

1 Introduced by Committee on Economic Development, Housing and General

2 Affairs

3 Referred to Committee on

4 Date:

5 Subject: Housing; taxation; tax credit

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 the scope of the property transfer
9 tax, increasing the first time homebuyer down payment assistance program tax
10 credit, expanding the scope of the downtown tax credit program, and
11 expanding the scope of the tax on short-term rentals.

12 An act relating to housing investments

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 bond proceeds, leveraging another
6 \$140 million through partner programs and supporting the creation of
7 approximately 550 housing units. The remaining bond proceeds are expected
8 to be fully committed by the end of 2019. The Vermont Housing Conservation
9 Board is on track to meet or exceed the production and leveraging goals of the
10 bond and meet the income targeting requirements.

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

13 (b) Purpose and intent.

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

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

18 (A) to authorize the Vermont Housing Finance Agency to issue a
19 new housing bond and transfer the proceeds to the Vermont Housing
20 Conservation Board to support the development of additional affordable
21 housing;

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

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

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

8 (ii) \$2 million through the sales tax by applying and collecting the
9 tax on short-term rentals.

10 * * * Collection of Property Transfer Tax on
11 Transfers of Controlling Interests * * *

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

13 § 9601. DEFINITIONS

14 The following definitions shall apply throughout this chapter unless the
15 context requires otherwise:

16 * * *

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

19 * * *

20 (5) “Transfer” includes a grant, assignment, conveyance, will, trust,
21 decree of court, transfer or acquisition of a direct or indirect controlling interest

1 in any person with title to property, or any other means of transferring title to
2 property or vesting title to property in any person.

3 (6) “Value” means:

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

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

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

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

16 * * *

17 (12) “Controlling interest” means:

18 (A) In the case of a corporation, either 50 percent or more of the total
19 combined voting power of all classes of stock of such corporation, or
20 50 percent or more of the capital, profits, or beneficial interest in such voting
21 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:

6 (i) interests in any partnership, association or other entity
7 originally purchased in connection with the federal low income housing tax
8 credit program under 26 U.S.C. § 42 shall not be counted in determining a
9 change in the “controlling interest”; and

10 (ii) all acquisitions of persons acting in concert are aggregated for
11 purposes of determining whether a transfer or acquisition of a controlling
12 interest has taken place. The Commissioner shall adopt standards by
13 regulation to determine when persons are acting in concert. In adopting a
14 regulation for this purpose, the Commissioner shall consider the following:

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

18 (ii) When persons are not commonly owned or controlled, they
19 must be treated as acting in concert only when the unity with which the
20 purchasers have negotiated and will consummate the transfer of ownership
21 interest supports a finding that they are acting as a single person. If the

1 acquisitions are completely independent, with each purchaser buying without
2 regard to the identity of the other purchasers, the acquisitions must be
3 considered separate acquisitions.

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

5 § 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

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

10 * * *

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

12 § 9603. EXEMPTIONS

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

14 * * *

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

17 * * *

18 (25) Transfer made by a limited liability company to a member in
19 connection with a complete dissolution of the limited liability company,
20 pursuant to which transfer no gain or loss is recognized under the Internal

1 Revenue Code, except where the Commissioner finds that a major purpose of
2 such dissolution is to avoid the property transfer tax;

3 (26) Transfers of controlling interests in a person with a fee interest in
4 property if the transfer of the property would qualify for exemption if
5 accomplished by deed of the property between the parties to the transfer of the
6 controlling interest.

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

8 (a) A property transfer return complying with this section shall be delivered
9 to a town clerk;

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

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

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

16 § 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

17 Upon the receipt by a town clerk of a property transfer return and certificate
18 and the fee required under subdivision 1671(a)(6) of this title, the clerk shall
19 forthwith mail or otherwise deliver to the transferee of title to property with
20 respect to which such return was filed a signed and written acknowledgment of
21 the receipt of that return and certificate. A copy of that acknowledgment, or

1 any other form of acknowledgment approved by the Commissioner, shall be
2 affixed to the deed evidencing the transfer of property or the document
3 evidencing the transfer or acquisition of a direct or indirect controlling interest
4 in any person with title to property with respect to which the return and
5 certificate was filed. The acknowledgment so affixed to a deed or document,
6 however, shall not disclose the amount of tax paid with respect to any return or
7 transfer.

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

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

1 for each subsequent offense. A person who purposely or knowingly falsifies
2 any statement contained in the certificate required is punishable by fine of not
3 more than \$500.00 or imprisonment for not more than one year, or both.

