

1 S.257

2 Introduced by Senators Sirotkin and Clarkson

3 Referred to Committee on

4 Date:

5 Subject: Housing; rental housing health and safety

6 Statement of purpose of bill as introduced: This bill proposes to vest authority
7 for rental housing health and safety in the Department of Public Safety; to
8 establish a registry of rental housing units; and to support a program for small
9 grants to private landlords for health and safety improvements.

10 An act relating to improving rental housing health and safety

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

12 * * * Intent and Purpose * * *

13 Sec. 1. INTENT AND PURPOSE

14 (a) The purposes of this act are:

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

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

1 (3) to create a Vermont Housing Investment Program that will provide
2 small grants to private landlords that help them improve the safety and quality
3 of rental housing.

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

5 (1) The Department of Public Safety, whether through its Division of
6 Fire Safety or another appropriate subdivision of the Department, will provide
7 professional services and expertise to municipalities, districts, and unorganized
8 towns and gores and especially to those that lack the resources necessary to
9 support a town health officer and local enforcement of health and safety laws
10 or that do not wish to operate a local rental housing health and safety program.

11 (2) Municipalities, districts, and unorganized towns and gores may
12 operate their own local rental housing health and safety programs.

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

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

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

1 * * * Creation of Professional State-Managed Rental Housing
2 Health and Safety Program * * *

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

4 CHAPTER 119. RENTAL HOUSING HEALTH AND SAFETY

5 § 2101. DEFINITIONS

6 As used in this chapter:

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

11 (2) “Commissioner” means the Commissioner of Public Safety or an
12 employee of the Department designated to perform the duties of the
13 Commissioner under this chapter.

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

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

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

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

4 (7) “Rental agreement” means all agreements, written or oral,
5 embodying terms and conditions concerning the use and occupancy of a
6 dwelling unit and premises.

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

10 (A) a house, condominium, mobile home, or other single-family
11 dwelling;

12 (B) a unit of a multifamily building;

13 (C) a mobile home lot; and

14 (D) housing provided as a benefit of farm employment.

15 (9) “Rental housing health and safety” means the minimum standards
16 and conditions that rental housing must satisfy to meet the requirements of
17 applicable building, housing, and health regulations, and includes satisfactory
18 provision for:

19 (A) sanitation, including kitchen facilities, bathroom facilities, water
20 supply, wastewater disposal, and the collection and removal of trash, recycling,
21 and food scraps;

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

2 (C) heating, plumbing, ventilation, electricity, lighting, and other
3 mechanical systems;

4 (D) structural elements.

5 (10) "Tenant" means a person entitled under a rental agreement to
6 occupy a residential dwelling unit to the exclusion of others.

7 (11) "Violation" means a condition in or on the premises of rental
8 housing that fails to meet one or more requirements of applicable building,
9 housing, and health regulations.

10 § 2102. DUTIES OF COMMISSIONER

11 The Commissioner shall:

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

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

16 (3) coordinate with State agencies and departments and with local health
17 officials to:

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

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

4 § 2103. INSPECTION; ENFORCEMENT

5 (a) The Commissioner may conduct inspections of rental housing to ensure
6 compliance:

7 (1) pursuant to a program adopted pursuant to subdivision 2102(2) of
8 this title;

9 (2) in response to a complaint; or

10 (3) if the Commissioner has a reasonable belief that a violation has
11 occurred.

12 (b) To enforce a violation the Commissioner may take one or more of the
13 following actions:

14 (1) seek voluntary compliance;

15 (2) accept an assurance of discontinuance, which may impose one or
16 more requirements, including:

17 (A) specific action to address a violation;

18 (B) payment of an administrative penalty and the costs of
19 investigation;

20 (C) payment of an amount to be held in escrow pending the outcome
21 of an action or as restitution to aggrieved persons;

1 (3) impose an administrative penalty of not more than \$5,000 per
2 violation for each day a violation occurs;

3 (4) issue a rental housing health and safety order or emergency order
4 pursuant to section 2104 of this title;

5 (5) pursue civil and criminal enforcement pursuant to section 2105 of
6 this title.

7 § 2104. RENTAL HOUSING HEALTH AND SAFETY ORDERS

8 (a)(1) If the Commissioner finds a violation has occurred, the
9 Commissioner may issue a rental housing health and safety order after
10 providing notice and an opportunity to be heard in compliance with 3 V.S.A.
11 chapter 25, subchapter 2.

12 (2) An order takes effect upon issuance and may require action that is
13 necessary to correct the violation.

14 (b)(1) The Commissioner may, without a prior hearing, issue an emergency
15 rental housing health and safety order to require immediate action if necessary
16 to prevent or mitigate an imminent and substantial risk to public health and
17 safety.

