

1 Introduced by Committee on Economic Development, Housing and General

2 Affairs

3 Referred to Committee on

4 Date:

5 Subject: Housing

6 Statement of purpose of bill as introduced: This bill proposes to adopt
7 miscellaneous housing proposals to make new investments in housing by
8 authorizing a new housing bond, expanding rehabilitation and weatherization
9 programs, limiting the land gains tax, expanding the first time homebuyer
10 down payment assistance program, expanding the downtown tax credit
11 program, and increasing revenue from short-term rentals.

12 An act relating to miscellaneous housing provisions

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

14 * * * Housing Bond * * *

15 * * * Vermont Housing and Conservation Board;

16 Bond Proceeds for Housing * * *

17 Sec. 1a. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

18 (a) Findings.

19 (1) In 2017 the General Assembly, in partnership with the Vermont

20 Housing Conservation Board, the Vermont Housing Finance Agency, the State

1 Treasurer, and other affordable housing stakeholders, provided for the funding
2 and creation of an affordable housing bond to support the development of
3 affordable housing throughout the State.

4 (2) To date the Vermont Housing Conservation Board has committed
5 over \$24.8 million of the total \$37 million dollar bond, leveraging another
6 \$140 million through partner programs and ultimately supporting the creation
7 of approximately 600 housing units.

8 (3) The General Assembly finds that additional investments are needed
9 to help create more affordable housing options for Vermonters.

10 (b) Purpose and intent.

11 (1) The purpose of Secs. 1a–1m of this act is to promote the
12 development and improvement of affordable housing for current and future
13 Vermont residents throughout the State.

14 (2) It is the intent of the General Assembly:

15 (A) to authorize the Vermont Housing Finance Agency to issue a
16 new \$50 million housing bond and transfer the proceeds to the Vermont
17 Housing Conservation Board to support the development of additional
18 affordable housing;

19 (B) to dedicate \$4 million of the revenues generated from the
20 property transfer tax for debt payments on the new housing bond; and

1 (C) to offset the loss of the dedicated property transfer tax revenues
2 by raising an additional \$4 million in new revenues, as follows:

3 (i) \$2 million through the property transfer tax by applying and
4 collecting the tax for transfers or acquisitions of a direct or indirect controlling
5 interest in a business entity with title to property; and

6 (ii) \$2 million through the sales tax by applying and collecting the
7 sales tax for retail sales through online marketplaces.

8 * * * Collection of Property Transfer Tax on
9 Transfers of Controlling Interests * * *

10 Sec. 1b. 32 V.S.A. § 9601 is amended to read:

11 § 9601. DEFINITIONS

12 The following definitions shall apply throughout this chapter unless the
13 context requires otherwise:

14 * * *

15 (2) “Person” means every natural person, association, trust, ~~or~~
16 corporation, partnership, or limited liability company.

17 * * *

18 (5) “Transfer” includes a grant, assignment, conveyance, will, trust,
19 decree of court, transfer or acquisition of a direct or indirect controlling interest
20 in any person with title to property, or any other means of transferring title to
21 property or vesting title to property in any person.

1 (6) “Value” means;

2 (A) ~~in~~ In the case of any transfer of title to property ~~which~~ that is not
3 a gift and ~~which~~ that is not made for a nominal consideration, the amount of
4 the full actual consideration for such transfer, paid or to be paid, including the
5 amount of any liens or encumbrances on the property existing before the
6 transfer and not removed thereby;

7 (B) ~~in~~ In the case of a gift, or a transfer for nominal consideration,
8 “value” means the fair market value of the property transferred.

9 (C) In the case of a controlling interest in any person that has title to
10 property, the fair market value of the property, apportioned based on the
11 percentage of the ownership interest transferred or acquired in the person.

12 (D) “Value” shall not include the fair market value of private
13 alternative energy sources as defined in section 3845 of this title.

14 * * *

15 (12) “Controlling interest” means:

16 (A) In the case of a corporation, either 50 percent or more of the total
17 combined voting power of all classes of stock of such corporation, or
18 50 percent or more of the capital, profits, or beneficial interest in such voting
19 stock of such corporation.

1 (B) In the case of a partnership, association, trust or other entity,
2 50 percent or more of the capital, profits, or beneficial interest in such
3 partnership, association, trust, or other entity.

4 (C) For purposes of the tax imposed pursuant to section 9602 of this
5 title, all acquisitions of persons acting in concert are aggregated for purposes of
6 determining whether a transfer or acquisition of a controlling interest has taken
7 place. The Commissioner shall adopt standards by regulation to determine
8 when persons are acting in concert. In adopting a regulation for this purpose,
9 the Commissioner shall consider the following:

10 (i) Persons must be treated as acting in concert when they have a
11 relationship with each other such that one person influences or controls the
12 actions of another through common ownership.