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

5 § 9618. DUTY TO REPORT STOCK ACQUISITIONS

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

14 * * * Housing Bond; New Housing * * *

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

16 § 315. HOUSING BOND; INVESTMENT

17 The Vermont Housing and Conservation Board shall use the proceeds of
18 bonds, notes, and other obligations issued by the Vermont Housing Finance
19 Agency pursuant to subdivision 621(23) of this title and transferred to the
20 Vermont Housing and Conservation Trust Fund to fund **the creation and**
21 **improvement of owner-occupied and rental housing for Vermonters with very**

1 low to middle income, in areas targeted for growth and reinvestment, as

2 follows:

3 (1) not less than 25 percent of the housing shall be targeted to

4 Vermonters with very low income, meaning households with income below 50

5 percent of area median income;

6 (2) not less than 25 percent of the housing shall be targeted to

7 Vermonters with moderate income, meaning households with income between

8 80 and 120 percent of area median income; and

9 (3) the remaining housing shall be targeted to Vermonters with income

10 that is less than or equal to 120 percent of area median income, consistent with

11 the provisions of this chapter.

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

13 § 323. ANNUAL REPORT

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

20 (1) a list and description of activities funded by the Board during the
21 preceding year, including commitments made to fund projects through housing

1 bond proceeds pursuant to ~~section~~ sections 314 and 315 of this title, and
2 project descriptions, levels of affordability, and geographic location;

3 * * *

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

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

6 § 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
7 RETURNS

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

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

16 (c) Prior to distributions of property transfer tax revenues under 10 V.S.A.
17 § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two
18 percent of the revenues received from the property transfer tax shall be
19 deposited in a special fund in the Department of Taxes for Property Valuation
20 and Review administration costs.

1 (d)(1)–Prior to any distribution of property transfer tax revenue under
2 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
3 subsection (c) of this section, \$2,500,000.00 of the revenue received from the
4 property transfer tax shall be transferred to the Vermont Housing Finance
5 Agency to pay the principal of and interest due on the bonds, notes, and other
6 obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
7 § 621(22), the proceeds of which the Vermont Housing and Conservation
8 Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

9 ~~(2) As long as the bonds, notes, and other obligations incurred pursuant~~
10 ~~to subdivision (1) of this subsection remain outstanding, the rate of tax~~
11 ~~imposed pursuant to section 9602 of this title shall not be reduced below a rate~~
12 ~~estimated, at the time of any reduction, to generate annual revenues of at least~~
13 ~~\$12,000,000.00.~~

14 (e) Prior to any distribution of property transfer tax revenue under
15 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and
16 subsection (c) of this section, \$4,000,000.00 of the revenue received from the
17 property transfer tax shall be transferred to the Vermont Housing Finance
18 Agency to pay the principal of and interest due on the bonds, notes, and other
19 obligations authorized to be issued by the Agency pursuant to 10 V.S.A.
20 § 621(23), the proceeds of which the Vermont Housing and Conservation
21 Board shall use to create housing pursuant to 10 V.S.A. § 315.

1 (f) As long as bonds, notes, and other obligations incurred pursuant to
2 subsection (d) or (e) of this section, or both, remain outstanding, the rate of tax
3 imposed pursuant to section 9602 of this title shall not be reduced below a rate
4 estimated, at the time of any reduction, to generate annual revenues of:

5 (1) at least [\$30,000,000.00] while bonds, notes, and other obligations
6 incurred pursuant to both subsections remain outstanding; and

7 (2) at least [\$18,000,000.00] while bonds, notes, and other obligations
8 incurred pursuant to subsection (d) of this section have been satisfied but
9 obligations under subsection (e) of this section remain outstanding.

10 * * * Vermont Housing Finance Agency;

11 Authority to Issue Bonds for Affordable Housing * * *

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

13 § 621. GENERAL POWERS AND DUTIES

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

20 * * *

1 (21) use funds received from real estate trust and escrow accounts
2 established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and
3 closing cost assistance with priority given to persons and families at or below
4 90 percent of median income and to persons and families purchasing
5 perpetually affordable housing;

6 (22) 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(d); and

9 (23) issue bonds, notes, and other obligations secured by the property
10 transfer tax revenues transferred to the Agency pursuant to 32 V.S.A.
11 § 9610(e).

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

13 (m)(1) The bonds, notes, and other obligations authorized to be issued
14 pursuant to subdivision 621(23) of this title shall be secured by a pledge of
15 \$4,000,000.00 from the property transfer tax revenues to be transferred to the
16 Agency pursuant to 32 V.S.A. § 9610(e) and shall mature on or before June 30,
17 2040.

18 (2) The Agency may issue the bonds, notes, and other obligations in one
19 or more series at one time or from time to time, provided that the aggregate
20 annual debt service on the bonds, notes, and other obligations shall not exceed
21 \$4,000,000.00 at any time.

1 (3) The Agency shall transfer the proceeds of the bonds, notes, and other
2 obligations, less issuance fees and costs and required reserves, to the Vermont
3 Housing and Conservation Trust Fund established pursuant to section 312 of
4 this title for use by the Vermont Housing and Conservation Board as provided
5 in section 315 of this title.