18 (2) The Commissioner shall deliver, as soon as practicable under the
19 circumstances, the emergency order, a statement of the reasons requiring the
20 emergency order, supporting evidence, and a statement of the recipient's
21 procedural rights.

1 (3) The Commissioner shall give the recipient of the emergency order an
2 opportunity for a hearing within five business days of the issuance of the
3 emergency order.

4 (4) After the hearing, the Commissioner shall issue an order pursuant to
5 this section affirming, modifying, or terminating the emergency order.

6 (c) A person aggrieved by an order or emergency order may appeal to the
7 Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules
8 of Civil Procedure.

9 § 2105. CIVIL AND CRIMINAL ENFORCEMENT

10 (a)(1) The Commissioner may bring an action in the Civil Division of the
11 Superior Court in which a violation occurs to enforce a violation.

12 (2) The court may grant equitable relief and may impose a civil penalty
13 of not more than \$5,000.00 per violation for each day the violation occurs.

14 (b) A person who causes a violation may be fined not more than \$5,000.00
15 per violation for each day the violation occurs or may be imprisoned not more
16 than six months, or both.

17 § 2106. STATE RENTAL HOUSING REGISTRY

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

20 (b) An owner of rental housing shall:

1 (1) register with the Department and provide the information concerning
2 the rental housing that the Department requires;

3 (2) pay an annual registration fee of \$25.00 per dwelling unit, unless the
4 owner is required to pay a registration fee to a municipal, district, or other local
5 government entity that operates a rental housing health and safety program;
6 and

7 (3) pay a late registration fee of \$150.00 as applicable.

8 Sec. 3. DEPARTMENT OF PUBLIC SAFETY; POSITIONS;

9 APPROPRIATION

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

14 (b) It is the intent of the General Assembly to fund the implementation of
15 the provisions in this act from the registration fees collected by the Department
16 of Health pursuant to 20 V.S.A. § 2106.

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

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

20 § 2. DEFINITIONS

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

3 (1) "Department" means the Department of Health.

4 (2) "Board" means the State Board of Health.

5 (3) "Commissioner" means the Commissioner of Health or the
6 Commissioner's designee.

7 (4) "Health officer" means:

8 (A) the Commissioner of Health, the Commissioner's designee, or a
9 local or district health officer; or

10 (B) the Commissioner of Public Safety to the extent he or she is
11 exercising the authority created in 20 V.S.A. chapter 119 concerning rental
12 housing health and safety inspection and enforcement.

13 * * *

14 Sec. 5. 18 V.S.A. chapter 11 is amended to read:

15 CHAPTER 11. LOCAL HEALTH OFFICIALS

16 * * *

17 § 602a. DUTIES OF LOCAL HEALTH OFFICERS

18 (a) A local health officer, within his or her jurisdiction, shall:

19 (1) ~~upon request of a landlord or tenant, or~~ upon receipt of information
20 regarding a condition that may be a public health hazard, conduct an
21 investigation;

1 (2) enforce the provisions of this title, the rules promulgated, and
2 permits issued thereunder;

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

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

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

14 § 603. ~~RENTAL HOUSING SAFETY; INSPECTION REPORTS~~

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

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 within seven days of~~
21 ~~issuing the report using an electronic system designed for that purpose, or~~

1 ~~within 14 days by mail if the municipality is unable to utilize the electronic~~
2 ~~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, or~~
15 ~~State's Attorney may bring a civil enforcement action in the Judicial Bureau~~
16 ~~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, or State's Attorney may commence an~~

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

3 ~~(e) 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, at its discretion,~~
6 ~~conduct an investigation or contact the local board of health to take action.~~

7 [Repealed.]

8 * * *

9 * * * Vermont Housing Incentive Program * * *

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

11 Subchapter 3. Housing; Incentives

12 § 699. VERMONT RENTAL HOUSING INCENTIVE PROGRAM

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

19 (b) Creation of Program. The Department of Housing and Community
20 Development shall design and implement a Vermont Rental Housing Incentive
21 Program to provide funding for incentive grants to private landlords for the

1 rehabilitation and improvement, including weatherization, of existing rental
2 housing stock.

3 (c) Administration. The Department shall require any regional nonprofit
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, and the
21 owner shall register the property with the Department of Health.

1 (5) Only existing properties that are vacant or blighted are eligible for
2 grants.

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

6 (e) As used in this section:

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

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

13 Sec. 7. DUTY CONTINGENT UPON FUNDING

14 The duty to design and implement a Vermont Rental Housing Incentive
15 Program pursuant to Sec. 6 of this act is contingent upon the appropriation of
16 funds for that purpose in fiscal year 2021.

17 Sec. 8. TRANSITION PROVISIONS

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

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

1 enforce the Vermont Rental Housing Health Code adopted by the Department
2 pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 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.