13 (ii) When persons are not commonly owned or controlled, they
14 must be treated as acting in concert only when the unity with which the
15 purchasers have negotiated and will consummate the transfer of ownership
16 interest supports a finding that they are acting as a single person. If the
17 acquisitions are completely independent, with each purchaser buying without
18 regard to the identity of the other purchasers, the acquisitions must be
19 considered separate acquisitions.

1 Sec. 1c. 32 V.S.A. § 9602 is amended to read:

2 § 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

3 A tax is hereby imposed upon the transfer ~~by deed~~ of title to property
4 located in this State. The amount of the tax equals one and one-quarter percent
5 of the value of the property transferred, or \$1.00, whichever is greater, except
6 as follows:

7 * * *

8 Sec. 1d. 32 V.S.A. § 9603 is amended to read:

9 § 9603. EXEMPTIONS

10 The following transfers are exempt from the tax imposed by this chapter:

11 * * *

12 (6) Transfers to effectuate a mere change of identity or form of
13 ownership or organization where there is no change in beneficial ownership;

14 * * *

15 (25) Transfer made by a limited liability company to a member in
16 connection with a complete dissolution of the limited liability company,
17 pursuant to which transfer no gain or loss is recognized under the Internal
18 Revenue Code, except where the Commissioner finds that a major purpose of
19 such dissolution is to avoid the property transfer tax;

20 (26) Transfers of controlling interests in a person with a fee interest in
21 property if the transfer of the property would qualify for exemption if

1 accomplished by deed of the property between the parties to the transfer of the
2 controlling interest.

3 Sec. 1e. 32 V.S.A. § 9606(a) is amended to read:

4 (a) A property transfer return complying with this section shall be delivered
5 to a town clerk:

6 (1) In the case of property transfer by deed, at the time a deed
7 evidencing a transfer of title to property is delivered to the clerk for recording.

8 (2) In the case of transfer or acquisition of a controlling interest in a
9 person with title to property for which a deed is not given, within 30 days of
10 the transfer or acquisition.

11 Sec. 1f. 32 V.S.A. § 9607 is amended to read:

12 § 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

13 Upon the receipt by a town clerk of a property transfer return and certificate
14 and the fee required under subdivision 1671(a)(6) of this title, the clerk shall
15 forthwith mail or otherwise deliver to the transferee of title to property with
16 respect to which such return was filed a signed and written acknowledgment of
17 the receipt of that return and certificate. A copy of that acknowledgment, or
18 any other form of acknowledgment approved by the Commissioner, shall be
19 affixed to the deed evidencing the transfer of property or the document
20 evidencing the transfer or acquisition of a direct or indirect controlling interest
21 in any person with title to property with respect to which the return and

1 certificate was filed. The acknowledgment so affixed to a deed or document,
2 however, shall not disclose the amount of tax paid with respect to any return or
3 transfer.

4 Sec. 1g. 32 V.S.A. § 9608(a) is amended to read:

5 (a) Except as to transfers ~~which~~ that are exempt pursuant to subdivision
6 9603(17) of this title, no town clerk shall record, or receive for recording, any
7 deed or document evidencing the transfer or acquisition of a direct or indirect
8 controlling interest in any person with title to property to which is not attached
9 a properly executed transfer tax return, complete and regular on its face, and a
10 certificate in the form prescribed by the Natural Resources Board and the
11 Commissioner of Taxes that the conveyance of the real property and any
12 development thereon by the seller is in compliance with or exempt from the
13 provisions of 10 V.S.A. chapter 151. The certificate shall indicate whether or
14 not the conveyance creates the partition or division of land. If the conveyance
15 creates a partition or division of land, there shall be appended the current “Act
16 250 Disclosure Statement,” required by 10 V.S.A. § 6007. A town clerk who
17 violates this section shall be fined \$50.00 for the first such offense and \$100.00
18 for each subsequent offense. A person who purposely or knowingly falsifies
19 any statement contained in the certificate required is punishable by fine of not
20 more than \$500.00 or imprisonment for not more than one year, or both.

1 Sec. 1h. 32 V.S.A. § 9618 is amended to read:

2 § 9618. DUTY TO REPORT STOCK ACQUISITIONS

3 Each person who acquires a controlling interest in a corporation, whether by
4 one or more than one transfer of stock, shall, if the fair market value of all real
5 property held in this State by the corporation exceeds \$500,000.00, report to
6 the Commissioner of Taxes, within 30 days after the acquisition, the fair
7 market value of all real property held in this State by the corporation at the
8 time of the acquisition of the controlling interest. ~~As used in this section, a~~
9 ~~“controlling interest” means 50 percent or more of the total combined voting~~
10 ~~power of all classes of stock of the corporation.~~

11 * * * Housing Bond; New Housing * * *

12 Sec. 1i. 10 V.S.A. § 315 is added to read:

13 § 315. HOUSING BOND; INVESTMENT

14 The Vermont Housing and Conservation Board shall use the proceeds of
15 bonds, notes, and other obligations issued by the Vermont Housing Finance
16 Agency pursuant to subdivision 621(23) of this title and transferred to the
17 Vermont Housing and Conservation Trust Fund to fund the creation and
18 improvement of owner-occupied and rental housing for Vermonters with very
19 low to middle income, in areas targeted for growth and reinvestment, as
20 follows:

1 (1) not less than 25 percent of the housing shall be targeted to
2 Vermonters with very low income, meaning households with income below 50
3 percent of area median income;

4 (2) not less than 25 percent of the housing shall be targeted to
5 Vermonters with moderate income, meaning households with income between
6 80 and 120 percent of area median income; and

7 (3) the remaining housing shall be targeted to Vermonters with income
8 that is less than or equal to 120 percent of area median income, consistent with
9 the provisions of this chapter.

