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S.79

Introduced by Senators Sirotkin, Clarkson and Balint

Referred to Committee on Economic Development, Housing and General
Affairs

Date: February 12, 2021

Subject: Housing

Statement of purpose of bill as introduced: This bill proposes to improve
rental housing health and safety.

An act relating to improving rental housing health and safety

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

~~*** Department of Public Safety; Authority for Rental Housing~~

~~Health and Safety ***~~

Sec. 1. 20 V.S.A. chapter 173 is redesignated and amended to read:

~~CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES;
PUBLIC BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS~~

~~***~~

~~Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes;
Rental Housing Health and Safety; Building Energy Standards~~

~~***~~

~~§ 2730. DEFINITIONS~~

1 ~~(a) As used in this subchapter, “public building” means:~~

2 ~~***~~

3 ~~(D) a building in which people rent accommodations, whether~~
4 ~~overnight or for a longer term, including “rental housing” as defined in~~
5 ~~subsection (f) of this section;~~

6 ~~***~~

7 ~~(2) Use of any portion of a building in a manner described in this~~
8 ~~subsection shall make the entire building a “public building” for purposes of~~
9 ~~this subsection. For purposes of this subsection, a “person” does not include~~
10 ~~an individual who is directly related to the employer and who resides in the~~
11 ~~employment-related building.~~

12 ~~(b) The term “public building” does not include:~~

13 ~~(1) An owner-occupied single family residence, unless used for a~~
14 ~~purpose described in subsection (a) of this section.~~

15 ~~***~~

16 ~~(4) A single family residence with an accessory dwelling unit as~~
17 ~~permitted under 24 V.S.A. § 4406(4)(D). [Repealed.]~~

18 ~~***~~

19 ~~(f) “Rental housing” means a “dwelling unit” as defined in 9 V.S.A. § 4451~~
20 ~~and a “short-term rental” as defined in 18 V.S.A. § 4301.~~

21 ~~§ 2751. RULES, INSPECTIONS, VARIANCES~~

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~~(a) Rules~~

~~(1) The Commissioner is authorized to adopt rules regarding the construction, health, safety, sanitation, and fitness for habitation of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.~~

~~* * *~~

~~(b) Inspections.~~

~~(1) The Commissioner shall conduct inspections of premises to ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property from fire of particular types of premises.~~

~~(2) The Commissioner may also conduct inspections to ensure that buildings are constructed in accordance with approved plans and drawings.~~

~~(3) When conducting an investigation of rental housing, the Commissioner shall:~~

~~(A) issue a written inspection report on the unit or building that:~~

~~(i) contains findings of fact that serve as the basis of one or more violations,~~

1 ~~(ii) specifies the requirements and timelines necessary to correct a~~

2 violation;

3 (iii) provides notice that the landlord is prohibited from renting
4 the affected unit to a new tenant until the violation is corrected; and

5 (iv) provides notice in plain language that the landlord or agents
6 of the landlord must have access to the rental unit to make repairs as ordered
7 by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;

8 (B) provide a copy of the inspection report to the landlord, to the
9 person who requested the inspection, and to any tenants who are affected by a
10 violation:

11 (i) electronically, if the Department has an electronic mailing
12 address for the person; or

13 (ii) by first-class mail, if the Department does not have an
14 electronic mailing address for the person;

15 (C) if an entire building is affected by a violation, provide a notice of
16 inspection, either directly to the individual tenants or posted in a common area,
17 that specifies:

18 (i) the date of the inspection;

19 (ii) that violations were found and must be corrected by a certain
20 date,

1 ~~(iii) how to obtain a copy of the inspection electronically or by~~

2 ~~first-class mail; and~~

3 ~~(iv) if the notice is posted in a common area, that the notice shall~~
4 ~~not be removed until authorized by the Commissioner;~~

5 ~~(D) make the inspection report available as a public record.~~

6 (c) Fees. The following fire prevention and building code fees are
7 established:

8 (1) The permit application fee for a construction plan approval shall be
9 based on \$8.00 per each \$1,000.00 of the total valuation of the construction
10 work proposed to be done for all buildings, but in no event shall the permit
11 application fee exceed \$185,000.00 nor be less than \$50.00.

12 (2) When an inspection is required due to the change in use or
13 ownership of a public building, the fee shall be \$125.00.

14 (3) The proof of inspection fee for fire suppression, alarm, detection,
15 and any other fire protection systems shall be \$30.00.

16 (4) Three-year initial certificate of fitness and renewal fees for
17 individuals performing activities related to fire or life safety established under
18 subsection (a) of this section shall be:

19 (A) Water-based fire protection system design:

20 (i) Initial certification: \$150.00.

21 ~~(ii) Renewal: \$50.00.~~

1 ~~(B) Water based fire protection system installation, maintenance,~~
2 ~~repair, and testing:~~
3 ~~(i) Initial certification: \$115.00.~~
4 ~~(ii) Renewal: \$50.00.~~
5 ~~(C) Gas appliance installation, inspection, and service: \$60.00.~~
6 ~~(D) Oil burning equipment installation, inspection, and service:~~
7 ~~\$60.00.~~
8 ~~(E) Fire alarm system inspection and testing: \$90.00.~~
9 ~~(F) Limited oil burning equipment installation, inspection, and~~
10 ~~service: \$60.00.~~
11 ~~(G) Domestic water-based fire protection system installation,~~
12 ~~maintenance, repair, and testing:~~
13 ~~(i) Initial certification: \$60.00.~~
14 ~~(ii) Renewal: \$20.00.~~
15 ~~(H) Fixed fire extinguishing system design, installation, inspection,~~
16 ~~servicing, and recharging:~~
17 ~~(i) Initial certification: \$60.00.~~
18 ~~(ii) Renewal: \$20.00.~~
19 ~~(I) Emergency generator installation, maintenance, repair, and~~
20 ~~testing. \$50.00,~~

1 ~~(D) Chimney and solid fuel burning appliance cleaning, maintenance,~~
2 and evaluation: \$30.00.

3 (d) Permit processing. The Commissioner shall make all practical efforts
4 to process permits in a prompt manner. The Commissioner shall establish time
5 limits for permit processing as well as procedures and time periods within
6 which to notify applicants whether an application is complete.

7 (e) Variances; exemptions. Except for any rules requiring the education
8 module regarding the State's energy goals described in subdivision (a)(2) of
9 this section, the Commissioner may grant variances or exemptions from rules
10 adopted under this subchapter where strict compliance would entail practical
11 difficulty, unnecessary hardship, or is otherwise found unwarranted, provided
12 that:

13 (1) any such variance or exemption secures the public safety and health;

14 (2) any petitioner for such a variance or exemption can demonstrate that
15 the methods, means, or practices proposed to be taken in lieu of compliance
16 with the rule or rules provide, in the opinion of the Commissioner, equal
17 protection of the public safety and health as provided by the rule or rules;

18 (3) the rule or rules from which the variance or exemption is sought has
19 not also been adopted as a rule or standard under 21 V.S.A. chapter 3,
20 ~~subchapters 4 and 5, and~~

1 ~~(4) any such variance or exemption does not violate any of the~~
2 provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.

3 * * *

4 § 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE
5 STRUCTURE

6 ~~(a)(1)~~ Whenever the ~~commissioner~~ Commissioner finds that premises or
7 any part of them does not meet the standards adopted under this subchapter,
8 the ~~commissioner~~ Commissioner may order it repaired or rehabilitated.

9 ~~(2)~~ If ~~it~~ the premises is not repaired or rehabilitated within a reasonable
10 time as specified by the ~~commissioner~~ Commissioner in his or her order, the
11 ~~commissioner~~ Commissioner may order the premises or part of them closed, if
12 by doing so the public safety will not be imperiled; otherwise he or she shall
13 order demolition and removal of the structure, or fencing of the premises.

14 ~~(3)~~ Whenever a violation of the rules is deemed to be imminently
15 hazardous to persons or property, the ~~commissioner~~ Commissioner shall order
16 the violation corrected immediately.

17 ~~(4)~~ If the violation is not corrected, the ~~commissioner~~ Commissioner
18 may ~~then~~ order the premises or part of them immediately closed and to remain
19 closed until the violation is corrected.

20 (b) Whenever a structure, by reason of age, neglect, want of repair, action
21 of the elements, destruction, either partial or total by fire or other casualty or

1 ~~other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous~~
2 as to constitute a material menace or damage in any way to adjacent property,
3 or to the public, and has so remained for a period of not less than one week,
4 the ~~commissioner~~ Commissioner may order such structure demolished and
5 removed.

6 (c) Orders issued under this section shall be served by certified mail with
7 return receipt requested ~~or in the discretion of the commissioner~~
8 Commissioner, shall be served in the same manner as summonses are served
9 under the Vermont Rules of Civil Procedure promulgated by the ~~supreme court~~
10 Supreme Court, to all persons who have a recorded interest in the property
11 recorded in the place where land records for the property are recorded, or who
12 will be temporarily or permanently displaced by the order, including owners,
13 tenants, mortgagees, attaching creditors, lien holders, and public utilities or
14 water companies serving the premises.

15 § 2734. PENALTIES

16 (a)(1) A person who violates any provision of this subchapter or any order
17 or rule issued pursuant thereto shall be fined not more than \$10,000.00.

18 (2) The ~~state's attorney~~ State's Attorney of the county in which such
19 violation occurs shall prosecute the violation and may commence a proceeding
20 ~~in the superior court~~ Superior Court to compel compliance with such order or

1 ~~rule, and such court may make orders and decrees therein by way of writ of~~
2 injunction or otherwise.

3 (b)(1) A person who fails to comply with a lawful order issued under
4 authority of this subchapter in case of sudden emergency shall be fined not
5 more than \$20,000.00.

