

Senate Calendar

THURSDAY, JUNE 24, 2021

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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, JUNE 23, 2021

Third Reading

H. 157.

An act relating to registration of construction contractors.

House Proposal of Amendment

S. 101.

An act relating to promoting housing choice and opportunity in smart growth areas.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 2, 24 V.S.A. § 4307, by striking it out in its entirety and inserting in lieu thereof the following:

Sec. 2. 24 V.S.A. § 4307 is added to read:

§ 4307. MUNICIPAL BYLAW MODERNIZATION GRANTS

(a) There are created Municipal Bylaw Modernization Grants to assist municipalities in updating their land use and development bylaws to support a development pattern that is pedestrian oriented and consistent with the smart growth principles established in section 2791 of this title. The Grants shall be funded by monies allocated from the municipality allocation of the Municipal and Regional Planning Funds established in subdivision 4306 (a)(3)(C) of this title and any other monies appropriated for this purpose.

(b) A municipality that receives a grant shall use the funds for the adoption of bylaws that increase housing choice, affordability, and opportunity in smart growth areas. These smart growth areas shall be areas that reflect the smart growth principles established in section 2791 of this title, that are located outside important natural resource areas, and are located outside identified flood hazard areas and river corridors or are acceptable for infill development as defined in § 29-201 of the Vermont Flood Hazard Area and River Corridor Rule.

(c) Disbursement to municipalities shall be administered by the Department of Housing and Community Development through a competitive process providing the opportunity for all regions and any eligible municipality to compete regardless of size. The Department shall, to the extent reasonably

possible, ensure that grants are awarded with the intent of achieving geographic distribution across the State.

(d) Funds may be disbursed by the Department in installments to ensure the municipal bylaw updates meet the goals of this section.

(e) Funding may be used for mapping, the cost of regional planning commission staff or consultant time, carrying out the provisions of subchapters 5 through 10 of this chapter, and any other purpose approved by the Department.

(f) To receive a grant, the municipality shall:

(1) identify any municipal water supply and wastewater disposal capacity, opportunities, and constraints within mapped service areas in both traditional water and wastewater systems and smaller scale municipal systems, including soil-based wastewater treatment and decentralized water and wastewater systems;

(2) allow, at a minimum, duplexes within smart growth areas to the same extent that single-family dwellings are allowed;

(3) require parking waiver provisions in appropriate smart growth areas and situations;

(4) review and modify street standards that implement the complete streets principles as described in 19 V.S.A. § 309d and that are oriented to pedestrians;

(5) adopt dimensional, use, parking, and other standards that allow compact neighborhood form and support walkable lot and unit density, which may be achieved with a standard allowing at least four units per acre with site and building design standards or by other means established in guidelines issued by the Department; and

(6) demonstrate how the bylaws support implementation of the housing element of its municipal plan as provided in 24 V.S.A. § 4382(a)(10) related to addressing lower and moderate-income housing needs.

(g) On or before September 1, 2021, the Department shall adopt guidelines to assist municipalities applying for grants under this section.

Second: By striking out Secs. 7 (10 V.S.A. § 1974) and 8 (10 V.S.A. § 1983) and their reader assistance heading in their entirety.

and by renumbering the remaining sections to be numerically correct.

Third: By striking out Secs. 3–6, tax credits, and their reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Property Transfer Tax Surcharge * * *

Sec. 3. 32 V.S.A. § 9602 is amended to read:

§ 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

A tax is hereby imposed upon the transfer by deed of title to property located in this State, or a transfer or acquisition of a controlling interest in any person with title to property in this State. The amount of the tax equals one and one-quarter percent of the value of the property transferred, or \$1.00, whichever is greater, except as follows:

* * *

(4) With respect to all transfers by deed of title to property located in this State, a surcharge shall be imposed at the rate of one half of a percent of the value of the property transferred in excess of \$1,000,000.00.

(5) The Commissioner shall annually estimate the amount of revenue raised by the surcharge imposed pursuant to subdivision (4) of this section and transfer that same amount to the General Fund established under section 435 of this title.