10 Sec. 1j. 10 V.S.A. § 323 is amended to read:

11 § 323. ANNUAL REPORT

12 Prior to January 31 of each year, the Board shall submit a report concerning
13 its activities to the Governor and to the House Committees on Agriculture and
14 Forestry, on Appropriations, on Corrections and Institutions, on Natural
15 Resources, Fish and Wildlife, and on Ways and Means and the Senate
16 Committees on Agriculture, on Appropriations, on Finance, on Institutions,
17 and on Natural Resources and Energy. The report shall include the following:

18 (1) a list and description of activities funded by the Board during the
19 preceding year, including commitments made to fund projects through housing
20 bond proceeds pursuant to ~~section~~ sections 314 and 315 of this title, and
21 project descriptions, levels of affordability, and geographic location;

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* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 1k. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

~~(d)(1)~~—Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the

1 property transfer tax shall be transferred to the Vermont Housing Finance
2 Agency to pay the principal of and interest due on the bonds, notes, and other
3 obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
4 § 621(22), the proceeds of which the Vermont Housing and Conservation
5 Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

6 ~~(2) As long as the bonds, notes, and other obligations incurred pursuant~~
7 ~~to subdivision (1) of this subsection remain outstanding, the rate of tax~~
8 ~~imposed pursuant to section 9602 of this title shall not be reduced below a rate~~
9 ~~estimated, at the time of any reduction, to generate annual revenues of at least~~
10 ~~\$12,000,000.00.~~

11 (e) Prior to any distribution of property transfer tax revenue under
12 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
13 subsection (c) of this section, \$4,000,000.00 of the revenue received from the
14 property transfer tax shall be transferred to the Vermont Housing Finance
15 Agency to pay the principal of and interest due on the bonds, notes, and other
16 obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
17 § 621(23), the proceeds of which the Vermont Housing and Conservation
18 Board shall use to create housing pursuant to 10 V.S.A. § 315.

19 (f) As long as bonds, notes, and other obligations incurred pursuant to
20 subsection (d) or (e) of this section, or both, remain outstanding, the rate of tax

1 imposed pursuant to section 9602 of this title shall not be reduced below a rate
2 estimated, at the time of any reduction, to generate annual revenues of:

3 (1) at least [\$XX,000,000.00] while bonds, notes, and other obligations
4 incurred pursuant to both subsections remain outstanding; and

5 (2) at least [\$XX,000,000.00] while bonds, notes, and other obligations
6 incurred pursuant to subsection (d) of this section have been satisfied but
7 obligations under subsection (e) of this section remain outstanding.

8 * * * Vermont Housing Finance Agency;

9 Authority to Issue Bonds for Affordable Housing * * *

10 Sec. 11. 10 V.S.A. § 621 is amended to read:

11 § 621. GENERAL POWERS AND DUTIES

12 The Agency shall have all of the powers necessary and convenient to carry
13 out and effectuate the purposes and provisions of this chapter, including
14 without limitation those general powers provided a business corporation by
15 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation
16 by 11B V.S.A. § 3.02 and including, without limiting the generality of the
17 foregoing, the power to:

18 * * *

19 (21) use funds received from real estate trust and escrow accounts
20 established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and
21 closing cost assistance with priority given to persons and families at or below

1 90 percent of median income and to persons and families purchasing
2 perpetually affordable housing;

3 (22) issue bonds, notes, and other obligations secured by the property
4 transfer tax revenues transferred to the Agency pursuant to 32 V.S.A.
5 § 9610(d); and

6 (23) issue bonds, notes, and other obligations secured by the property
7 transfer tax revenues transferred to the Agency pursuant to 32 V.S.A.
8 § 9610(e).

9 Sec. 1m. 10 V.S.A. § 631(m) is added to read:

10 (m)(1) The bonds, notes, and other obligations authorized to be issued
11 pursuant to subdivision 621(23) of this title shall mature on or before June 30,
12 2040 and shall be secured by a pledge of \$4,000,000.00 from the property
13 transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. §
14 9610(e).

15 (2) The Agency may issue the bonds, notes, and other obligations in one
16 or more series at one time or from time to time, provided that the aggregate
17 annual debt service on the bonds, notes, and other obligations shall not exceed
18 \$4,000,000.00 at any time.