6 (2) A person who fails to comply with an order requiring notice shall be
7 fined \$200.00 for each day's neglect commencing with the effective date of
8 such order or the date such order is finally determined if an appeal has been
9 filed.

10 (c)(1) ~~The commissioner~~ Commissioner may, after notice and opportunity
11 for hearing, assess an administrative penalty of not more than \$1,000.00 for
12 each violation of this subchapter or any rule adopted under this subchapter.

13 (2) Penalties assessed pursuant to this subsection shall be based on the
14 severity of the violation.

15 (3) An election by the ~~commissioner~~ Commissioner to proceed under
16 this subsection shall not limit or restrict the ~~commissioner's~~ Commissioner's
17 authority under subsection (a) of this section.

18 (d) Violation of any rule adopted under this subchapter shall be prima facie
19 evidence of negligence in any civil action for damage or injury ~~which that is~~
20 the result of the violation.

1 ~~§ 2736. MUNICIPAL ENFORCEMENT.~~

2 ~~(a)(1) The legislative body of a municipality may appoint one or more~~
3 ~~trained and qualified officials and may establish procedures to enforce rules~~
4 ~~and standards adopted under subsection 2731(a) of this title.~~

5 ~~(2) After considering the type of buildings within the municipality, if~~
6 ~~the ~~commissioner~~ Commissioner determines that the training, qualifications,~~
7 ~~and procedures are sufficient, he or she may assign responsibility to the~~
8 ~~municipality for enforcement of some or all of these rules and standards.~~

9 ~~(3) The ~~commissioner~~ Commissioner may also assign responsibility for~~
10 ~~enforcement of the rules of the access board adopted under section 2902 of this~~
11 ~~title.~~

12 ~~(4) The ~~commissioner~~ Commissioner shall provide continuing review,~~
13 ~~consultation, and assistance as may be necessary.~~

14 ~~(5) The assignment of responsibility may be revoked by the~~
15 ~~~~commissioner~~ Commissioner after notice and an opportunity for hearing if the~~
16 ~~~~commissioner~~ Commissioner determines that the training, qualifications, or~~
17 ~~procedures are insufficient.~~

18 ~~(6) The assignment of responsibility shall not affect the ~~commissioner's~~~~
19 ~~Commissioner's authority under this subchapter.~~

20 ~~(b) If a municipality assumes responsibility under subsection (a) of this~~
21 ~~section for performing any functions that would be subject to a fee established~~

1 ~~under subsection 2731(a) of this title, the municipality may establish and~~
2 collect reasonable fees for its own use, and no fee shall be charged for the
3 benefit of the state State.

4 (c)(1) Subject to rules adopted under section 2731 of this title, municipal
5 officials appointed under this section may enter any premises in order to carry
6 out the responsibilities of this section.

7 (2) The officials may order the repair, rehabilitation, closing,
8 demolition, or removal of any premises to the same extent as the ~~commissioner~~
9 Commissioner may under section 2732 of this title.

10 (d) Upon a determination by the ~~commissioner~~ Commissioner that a
11 municipality has established sufficient procedures for granting variances and
12 exemptions, such variances and exemptions may be granted to the same extent
13 authorized under subsection 2731(b) of this title.

14 (e) The results of all activities conducted by municipal officials under this
15 section shall be reported to the ~~commissioner~~ Commissioner periodically upon
16 request.

17 (f) Nothing in this section shall be interpreted to decrease the authority of
18 municipal officials under other laws, including laws concerning building codes
19 and laws concerning housing codes.

~~§ 2728. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL~~

FUND

(a) The fire prevention and building inspection special fund revenues shall be from the following sources:

(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;

(2) fees relating to boilers and pressure vessels under section 2883 of this title;

(3) fees relating to electrical installations and inspections and the licensing of electricians under 26 V.S.A. §§ 891-915;

(4) fees relating to cigarette certification under section 2757 of this title; and

(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171-2199.

(b) Fees collected under subsection (a) of this section shall be available to the ~~department of public safety~~ Department of Public Safety to offset the costs of the ~~division of fire safety~~ Division of Fire Safety.

(c) The ~~commissioner of finance and management~~ Commissioner of Finance and Management may anticipate receipts to this fund and issue warrants based thereon.

~~*** State Rental Housing Registry; Registration Requirement ***~~

Sec. 2. 3 V.S.A. § 2478 is added to read:

§ 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA

(a) The Department of Housing and Community Development, in coordination with the Division of Fire Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes, shall create and maintain a registry of the rental housing in this State, which includes a “dwelling unit” as defined in 9 V.S.A. § 4451 and a “short-term rental” as defined in 18 V.S.A. § 4301.

(b) The Department of Housing and Community Development shall require for each unit that is registered the following data:

(1) the name of the owner or landlord;

(2) phone number, electronic mail, and mailing address of the landlord,

as available;

(3) location of the unit;

(4) year built;

(5) type of rental unit;

(6) number of units in the building;

(7) school property account number;

(8) accessibility of the unit; and

(9) any other information the Department deems appropriate.

1 ~~(c) Upon request of the Department of Housing and Community~~
2 Development, and at least annually, a municipal, district, or other local
3 government entity that operates a rental housing health and safety program that
4 requires registration of a rental housing unit and a fee for inclusion on the
5 registry shall provide to the Department the data for each unit that is required
6 pursuant to subsection (b) of this section.

7 Sec. 3. 3 V.S.A. § 2479 is added to read:

8 § 2479. RENTAL HOUSING REGISTRATION

9 (a) Except as provided in subsection (c) of this section, an owner of long-
10 term rental housing that is subject to 9 V.S.A. chapter 137 shall:

11 (1) file with the Department of Taxes the landlord certificate required
12 for the renter's rebate or the renter credit program; and

13 (2) within 30 days of filing the certificate, register with and pay to the
14 Department of Housing and Community Development an annual registration
15 fee of \$35.00 per rental unit, unless the owner has within the preceding
16 12 months:

17 (A) registered the unit pursuant to subsection (b) of this section; or

18 (B) registered the unit with a municipal, district, or other local
19 government entity that operates a rental housing health and safety program.

20 (b) Except as provided in subsection (c) of this section, an owner of a
21 short-term rental, as defined in 18 V.S.A. § 4501, shall, annually, within

1 ~~30 days of renting a unit, register with and pay to the Department of Housing~~
2 ~~and Community Development an annual registration fee of \$35.00 per rental~~
3 ~~unit, unless the owner has within the preceding 12 months:~~

4 ~~(1) registered the unit pursuant to subsection (a) of this section; or~~

5 ~~(2) registered the unit with a municipal, district, or other local~~
6 ~~government entity that operates a rental housing health and safety program.~~

7 ~~(c)(1) An owner of a mobile home lot within a mobile home park who has~~
8 ~~registered the lot with the Department of Housing and Community~~
9 ~~Development and who does not own a mobile home on the lot is exempt from~~
10 ~~registering the lot pursuant to this section.~~

11 ~~(2) An owner of a mobile home lot within a mobile home park who has~~
12 ~~registered the lot with the Department and who owns a mobile home on the lot~~
13 ~~that is available for rent or rented shall register the property with the~~
14 ~~Department and pay a fee equal to the fee required by subdivision (a)(2) of this~~
15 ~~section less any fee paid within the previous 12 months pursuant to 10 V.S.A.~~
16 ~~§ 6254(c).~~

17 ~~(3) An owner of a mobile home who rents the mobile home, whether~~
18 ~~located in a mobile home park, shall register pursuant to this section.~~

19 ~~(d) An owner of rental housing who fails to register pursuant to this section~~
20 ~~shall pay a late registration fee of \$150.00 and may be subject to~~
21 ~~administrative penalties not to exceed \$5,000.00 for each violation.~~

*** Positions Authorized ***

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.

Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS

(a) The Department of Housing and Community Development is authorized to create one-and-a-half full-time classified positions to administer and enforce the registry requirements created in 3 V.S.A. § 2478 and one full-time classified position to enforce compliance with registry requirements.

(b) It is the intent of the General Assembly to fund the implementation of the provisions in this act from the registration fees collected by the Department of Housing and Community Development pursuant to 3 V.S.A. § 2479.

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

Sec. 6. 18 V.S.A. chapter 11 is amended to read:

CHAPTER 11. LOCAL HEALTH OFFICIALS

1 ~~§ 602. DUTIES OF LOCAL HEALTH OFFICERS~~

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

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

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

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

10 ~~(4) in consultation with the Department, take the steps necessary to~~
11 ~~enforce all orders issued pursuant to chapter 3 of this title; and~~

12 ~~(5) have the authority to assist the Division of Fire Safety in inspecting~~
13 ~~rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2.~~

14 ~~(b) Upon discovery of violation or a public health hazard or public health~~
15 ~~risk that involves a public water system, a food or lodging establishment, or~~
16 ~~any other matter regulated by Department rule, the local health officer shall~~
17 ~~immediately notify the Division of Environmental Health. Upon discovery of~~
18 ~~any other violation, public health hazard, or public health risk, the local health~~
19 ~~officer shall notify the Division of Environmental Health within 48 hours of~~
20 ~~discovery of such violation or hazard and of any action taken by the officer.~~

~~§ 602. RENTAL HOUSING SAFETY; INSPECTION REPORTS~~

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

~~(2) A written inspection report shall:~~

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

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

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

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

~~(3) A local health officer shall:~~

~~(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and~~

1 ~~(P)(i) if a municipality has established a code enforcement office,~~
2 ~~provide information on each inspection according to a schedule and in a~~
3 ~~format adopted by the Department in consultation with municipalities that~~
4 ~~have established code enforcement offices; or~~

5 ~~(ii) if a municipality has not established a code enforcement~~
6 ~~office, provide information on each inspection to the Department within seven~~
7 ~~days of issuing the report using an electronic system designed for that purpose,~~
8 ~~or within 14 days by mail if the municipality is unable to utilize the electronic~~
9 ~~system.~~

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

14 ~~(5) A municipality shall make an inspection report available as a public~~
15 ~~record.~~

16 ~~(b)(1) A local health officer may impose a civil penalty of not more than~~
17 ~~\$200.00 per day for each violation that is not corrected by the date provided in~~
18 ~~the written inspection report, or when a unit is re-rented to a new tenant prior~~
19 ~~to the correction of a violation.~~

20 ~~(2)(A) If the cumulative amount of penalties imposed pursuant to this~~
21 ~~subsection is \$800.00 or less, the local health officer, Department of Health, or~~

1 ~~State's Attorney may bring a civil enforcement action in the Judicial Bureau~~
2 ~~pursuant to 4 V.S.A. chapter 29.~~

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

5 ~~(3) If the cumulative amount of penalties imposed pursuant to this~~
6 ~~subsection is more than \$800.00, or if injunctive relief is sought, the local~~
7 ~~health officer, Department of Health, or State's Attorney may commence an~~
8 ~~action in the Civil Division of the Superior Court for the county in which a~~
9 ~~violation occurred.~~

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

14 [Repealed.]