* * * Allocation of Property Transfer Tax Surcharge Revenue * * *

Sec. 4. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

* * *

(10)(A) 33 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title; and

(B) notwithstanding subdivision (A) of this subdivision (b)(10), the revenue raised by the surcharge imposed pursuant to subdivision 9602(4) of this title;

* * *

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

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

* * *

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two

percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

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

* * *

(e) Notwithstanding subsections (c) and (d) of this section and any other provision of law to the contrary, the Commissioner of Taxes shall annually estimate the revenue raised by the surcharge imposed pursuant to subdivision 9602(4) of this chapter and transfer that same amount to the General Fund established under section 435 of this title.

* * * Affordable Housing Tax Credit; Manufactured Homes * * *

Sec. 6. 32 V.S.A. § 5930u(g) is amended to read:

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

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

(B) ~~\$425,000.00~~ \$675,000.00 in total first-year credit allocations for loans or grants for owner-occupied unit financing or down payment loans as provided in subdivision (b)(2) of this section consistent with the allocation plan, including for new construction and manufactured housing, for an aggregate limit of ~~\$2,125,000.00~~ \$3,375,000.00 over any given five-year period that credits are available under this subdivision (B). Of the total first-year credit allocations made under this subdivision (B), \$250,000.00 shall be used each fiscal year for manufactured home purchase and replacement.

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

NEW BUSINESS
GOVERNOR'S VETO

S. 107.

An act relating to confidential information concerning the initial arrest and charge of a juvenile.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **Senate Bill No. S. 107** to the Senate is as follows:

Text of Communication from Governor

“May 20, 2021

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State House
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.107, *An act relating to confidential information concerning the initial arrest and charge of a juvenile*, without my signature, because of concerns with the policy to automatically raise the age of accountability for crimes, and afford young adults protections meant for juveniles, without adequate tools or systems in place.

Three years ago, I signed legislation intended to give young adults who had become involved in the criminal justice system certain protections meant for juveniles. At the time, I was assured that, prior to the automatic increases in age prescribed in the bill, plans would be in place to provide access to the rehabilitation, services, housing and other supports needed to both hold these young adults accountable and help them stay out of the criminal justice system in the future.

This has not yet been the case. In addition to ongoing housing challenges, programs designed and implemented for children under 18 are often not appropriate for those over 18. Disturbingly, there are also reports of some young adults being used – and actively recruited – by older criminals, like drug traffickers, to commit crimes because of reduced risk of incarceration,

potentially putting the young people we are trying to protect deeper into the criminal culture and at greater risk.

I want to be clear: I'm not blaming the Legislature or the Judiciary for these gaps. All three branches of government need to bring more focus to this issue if we are going to provide the combination of accountability, tools and services needed to ensure justice and give young offenders a second chance.

For these reasons, I believe we need to take a step back and assess Vermont's "raise the age" policy, the gaps that exist in our systems and the unintended consequences of a piecemeal approach on the health and safety of our communities, victims and the offenders we are attempting to help. I see S.107 as deepening this piecemeal approach.

I also remain concerned with the lack of clarity in S.107 regarding the disparity in the public records law between the Department of Public Safety and the Department of Motor Vehicles.

Based on the objections outlined above, I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I believe this presents an opportunity to start a much-needed conversation about the status of our juvenile justice initiatives and make course corrections where necessary, in the interest of public safety and the young Vermonters we all agree need an opportunity to get back on the right path.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp”

Text of bill as passed by Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

S.107 An act relating to confidential information concerning the initial arrest and charge of a juvenile

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

* * * Exemption; records of arrest or charge of a juvenile * * *

Sec. 1. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under 19 years of age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under 19 years of age in order to protect the health and safety of any person.

* * *

* * * Effective July 1, 2022 * * *

Sec. 2. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(c) The following public records are exempt from public inspection and copying:

* * *

(5)(A) Records dealing with the detection and investigation of crime, but only to the extent that the production of such records:

* * *

(B)(i) Notwithstanding subdivision (A) of this subdivision (5), records relating to management and direction of a law enforcement agency; records reflecting the initial arrest of a person, including any ticket, citation, or complaint issued for a traffic violation, as that term is defined in 23 V.S.A. § 2302; and records reflecting the charge of a person shall be public.

(ii) A public agency shall not release any information within a record reflecting the initial arrest or charge of a person under ~~19~~ 20 years of

age that would reveal the identity of the person. However, a public agency may disclose identifying information relating to the initial arrest of a person under ~~19~~ 20 years of age in order to protect the health and safety of any person.