19 (3) The Agency shall transfer the proceeds of the bonds, notes, and other
20 obligations, less issuance fees and costs and required reserves, to the Vermont
21 Housing and Conservation Trust Fund established pursuant to section 312 of

1 this title for use by the Vermont Housing and Conservation Board as provided
2 in section 315 of this title.

3 (4) The Agency, the Vermont Housing and Conservation Board, and the
4 State Treasurer may execute one or more agreements governing the terms and
5 conditions under which the property transfer tax revenues that secure the
6 bonds, notes, and obligations shall be transferred to the Agency, and any other
7 issues they determine appropriate.

8 * * * Repeal of Housing Bond Provisions After Life of Bond * * *

9 Sec. 1n. REPEAL

10 (a) The following are repealed on July 1, 2040:

11 (1) 10 V.S.A. § 315 (Vermont Housing and Conservation Board;
12 housing bond and investments).

13 (2) 10 V.S.A. § 621(23) (Vermont Housing Finance Agency (VHFA)
14 authority to issue debt obligations).

15 (3) 10 V.S.A. § 631(m) (debt obligations issued by VHFA).

16 (4) 32 V.S.A. § 9610(e)–(f) (property transfer tax priority for housing
17 debt repayment).

18 * * * Housing Rehabilitation and Weatherization; Vermont Rental Housing

19 Incentive Program * * *

20 Sec. 2a. 10 V.S.A. chapter 29, subchapter 3 is amended to read:

1 **(b) 32 V.S.A. chapter 236 (land gains tax) is repealed on July 1, 2025.**

2 * * * First Time Homebuyer Down Payment Assistance Program * * *

3 Sec. 4a. 32 V.S.A. § 5930u is amended to read:

4 § 5930U. TAX CREDIT FOR AFFORDABLE HOUSING

5 (a) As used in this section:

6 (1) “Affordable housing project” or “project” means:

7 (A) a rental housing project identified in 26 U.S.C. § 42(g); or

8 (B) owner-occupied housing identified in 26 U.S.C. § 143 (c)(1) or

9 that qualifies under Vermont Housing Finance Agency criteria governing
10 owner-occupied housing.

11 (2) “Affordable housing tax credits” means the tax credit provided by
12 this subchapter.

13 (3) “Allocating agency” or “Agency” means the Vermont Housing
14 Finance Agency.

15 (4) “Committee” means the Joint Committee on Tax Credits consisting
16 of five members: a representative from the Department of Housing and
17 Community ~~Affairs~~ Development, the Vermont Housing and Conservation
18 Board, the Vermont Housing Finance Agency, the Vermont State Housing
19 Authority, and the Office of the Governor.

20 (5) “Credit certificate” means a certificate issued by the allocating
21 agency to a taxpayer that specifies the amount of affordable housing tax credits

1 that can be applied against the taxpayer’s individual or corporate income tax,
2 or franchise, captive insurance premium, or insurance premium tax liability as
3 provided in this subchapter.

4 (6) “Eligible applicant” means any municipality, ~~private sector~~
5 ~~developer~~, State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing
6 Finance Agency, a for-profit organization, or a nonprofit organization
7 qualifying under 26 U.S.C. § 501(c)(3) or cooperative housing organization,
8 the purpose of which is to create and retain affordable housing for Vermonters
9 with lower income and which has in its bylaws a requirement that the housing
10 the organization creates be maintained as affordable housing for Vermonters
11 with lower income on a perpetual basis meeting the application requirements
12 of the allocation plan.

13 (7) “Eligible cash contribution” means an amount of cash (i) contributed
14 to the owner, developer, or sponsor of an affordable housing project and
15 determined by the allocating agency as eligible for affordable housing tax
16 credits, or (ii) paid to the Agency in connection with the purchase of affordable
17 housing tax credits.

18 (8) “Section 42 credits” means tax credit provided by 26 U.S.C. §§ 38
19 and 42.

20 (9) “Allocation plan” means the plan recommended by the Committee
21 and approved by the Vermont Housing Finance Agency, which sets forth the

1 eligibility requirements and process for selection of eligible rental housing
2 projects to receive affordable housing tax credits and eligible owner-occupied
3 housing projects to receive loans or grants under this section. The allocation
4 plan shall include:

5 (A) requirements for creation and retention of affordable housing for
6 persons with low income; and

7 (B) requirements to ensure that eligible rental housing is maintained
8 as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a
9 perpetual basis and that eligible owner-occupied housing or program funds for
10 owner-occupied housing remain as an affordable housing source for future
11 owners or buyers, and meets all other requirements of the Vermont Housing
12 Finance Agency related to affordable housing.

13 (1) “Taxpayer” means a taxpayer who makes an eligible cash
14 contribution or the assignee or transferee of or successor to such taxpayer as
15 determined by the Department of Taxes.

16 (b) Eligible tax credit allocations.