15 * * *

16 * * * Transition Provisions * * *

17 Sec. 7. RENTAL HOUSING HEALTH AND SAFETY; TRANSITION
18 PROVISIONS

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

20 (1) Until the Commissioner of Public Safety adopts rules governing

21 rental housing health and safety pursuant to 20 V.S.A. § 2751, the Department

1 ~~of Health, local officials authorized by law, and the Department of Public~~
2 Safety have concurrent authority to enforce the Vermont Rental Housing
3 Health Code adopted by the Department of Health pursuant to 18 V.S.A.
4 § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 801(b)(11).

5 (2) The Commissioner of Public Safety may immediately adopt a rule
6 incorporating the Rental Housing Health Code without following the
7 procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.

8 (3) Except as provided in subdivision (2) of this subsection, the
9 Commissioner of Public Safety shall comply with the requirements for general
10 rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental
11 housing health and safety.

12 (b) Upon the adoption of rules governing rental housing health and safety
13 pursuant to the authority in 20 V.S.A. § 2731:

14 (1) the Department of Public Safety is the State government entity with
15 primary authority to enforce State laws governing rental housing health and
16 safety;

17 (2) the Department of Public Safety and local officials have concurrent
18 authority to enforce State and local laws governing rental housing health and
19 safety pursuant to 18 V.S.A. chapter 11; 20 V.S.A. chapter 173, subchapter 2;
20 24 V.S.A. chapters 85 and 125, and applicable municipal law, and

1 ~~(2) the Department of Health, the State Board of Health, and local~~
2 health officials have concurrent authority to enforce State and local laws
3 governing public health hazards and public health risks, as those terms are
4 defined in 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

5 * * * Appropriations * * *

6 Sec. 8. APPROPRIATIONS

7 (a) The amount of \$200,000.00 is appropriated from the General Fund to
8 the Department of Housing and Community Development as one-time start-up
9 funding to assist in creating the rental housing registry created in 3 V.S.A.
10 § 2478 and to fund the positions authorized in Sec. 5 of this act.

11 (b) The amount of \$200,000.00 is appropriated from the General Fund to
12 the Division of Fire Safety as one-time start-up funding for the positions
13 authorized in Sec. 4 of this act.

14 (c) From the amounts collected from rental housing registration fees
15 pursuant to 3 V.S.A. § 2479, the Commissioner of Finance and Management
16 shall allocate:

17 (1) \$200,000.00 to the Department of Housing and Community
18 Development to assist in creating the rental housing registry created in
19 3 V.S.A. § 2478 and to fund the positions authorized in Sec. 5 of this act; and

20 (2) \$345,691.00 to the Division of Fire Safety to assist in funding the
21 positions authorized in Sec. 4 of this act.

*** Effective Dates ***

Sec. 9. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 2 (rental housing registry); and

(2) Sec. 7 (DPS rulemaking authority and transition provisions).

(b) The following sections take effect on July 1, 2021:

(1) Sec. 5 (DHCD positions); and

(2) Sec. 8 (appropriations).

(c) Sec. 4 (DPS positions) shall take effect on October 1, 2021.

(d) The following sections shall take effect on January 1, 2022:

(1) Sec. 1 (DPS authority for rental housing health and safety);

(2) Sec. 3 (rental housing registration); and

(3) Sec. 6 (conforming changes to Department of Health statutes).

**** Department of Public Safety; Authority for Rental Housing
Health and Safety ****

Sec. 1. 20 V.S.A. chapter 173 is amended to read:

*CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES; PUBLIC
BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS*

*Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes;
Rental Housing Health and Safety; Building Energy Standards*

§ 2729. GENERAL PROVISIONS; FIRE SAFETY; CARBON MONOXIDE

*(a) A person shall not build or cause to be built any structure that is unsafe
or likely to be unsafe to other persons or property in case of fire or generation
and leakage of carbon monoxide.*

~~(b) A person shall not maintain, keep or operate any premises or any part thereof, or cause or permit to be maintained, kept, or operated, any premises or part thereof, under his or her control or ownership in a manner that causes or is likely to cause harm to other persons or property in case of fire or generation and leakage of carbon monoxide.~~

~~(c) On premises under a person's control, excluding single family owner-occupied houses and premises, that person shall observe rules adopted under this subchapter for the prevention of fires and carbon monoxide leakage that may cause harm to other persons or property.~~

~~(d) Any condominium or multiple unit dwelling using a common roof, or row houses so-called, or other residential buildings in which people sleep, including hotels, motels, and tourist homes, excluding single family owner-occupied houses and premises, whether the units are owned or leased or rented, shall be subject to the rules adopted under this subchapter and shall be provided with one or more carbon monoxide detectors, as defined in 9 V.S.A. § 2881(3), properly installed according to the manufacturer's requirements.~~

~~§ 2730. DEFINITIONS~~

~~(a) As used in this subchapter, "public building" means:~~

~~***~~

~~(D) a building in which people rent accommodations, whether overnight or for a longer term, including "rental housing" as defined in subsection (f) of this section;~~

~~***~~

~~(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a "public building" for purposes of this subsection. For purposes of this subsection, a "person" does not include an individual who is directly related to the employer and who resides in the employment-related building.~~

~~(b) The term "public building" does not include:~~

~~(1) An owner-occupied single family residence, unless used for a purpose described in subsection (a) of this section.~~

~~***~~

~~(4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D). [Repealed.]~~

~~***~~

~~(f) "Rental housing" means a "dwelling unit" as defined in 9 V.S.A. §~~

~~4451 and a "short-term rental" as defined in 18 V.S.A. § 4301.~~

~~§ 2731. RULES; INSPECTIONS; VARIANCES~~

~~(a) Rules.~~

~~(1) The Commissioner is authorized to adopt rules regarding the construction, health, safety, sanitation, and fitness for habitation of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.~~

~~* * *~~

~~(b) Inspections.~~

~~(1) The Commissioner shall conduct inspections of premises to ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property from fire of particular types of premises.~~

~~(2) The Commissioner may also conduct inspections to ensure that buildings are constructed in accordance with approved plans and drawings.~~

~~(3) When conducting an investigation of rental housing, the Commissioner shall:~~

~~(A) issue a written inspection report on the unit or building that:~~

~~(i) contains findings of fact that serve as the basis of one or more violations;~~

~~(ii) specifies the requirements and timelines necessary to correct a violation;~~

~~(iii) provides notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and~~

~~(iv) provides notice in plain language that the landlord or agents of the landlord must have access to the rental unit to make repairs as ordered by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;~~

~~(B) provide a copy of the inspection report to the landlord, to the person who requested the inspection, and to any tenants who are affected by a violation:~~

~~(i) electronically, if the Department has an electronic mailing address for the person; or~~

~~(ii) by first class mail, if the Department does not have an~~

~~electronic mailing address for the person:~~

~~(C) if an entire building is affected by a violation, provide a notice of inspection, either directly to the individual tenants or posted in a common area, that specifies:~~

~~(i) the date of the inspection;~~

~~(ii) that violations were found and must be corrected by a certain date;~~

~~(iii) how to obtain a copy of the inspection electronically or by first-class mail; and~~

~~(iv) if the notice is posted in a common area, that the notice shall not be removed until authorized by the Commissioner;~~

~~(D) make the inspection report available as a public record.~~

~~(c) Fees. The following fire prevention and building code fees are established:~~

~~(1) The permit application fee for a construction plan approval shall be based on \$8.00 per each \$1,000.00 of the total valuation of the construction work proposed to be done for all buildings, but in no event shall the permit application fee exceed \$185,000.00 nor be less than \$50.00.~~

~~(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be \$125.00.~~

~~(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be \$50.00.~~

~~(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:~~

~~(A) Water-based fire protection system design:~~

~~(i) Initial certification: \$150.00.~~

~~(ii) Renewal: \$50.00.~~

~~(B) Water-based fire protection system installation, maintenance, repair, and testing:~~

~~(i) Initial certification: \$115.00.~~

~~(ii) Renewal: \$50.00.~~

~~(C) Gas appliance installation, inspection, and service: \$60.00.~~

~~(D) Oil burning equipment installation, inspection, and service.~~

~~\$60.00.~~

~~(E) Fire alarm system inspection and testing: \$90.00.~~

~~(F) Limited oil burning equipment installation, inspection, and services: \$60.00.~~

~~(G) Domestic water-based fire protection system installation, maintenance, repair, and testing:~~

~~(i) Initial certification: \$60.00.~~

~~(ii) Renewal: \$20.00.~~

~~(H) Fixed fire extinguishing system design, installation, inspection, servicing, and recharging:~~