* * *

Sec. 3. APPLICATION OF PUBLIC RECORDS ACT EXEMPTION
REVIEW

Notwithstanding 1 V.S.A. § 317(e), the Public Records Act exemption amended in Sec. 1 shall continue in effect and shall not be reviewed for repeal.

* * * Custodian of records relating to a person
under court jurisdiction * * *

Sec. 4. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

(a)(1) Except as otherwise provided, court and law enforcement reports and files concerning a person subject to the jurisdiction of the court shall be maintained separate from the records and files of other persons. Unless a charge of delinquency is transferred for criminal prosecution under chapter 52 of this title or the court otherwise orders in the interests of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public by any person. However, upon a finding that a child is a delinquent child by reason of commission of a delinquent act ~~which~~ that would have been a felony if committed by an adult, the court, upon request of the victim, shall make the child's name available to the victim of the delinquent act. If the victim is incompetent or deceased, the child's name shall be released, upon request, to the victim's guardian or next of kin.

(2) When a person is subject to the jurisdiction of the court, the court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

(3) When a person is subject to the jurisdiction of the Criminal Division of the Superior Court pursuant to chapter 52 or 52A of this title, the Criminal Division of the Superior Court shall become the sole records custodian for purposes of responding to any request for court or law enforcement records concerning the person. A public agency shall direct any request for these records to the courts for response.

* * *

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2021, except that Sec. 2 (2022 amendment to 1 V.S.A. § 317(c)(5)(B)(ii) (public records; exemptions; records relating to the initial arrest and charge of a person)) shall take effect on July 1, 2022.

NOTICE CALENDAR

GOVERNOR'S VETO

H. 177.

An act relating to approval of an amendment to the charter of the City of Montpelier.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **House Bill No. H. 177** to the House is as follows:

Text of Communication from Governor

“June 1, 2021

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives
115 State St.
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.177, *An Act Relating to Approval of an Amendment to the Charter of the City of Montpelier* without my signature.

This is an important policy discussion that deserves further consideration and debate. Allowing a highly variable town-by-town approach to municipal voting creates inconsistency in election policy, as well as separate and unequal classes of residents potentially eligible to vote on local issues. I believe it is the role of the Legislature to establish clarity and consistency on this matter. This should include defining how municipalities determine which legal residents may vote on local issues, as well as specifying the local matters they may vote on. Returning these bills

provides the opportunity to do this important work.

For these reasons I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I understand these charter changes are well-intentioned, but I ask the Legislature to revisit the issue of non-citizen voting in a more comprehensive manner and develop a statewide policy or a uniform template and process for those municipalities wishing to grant the right of voting in local elections to *all* legal residents.

Sincerely,
/s/Philip B. Scott
Governor

PBS/kp”

Text of bill as passed by Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

H.177. An act relating to approval of an amendment to the charter of the City of Montpelier.

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

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendment to the charter of the City of Montpelier as set forth in this act. Voters approved the proposal of amendment on November 6, 2018.

Sec. 2. 24 App. V.S.A. chapter 5 is amended to read:

CHAPTER 5. CITY OF MONTPELIER

* * *

Subchapter 15. City Voter Checklist

§ 1501. ELIGIBILITY OF NONCITIZEN VOTERS

(a) Notwithstanding 17 V.S.A. § 2121(a)(1), any person may register to vote in Montpelier City elections who on election day is a citizen of the United States or a legal resident of the United States, provided that person otherwise meets the qualifications of 17 V.S.A. chapter 43.

(b) A noncitizen voter shall not be eligible to vote on any State or federal candidate or question by virtue of registration under this section.

§ 1502. CITY VOTER CHECKLIST; CITY CLERK DUTIES TO MAINTAIN

The City Clerk shall maintain a City voter checklist composed of voters eligible to vote in City elections under 17 V.S.A. chapter 43 and this subchapter and shall keep this City voter checklist separate from any other voter checklist. The City Clerk shall develop all necessary forms and procedures for implementation of this subchapter.

§ 1503. CITY ELECTION BALLOT

In any election involving a federal, State, county, special district, or school district office or question and a City question or City office, the City Clerk shall prepare a ballot that contains only the City questions and candidates, except for justices of the peace.

§ 1504. DEFINITIONS

As used in this subchapter:

(1) “Legal resident of the United States” means any noncitizen who resides in the United States on a permanent or indefinite basis in compliance with federal immigration laws.