17 (1) Affordable housing credit allocation for rental housing.

18 (A) An eligible applicant may apply to the allocating agency for an
19 allocation of affordable rental housing tax credits under this section related to
20 an affordable housing project authorized by the allocating agency under the
21 allocation plan. In the case of a specific affordable rental housing project, the

1 eligible applicant shall also be the owner or a person having the right to
2 acquire ownership of the building and shall apply prior to placement of the
3 affordable housing project in service. ~~In the case of owner-occupied housing~~
4 ~~units, the applicant shall ensure that the allocated housing or program funds~~
5 ~~remain as an affordable housing resource for future owners.~~ The allocating
6 agency shall issue a letter of approval if it finds that the applicant meets the
7 priorities, criteria, and other provisions of subdivision (B) of this subdivision
8 (b)(1). The burden of proof shall be on the applicant.

9 (B) Upon receipt of a completed application, the allocating agency
10 shall award an allocation of affordable housing tax credits with respect to a
11 project to an applicant, provided the applicant demonstrates to the satisfaction
12 of the allocating agency all of the following:

13 (i) The owner of the project has received from the allocating
14 agency a binding commitment for, a reservation or allocation of, or an out-of-
15 cap determination letter for, Section 42 credits, or meets the requirements of
16 the allocation plan for development or financing of units to be owner-occupied.

17 (ii) The project has received community support.

18 (2) Affordable housing credit allocation for loans or grants for owner-
19 occupied housing.

20 (A) The Vermont Housing Finance Agency shall have the authority
21 to allocate affordable housing tax credits to provide funds to make loans or

1 grants to eligible applicants for affordable owner-occupied housing. An
2 eligible applicant may apply to the allocating agency for a loan or grant under
3 this section related to an affordable owner-occupied housing project authorized
4 by the allocating agency under the allocation plan. In the case of a specific
5 affordable owner-occupied housing project, the eligible applicants shall also be
6 the owner or a person having the right to acquire ownership of the unit and
7 shall apply prior to sale of the unit to the homeowner.

8 (B) The Agency shall require that the loan or grant recipient use such
9 funds to maintain the unit as an affordable owner-occupied unit or as an
10 affordable housing source for future owners or buyers.

11 (C) The Agency shall use the proceeds of loans or grants made under
12 subdivision (2)(b)(A) of this section for future loans or grants to eligible
13 applicants for affordable owner-occupied housing projects.

14 (D) The Agency may assign its rights under any loan or grant made
15 under subdivision (2)(b)(A) of this section to any State agency or nonprofit
16 organization qualifying under 26 U.S.C. § 501(c)(3) so long as such assignee
17 acknowledges and agrees to comply with the provisions of subdivision (b)(2)
18 of this section.

19 (3) Down Payment Assistance Program.

1 (A) The Vermont Housing Finance Agency shall have the authority to
2 allocate affordable housing tax credits to finance down payment assistance
3 loans that meet the following requirements:

4 (i) the loan is made in connection with a mortgage through an
5 Agency program;

6 (ii) the borrower is a first-time homebuyer of an owner-occupied
7 primary residence; and

8 (iii) the borrower uses the loan for the borrower's down payment
9 or closing costs, or both.

10 (B) The Agency shall require the borrower to repay the loan upon the
11 transfer or refinance of the residence.

12 (C) The Agency shall use the proceeds of loans made under the
13 Program for future down payment assistance.

14 (c) Amount of credit. A taxpayer ~~who makes an eligible cash contribution~~
15 shall be entitled to claim against the taxpayer's individual income, corporate,
16 franchise, captive insurance premium, or insurance premium tax liability a
17 credit in an amount specified on the taxpayer's credit certificate. The first-year
18 allocation of a credit amount to a taxpayer shall also be deemed an allocation
19 of the same amount in each of the following four years.

20 (d) Availability of credit. The amount of affordable housing tax credit
21 ~~allocated with respect to a project~~ set forth on the taxpayer's credit certificate

1 shall be available to the taxpayer every year for five consecutive tax years,
2 beginning with the tax year in which the eligible cash contribution is made.
3 Total tax credits available to the taxpayer shall be the amount of the first-year
4 allocation plus the succeeding four years' deemed allocations.

5 (e) Claim for credit. A taxpayer claiming affordable housing tax credits
6 shall submit with each return on which such credit is claimed ~~a copy of the~~
7 ~~allocating agency's credit allocation to the affordable housing project and the~~
8 taxpayer's credit certificate and with respect to credits issued under
9 subdivision (b)(1), a copy of the allocating agency's credit allocation to the
10 affordable housing project. Any unused affordable housing tax credit may be
11 carried forward to reduce the taxpayer's tax liability for no more than 14
12 succeeding tax years, following the first year the affordable housing tax credit
13 is allowed.

14 (f) [Repealed.]