~~(i) Initial certification: \$60.00.~~

~~(ii) Renewal: \$20.00.~~

~~(I) Emergency generator installation, maintenance, repair, and testing: \$30.00;~~

~~(J) Chimney and solid fuel burning appliance cleaning, maintenance, and evaluation: \$30.00.~~

~~(d) Permit processing. The Commissioner shall make all practical efforts to process permits in a prompt manner. The Commissioner shall establish time limits for permit processing as well as procedures and time periods within which to notify applicants whether an application is complete.~~

~~(e) Variances; exemptions. Except for any rules requiring the education module regarding the State's energy goals described in subdivision (a)(2) of this section, the Commissioner may grant variances or exemptions from rules adopted under this subchapter where strict compliance would entail practical difficulty, unnecessary hardship, or is otherwise found unwarranted, provided that:~~

~~(1) any such variance or exemption secures the public safety and health;~~

~~(2) any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the Commissioner, equal protection of the public safety and health as provided by the rule or rules;~~

~~(3) the rule or rules from which the variance or exemption is sought has not also been adopted as a rule or standard under 21 V.S.A. chapter 3, subchapters 4 and 5; and~~

~~(4) Any such variance or exemption does not violate any of the provisions of 26 V.S.A. chapters 3 and 20 or any rules adopted thereunder.~~

~~***~~

~~§ 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE
STRUCTURE~~

~~(a)(1) Whenever the ~~commissioner~~ Commissioner finds that premises or any part of them does not meet the standards adopted under this subchapter, the ~~commissioner~~ Commissioner may order it repaired or rehabilitated.~~

~~(2) If ~~the premises~~ is not repaired or rehabilitated within a reasonable time as specified by the ~~commissioner~~ Commissioner in his or her order, the ~~commissioner~~ Commissioner may order the premises or part of them closed, if by doing so the public safety will not be imperiled; otherwise he or she shall order demolition and removal of the structure, or fencing of the premises.~~

~~(3) Whenever a violation of the rules is deemed to be imminently hazardous to persons or property, the ~~commissioner~~ Commissioner shall order the violation corrected immediately.~~

~~(4) If the violation is not corrected, the ~~commissioner~~ Commissioner may ~~then~~ order the premises or part of them immediately closed and to remain closed until the violation is corrected.~~

~~(b) Whenever a structure, by reason of age, neglect, want of repair, action of the elements, destruction, either partial or total by fire or other casualty or other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous as to constitute a material menace or damage in any way to adjacent property, or to the public, and has so remained for a period of not less than one week, the ~~commissioner~~ Commissioner may order such structure demolished and removed.~~

~~(c) Orders issued under this section shall be served by certified mail with return receipt requested or in the discretion of the ~~commissioner~~ Commissioner, shall be served in the same manner as summonses are served under the Vermont Rules of Civil Procedure promulgated by the ~~supreme court~~ Supreme Court, to all persons who have a recorded interest in the property recorded in the place where land records for the property are recorded, or who will be temporarily or permanently displaced by the order, including owners, tenants, mortgagees, attaching creditors, lien holders, and public utilities or water companies serving the premises.~~

~~§ 2734. PENALTIES~~

~~(a)(1) A person who violates any provision of this subchapter or any order or rule issued pursuant thereto shall be fined not more than \$10,000.00.~~

~~(2) The state's attorney State's Attorney of the county in which such violation occurs shall prosecute the violation and may commence a proceeding in the superior court Superior Court to compel compliance with such order or rule, and such court may make orders and decrees therein by way of writ of injunction or otherwise.~~

~~(b)(1) A person who fails to comply with a lawful order issued under authority of this subchapter in case of sudden emergency shall be fined not more than \$20,000.00.~~

~~(2) A person who fails to comply with an order requiring notice shall be fined \$200.00 for each day's neglect commencing with the effective date of such order or the date such order is finally determined if an appeal has been filed.~~

~~(c)(1) The commissioner Commissioner may, after notice and opportunity for hearing, assess an administrative penalty of not more than \$1,000.00 for each violation of this subchapter or any rule adopted under this subchapter.~~

~~(2) Penalties assessed pursuant to this subsection shall be based on the severity of the violation.~~

~~(3) An election by the commissioner Commissioner to proceed under this subsection shall not limit or restrict the commissioner's Commissioner's authority under subsection (a) of this section.~~

~~(d) Violation of any rule adopted under this subchapter shall be prima facie evidence of negligence in any civil action for damage or injury which that is the result of the violation.~~

* * *

§ 2736. MUNICIPAL ENFORCEMENT

~~(a)(1) The legislative body of a municipality may appoint one or more trained and qualified officials and may establish procedures to enforce rules and standards adopted under subsection 2731(a) of this title.~~

~~(2) After considering the type of buildings within the municipality, if the commissioner Commissioner determines that the training, qualifications, and procedures are sufficient, he or she may assign responsibility to the municipality for enforcement of some or all of these rules and standards.~~

~~(3) The commissioner Commissioner may also assign responsibility for enforcement of the rules of the access board adopted under section 2902 of this title.~~

~~(4) The commissioner Commissioner shall provide continuing review, consultation, and assistance as may be necessary.~~

~~(5) The assignment of responsibility may be revoked by the ~~commissioner~~ Commissioner after notice and an opportunity for hearing if the ~~commissioner~~ Commissioner determines that the training, qualifications, or procedures are insufficient.~~

~~(6) The assignment of responsibility shall not affect the ~~commissioner's~~ Commissioner's authority under this subchapter.~~

~~(b) If a municipality assumes responsibility under subsection (a) of this section for performing any functions that would be subject to a fee established under subsection 2731(a) of this title, the municipality may establish and collect reasonable fees for its own use, and no fee shall be charged for the benefit of the state State.~~

~~(c)(1) Subject to rules adopted under section 2731 of this title, municipal officials appointed under this section may enter any premises in order to carry out the responsibilities of this section.~~

~~(2) The officials may order the repair, rehabilitation, closing, demolition, or removal of any premises to the same extent as the ~~commissioner~~ Commissioner may under section 2732 of this title.~~

~~(d) Upon a determination by the ~~commissioner~~ Commissioner that a municipality has established sufficient procedures for granting variances and exemptions, such variances and exemptions may be granted to the same extent authorized under subsection 2731(b) of this title.~~

~~(e) The results of all activities conducted by municipal officials under this section shall be reported to the ~~commissioner~~ Commissioner periodically upon request.~~

~~(f) Nothing in this section shall be interpreted to decrease the authority of municipal officials under other laws, including laws concerning building codes and laws concerning housing codes.~~

~~***~~

~~§ 2738. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL FUND~~

~~(a) The fire prevention and building inspection special fund revenues shall be from the following sources:~~

~~(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;~~

~~(2) fees relating to boilers and pressure vessels under section 2883 of this title;~~

~~(3) fees relating to electrical installations and inspections and the licensing of electricians under 26 V.S.A. §§ 891-915;~~

~~(4) fees relating to cigarette certification under section 2757 of this title; and~~

~~(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171-2199.~~

~~(b) Fees collected under subsection (a) of this section shall be available to the department of public safety Department of Public Safety to offset the costs of the division of fire safety Division of Fire Safety.~~

~~(c) The commissioner of finance and management Commissioner of Finance and Management may anticipate receipts to this fund and issue warrants based thereon.~~

~~***~~

~~*** State Rental Housing Registry; Registration Requirement ***~~

~~Sec. 2. 3 V.S.A. § 2478 is added to read:~~

~~§ 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA~~

~~(a) The Department of Housing and Community Development, in coordination with the Division of Fire Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes, shall create and maintain a registry of the rental housing in this State, which includes a "dwelling unit" as defined in 9 V.S.A. § 4451 and a "short-term rental" as defined in 18 V.S.A. § 4301.~~

~~(b) The Department of Housing and Community Development shall require for each unit that is registered the following data:~~

~~(1) the name of the owner or landlord;~~

~~(2) phone number, electronic mail, and mailing address of the landlord, as available;~~

~~(3) location of the unit;~~

~~(4) year built;~~

~~(5) type of rental unit;~~

~~(6) number of units in the building;~~

~~(7) school property account number;~~

~~(8) accessibility of the unit; and~~

~~(9) any other information the Department deems appropriate.~~

~~(c) Upon request of the Department of Housing and Community Development, and at least annually, a municipal, district, or other local government entity that operates a rental housing health and safety program that requires registration of a rental housing unit and a fee for inclusion on the registry shall provide to the Department the data for each unit that is required pursuant to subsection (b) of this section.~~

~~(d) The registry, and data collected by the registry, shall be protected pursuant to 1 V.S.A. § 317 (c)(2) and may only be released to specifically designated persons who, in the discretion of the Department, shall use such data to further the public good. Registry data may not be disclosed to entities for the purposes of solicitation campaigns without express authority granted by the Department. Data about a specific unit may be disclosed to the owner or operator of the rental unit regulated by the registry for the purpose of informing the owner or operator of its registry status.~~

~~Sec. 3. 3 V.S.A. § 2479 is added to read:~~

~~§ 2479. RENTAL HOUSING REGISTRATION~~

~~(a) Except as provided in subsection (c) of this section, an owner of rental housing that is subject to 9 V.S.A. chapter 137 shall:~~

~~(1) file with the Department of Taxes the landlord certificate required for the renter's rebate or the renter credit program; and~~

~~(2) within 30 days of filing the certificate, register, provide the information required by subsection 2478(b) of this title, and pay to the Department of Housing and Community Development an annual registration fee of \$35.00 per rental unit, unless the owner has within the preceding 12 months:~~

~~(A) registered the unit pursuant to subsection (b) of this section; or~~

~~(B) registered the unit with a municipal, district, or other local government entity that operates a rental housing health and safety program with a rental registry that complies with subsection 2478(b) of this title.~~