(2) “Noncitizen voter” means any voter who registers and qualifies to vote in City elections under section 1501 of this charter but is not a citizen of the United States.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

H. 227.

An act relating to approval of amendments to the charter of the City of Winooski.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

The text of the Communication from His Excellency, The Governor, whereby he *vetoed* and returned unsigned **House Bill No. H. 227** to the House is as follows:

Text of Communication from Governor

“June 1, 2021

The Honorable BetsyAnn Wrask
Clerk of the Vermont House of Representatives

115 State St.
Montpelier, VT 05633

Dear Ms. Wrask:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.227, *An Act Relating to Approval of Amendments to the Charter of the City of Winooski* without my signature.

This is an important policy discussion that deserves further consideration and debate. Allowing a highly variable town-by-town approach to municipal voting creates inconsistency in election policy, as well as separate and unequal classes of residents potentially eligible to vote on local issues. I believe it is the role of the Legislature to establish clarity and consistency on this matter. This should include defining how municipalities determine which legal residents may vote on local issues, as well as specifying the local matters they may vote on. Returning these bills provides the opportunity to do this important work.

For these reasons I am returning this legislation without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution. I understand these charter changes are well-intentioned, but I ask the Legislature to revisit the issue of non-citizen voting in a more comprehensive manner and develop a statewide policy or a uniform template and process for those municipalities wishing to grant the right of voting in local elections to *all* legal residents.

Sincerely,
/s/Philip B. Scott
Governor

PBS/kp”

Text of bill as passed by Senate and House

The text of the bill as passed by the Senate and House of Representatives is as follows:

H.227. An act relating to approval of amendments to the charter of the City of Winooski.

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

Sec. 1. CHARTER AMENDMENT APPROVAL

The General Assembly approves the amendment to the charter of the City of Winooski as set forth in this act. Voters approved the proposal of amendment on November 3, 2020.

Sec. 2. 24 App. V.S.A. chapter 19 is amended to read:

CHAPTER 19. CITY OF WINOOSKI

* * *

§ 105. POWER OVER WATER RESOURCES

(a) No ~~citizen person~~, association of ~~citizens persons~~, ~~domestic corporation~~ corporate entity, or municipality, or any combination thereof, may develop, conserve, or use in whole or in part the water resources of the Winooski River as it flows through the City of Winooski for a water power project located in whole or in part in the City of Winooski without obtaining the approval of the City Council of the City of Winooski in addition to any other necessary State or federal agency approvals.

* * *

§ 201. CITY MEETINGS

The annual City meeting shall occur on the first Tuesday in March, and shall be warned in the manner provided by general law. Special City meetings shall be called and warned as provided by general law. All elections, voter registration and qualifications, absentee voting, and the conduct of ~~such~~ City meetings shall be controlled by general law section 202 of this charter. All matters shall be considered by Australian ballot.

§ 202. QUALIFIED VOTERS

(a) Voter registration, ~~qualification~~, absentee voting, and conduct of elections at all annual and special meetings shall be as provided by general law. The qualifications of voters in State and federal elections shall be as provided by general law. The qualifications of voters in the City meetings shall be the same as those prescribed by law for voters in town meetings and all municipal elections shall be as set forth in subsection (b) of this section.

(b) Notwithstanding 17 V.S.A. § 2121(a)(1), any person, including persons who are non-U.S. citizens, may register to vote in any City meeting or municipal election who, on election day:

- (1) is a legal resident of the City;
- (2) has taken the Voter's Oath; and
- (3) is 18 years of age or older.

(c) As used in subdivision (b)(1) of this section, "legal resident of the City" means any person who is a resident of the City and is a United States citizen or

resides in the United States on a permanent or indefinite basis in compliance with federal immigration laws.

(d) The City Clerk shall maintain a voter checklist for City meetings and municipal elections, in accordance with subsection (b) of this section, and shall keep the City checklist separate and apart from the voter checklist maintained for State and federal elections.

(e) The voter checklists maintained by the City Clerk for municipal, State, and federal elections shall be subject to the protections given to the Statewide voter checklists pursuant to 17 V.S.A. § 2154.