15 (g)(1) In any fiscal year, the allocating agency may award up to:

16 (A) \$400,000.00 in total first-year credit allocations to all applicants
17 for rental housing projects, for an aggregate limit of \$2,000,000.00 over any
18 given five-year period that credits are available under this subdivision (A);

19 (B) ~~\$300,000.00~~ \$425,000.00 in total first-year credit allocations for
20 loans or grants for owner-occupied unit financing or down payment loans as
21 provided in subdivision (b)(2) consistent with the allocation plan, including for

1 new construction and manufactured housing, for an aggregate limit of
2 ~~\$1,500,000.00~~ \$2,125,000.00 over any given five-year period that credits are
3 available under this subdivision (B).

4 (2) ~~In any fiscal year, total first-year credit allocations under subdivision~~
5 ~~(1) of this subsection plus succeeding year deemed allocations shall not exceed~~
6 ~~\$3,500,000.00~~ If the full amount of first-year credits authorized by an award
7 are not allocate to a taxpayer, the Agency may reclaim the amount not
8 allocated and re-award such allocations to other applicants, and such re-awards
9 shall not be subject to the limits set forth in subdivision (1) of this subsection.

10 (h)(1) In fiscal year 2016 through fiscal year ~~2022~~ 2019, the allocating
11 agency may award up to \$125,000.00 in total first-year credit allocations for
12 loans through the Down Payment Assistance Program created in subdivision
13 (b)(2) of this section.

14 (2) In ~~any~~ fiscal year 2020 through fiscal year 2022, ~~total first-year credit~~
15 ~~allocations under subdivision (1) of this subsection plus succeeding year~~
16 ~~deemed allocations shall not exceed \$625,000.00~~ the allocating agency may
17 award up to \$250,000.00 in total first year credit allocations for loans through
18 the Down Payment Assistance Program created in subdivision (b)(3) of this
19 section.

20 (3) In fiscal year 2023 through fiscal year 2026, the allocating agency
21 may award up to \$125,000.00 in total first-year credit allocations for loans

1 through the Down Payment Assistance Program created in subdivision (b0(3)
2 of this section.

3 * * * Downtown Tax Credit Program * * *

4 Sec. 5a. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

5 Subchapter 11J: Vermont Downtown and Village Center Tax Credit Program

6 § 5930AA. DEFINITIONS

7 As used in this subchapter:

8 (1) “Qualified applicant” means an owner or lessee of a qualified
9 building involving a qualified project, but does not include ~~a religious entity~~
10 ~~operating with a primarily religious purpose~~; a State or federal agency or a
11 political subdivision of either; or an instrumentality of the United States.

12 (2) “Qualified building” means a building built ~~prior to 1983~~ at least 30
13 years before the date of application, located within a designated downtown or
14 village center, which upon completion of the project supported by the tax
15 credit will be an income-producing building not used solely as a single-family
16 residence. Churches and other buildings owned by religious organization may
17 be Qualified Buildings, but in no event shall tax credits be used for religious
18 worship.

19 (3) “Qualified code ~~or technology~~ improvement project” means a
20 project:

1 (A)(i) to install or improve platform lifts suitable for transporting
2 personal mobility devices, limited use/ or limited application elevators,
3 elevators, sprinkler systems, and capital improvements in a qualified building,
4 and the installations or improvements are required to bring the building into
5 compliance with the statutory requirements and rules regarding fire prevention,
6 life safety, and electrical, plumbing, and accessibility codes as determined by
7 the Department of Public Safety; ~~or~~

8 ~~(ii) to install or improve data or network wiring, or heating,~~
9 ~~ventilating, or cooling systems reasonably related to data or network~~
10 ~~installations or improvements, in a qualified building, provided that a~~
11 ~~professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the~~
12 ~~fact and cost of the installation or improvement;~~

13 (B) to abate lead paint conditions or other substances hazardous to
14 human health or safety in a qualified building; or

15 (C) to redevelop a contaminated property in a designated downtown
16 or village center under a plan approved by the Secretary of Natural Resources
17 pursuant to 10 V.S.A. § 6615a.

18 (4) “Qualified expenditures” means construction-related expenses of the
19 taxpayer directly related to the project for which the tax credit is sought but
20 excluding any expenses related to a private residence.

1 (5) “Qualified façade improvement project” means the rehabilitation of
2 the façade of a qualified building that contributes to the integrity of the
3 designated downtown or designated village center. façade improvements to
4 qualified buildings listed, or eligible for listing, in the State or National
5 Register of Historic Places must be consistent with Secretary of the Interior
6 Standards, as determined by the Vermont Division for Historic Preservation.

7 (6) “Qualified historic rehabilitation project” means an historic
8 rehabilitation project that has received federal certification for the
9 rehabilitation project.

10 (7) “Qualified project” means a qualified code ~~or technology~~
11 improvement, qualified façade improvement, ~~qualified technology~~
12 ~~infrastructure project~~, or qualified historic rehabilitation project as defined by
13 this subchapter.