~~(b) Except as provided in subsection (c) of this section, an owner of a short-term rental, as defined in 18 V.S.A. § 4301, shall, annually, within 30 days of renting a unit, register with and pay to the Department of Housing and Community Development an annual registration fee of \$35.00 per rental unit, unless the owner has within the preceding 12 months:~~

~~(1) registered the unit pursuant to subsection (a) of this section; or~~

~~(2) registered the unit with a municipal, district, or other local government entity that operates a rental housing health and safety program~~

~~with a rental registry that complies with subsection 2478(b) of this title.~~

~~(c)(1) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department of Housing and Community Development and who does not own a mobile home on the lot is exempt from registering the lot pursuant to this section.~~

~~(2) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department and who owns a mobile home on the lot that is available for rent or rented shall register the property with the Department and pay a fee equal to the fee required by subdivision (a)(2) of this section less any fee paid within the previous 12 months pursuant to 10 V.S.A. § 6254(c).~~

~~(3) An owner of a mobile home who rents the mobile home, whether located in a mobile home park, shall register pursuant to this section.~~

~~(d) An owner of rental housing who fails to register pursuant to this section shall pay a late registration fee of \$150.00 and may be subject to administrative penalties not to exceed \$5,000.00 for each violation.~~

~~(e) The Department of Housing and Community Development shall maintain the registration fees collected pursuant to this section in a special fund entitled the Rental Housing Safety Special Fund, the proceeds of which the Department shall use:~~

~~(1) to hire authorized staff to administer the registry and registration requirements imposed in this section and in section 2478 of this title; and~~

~~(2) to provide funding to the Department of Public Safety to hire authorized staff to conduct inspections and regulate rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2.~~

~~* * * Positions Authorized * * *~~

~~Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS~~

~~(a) The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.~~

~~(b) In fiscal year 2022, the amount of \$200,000.00 is appropriated from the General Fund to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to subsection (a) of this section~~

~~(c) The Department may hire additional inspectors authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.~~

~~Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT; POSITIONS~~

~~(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to administer and enforce the registry requirements created in 3 V.S.A. § 2478.~~

~~(b) In fiscal year 2022, the amount of \$200,000.00 is appropriated from the General Fund to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to subsection (a) of this section.~~

~~(c) The Department may hire additional staff authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.~~

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

~~Sec. 6. 18 V.S.A. chapter 11 is amended to read:~~

~~CHAPTER 11. LOCAL HEALTH OFFICIALS~~

~~* * *~~

~~§ 602a. DUTIES OF LOCAL HEALTH OFFICERS~~

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

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

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

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

~~(4) in consultation with the Department, take the steps necessary to enforce all orders issued pursuant to chapter 3 of this title; and~~

~~(5) have the authority to assist the Division of Fire Safety in inspecting rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2, provided that if the local health officer inspects a rental property without an inspector from the Division, the officer shall issue an inspection report in compliance with 20 V.S.A. § 2731(b).~~

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

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

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

~~(2) A written inspection report shall:~~

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

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

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

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

~~(3) A local health officer shall:~~

~~(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and~~

~~(B)(i) if a municipality has established a code enforcement office, provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or~~

~~(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, or within 14 days by mail if the municipality is unable to utilize the electronic system.~~

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

~~(5) A municipality shall make an inspection report available as a public record.~~

~~(b)(1) A local health officer may impose a civil penalty of not more than \$200.00 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 a violation.~~

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

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

~~(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.~~

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

~~[Repealed.]~~

~~* * *~~

~~* * * Transition Provisions * * *~~

~~Sec. 7. RENTAL HOUSING HEALTH AND SAFETY; TRANSITION PROVISIONS~~

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

~~(1) Until the Commissioner of Public Safety adopts rules governing rental housing health and safety pursuant to 20 V.S.A. § 2731, the Department of Health, local officials authorized by law, and the Department of Public Safety have concurrent authority to enforce the Vermont Rental Housing Health Code adopted by the Department of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 801(b)(1).~~

~~(2) The Commissioner of Public Safety may immediately adopt a rule incorporating the Rental Housing Health Code without following the procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.~~

~~(3) Except as provided in subdivision (2) of this subsection, the Commissioner of Public Safety shall comply with the requirements for general rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental housing health and safety.~~

~~(b) Upon the adoption of rules governing rental housing health and safety pursuant to the authority in 20 V.S.A. § 2731:~~

~~(1) the Department of Public Safety is the State government entity with primary authority to enforce State laws governing rental housing health and safety;~~

~~(2) the Department of Public Safety and local officials have concurrent authority to enforce State and local laws governing rental housing health and safety pursuant to 18 V.S.A. chapter 11; 20 V.S.A. chapter 173, subchapter 2; 24 V.S.A. chapters 83 and 123; and applicable municipal law; and~~

~~(3) the Department of Health, the State Board of Health, and local health officials have concurrent authority to enforce State and local laws governing public health hazards and public health risks, as those terms are defined in 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.~~

~~*** Vermont Housing Investments ***~~

~~Sec. 8. VERMONT RENTAL HOUSING INVESTMENT PROGRAM;
PURPOSE~~

~~(a) Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs to be updated to meet code requirements and other standards, the Vermont Rental Housing Investment Program is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing grants and forgivable loans that are matched in part by the property owner.~~

~~(b) The Program seeks to take the lessons learned from the successful Re-housing Recovery Program established with funds provided by the Federal CARES Act and implement them in a State-funded program.~~

~~Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:~~

~~Subchapter 3. Housing; Investments~~

~~§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM~~

~~(a) Creation of program.~~

~~(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Investment Program through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation and weatherization of eligible rental housing units.~~

~~(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans.~~

~~(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:~~

~~(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.~~

~~(2) Vacant. The unit has not been leased or occupied for at least 90 days prior to the date of application and remains unoccupied on the date of the award.~~

~~(3) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).~~

~~(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:~~

~~(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;~~

~~(2) an award process that ensures equitable selection of landlords, subject to a housing organization's exercise of discretion based on the factors adopted by the Department pursuant to subsection (a) of this section; and~~

~~(3) a grants and loan management system that ensures accountability for funds awarded.~~

~~(d) Program requirements applicable to grants and forgivable loans.~~

~~(1) A grant or loan shall not exceed \$30,000 per unit.~~

~~(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.~~

~~(3) A project shall include a weatherization component.~~

~~(4) A project shall comply with applicable building, housing, and health laws.~~

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(6) The identity of a recipient and the amount of a grant or forgivable loan are public records that shall be available for public copying and inspection and the Department shall publish this information at least monthly on its website.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection, a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

~~(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.~~

~~(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.~~

~~(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.~~

~~(g) Lien priority. A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section is subordinate to:~~

~~(1) a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and~~

~~(2) a first mortgage on the property that is refinanced and recorded after the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records.~~

Sec. 10. REPORT

~~On or before February 15, 2022 the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Investment Program, including findings and any recommendations related to the amount of grant awards.~~

** * * Effective Dates * * **

Sec. 11. EFFECTIVE DATES

~~(a) This section and the following sections shall take effect on passage:~~

~~(1) Sec. 1 (DPS authority for rental housing health and safety).~~

~~(2) Sec. 2 (rental housing registry).~~

~~(3) Sec. 6 (conforming changes to Department of Health statutes).~~

~~(4) Sec. 7 (DPS rulemaking authority and transition provisions).~~

~~(b) The following sections take effect on July 1, 2021:~~

~~(1) Sec. 4 (DPS positions).~~

~~(2) Sec. 5 (DHCD positions);~~

~~(3) Secs. 8-10 (Vermont Housing Investment Program).~~

~~(c) Sec. 3 (rental housing registration) shall take effect on January 1, 2022.~~

** * * Department of Public Safety; Authority for Rental Housing
Health and Safety * * **

Sec. 1. 20 V.S.A. chapter 173 is amended to read:

*CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES; PUBLIC
BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS*

** * **

*Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes;
Rental Housing Health and Safety; Building Energy Standards*

** * **

§ 2729. GENERAL PROVISIONS; FIRE SAFETY; CARBON MONOXIDE

(a) A person shall not build or cause to be built any structure that is unsafe or likely to be unsafe to other persons or property in case of fire or generation and leakage of carbon monoxide.

(b) A person shall not maintain, keep or operate any premises or any part thereof, or cause or permit to be maintained, kept, or operated, any premises or part thereof, under his or her control or ownership in a manner that causes or is likely to cause harm to other persons or property in case of fire or generation and leakage of carbon monoxide.

(c) On premises under a person's control, excluding single family owner-occupied houses and premises, that person shall observe rules adopted under this subchapter for the prevention of fires and carbon monoxide leakage that may cause harm to other persons or property.

(d) Any condominium or multiple unit dwelling using a common roof, or row houses so-called, or other residential buildings in which people sleep, including hotels, motels, and tourist homes, excluding single family owner-occupied houses and premises, whether the units are owned or leased or rented, shall be subject to the rules adopted under this subchapter and shall be provided with one or more carbon monoxide detectors, as defined in 9 V.S.A. § 2881(3), properly installed according to the manufacturer's requirements.

§ 2730. DEFINITIONS

(a) As used in this subchapter, "public building" means:

** * **

(D) a building in which people rent accommodations, whether overnight or for a longer term, including "rental housing" as defined in subsection (f) of this section;

** * **

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a “public building” for purposes of this subsection. For purposes of this subsection, a “person” does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term “public building” does not include:

(1) An owner-occupied single family residence, unless used for a purpose described in subsection (a) of this section.

** * **

~~(4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D). [Repealed.]~~

** * **

(f) “Rental housing” means housing that is leased or offered for lease and includes a “dwelling unit” as defined in 9 V.S.A. § 4451 and a “short-term rental” as defined in 18 V.S.A. § 4301.

