ~~financial resources, and~~
5 legal guidance to municipalities concerning the interpretation, implementation,
6 and enforcement of State rental housing health ~~and safety~~ laws.

7 Sec. 1b. 18 V.S.A. § 603 is amended to read:

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

Commented [SC1]: Ok with based on the understanding that enforcement for now still remains with the towns and that Fire Safety still has the lead with most “safety” laws. The goal is that DOH lead the process to develop and plan for a revised/modified code enforcement system.

Commented [LS2]: Health does not have any financial resources. If the Committee wants to include it, then it must also include (as funds are available).

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) Municipalities shall insure that full inspection reports are made available
5 as public documents and ~~A~~ local health officer~~s~~ shall provide ~~a copy of the~~
6 ~~inspection report;~~

Commented [SC3]:

7 (A) ~~information on each inspection~~ to the Department of Health using
8 ~~an electronic system created for that purpose; and~~

9 (B) ~~the full inspection report shall be given~~ to the landlord and any
10 tenants affected by a violation by delivering the report electronically, in
11 person, by first class mail, or by leaving a copy at each unit affected by the
12 deficiency. ~~and-~~

13 (C) Municipalities shall also provide summary information to the
14 Dept. of Health on inspection activity for Fiscal 2019 for purposes of
15 completing the needs assessment identified Sec. 1f (2).

Commented [SC4]:

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

20 (b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more
21 than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the

1 date provided in the written inspection report, or when a unit is re-rented to a
2 new tenant prior to the correction of a violation.

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

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

9 (3) If the cumulative amount of penalties imposed pursuant to this
10 subsection is more than \$800.00, or if injunctive relief is sought, the local
11 health officer, Department of Health, or State’s Attorney shall commence an
12 action in the Civil Division of the Superior Court for the county in which a
13 violation occurred.

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

18 Sec. 1c. 4 V.S.A. § 1102 is amended to read:

19 § 1102. JUDICIAL BUREAU; JURISDICTION

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

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

2 * * *

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

6 (c) The Judicial Bureau shall not have jurisdiction over municipal parking
7 violations.

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

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

15 Sec. 1d. DEPARTMENT OF HOUSING AND COMMUNITY

16 DEVELOPMENT; COLLECTION OF RENTAL HOUSING DATA

17 (a) On or before January 15, 2020, the Department of Housing and
18 Community Development shall design and implement a comprehensive rental
19 housing data management system, through which the Department is able to
20 collect, organize, and make available to the public information concerning
21 rental housing in this State, including:

1 (1) location of building;

2 (2) age of building;

3 (3) number of units;

4 (4) type of units;

5 (5) School Property Account Number;

6 (6) owner name and contact information; and

7 (7) manager name and contact information.

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

10 (1) the Department of Taxes and other agencies and departments as
11 necessary;

12 (2) the Vermont Assessors and Listers Association;

13 (3) the Vermont Center for Geographic Information;

14 (4) the emergency communications centers of the Vermont State Police;

15 (4) the Vermont Enhanced 9-1-1 Board

16 (5) the Vermont Housing Finance Agency;

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

18 (7) any other affected stakeholders.

19 **Sec. 1e. DEPARTMENT OF HEALTH; HEALTH INSPECTION REPORTS**

Commented [SC5]: Discussed with VSP and the 911 Board.

Commented [LS6]: Add in Section 1f – see addition below.

~~The Department of Health shall 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. 1f. DEPARTMENT OF HEALTH; RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT SYSTEM; RECOMMENDATIONS; REPORT

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

(1) an outline of options, including an option for a state government system run program, with a timeline and budget for each;

~~(2) a needs assessment outlining the demand for inspections based on inspection information collected through an electronic system; and~~

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

(b) On or before September 30, 2019 the Department of Health shall provide an interim progress report to the Senate Committee on Economic

Commented [SC7]: Based on discussion with Fire Safety about pursuing collaboration on inspections.

Commented [SC8]:

1 Development, Housing and General Affairs and the House Committee on
2 General, Housing, and Military Affairs.

3 Sec. 1g. DEPARTMENT OF HEALTH; APPROPRIATIONS; POSITIONS

4 (a) In fiscal year 2020 the amount of \$300,000.00 is appropriated from the
5 General Fund to the Department of Health as follows:

6 (1) the amount of \$200,000.00 for two new full-time equivalent,
7 classified positions, whose duties shall include:

8 (A) collecting and maintaining data concerning inspection reports;

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

12 (C) providing additional guidance and support to municipalities
13 concerning difficult rental housing enforcement issues;

14 (2) the amount of \$50,000.00 to provide legal assistance, sub-grants and
15 related support to municipalities; and

16 (3) the amount of \$50,000.00 for information technology and additional
17 support. ~~Included in this shall be support to the Dept. of Housing and~~

18 Community Development including to update and maintain the
19 RentalCodes.org website, or a similar resource, that provides easy access to

20 information for consumers, landlords, municipal officials, and the public
21 concerning rental housing health and safety laws.

Commented [LS9]: Given the limited timeline and schedule one FTE is sufficient.

Commented [SC10]:

Commented [LS11]: Give to League of Cities and Towns or other entity that works regularly with Towns on legal issues. Health cannot use this money for legal counsel for towns.