14 (8) “State Board” means the Vermont Downtown Development Board
15 established pursuant to 24 V.S.A. chapter 76A.

16 § 5930BB. ELIGIBILITY AND ADMINISTRATION

17 (a) Qualified applicants may apply to the State Board to obtain the tax
18 credits provided by this subchapter for a qualified project at any time before
19 the completion of the qualified project.

20 (b) To qualify for any of the tax credits under this subchapter, expenditures
21 for the qualified project must exceed \$5,000.00.

1 (c) Application shall be made in accordance with the guidelines set by the
2 State Board.

3 (d) Notwithstanding any other provision of this subchapter, qualified
4 applicants may apply to the State Board at any time prior to June 30, 2013 to
5 obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of
6 this title of 10 percent of qualified expenditures resulting from damage caused
7 by a federally declared disaster in Vermont in 2011. The credit shall only be
8 claimed against the taxpayer's State individual income tax under section 5822
9 of this title. To the extent that any allocated tax credit exceeds the taxpayer's
10 tax liability for the first tax year in which the qualified project is completed,
11 the taxpayer shall receive a refund equal to the unused portion of the tax credit.
12 If within two years after the date of the credit allocation no claim for a tax
13 credit or refund has been filed, the tax credit allocation shall be rescinded and
14 recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of
15 tax credits available under this subsection shall not be more than \$500,000.00
16 and shall not be subject to the limitations contained in subdivision 5930ee(2)
17 of this subchapter.

18 § 5930CC. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX
19 CREDITS

20 (a) Historic rehabilitation tax credit. The qualified applicant of a qualified
21 historic rehabilitation project shall be entitled, upon the approval of the State

1 Board, to claim against the taxpayer's State individual income tax, corporate
2 income tax, or bank franchise or insurance premiums tax liability a credit of 10
3 percent of qualified rehabilitation expenditures as defined in the Internal
4 Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified
5 rehabilitation.

6 (b) façade improvement tax credit. The qualified applicant of a qualified
7 façade improvement project shall be entitled, upon the approval of the State
8 Board, to claim against the taxpayer's State individual income tax, State
9 corporate income tax, or bank franchise or insurance premiums tax liability a
10 credit of 25 percent of qualified expenditures up to a maximum tax credit of
11 \$25,000.00.

12 (c) Code or technology improvement tax credit. The qualified applicant of a
13 qualified code or technology improvement project shall be entitled, upon the
14 approval of the State Board, to claim against the taxpayer's State individual
15 income tax, State corporate income tax, or bank franchise or insurance
16 premiums tax liability a credit of 50 percent of qualified expenditures up to a
17 maximum tax credit of \$12,000.00 for installation or improvement of a
18 platform lift, a maximum credit of ~~\$40,000.00~~ \$60,000.00 for the installation
19 or improvement of a limited use/limited application elevator, a maximum tax
20 credit of ~~\$50,000.00~~ \$75,000.00 for installation or improvement of an elevator,
21 a maximum tax credit of \$50,000.00 for installation or improvement of a

1 sprinkler system, ~~a maximum tax credit of \$30,000.00 for the combined costs~~
2 ~~of installation or improvement of data or network wiring or a heating,~~
3 ~~ventilating, or cooling system,~~ and a maximum tax credit of \$50,000.00 for the
4 combined costs of all other qualified code improvements.

5 § 5930DD. CLAIMS; AVAILABILITY

6 (a) A taxpayer claiming credit under this subchapter shall submit to the
7 Department of Taxes with the first return on which a credit is claimed a copy
8 of the State Board's tax credit allocation.

9 (b) A credit under this subchapter shall be available for the first tax year in
10 which the qualified project is complete. In the alternative, the State Board may
11 allocate the credit available under this subchapter and make an allocation
12 available upon completion of any distinct phase of a qualified project. The
13 allocation and distinct phases of the qualified project shall be identified in the
14 application package approved by the State Board.

15 (c) If within ~~five~~ two years after the date of the credit allocation to the
16 applicant no claim for tax credit has been filed, the tax credit allocation shall
17 be rescinded, unless the project has an approved federal application for a
18 phased (60 month) project pursuant to Treasury Regulation 1.48-12(b)(2)(v), in
19 which case the credit will not be rescinded until five years from the date of the
20 credit allocation.

1 (d) Any unused credit under this section may be carried forward for no
2 more than nine tax years following the first year for which the tax credit is
3 claimed.

4 (e) In lieu of using a tax credit to reduce its own tax liability, an applicant
5 may request the credit in the form of a bank credit certificate that a bank may
6 accept in return for cash, or may accept for adjusting the rate or term of the
7 applicant's mortgage or loan related to an ownership or leasehold interest in
8 the qualified building. The amount of the bank credit certificate shall equal the
9 unused portion of the credit allocated under this subchapter, and an applicant
10 requesting a bank credit certificate shall provide to the State Board a copy of
11 any returns on which any portion of the allocated credit under this section was
12 claimed. A bank that purchases a bank credit certificate may use it to reduce its
13 franchise tax liability under section 5836 of this title in the first tax year in
14 which the qualified building is placed back in service after completion of the
15 qualified project or in the subsequent nine years.