§ 2731. RULES; INSPECTIONS; VARIANCES

(a) Rules.

(1) The Commissioner is authorized to adopt rules regarding the construction, health, safety, sanitation, and fitness for habitation of buildings, maintenance and operation of premises, and prevention of fires and removal of fire hazards, and to prescribe standards necessary to protect the public, employees, and property against harm arising out of or likely to arise out of fire.

** * **

(b) Inspections.

(1) The Commissioner shall conduct inspections of premises to ensure that the rules adopted under this subchapter are being observed and may establish priorities for enforcing these rules and standards based on the relative risks to persons and property ~~from fire~~ of particular types of premises.

(2) The Commissioner may also conduct inspections to ensure that buildings are constructed in accordance with approved plans and drawings.

(3) When conducting an inspection of rental housing, the Commissioner shall:

(A) issue a written inspection report on the unit or building that:

(i) contains findings of fact that serve as the basis of one or more

violations;

(ii) specifies the requirements and timelines necessary to correct a violation;

(iii) provides notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provides notice in plain language that the landlord or agents of the landlord must have access to the rental unit to make repairs as ordered by the Commissioner consistent with the access provisions in 9 V.S.A. § 4460;

(B) provide a copy of the inspection report to the landlord, to the person who requested the inspection, and to any tenants who are affected by a violation:

(i) electronically, if the Department has an electronic mailing address for the person; or

(ii) by first-class mail, if the Department does not have an electronic mailing address for the person;

(C) if an entire building is affected by a violation, provide a notice of inspection directly to the individual tenants, and may also post the notice in a common area, that specifies:

(i) the date of the inspection;

(ii) that violations were found and must be corrected by a certain date;

(iii) how to obtain a copy of the inspection electronically or by first-class mail; and

(iv) if the notice is posted in a common area, that the notice shall not be removed until authorized by the Commissioner;

(D) make the inspection report available as a public record.

* * *

§ 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE
STRUCTURE

(a)(1) Whenever the ~~e~~ommissioner Commissioner finds that premises or any part of them does not meet the standards adopted under this subchapter, the ~~e~~ommissioner Commissioner may order it repaired or rehabilitated.

(2) If ~~it~~ the premises is not repaired or rehabilitated within a reasonable time as specified by the ~~e~~ommissioner Commissioner in his or her order, the ~~e~~ommissioner Commissioner may order the premises or part of them closed, if

by doing so the public safety will not be imperiled; otherwise he or she shall order demolition and removal of the structure, or fencing of the premises.

(3) Whenever a violation of the rules is deemed to be imminently hazardous to persons or property, the ~~commissioner~~ Commissioner shall order the violation corrected immediately.

(4) If the violation is not corrected, the ~~commissioner~~ Commissioner may ~~then~~ order the premises or part of them immediately closed and to remain closed until the violation is corrected.

(b) Whenever a structure, by reason of age, neglect, want of repair, action of the elements, destruction, either partial or total by fire or other casualty or other cause, is so dilapidated, ruinous, decayed, filthy, unstable, or dangerous as to constitute a material menace or damage in any way to adjacent property, or to the public, and has so remained for a period of not less than one week, the ~~commissioner~~ Commissioner may order such structure demolished and removed.

(c) Orders issued under this section shall be served by certified mail with return receipt requested or in the discretion of the ~~commissioner~~ Commissioner, shall be served in the same manner as summonses are served under the Vermont Rules of Civil Procedure promulgated by the ~~supreme court~~ Supreme Court, to all persons who have a recorded interest in the property recorded in the place where land records for the property are recorded, and to all persons who will be temporarily or permanently displaced by the order, including owners, tenants, mortgagees, attaching creditors, lien holders, and public utilities or water companies serving the premises.

§ 2734. PENALTIES

(a)(1) A person who violates any provision of this subchapter or any order or rule issued pursuant thereto shall be fined not more than \$10,000.00.

(2) The ~~state's attorney~~ State's Attorney of the county in which such violation occurs shall prosecute the violation and may commence a proceeding in the ~~superior court~~ Superior Court to compel compliance with such order or rule, and such court may make orders and decrees therein by way of writ of injunction or otherwise.

(b)(1) A person who fails to comply with a lawful order issued under authority of this subchapter in case of sudden emergency shall be fined not more than \$20,000.00.

(2) A person who fails to comply with an order requiring notice shall be fined \$200.00 for each day's neglect commencing with the effective date of such order or the date such order is finally determined if an appeal has been

filed.

(c)(1) The ~~e~~ommissioner Commissioner may, after notice and opportunity for hearing, assess an administrative penalty of not more than \$1,000.00 for each violation of this subchapter or any rule adopted under this subchapter.

(2) Penalties assessed pursuant to this subsection shall be based on the severity of the violation.

(3) An election by the ~~e~~ommissioner Commissioner to proceed under this subsection shall not limit or restrict the ~~e~~ommissioner's Commissioner's authority under subsection (a) of this section.

(d) Violation of any rule adopted under this subchapter shall be prima facie evidence of negligence in any civil action for damage or injury ~~which~~ that is the result of the violation.

* * *

§ 2736. MUNICIPAL ENFORCEMENT

(a)(1) The legislative body of a municipality may appoint one or more trained and qualified officials and may establish procedures to enforce rules and standards adopted under subsection 2731(a) of this title.

(2) After considering the type of buildings within the municipality, if the ~~e~~ommissioner Commissioner determines that the training, qualifications, and procedures are sufficient, he or she may assign responsibility to the municipality for enforcement of some or all of these rules and standards.

(3) The ~~e~~ommissioner Commissioner may also assign responsibility for enforcement of the rules of the access board adopted under section 2902 of this title.

(4) The ~~e~~ommissioner Commissioner shall provide continuing review, consultation, and assistance as may be necessary.

(5) The assignment of responsibility may be revoked by the ~~e~~ommissioner Commissioner after notice and an opportunity for hearing if the ~~e~~ommissioner Commissioner determines that the training, qualifications, or procedures are insufficient.

(6) The assignment of responsibility shall not affect the ~~e~~ommissioner's Commissioner's authority under this subchapter.

(b) If a municipality assumes responsibility under subsection (a) of this section for performing any functions that would be subject to a fee established under subsection 2731(a) of this title, the municipality may establish and collect reasonable fees for its own use, and no fee shall be charged for the

benefit of the state State.

(c)(1) Subject to rules adopted under section 2731 of this title, municipal officials appointed under this section may enter any premises in order to carry out the responsibilities of this section.

(2) The officials may order the repair, rehabilitation, closing, demolition, or removal of any premises to the same extent as the ~~commissioner~~ Commissioner may under section 2732 of this title.

(d) Upon a determination by the ~~commissioner~~ Commissioner that a municipality has established sufficient procedures for granting variances and exemptions, such variances and exemptions may be granted to the same extent authorized under subsection 2731(b) of this title.

(e) The results of all activities conducted by municipal officials under this section shall be reported to the ~~commissioner~~ Commissioner periodically upon request.

(f) Nothing in this section shall be interpreted to decrease the authority of municipal officials under other laws, including laws concerning building codes and laws concerning housing codes.

* * *

*§ 2738. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL
FUND*

(a) The fire prevention and building inspection special fund revenues shall be from the following sources:

(1) fees relating to construction and inspection of public building and fire prevention inspections under section 2731 of this title;

(2) fees relating to boilers and pressure vessels under section 2883 of this title;

(3) fees relating to electrical installations and inspections and the licensing of electricians under 26 V.S.A. §§ 891-915;

(4) fees relating to cigarette certification under section 2757 of this title; and

(5) fees relating to plumbing installations and inspections and the licensing of plumbers under 26 V.S.A. §§ 2171-2199.

(b) Fees collected under subsection (a) of this section shall be available to the ~~department of public safety~~ Department of Public Safety to offset the costs of the ~~division of fire safety~~ Division of Fire Safety.

(c) The ~~commissioner of finance and management~~ Commissioner of

Finance and Management may anticipate receipts to this fund and issue warrants based thereon.

* * *

** * * State Rental Housing Registry; Registration Requirement * * **

Sec. 2. 3 V.S.A. § 2478 is added to read:

§ 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA

(a) The Department of Housing and Community Development, in coordination with the Division of Fire Safety, the Department of Health, the Enhanced 911 Board, and the Department of Taxes, shall create and maintain a registry of the rental housing in this State, which includes a “dwelling unit” as defined in 9 V.S.A. § 4451 and a “short-term rental” as defined in 18 V.S.A. § 4301.

(b) The Department of Housing and Community Development shall require for each unit that is registered the following data:

(1) the name and mailing address of the owner, landlord, and property manager of the unit, as applicable;

(2) the phone number and electronic mail address of the owner, landlord, and property manager of the unit, as available;

(3) location of the unit;

(4) year built;

(5) type of rental unit;

(6) number of units in the building;

(7) school property account number;

(8) accessibility of the unit; and

(9) any other information the Department deems appropriate.

(c) Upon request of the Department of Housing and Community Development, and at least annually, a municipal, district, or other local government entity that operates a rental housing health and safety program that requires registration of a rental housing unit and a fee for inclusion on the registry shall provide to the Department the data for each unit that is required pursuant to subsection (b) of this section.

(d)(1) The data the Department collects pursuant to this section is exempt from public inspection and copying pursuant to 1 V.S.A. § 317(c)(1), and the Department shall not disclose such data except as provided in subdivision (2) of this subsection.

(2) The Department:

(A) may disclose data it collects pursuant to this section to other State, municipal, or regional government entities; to nonprofit organizations; or to other persons for the purposes of protecting public health and safety;

(B) shall not disclose data it collects pursuant to this section for a commercial purpose; and

(C) shall require, as a condition of receiving data collected pursuant to this section, that a person to whom the Department discloses the data takes necessary steps to protect the privacy of persons whom the data concerns, to protect the data from further disclosure and to comply with subdivision (B) of this subsection (d).

