

1 Introduced by Committee on Economic Development and Housing and
2 General Affairs

3 Date:

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

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

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

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

13 * * * Housing Health and Safety;

14 Rental Housing Health Code Enforcement * * *

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

16 § 5. DUTIES OF DEPARTMENT OF HEALTH

17 The Department of Health shall:

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

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

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

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

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

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

18 (7) Serve as the leader and primary State authority for the
19 implementation and enforcement of State rental housing health and safety
20 laws.

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

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

5 § 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

6 (a)(1) When conducting an investigation of rental housing, a local health
7 officer shall issue a written inspection report on the rental property using the
8 protocols for implementing the Rental Housing Health Code of the Department
9 or the municipality, in the case of a municipality that has established a code
10 enforcement office.

11 (2) A written inspection report shall:

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

14 (B) specify the requirements and timelines necessary to correct a
15 violation;

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

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

21 (3) A local health officer shall provide a copy of the inspection report;

1 (A) to the Department of Health using an electronic system created
2 for that purpose; and

3 (B) to the landlord and any tenants affected by a violation by
4 delivering the report electronically, in person, by first class mail, or by leaving
5 a copy at each unit affected by the deficiency.

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

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

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

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

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

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

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

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

9 § 1102. JUDICIAL BUREAU; JURISDICTION

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

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

13 * * *

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

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

19 (d) Three hearing officers appointed by the Court Administrator shall
20 determine waiver penalties to be imposed for violations within the Judicial
21 Bureau’s jurisdiction, except:

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

5 Sec. 4. DEPARTMENT OF HOUSING AND COMMUNITY

6 DEVELOPMENT; COLLECTION OF RENTAL HOUSING DATA

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

- 12 (1) location of building;
13 (2) age of building;
14 (3) number of units;
15 (4) type of units;
16 (5) School Property Account Number;
17 (6) owner name and contact information; and
18 (7) manager name and contact information.

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

- 1 (1) the Department of Taxes and other agencies and departments as
- 2 necessary;
- 3 (2) the Vermont Assessors and Listers Association;
- 4 (3) the Vermont Center for Geographic Information;
- 5 (4) the emergency communications centers of the Vermont State Police;
- 6 (5) the Vermont Housing Finance Agency;
- 7 (6) the Vermont League of Cities and Towns; and
- 8 (7) any other affected stakeholders.

9 Sec. 5. DEPARTMENT OF HEALTH; HEALTH INSPECTION REPORTS

10 The Department of Health shall create and manage an electronic system to
11 collect and maintain health inspection reports submitted by local health
12 officers pursuant to 18 V.S.A. § 603.

13 Sec. 6. DEPARTMENT OF HEALTH; RENTAL HOUSING HEALTH
14 AND SAFETY ENFORCEMENT SYSTEM;
15 RECOMMENDATIONS; REPORT

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

- 21 (1) an outline of options, with a timeline and budget for each; and

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

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

8 Sec. 7. DEPARTMENT OF HEALTH; APPROPRIATIONS; POSITIONS

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

11 (1) the amount of \$XXX,000.00 for [a position], whose duties shall
12 include:

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

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

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

19 (2) the amount of \$XX,000.00 to provide legal assistance and related
20 support to municipalities; and

1 work in exchange for consideration of more than \$1,000.00, including labor
2 and materials.

3 § 5402. EXEMPTIONS

4 This chapter does not apply to:

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

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

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

12 (4) landscaping;

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

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

18 § 5403. MANDATORY REGISTRATION AND VOLUNTARY

19 CERTIFICATION DISTINGUISHED

20 (a)(1) The system of mandatory registration established by this chapter is
21 intended to protect against fraud, deception, breach of contract, and violations

1 of law, but is not intended to establish standards for professional qualifications
2 or workmanship that is otherwise lawful.

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

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

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

13 (2) establish minimum qualifications, and standards for performance and
14 conduct, necessary for certification; and

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

17 Subchapter 2. Administration

18 § 5405. DUTIES OF THE DIRECTOR

19 (a) The Director of Professional Regulation shall:

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

1 (2) administer fees established under this chapter;

2 (3) receive applications for registration or certification, issue

3 registrations and certifications to applicants qualified under this chapter, deny

4 or renew registrations or certifications, and issue, revoke, suspend, condition,

5 and reinstate registrations and certifications as ordered by an administrative

6 law officer; and

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

8 (b) The Director, after consultation with an advisor appointed pursuant to

9 section 5406 of this title, may adopt rules to implement this chapter.

10 § 5406. ADVISORS

11 (a) The Secretary of State shall appoint two persons pursuant to 3 V.S.A.

12 § 129b to serve as advisors in matters relating to residential contractors and

13 construction.

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

15 (1) register under this chapter;

16 (2) have at least three years' experience in residential construction

17 immediately preceding appointment; and

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

19 (c) The Director of Professional Regulation shall seek the advice of the

20 advisors in implementing this chapter.

1 § 5407. FEES

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

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

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

6 (3) Certification: \$150.00.

7 Subchapter 3. Registrations

8 § 5408. ELIGIBILITY

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

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

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

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

17 § 5409. REQUIREMENTS OF REGISTRANTS

18 (a) Insurance. A person registered under this chapter shall maintain
19 professional liability insurance in the amount of \$300,000.00 per claim and
20 \$1,000,000.00 aggregate, evidence of which may be required as a precondition
21 to issuance or renewal of a registration.

1 **(b) Writing.**

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

5 **(2) A contract shall specify:**

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

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

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

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

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

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

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

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

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

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

3 § 5410. PROHIBITIONS AND REMEDIES

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

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

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

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

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

13 (3) committing a deceptive act in commerce in violation of 9 V.S.A.

14 § 2453; and

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

1 Program to provide funding to regional nonprofit housing partner organizations
2 to provide incentive grants to private landlords for the rehabilitation and
3 improvement, including weatherization, of existing rental housing stock.

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

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

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

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

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

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

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

3 (6) At least 50 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. 12. RENTAL HOUSING INCENTIVE PROGRAM; APPROPRIATION

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

17 Sec. 13. EFFECTIVE DATE

18 This act shall take effect on passage.