* * *

§ 205. NOMINATIONS IN GENERAL

~~Nominations for the office of Mayor and Councilor shall be made by petitions which shall be filed with the City Clerk not less than 30 days nor more than 40 days before an annual City election or a special City election called for that purpose. The petition shall state the name of the candidate, the candidate's residence, and the office sought, and shall be signed by at least 50 legal voters of the City qualified to vote at the time the petition is filed~~ petition, prepared and filed in accordance with the provisions of 17 V.S.A. §§ 2681 and 2681a. The petitions shall contain no party designations. A person shall not sign more than one petition for each individual office to be filled. The City Clerk shall cause the names of the persons so nominated to be printed on a ballot in alphabetical arrangement according to surname, and sample ballots shall be posted in at least three public places at least ten days before election.

* * *

§ 304. GENERAL POWERS AND DUTIES

* * *

(b) Additional powers. In addition to powers otherwise conferred upon it by law, the City, by the action of the Council or, if specifically required by law or this charter, by the action of its voters, has the following powers and rights, including:

* * *

(7) To provide for ~~citizen~~ resident participation in appropriate departments.

* * *

§ 305. PROHIBITIONS; CONFLICT OF INTEREST

(a) Holding other office. Except where authorized by law, no councilor shall hold any other City office or City employment during the term of election to the Council. ~~Notwithstanding any charter provision to the contrary, a paid or unpaid volunteer member of the Fire Department, other than an officer or member of the Department appointed directly by the City Manager,~~ may serve as a member of the City Council.

* * *

§ 506. CITY OFFICERS; APPOINTMENT OF

* * *

(c) Officers. In accordance with the provisions of this section, the City Manager shall appoint the following, who shall hold office at the will of the City Manager:

* * *

(10) an Emergency Management Coordinator; ~~and~~

(11) a Human Resources Director; and

~~(11)~~(12) other officers required by law.

* * *

§ 602. CITIZEN RESIDENT ENGAGEMENT

* * *

(d) All unpaid appointments of ~~citizens~~ residents to the boards, committees, commissions, and agencies shall be for a term certain. ~~Citizens~~ Residents once appointed to a term may only be removed for cause or after unanimous vote by the City Council. If ad hoc committees are created, the appointment will cease upon completion of the Committee's task.

§ 603. PERSONNEL SYSTEM

* * *

~~(b) Personnel Director. There shall be a Personnel Director who shall administer the personnel system of the City. The Personnel Director shall be the City Manager. The Personnel Director shall be responsible for collective bargaining and administration of negotiated contracts subject to approval by the City Council. [Repealed.]~~

(c) [Repealed.]

(d) Personnel policies. ~~The Personnel Director~~ City Manager shall prepare personnel policies. The personnel rules shall be proposed to the Council, and

the Council may adopt them with or without amendment. These rules shall provide for:

* * *

§ 717. TAX CLASSIFICATION

(a) Except for the property of utilities subject to regulation by the Vermont Public Utility Commission, all personal and real property set out in the grand list that is not used as residential property, farmland, and ~~vacant land zoned "recreation, conservation, and open space (RCO)"~~ public recreation, conservation, or open space lands shall be classified as nonresidential property and shall be ~~assessed at~~ taxed by applying the tax rate on 120 percent of ~~fair market~~ the assessed value of the property; and further provided that inventories shall no longer be set out in the grand list of the City as taxable personal estate. Properties upon which in-lieu-of-tax payments are made shall be likewise classified and assessed for the purposes of such payments.

* * *

§ 903. OATH OF OFFICE

All elective officials of the City shall, before assuming office, take, subscribe, and file with the City Clerk the following oath:

"I _____ solemnly swear or affirm, under penalty of law, that I will faithfully execute the Office of _____ of the City of Winooski to the best of my judgment and abilities, according to law, ~~so help me God or I so affirm.~~"

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 79.

An act relating to improving rental housing health and safety.

The House proposes to the Senate to amend the bill by striking all after the enacting clause and inserting in lieu thereof the following:

* * * 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 ~~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 ~~it~~ 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, 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 ~~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 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. § 4501, 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.~~

~~(c) 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 ejection 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 ejection on an emergency basis.

(1) Notwithstanding any provision of this section to the contrary, a court may allow an ejection 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.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

David Coates of Colchester, Member, Vermont Municipal Bond Bank – By Sen. Brock for the Committee on Finance. (6/24/21)

Anthony Collier of Colchester, Member, Vermont Economic Development Authority – By Sen. Brock for the Committee on Finance. (6/24/21)