16 (f) In lieu of using a tax credit to reduce its own tax liability, an applicant
17 may request the credit in the form of an insurance credit certificate that an
18 insurance company may accept in return for cash and for use in reducing its tax
19 liability under subchapter 7 of chapter 211 of this title in the first tax year in
20 which the qualified building is placed back in service after completion of the
21 qualified project or in the subsequent nine years. The amount of the insurance

1 credit certificate shall equal the unused portion of the credit allocated under
2 this subchapter, and an applicant requesting an insurance credit certificate shall
3 provide to the State Board a copy of any returns on which any portion of the
4 allocated credit under this section was claimed.

5 § 5930EE. LIMITATIONS

6 Beginning in fiscal year 2010 and thereafter, the State Board may award tax
7 credits to all qualified applicants under this subchapter, provided that:

8 (1) the total amount of tax credits awarded annually, together with sales
9 tax reallocated under section 9819 of this title, does not exceed ~~\$2,400,000.00~~
10 \$2,600,000.00;

11 (2) a total annual allocation of no more than 30 percent of these tax
12 credits in combination with sales tax reallocation may be awarded in
13 connection with all of the projects in a single municipality;

14 (3) façade tax credits shall not be available for projects that qualify for
15 the federal rehabilitation tax credit;

16 (4) no credit shall be allowed under this subchapter for the cost of
17 acquiring any building or interest in a building;

18 (5) credit under any one subsection of 5930cc of this subchapter may not
19 be allocated more often than once every two years with respect to the same
20 building; and

1 (6) credit awarded under section 5930cc of this subchapter that is
2 rescinded or recaptured by the State Board shall be available for the State
3 Board to award to applicants in any subsequent year, in addition to the total
4 amount of tax credits authorized under this section.

5 § 5930FF. RECAPTURE

6 If, within five years after completion of the qualified project, either of the
7 following events occurs, the applicant shall be liable for a recapture penalty in
8 an amount equal to the total tax credit claimed plus an amount equal to any
9 value received from a bank for a bank or insurance credit certificate; and any
10 credit allocated but unclaimed shall be disallowed to the applicant:

11 (1) The State Board finds that any work performed on the qualified
12 project is inconsistent with the approved application; or the applicant
13 knowingly failed to supply any information, or supplied incorrect or untrue
14 information required by the State Board or failed to comply with any award
15 condition required by the State Board.

16 (2) The National Park Service revoked certification for unapproved
17 alterations or for work not done as described in the historic preservation
18 certification application.

19 * * * Short Term Rentals; Tax Collection * * *

20 Sec. 6a. 32 V.S.A. § 9202 is amended to read:

21 § 9202. DEFINITIONS

1 to the purchaser for the time-share rights. The term “rent” shall include all
2 amounts collected by booking agents except the tax required to be collected
3 under this chapter. The term “rent” shall not include rental charges for living
4 quarters, sleeping, or household accommodations to any student necessitated
5 by attendance at a school as defined herein.

6 * * *

7 (20) “Booking agent” means a person who facilitates the rental of an
8 occupancy and collects rent for an occupancy and who has the right, access,
9 ability, or authority, through an Internet transaction or any other means, to
10 offer, reserve, book, arrange for, remarket, distribute, broker, resell, or
11 facilitate an occupancy that is subject to the tax under this chapter.

12 Sec. 6b. 32 V.S.A. § 9271 is amended to read:

13 § 9271. LICENSES REQUIRED

14 Each operator prior to commencing business shall register with the
15 Commissioner each place of business within the State where he or she operates
16 a hotel or sells taxable meals or alcoholic beverages; provided however, that an
17 operator who sells taxable meals through a vending machine shall not be
18 required to hold a license for each individual machine, and a booking agent
19 shall not be required to hold a separate license for each property the rental of
20 which it facilitates. Upon receipt of an application in such form and containing
21 such information as the Commissioner may require for the proper

1 administration of this chapter, the Commissioner shall issue without charge a
2 license for each such place in such form as he or she may determine, attesting
3 that such registration has been made. No person shall engage in serving
4 taxable meals or alcoholic beverages or renting hotel rooms without the license
5 provided in this section. The license shall be nonassignable and
6 nontransferable and shall be surrendered to the Commissioner if the business is
7 sold or transferred or if the registrant ceases to do business at the place named.

8 * * * Effective Dates * * *

9 Sec. X. EFFECTIVE DATE

10 (a) This section, and Sec. 4a (down payment assistance) shall take effect on
11 passage.

12 (b) The remaining sections of this act shall take effect on July 1, 2019,
13 except that Secs. 3c (General Fund) and 3d (repealing reference to land gains
14 tax) shall take effect on July 1, 2025.