Sec. 3. 3 V.S.A. § 2479 is added to read:

§ 2479. RENTAL HOUSING REGISTRATION

(a) Registration. Except as otherwise provided in subsection (b) of this section, annually, on or before March 1, the owner of each unit of rental housing that in the previous year was leased or offered for lease as a dwelling unit, as defined in 9 V.S.A. § 4451, or was a "short-term rental," as defined in 18 V.S.A. § 4301, shall:

(1) register with the Department of Housing and Community Development and provide the information required by subsection 2478(b) of this title; and

(2) pay to the Department an annual registration fee of \$35.00 per unit.

(b) Exceptions.

(1) Unit registered with another program.

(A) The registration requirement imposed in subdivision (a)(1) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection 2478(b) of this title.

(B) The fee requirement imposed in subdivision (a)(2) of this section does not apply to a unit that is currently registered with a municipal, district, or other local government rental housing health and safety program that requires the owner to register the unit and provide the data required in subsection 2478(b) of this title and for which program the owner is required to pay a registration fee.

(2) Mobile homes.

(A) The registration requirement imposed in subdivision (a)(1) of this section does not apply to a mobile home lot within a mobile home park if:

(i) the owner has registered the lot with the Department of Housing and Community Development; and

(ii) the owner does not own a mobile home on the lot.

(B) An owner of a mobile home lot within a mobile home park who has registered the lot with the Department and who owns a mobile home on the lot that is available for rent or rented shall register the property with the Department pursuant to subdivision (a)(1) of this section and pay a fee equal to the fee required by subdivision (a)(2) of this section less any fee paid within the previous 12 months pursuant to 10 V.S.A. § 6254(c).

(C) An owner of a mobile home who rents the mobile home, whether or not located in a mobile home park, shall register pursuant to this section.

(3) Unit not offered to general public. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit that an owner provides to another person, whether or not for consideration, if, and only to the extent that, the owner does not otherwise make the unit available for lease to the general public, and includes:

(A) housing provided to a member of the owner's family or personal acquaintances;

(B) housing provided to a person who is not related to a member of the owner's household and who occupies the housing as part of a nonprofit homesharing program; and

(C) housing provided to a person who provides personal care to the owner or a member of the owner's household.

(4) Housing provided as a benefit of farm employment. The registration and fee requirements imposed in subsection (a) of this section do not apply to a unit of housing that is provided as a benefit of farm employment, as defined in 9 V.S.A. § 4469a(a)(3).

(c) Rental Housing Safety Special Fund. The Department of Housing and Community Development shall maintain the fees collected pursuant to this section in a special fund entitled the Rental Housing Safety Special Fund, the proceeds of which the Department shall use:

(1) to hire authorized staff to administer the registry and registration requirements imposed in this section and in section 2478 of this title; and

(2) to provide funding to the Department of Public Safety to hire authorized staff to conduct inspections and regulate rental housing pursuant to

20 V.S.A. chapter 173, subchapter 2.

** * * Penalty for Failure to Register * * **

Sec. 3a. 3 V.S.A. § 2479(d) is added to read:

(d) Penalty. The Department shall impose an administrative penalty of not more than \$200.00 per unit for an owner of rental housing who knowingly fails to register or pay the fee required pursuant to this section.

** * * Registration; Prospective Repeal * * **

Sec. 3b. REPEAL

3 V.S.A. § 2479(b)(4) (exemption for housing provided as a benefit of farm employment) is repealed.

** * * Positions Authorized * * **

Sec. 4. DEPARTMENT OF PUBLIC SAFETY; POSITIONS

(a) The Department of Public Safety is authorized to create five full-time, classified Inspector positions in order to conduct rental housing health and safety inspections and enforcement pursuant to 20 V.S.A. chapter 173, subchapter 2.

(b) In fiscal year 2022, the amount of \$100,000.00 is appropriated from the General Fund to the Department of Public Safety as one-time startup funding to hire one or more Inspector positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional Inspectors authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

*Sec. 5. DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT; POSITIONS*

(a) The Department of Housing and Community Development is authorized to create one full-time classified position and one half-time classified position to administer and enforce the registry requirements created in 3 V.S.A. § 2478.

(b) In fiscal year 2022, the amount of \$300,000.00 is appropriated from the General Fund to the Department of Housing and Community Development as one-time startup funding to hire one or more of the positions authorized pursuant to subsection (a) of this section.

(c) The Department may hire additional staff authorized by this section to the extent funds become available from the Rental Housing Safety Special Fund created and maintained pursuant to 3 V.S.A. § 2479.

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

Sec. 6. 18 V.S.A. chapter 11 is amended to read:

CHAPTER 11. LOCAL HEALTH OFFICIALS

** * **

§ 602a. DUTIES OF LOCAL HEALTH OFFICERS

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

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

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

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

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

(5) have the authority to assist the Division of Fire Safety in inspecting rental housing pursuant to 20 V.S.A. chapter 173, subchapter 2, provided that if the local health officer inspects a rental property without an inspector from the Division, the officer shall issue an inspection report in compliance with 20 V.S.A § 2731(b).

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

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

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

(2) ~~A written inspection report shall:~~

(A) ~~contain findings of fact that serve as the basis of one or more~~

~~violations;~~

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

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

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

~~(3) A local health officer shall:~~

~~(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and~~

~~(B)(i) if a municipality has established a code enforcement office, provide information on each inspection according to a schedule and in a format adopted by the Department in consultation with municipalities that have established code enforcement offices; or~~

~~(ii) if a municipality has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, or within 14 days by mail if the municipality is unable to utilize the electronic system.~~

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

~~(5) A municipality shall make an inspection report available as a public record.~~

~~(b)(1) A local health officer may impose a civil penalty of not more than \$200.00 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 a violation.~~

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

~~(B) The waiver penalty for a violation in an action brought pursuant~~

~~to this subsection is 50 percent of the full penalty amount.~~

~~(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.~~

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

~~[Repealed.]~~

* * *

* * * Transition Provisions * * *

~~Sec. 7. RENTAL HOUSING HEALTH AND SAFETY; TRANSITION PROVISIONS~~

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

~~(1) Until the Commissioner of Public Safety adopts rules governing rental housing health and safety pursuant to 20 V.S.A. § 2731, the Department of Health, local officials authorized by law, and the Department of Public Safety have concurrent authority to enforce the Vermont Rental Housing Health Code adopted by the Department of Health pursuant to 18 V.S.A. § 102, 3 V.S.A. § 3003(a), and 3 V.S.A. § 801(b)(11).~~

~~(2) The Commissioner of Public Safety may immediately adopt a rule incorporating the Rental Housing Health Code without following the procedures otherwise required for general rulemaking in 3 V.S.A. chapter 25.~~

~~(3) Except as provided in subdivision (2) of this subsection, the Commissioner of Public Safety shall comply with the requirements for general rulemaking in 3 V.S.A. chapter 25 when adopting rules governing rental housing health and safety.~~

~~(b) Upon the adoption of rules governing rental housing health and safety pursuant to the authority in 20 V.S.A. § 2731:~~

~~(1) the Department of Public Safety is the State government entity with primary authority to enforce State laws governing rental housing health and safety;~~

~~(2) the Department of Public Safety and local officials have concurrent authority to enforce State and local laws governing rental housing health and~~

safety pursuant to 18 V.S.A. chapter 11; 20 V.S.A. chapter 173, subchapter 2; 24 V.S.A. chapters 83 and 123; and applicable municipal law; and

(3) the Department of Health, the State Board of Health, and local health officials have concurrent authority to enforce State and local laws governing public health hazards and public health risks, as those terms are defined in 18 V.S.A. § 2, pursuant to 18 V.S.A. chapters 1, 3, and 11.

** * * Vermont Housing Investments * * **

*Sec. 8. VERMONT RENTAL HOUSING INVESTMENT PROGRAM;
PURPOSE*

(a) Recognizing that Vermont's rental housing stock is some of the oldest in the country and that much of it needs to be updated to meet code requirements and other standards, the Vermont Rental Housing Investment Program is intended to incentivize private apartment owners to make significant improvements to both housing quality and weatherization by providing grants and forgivable loans that are matched in part by the property owner.

(b) The Program seeks to take the lessons learned from the successful Re-housing Recovery Program established with funds provided by the Federal CARES Act and implement them in a State-funded program.

Sec. 9. 10 V.S.A. chapter 29, subchapter 3 is added to read:

Subchapter 3. Housing; Investments

§ 699. VERMONT RENTAL HOUSING INVESTMENT PROGRAM

(a) Creation of program.

(1) The Department of Housing and Community Development shall design and implement the Vermont Rental Housing Investment Program through which the Department shall award funding to statewide or regional nonprofit housing organizations, or both, to provide competitive grants and forgivable loans to private landlords for the rehabilitation, including weatherization, of eligible rental housing units.

(2) The Department shall develop statewide standards for the Program, including factors that partner organizations shall use to evaluate applications and award grants and forgivable loans.

(b) Eligible rental housing units. The following units are eligible for a grant or forgivable loan through the Program:

(1) Non-code compliant. The unit does not comply with the requirements of applicable building, housing, or health laws.

(2) New accessory dwelling. The unit will be a newly created accessory

dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help landlords apply;

(2) an award process that ensures equitable selection of landlords, subject to a housing organization's exercise of discretion based on the factors adopted by the Department pursuant to subsection (a) of this section; and

(3) a grant and loan management system that ensures accountability for funds awarded.

(d) Program requirements applicable to grants and forgivable loans.

(1) A grant or loan shall not exceed \$30,000.00 per unit.