Commented [SC12]:

Commented [LS13]: Move this paragraph to Department of Housing.

* * * Housing Consumer Protection; Registration of Contractors * * *

Sec. 2a. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

* * *

(48) Residential Contractors

Sec. 2b. 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 residential construction work in exchange for consideration of more than \$1,000, including labor and materials.

§ 5402. EXEMPTIONS

This chapter does not apply to:

1 (1) an employee acting within the scope of his or her employment for a
2 business organization registered under this chapter;

3 (2) a professional engineer, licensed architect, or a tradesperson licensed
4 by the Department of Public Safety acting within the scope of his or her
5 license;

6 (3) delivery or installation of consumer appliances, audio-visual
7 equipment, telephone equipment, or computer network equipment;

8 (4) landscaping;

9 (5) construction work on a structure that is not attached to a residential
10 building; or

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

14 § 5403. MANDATORY REGISTRATION AND VOLUNTARY
15 CERTIFICATION DISTINGUISHED

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

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

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

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

11 (2) establish minimum qualifications, and standards for performance and
12 conduct, necessary for certification; and

13 (3) discipline a certificant for violating adopted standards or other law,
14 with or without affecting the underlying registration.

15 Subchapter 2. Administration

16 § 5405. DUTIES OF THE DIRECTOR

17 (a) The Director of Professional Regulation shall:

18 (1) provide information to the public concerning registration,
19 certification, appeal procedures, and complaint procedures;

20 (2) administer fees established under this chapter;

1 (3) receive applications for registration or certification, issue
2 registrations and certifications to applicants qualified under this chapter, deny
3 or renew registrations or certifications, and issue, revoke, suspend, condition
4 and reinstate registrations and certifications as ordered by an administrative
5 law officer; and

6 (4) prepare and maintain a registry of registrants and certificants.

7 (b) The Director, after consultation with advisor appointed pursuant to
8 section 5406 of this title, may adopt rules to implement this chapter.

9 § 5406. ADVISORS

10 (a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A. §
11 129b to serve as advisors in matters relating to residential contractors and
12 construction.

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

14 (1) register under this chapter;

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

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

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

20 § 5407. FEES

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

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

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

5 (3) Certification: \$150.

6 Subchapter 3. Registrations

7 § 5408. ELIGIBILITY

8 To be eligible for registration, the Director of Professional Regulation shall
9 find that the applicant:

10 (1) is in compliance with the provisions of this chapter and rules
11 adopted pursuant to this chapter;

12 (2) is in compliance with State laws respecting child support, taxes,
13 judgment orders, and workers' compensation; and

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

16 § 5409. REQUIREMENTS OF REGISTRANTS

17 (a) Insurance. A person registered under this chapter shall maintain
18 professional liability insurance in the amount of \$300,000 per claim and
19 \$1,000,000 aggregate, evidence of which may be required as a precondition to
20 issuance or renewal of a registration.

21 (b) Writing.

1 (1) A person registered under this chapter shall execute a written
2 contract prior to receiving a deposit or commencing residential construction
3 work if the estimated value of the labor and materials exceeds \$1,000.00.

4 (2) A contract shall specify:

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

7 (i) A maximum price for all work and materials;

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

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

12 (B) Work dates. A start date and a completion date.

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

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

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

19 (c) Down payment. Unless a contract specifies that billing and payment
20 will be made on a time and materials basis and that there is no maximum price.

1 the contract may require a down payment of up to one-third of the contract
2 price, or of the price of materials, whichever is greater.

3 § 5410. PROHIBITIONS AND REMEDIES

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

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

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

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

12 (2) failure to maintain liability or workers' compensation insurance;

13 (3) committing a deceptive act in commerce in violation of 9 V.S.A. §
14 2453; and

15 (4) to sell or fraudulently obtain or furnish a certificate of registration,
16 certification, license, or any other related document or record, or to assist
17 another person in doing so, including by re-incorporating or altering a trade
18 name for the purpose or with the effect of evading revocation, suspension, or
19 discipline against a registration issued under this chapter.

20 Sec. 2c. CREATION OF POSITIONS WITHIN THE OFFICE OF

21 PROFESSIONAL REGULATION; LICENSING.

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

3 (b) Any funding necessary to support the positions created in subsection (a)
4 of this section shall be derived from the Office’s Professional Regulatory Fee
5 Fund and not from the General Fund.

6 * * * Housing Rehabilitation and Weatherization; Vermont Rental Housing
7 Incentive Program * * *

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

9 Subchapter 3. ~~Vermont Economic Progress Council~~ Housing Incentive
10 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 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 (5) Only existing properties that are vacant or blighted are eligible for
2 grants.

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

5 (e) As used in this section:

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

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

12 Sec. 3b. RENTAL HOUSING INCENTIVE PROGRAM; APPROPRIATION

13 In fiscal year 2020, the amount of \$850,000.00 is appropriated from the
14 General Fund to the Agency of Commerce and Community Development to
15 support the Rental Housing Incentive Program.

16 Sec. 4. EFFECTIVE DATE

17 This act shall take effect on passage.