

Recommendations for Legislation as follow up to Act 188 (H. 907 - 2018)

An act relating to improving rental housing safety

https://accd.vermont.gov/sites/accdnew/files/documents/Housing/Act188_Jan2019_Recommendations_FINAL_1-15-19.pdf

- **Expressly identify the Department of Health as the agency responsible for overseeing all aspects of rental housing health code enforcement.**

Background - As the overseer of public health concerns, the appointing authority for Town Health Officers, and the enforcement authority over the Lead Law, the Department of Health is the most obvious State agency to take responsibility for overseeing rental housing health code enforcement until a comprehensive system is developed and implemented. The Department must take on the leadership to explore the long-term options for a more professional system of rental housing code enforcement. The resources needed to conduct this oversight must be expanded.

- **Designate at least two FTE staff positions at the Dept. of Health to oversee a rental housing health code enforcement program with the following responsibilities:**
 - **Increase technical assistance and training for current town health officers.**
 - **Increase support of municipalities in difficult enforcement issues.**
 - **By January 15, 2020, in conjunction the Rental Housing Advisory Board (RHAB), research and develop recommendations for a long term implementable comprehensive system of improved professional rental housing code enforcement for communities not choosing to implement their own system. The plan shall include;**
 - **Outline of options, and recommendations from the REHAB and the DOH**
 - **Timelines and budgets for implementation of options**
 - **An update shall be provided to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs on Sept.30, 2019**
- **Expressly authorize the Department of Health to provide legal guidance and assistance to municipalities regarding rental housing habitability and provide resources necessary to carry out this function¹. Amend State statute to facilitate municipal enforcement of minimum housing standards.**
 - Background - Many municipal representatives repeatedly reported that they lack the financial resources and legal acumen to pursue litigation against persistent code violators. This is a significant obstacle to the efficacy of the existing code enforcement system. The Department of Health should be authorized to provide guidance to municipalities on legal matters regarding the steps necessary to enforce corrective action of code violations and unpaid code violation penalties.

¹ The Vermont Department of Health provided the Rental Housing Advisory Board with a memorandum outlining their legal capacity to assist municipalities and Town Health Officers. See Attachment.

- **Make the following changes to Vermont Statute in order to enhance the ability of municipalities to gain compliance with minimum housing standards:**

4 VSA § 1102 Judicial Bureau Jurisdiction

- (a) The Judicial Bureau shall have jurisdiction of the following matters:
(29) Violations of the Rental Housing Health Code of the Department of Health or municipality pursuant to 18 VSA § 603.

...

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed within the Judicial Bureau's jurisdiction, except:
(1) Municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979 and 18 V.S.A. § 603. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

18 V.S.A § 603 (b) is amended to read:

- (b) A local health officer may impose a fine of not more than \$200 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of the violation. A waiver fine shall be 50 percent of the imposed fine amount.

Fines imposed pursuant to this section where the cumulative penalty is \$800 or less shall be brought before the Judicial Bureau pursuant to Title 4 and this section. If the penalty for continuing violations is greater than \$800, or injunctive relief is sought, the action shall be brought in the Civil Division of the Superior Court.

The complaint shall be signed by the issuing municipal official. The original copy shall be filed with the Judicial Bureau, a copy shall be retained by the issuing municipal official, and two copies shall be given to the defendant.

The municipal official may void or amend the municipal complaint issued by that official by so marking the complaint and sending it to the Judicial Bureau. Procedure and enforcement of orders from the Judicial Bureau shall be as stipulated in 24 V.S.A. § 1979 and 1981.

- **Add clarifying language to existing statute requiring Town Health Officers to send written inspection reports (now required under Act 188) to the Department of Health. Create a data collection system for housing inspection reports housed at the Department of Health. (Effective on passage.)**
- **Direct the Dept of Health, in conjunction with the Dept. of Public Safety, other state agencies and the Rental Housing Advisory Committee, to maintain the <http://rentalcodes.org/> website, or something similar, to provide easy, explicit access to consumers, landlords, municipal officials and the public on all issues in Vermont related to rental housing codes.**

- Background – Since Vermont does not have one designated department to oversee codes that affect rental housing it is very difficult to find complete or comprehensive information. In response to recommendations from the Rental Housing Safety Committee Report of 2010, a website was created to act as a clearinghouse of information on Vermont’s rental housing codes. The maintenance of this site, was funded for five years under the responsibility of Vermont Housing Finance Agency. The site currently has neither financial support for maintenance and updating nor a parent organization tasked with ensuring it is up-to-date. As a result, the information is becoming outdated and knowledge of the site’s existence is sparse.
- **Direct the Department of Housing and Community Development, in coordination with other state agencies (including the Tax. Dept, GIS, 911 and VHFA) and associations (including VALA and VLCT) to develop a plan with, timelines and any fiscal impacts, for the comprehensive collection of rental housing data, including location, ownership, number and type of units. Due Jan. 15, 2020.**

Potential FY 20 Fiscal Impact:

Two FTE professional staff at Dept. of Health	\$200,000
Additional resources for legal assistance	\$50,000
Resources for IT and additional consulting	<u>\$50,000</u>
	\$300,000

Potential fee revenue:

As of Jan. 15, 2019, the Rental Housing Advisory Board did not review or make a recommendation concerning fees or an explicit registry for rental units.

Background:

- According to U.S. Census Bureau, American Community Survey Estimates there are an estimated **79,000 rental housing units in Vermont**. This results in an estimated **\$900 million paid each year in rents**.
- Of those units an estimated **27,000 units are subject to regular inspection** by municipalities or participate in a public subsidy program that requires inspection.
 - The range of municipal fees seems to be between \$35 and \$100 per unit per year.
- Dept. of Health maintains a registry of apartments built pre-1978 for purposes of lead abatement and essential maintenance practices.
- Short term rentals and lodging pay state room and meals tax. Licensed lodging pays an annual licensing fee to the Dept. of Health.
- As part of Act 188 the Dept of Taxes will now make available (by July 1, 2019) public information filed as part of the Landlord Certificate now required (as of 2016) to be filed by all landlords with two or more rental units or If you have one residential unit upon tenant request.

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