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S.270

Introduced by Senators Brock, Benning, Collamore, Ingalls, Parent and
Terenzini

Referred to Committee on

Date:

Subject: Land use; Act 250; housing; affordable housing; sales and use tax

Statement of purpose of bill as introduced: This bill proposes to amend the
definition of priority housing project under Act 250; allow for expedited
Act 250 permit application review in high demand counties; exempt from the
sales and use tax construction materials for priority housing projects; require
appeals of Act 250 permits for housing to resolved within 120 days; and
temporarily add one judge and one law clerk to the Environmental Division of
the Superior Court.

An act relating to Vermont Housing Regulation Modernization

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

* * * Short Title; Findings * * *

Sec. 1. SHORT TITLE

This act may be cited as the “Vermont Housing Regulation Modernization
Act” or “VHRMA.”

1 Sec. 2. FINDINGS

2 The General Assembly finds:

3 (1) According to the Vermont Housing Needs Assessment, Vermont
4 continues to face a severe shortage of housing to meet its affordable housing
5 needs.

6 (2) Protracted permit timelines and regulatory hurdles are often cited as
7 major impediments to expanding the supply of affordable housing in Vermont.

8 (3) In recent years, the State has greatly expanded investments in
9 affordable housing through the issuance of bonds, increased allotments for tax
10 credits and other incentives, enhanced amounts for housing assistant programs,
11 and additional appropriations for housing-related items such as weatherization.

12 (4) State permitting processes have not been fundamentally reformed in
13 nearly two decades.

14 (5) The average duration for an Act 250 permit appeal to be resolved by
15 the Environmental Division of the Superior Court is 334.8 days.

16 (6) To the extent regulatory and permitting reform has occurred as it
17 relates to affordable housing, success has been realized in mitigating the costs
18 for housing development and reducing the time from permit application to
19 project approval.

1 subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions
2 of any existing permit or permit amendment issued under this chapter that
3 applies to the tract or tracts on which the project will be located. If such a
4 priority housing project will not comply with one or more of these conditions,
5 an application may be filed pursuant to section 6084 of this title.

6 Sec. 5. 10 V.S.A. § 6086b is amended to read:

7 § 6086b. ~~DOWNTOWN DEVELOPMENT IN~~ D

8 DOWNTOWNS AND DEVELOPMENT OF HOUSING IN

9 COUNTIES WITH HIGH DEMAND; FINDINGS

10 (a) Downtown development. Notwithstanding any provision of this chapter
11 to the contrary, each of the following shall apply to a development or
12 subdivision that is completely within a downtown development district
13 designated under 24 V.S.A. chapter 76A and for which a permit or permit
14 amendment would otherwise be required under this chapter:

15 (1) In lieu of obtaining a permit or permit amendment, a person may
16 request findings and conclusions from the District Commission, which shall
17 approve the request if it finds that the development or subdivision will meet
18 subdivisions 6086(a)(1) (air and water pollution), (2) (sufficient water
19 available), (3) (burden on existing water supply), (4) (soil erosion), (5)
20 (traffic), (8) (aesthetics, historic sites, rare and irreplaceable natural areas),
21 (8)(A) (endangered species; necessary wildlife habitat), (9)(B) (primary

1 agricultural soils), (9)(C) (productive forest soils), (9)(F) (energy
2 conservation), and (9)(K) (public facilities, services, and lands) of this title.

3 * * *

4 (b) Housing development in counties with high demand. During any
5 period in which a county's median gross rent is 10 percent above the median
6 gross rent for the State, the option established under subsection (a) of this
7 section shall be available for a development under subdivision 6001(3)(A)(iv)
8 of this title within that county for which a permit or permit amendment would
9 otherwise be required.

10 Sec. 6. 10 V.S.A. § 6081(v) is amended to read:

11 (v) A permit or permit amendment shall not be required for a development
12 or subdivision in a designated downtown development district or for a housing
13 development in a high-demand county for which the District Commission has
14 issued positive findings and conclusions under section 6086b of this title on all
15 the criteria listed in that section. A person shall obtain new or amended
16 findings and conclusions from the District Commission under section 6086b of
17 this title prior to commencement of a material change, as defined in the rules of
18 the Board, to a development or subdivision for which the District Commission
19 has issued such findings and conclusions. A person may seek a jurisdictional
20 opinion under section 6007 of this title concerning whether such a change is a
21 material change.

1 governmental body or agency, the organization, ~~or~~ the development
2 corporation, or the developer of a priority housing project has first obtained a
3 certificate from the Commissioner stating that it is entitled to the exemption,
4 and the vendor keeps a record of the sales price of each separate sale, the name
5 of the purchaser, the date of each separate sale, and the number of the
6 certificate. In this subdivision, the words “building materials and supplies”
7 shall include all materials and supplies consumed, employed, or expended in
8 the construction, reconstruction, alteration, remodeling, or repair of any
9 building, structure, or other public work, as well as the materials and supplies
10 physically incorporated therein.

11 * * *

12 * * * Act 250 Appeals * * *

13 Sec. 8. 10 V.S.A. § 6089 is amended to read:

14 § 6089. APPEALS

15 (a) Appeals of any act or decision of a District Commission under this
16 chapter or a district coordinator under subsection 6007(c) of this title shall be
17 made to the Environmental Division in accordance with chapter 220 of this
18 title. For the purpose of this section, a decision of the Chair of a District
19 Commission under section 6001e of this title on whether action has been taken
20 to circumvent the requirements of this chapter shall be considered an act or
21 decision of the District Commission.

1 (b) The Environmental Division shall act upon the petition of an appeal
2 within 30 days after receiving the petition if the decision relates to a project
3 covered under subdivision 6001(3)(A)(iv) of this title.

4 (c) The Environmental Division shall issue a final decision within 120 days
5 after taking the action described in subsection (b) of this section if the decision
6 relates to a project covered under subdivision 6001(3)(A)(iv) of this title.

7 (d) If the Environmental Division fails to meet the timelines in subsections
8 (b) and (c) of this section, the Natural Resources Board shall refund the
9 applicant any fees paid to the State under section 6083a of this title and the
10 applicant shall not be liable for any additional fees under the same section,
11 regardless of the final decision issued by the Environmental Decision on the
12 appeal.

13 * * * Environmental Court * * *

14 Sec. 9. ENVIRONMENTAL DIVISION OF SUPERIOR COURT;
15 POSITIONS; APPROPRIATION

16 (a) Establishment of the following limited service positions is authorized in
17 the Environmental Division of the Superior Court in fiscal year 2023:

18 (1) one Environmental Division judge; and

19 (2) one law clerk.

20 (b) There is appropriated the sum of \$300,000.00 to the Environmental
21 Division of the Superior Court in fiscal year 2023 from the American Rescue

1 Plan Act of 2021 - Coronavirus State Fiscal Recovery Fund for the positions
2 established in subsection (a) of this section.

3 * * * Effective Date * * *

4 Sec. 10. EFFECTIVE DATE

5 This act shall take effect on passage.