(2) A landlord shall contribute matching funds or in-kind services that equal or exceed 20 percent of the value of the grant or loan.

(3) A project may include a weatherization component.

(4) A project shall comply with applicable building, housing, and health laws.

(5) The terms and conditions of a grant or loan agreement apply to the original recipient and to a successor in interest for the period the grant or loan agreement is in effect.

(6) The identity of a recipient and the amount of a grant or forgivable loan are public records that shall be available for public copying and inspection and the Department shall publish this information at least monthly on its website.

(e) Program requirements applicable to grants. For a grant awarded under the Program, the following requirements apply for a minimum period of five years:

(1) A landlord shall coordinate with nonprofit housing partners and local coordinated entry organizations to identify potential tenants.

(2)(A) Except as provided in subdivision (2)(B) of this subsection (e), a landlord shall lease the unit to a household that is exiting homelessness.

(B) If, upon petition of the landlord, the Department or the housing organization that issued the grant determines that a household exiting homelessness is not available to lease the unit, then the landlord shall lease the unit:

(i) to a household with an income equal to or less than 80 percent of area median income; or

(ii) if such a household is unavailable, to another household with the approval of the Department or housing organization.

(3)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the total cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(4)(A) A landlord may convert a grant to a forgivable loan upon approval of the Department and the housing organization that approved the grant.

(B) A landlord who converts a grant to a forgivable loan shall receive a 10 percent credit for loan forgiveness for each year in which the landlord participates in the grant program.

(f) Requirements applicable to forgivable loans. For a forgivable loan awarded under the Program, the following requirements apply for a minimum period of 10 years:

(1)(A) A landlord shall accept any housing vouchers that are available to pay all, or a portion of, the tenant's rent and utilities.

(B) If no housing voucher or federal or State subsidy is available, the cost of rent for the unit, including utilities not covered by rent payments, shall not exceed the applicable fair market rent established by the Department of Housing and Urban Development.

(2) The Department shall forgive 10 percent of the amount of a forgivable loan for each year a landlord participates in the loan program.

(g) Lien priority. A lien for a grant converted to a loan or for a forgivable loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for rehabilitation and weatherization of the rental housing unit is filed in the land records.

Sec. 10. REPORT

On or before February 15, 2022, the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Housing Investment Program, including findings and any recommendations related to the amount of grant awards.

**Sec. 11. VERMONT HOMEOWNERSHIP REVOLVING LOAN FUND;
PURPOSE**

(a) The purpose of the Vermont Homeownership Revolving Loan Fund created in Sec. 12 of this act is to provide no-interest loans to increase access to homeownership.

(b) The Program is intended to assist Vermonters who otherwise may be unable to purchase a home or who may be unable to afford the costs to rehabilitate, weatherize, or otherwise make necessary improvements to a home they purchase.

(c) The Program is also intended to place a special focus on increasing the homeownership rates of households identifying as Black, Indigenous, or Persons of Color, who are systematically disenfranchised from financing real estate through traditional banking and have therefore been generationally dispossessed of the ability to develop lasting wealth.

Sec. 12. 10 V.S.A. § 699a is added to read:

§ 699a. VERMONT HOMEOWNERSHIP REVOLVING LOAN FUND

(a) Creation of Program. The Department of Housing and Community Development shall design and implement the Vermont Homeownership Revolving Loan Fund, through which the Department shall provide funding to statewide or regional nonprofit housing organizations, or both, to issue no-interest loans to first-time homebuyers.

(b) Eligible housing units. The following units are eligible for a loan through the Program:

(1) Existing structure. The unit is an existing single-family dwelling, a multifamily dwelling with not more than four units, a mobile home, or a condominium.

(2) Accessory dwelling. The unit is an accessory dwelling unit that meets the requirements of 24 V.S.A. § 4412(1)(E).

(c) Eligible applicants; priorities.

(1) To be eligible for a loan through the Program, an applicant shall:

(A) be a first-time homebuyer in Vermont;

(B) have a household income of not more than 120 percent of the area median income; and

(C) occupy the dwelling, or a unit within the dwelling, as his or her full-time residence.

(2) A housing organization may give priority to an applicant whose employer provides down payment assistance or funding for rehabilitation costs.

(d) Administration. The Department shall require a housing organization that receives funding under the Program to adopt:

(1) a standard application form that describes the application process and includes instructions and examples to help homebuyers apply;

(2) an award process that ensures equitable selection of homebuyers; and

(3) a loan management system that ensures accountability for funds awarded.

(e) Outreach. Recognizing that Black, Indigenous, and Persons of Color have historically not had access to capital for homeownership purchases and have been systemically discriminated against in the housing market, the Department, working with Vermont chapters of the NAACP, AALV, USCRI, the Executive Director of Racial Equity, the Vermont Commission on Native American Affairs, local racial justice organizations, the Vermont Housing Finance Agency, and the nonprofit homeownership centers, shall develop a plan of active outreach and implementation to ensure that program opportunities are effectively communicated, and that funds are equitably awarded, to communities of Vermonters who have historically suffered housing discrimination.

(f) Program requirements.

(1) A loan issued through the Program:

(A) shall not exceed a standard limit set by the Department, which shall not exceed \$50,000.00;

(B) shall be zero interest, and payments shall be suspended while the homebuyer occupies the home; and

(C) shall become due in full upon the sale or transfer of the home or upon refinancing with approval by the Department and the housing organization that issued the loan.

(2) A rehabilitation project that is funded by a loan through the

Program may include a weatherization component and shall comply with applicable building, housing, and health laws.

(3) A homebuyer may use not more than 25 percent of a loan for down payment and closing costs and fees.

(4) A homebuyer shall repay a loan.

(g) Revolving loan fund. The Department shall use the amounts from loans that are repaid to provide additional funding through the Program.

(h) Lien priority. A lien for a loan issued pursuant to this section is subordinate to:

(1) a lien on the property in existence at the time the lien for the loan is filed in the land records; and

(2) a first mortgage on the property that is refinanced and recorded after the lien for the loan is filed in the land records.

Sec. 13. DUTIES CONTINGENT ON FUNDING

The duties of the Department of Housing and Community Development specified in Secs. 10 and 12 of this act are contingent upon available funding.

Sec. 14. REPORT

On or before February 15, 2022, the Department of Housing and Community Development shall report to the General Assembly concerning the design, implementation, and outcomes of the Vermont Homeownership Revolving Loan Fund created in Sec. 12 of this act, including findings and any recommendations related to the amount of loans.

*** Allocation of Appropriations ***

Sec. 15. ALLOCATION OF APPROPRIATIONS

(a) Of the amounts appropriated from the General Fund to the Department of Housing and Community Development in H.439, the Department shall allocate \$1,000,000.00 to provide loans through the Vermont Homeownership Revolving Loan Fund created in 10 V.S.A. § 699a.

(b) The Agency of Commerce and Community Development shall use the \$5,000,000.00 appropriated to it in Sec. G.400(a)(2) of H.439 to provide grants and loans through the Vermont Rental Housing Investment Program created in 10 V.S.A. § 699.

*** Eviction Moratorium ***

Sec. 16. 2020 Acts and Resolves No. 101, Sec. 1(b)(4) is amended to read:

(4) limit a court's ability to act in an emergency pursuant to

Administrative Order 49, issued by the Vermont Supreme Court, as amended, which may include an action that involves criminal activity, illegal drug activity, or acts of violence, or other circumstances that seriously threaten the health or safety of other residents including in response to an action for ejectment on an emergency basis pursuant to subsection (i) of this section.

Sec. 17. 2020 Acts and Resolves No. 101, Sec. 1(i) is added to read:

(i) Action for ejectment on an emergency basis.

(1) Notwithstanding any provision of this section to the contrary, a court may allow an ejectment action to proceed on an emergency basis pursuant to Vermont Rule of Civil Procedure 65, which may include an action that involves the following circumstances:

(A) criminal activity, illegal drug activity, acts of violence, or other circumstances that seriously threaten the health or safety of other residents, including a tenant tampering with, disabling, or removing smoke or carbon monoxide detectors;

(B) the landlord needs to occupy the rental premises;

(C) the tenant is not participating or does not qualify for the Vermont Emergency Rental Assistance Program; or

(D) continuation of the tenancy would cause other immediate or irreparable injury, loss, or damage to the property, the landlord, or other residents.

(2) Upon a plaintiff's motion to proceed under this subsection (i) supported by an affidavit, the court shall determine whether the plaintiff has alleged sufficient facts to warrant a hearing concerning emergency circumstances as provided in subdivision (1) of this subsection (i), and if so, the court shall:

(A) issue any necessary preliminary orders;

(B) schedule a hearing;

(C) allow the plaintiff to serve the defendant with the motion, affidavit, complaint, any preliminary orders, and a notice of hearing; and

(D) after hearing, issue any necessary orders, which may include issuance of a writ of possession.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Sec. 1 (DPS authority for rental housing health and safety).

(2) Sec. 2 (rental housing registry).

(3) Sec. 6 (conforming changes to Department of Health statutes).

(4) Sec. 7 (DPS rulemaking authority and transition provisions).

(5) Secs. 16–17 (amendment to eviction moratorium).

(b) The following sections take effect on July 1, 2021:

(1) Sec. 4 (DPS positions).

(2) Sec. 5 (DHCD positions).

(3) Secs. 8–10 (Vermont Housing Investment Program).

(4) Secs. 11–14 (Vermont Homeownership Revolving Loan Fund).

(5) Sec. 15 (allocation of appropriations).

(c) Sec. 3 (rental housing registration) shall take effect on January 1, 2022.

(d) Sec. 3a (administrative penalty for failure to register) shall take effect on January 1, 2023.

(e) Sec. 3b (repeal of registration exemption for housing provided as a benefit of farm employment) shall take effect on January 1, 2024.