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

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

12 Sec. 1n. REPEAL

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

14 (1) 10 V.S.A. § 315 (Vermont Housing and Conservation Board;
15 housing bond and investments).

16 (2) 10 V.S.A. § 621(23) (Vermont Housing Finance Agency (VHFA)
17 authority to issue debt obligations).

18 (3) 10 V.S.A. § 631(m) (debt obligations issued by VHFA).

19 (4) 32 V.S.A. § 9610(e)–(f) (property transfer tax priority for housing
20 debt repayment).

21 _ * * * First Time Homebuyer Down Payment Assistance Program * * *

1 Sec. 2. 32 V.S.A. § 5930u is amended to read:

2 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

3 (a) As used in this section:

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

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

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

7 that qualifies under Vermont Housing Finance Agency criteria governing

8 owner-occupied housing.

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

11 (3) “Allocating agency” or “Agency” means the Vermont Housing
12 Finance Agency.

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

18 (5) “Credit certificate” means a certificate issued by the allocating
19 agency to a taxpayer that specifies the amount of affordable housing tax credits
20 that can be applied against the taxpayer’s individual or corporate income tax,

1 or franchise, captive insurance premium, or insurance premium tax liability as
2 provided in this subchapter.

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

12 (7) “Eligible cash contribution” means an amount of cash:

13 (A) contributed to the owner, developer, or sponsor of an affordable
14 housing project and determined by the allocating agency as eligible for
15 affordable housing tax credits; or

16 (B) 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.
19 §§ 38 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 (10) “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,

1 the 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
8 subdivision (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 (b)(2)(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 (b)(2)(A) of this section to the Vermont Housing and
16 Conservation Board or any State agency or nonprofit organization qualifying
17 under 26 U.S.C. § 501(c)(3) so long as such assignee acknowledges and agrees
18 to comply with the provisions of subdivision (b)(2) of this section.

19 (3) Down Payment Assistance Program.

1 (A) The Vermont Housing Finance Agency shall have the authority
2 to 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~~ home buyer of an
7 owner-occupied 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
12 14 succeeding tax years, following the first year the affordable housing tax
13 credit 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 * * *

20 (2) ~~In any fiscal year, total first-year credit allocations under subdivision~~
21 ~~(1) of this subsection plus succeeding year deemed allocations shall not exceed~~

1 ~~\$3,500,000.00~~ If the full amount of first-year credits authorized by an award
2 are not allocated to a taxpayer, the Agency may reclaim the amount not
3 allocated and re-award such allocations to other applicants, and such re-awards
4 shall not be subject to the limits set forth in subdivision (1) of this subsection.

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

9 (2) In ~~any~~ fiscal year, ~~total first-year credit allocations under~~
10 ~~subdivision (1) of this subsection plus succeeding year deemed allocations~~
11 ~~shall not exceed \$625,000.00~~ 2020 through fiscal year 2026, the allocating
12 agency may award up to \$250,000.00 in total first-year credit allocations for
13 loans through the Down Payment Assistance Program created in subdivision
14 (b)(3) of this section.

15 * * * Downtown Tax Credit Program * * *

16 Sec. 3. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

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

18 § 5930AA. DEFINITIONS

19 As used in this subchapter:

20 (1) “Qualified applicant” means an owner or lessee of a qualified
21 building involving a qualified project, but does not include ~~a religious entity~~

1 ~~operating with a primarily religious purpose~~; a State or federal agency or a
2 political subdivision of either; or an instrumentality of the United States.

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

10 (3) “Qualified code ~~or technology~~-improvement project” means a
11 project:

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

19 (ii) ~~to install or improve data or network wiring, or heating,~~
20 ~~ventilating, or cooling systems reasonably related to data or network~~
21 ~~installations or improvements, in a qualified building, provided that a~~

1 ~~professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the~~
2 ~~fact and cost of the installation or improvement;~~

3 * * *

4 (7) “Qualified project” means a qualified code ~~or technology~~
5 improvement, qualified façade improvement, ~~qualified technology~~
6 ~~infrastructure project~~, or qualified historic rehabilitation project as defined by
7 this subchapter.

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

10 * * *

11 § 5930CC. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

12 CREDITS

13 (a) Historic rehabilitation tax credit. The qualified applicant of a qualified
14 historic rehabilitation project shall be entitled, upon the approval of the State
15 Board, to claim against the taxpayer’s State individual income tax, corporate
16 income tax, or bank franchise or insurance premiums tax liability a credit of 10
17 percent of qualified rehabilitation expenditures as defined in the Internal
18 Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified
19 rehabilitation.

20 (b) façade improvement tax credit. The qualified applicant of a qualified
21 façade improvement project shall be entitled, upon the approval of the State

1 Board, to claim against the taxpayer’s State individual income tax, State
2 corporate income tax, or bank franchise or insurance premiums tax liability a
3 credit of 25 percent of qualified expenditures up to a maximum tax credit of
4 \$25,000.00.

5 (c) Code ~~or technology~~ improvement tax credit. The qualified applicant of a
6 qualified code ~~or technology~~ improvement project shall be entitled, upon the
7 approval of the State Board, to claim against the taxpayer’s State individual
8 income tax, State corporate income tax, or bank franchise or insurance
9 premiums tax liability a credit of 50 percent of qualified expenditures up to a
10 maximum tax credit of \$12,000.00 for installation or improvement of a
11 platform lift, a maximum credit of ~~\$40,000.00~~ \$60,000.00 for the installation
12 or improvement of a limited use/limited application elevator, a maximum tax
13 credit of ~~\$50,000.00~~ \$75,000.00 for installation or improvement of an elevator,
14 a maximum tax credit of \$50,000.00 for installation or improvement of a
15 sprinkler system, ~~a maximum tax credit of \$30,000.00 for the combined costs~~
16 ~~of installation or improvement of data or network wiring or a heating,~~
17 ~~ventilating, or cooling system,~~ and a maximum tax credit of \$50,000.00 for the
18 combined costs of all other qualified code improvements.

19 § 5930DD. CLAIMS; AVAILABILITY

1 (a) A taxpayer claiming credit under this subchapter shall submit to the
2 Department of Taxes with the first return on which a credit is claimed a copy
3 of the State Board’s tax credit allocation.

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

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

16 * * *

17 § 5930EE. LIMITATIONS

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

1 (1) the total amount of tax credits awarded annually, together with sales
2 tax reallocated under section 9819 of this title, does not exceed ~~\$2,400,000.00~~
3 \$2,600,000.00;

4 * * *

5 * * * Short Term Rentals; Tax Collection * * *

6 Sec. 4a. 32 V.S.A. § 9202 is amended to read:

7 § 9202. DEFINITIONS

8 The following words, terms, and phrases when used in this chapter shall
9 have the meanings ascribed to them in this section unless the context clearly
10 indicates a different meaning:

11 * * *

12 (4) “Operator” means any person, or his or her agent, operating a hotel,
13 whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or
14 otherwise; and any person, or his or her agent, charging for a taxable meal or
15 alcoholic beverage; and any person, or his or her agent, engaged in both of the
16 foregoing activities. The term “operator” shall include booking agents. In the
17 event that an operator is a corporation or other entity, the term “operator” shall
18 include any officer or agent of such corporation or other entity who, as an
19 officer or agent of the corporation, is under a duty to pay the gross receipts tax
20 to the Commissioner as required by this chapter.

21 * * *

1 (8) “Rent” means the consideration received for occupancy valued in
2 money, whether received in money or otherwise, including all receipts, cash,
3 credits, and property or services of any kind or nature, and also any amount for
4 which the occupant is liable for the occupancy without any deduction
5 therefrom whatsoever; and any monies received in payment for time-share
6 rights at the time of purchase; provided, however, that such money received
7 shall not be considered rent and thus not taxable if a deeded interest is granted
8 to the purchaser for the time-share rights. The term “rent” shall include all
9 amounts collected by booking agents except the tax required to be collected
10 under this chapter. The term “rent” shall not include rental charges for living
11 quarters, sleeping, or household accommodations to any student necessitated
12 by attendance at a school as defined herein.

13 * * *

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

1 Sec. 4b. 32 V.S.A. § 9271 is amended to read:

2 § 9271. LICENSES REQUIRED

3 Each operator prior to commencing business shall register with the
4 Commissioner each place of business within the State where he or she operates
5 a hotel or sells taxable meals or alcoholic beverages; provided however, that an
6 operator who sells taxable meals through a vending machine shall not be
7 required to hold a license for each individual machine, and a booking agent
8 shall not be required to hold a separate license for each property the rental of
9 which it facilitates. Upon receipt of an application in such form and containing
10 such information as the Commissioner may require for the proper
11 administration of this chapter, the Commissioner shall issue without charge a
12 license for each such place in such form as he or she may determine, attesting
13 that such registration has been made. No person shall engage in serving
14 taxable meals or alcoholic beverages or renting hotel rooms without the license
15 provided in this section. The license shall be nonassignable and
16 nontransferable and shall be surrendered to the Commissioner if the business is
17 sold or transferred or if the registrant ceases to do business at the place named.

18 * * * Effective Dates * * *

19 Sec. 5. EFFECTIVE DATE

20 (a) This section, and Sec. 2 (down payment assistance) shall take effect on
21 passage.

- 1 (b) The remaining sections of this act shall take effect on July 1, 2019.