

1 Introduced by Senators Sirotkin, Clarkson, and Balint
2 Referred to Committee on
3 Date:
4 Subject: Housing
5 Statement of purpose of bill as introduced: This bill proposes to improve
6 rental housing health and safety.

7 An act relating to improving rental housing health and safety

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

9 * * * Department of Public Safety;

10 Authority for Rental Housing Health and Safety * * *

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

12 CHAPTER 173. PREVENTION AND INVESTIGATION OF FIRES;

13 PUBLIC BUILDINGS; HEALTH AND SAFETY; ENERGY STANDARDS

14 * * *

15 Subchapter 2. Division of Fire Safety; Public Buildings; Building Codes;

16 Rental Housing Health and Safety; Building Energy Standards

17 * * *

18 § 2730. DEFINITIONS

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

20 * * *

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

4 * * *

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

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

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

13 * * *

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

16 * * *

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

19 § 2731. RULES; INSPECTIONS; VARIANCES

20 (a) Rules.

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

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

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

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

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

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

16 (i) the date of the inspection;

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

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

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

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

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

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

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

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

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

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

18 (i) Initial certification: \$150.00.

19 (ii) Renewal: \$50.00.

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

1 (i) Initial certification: \$115.00.

2 (ii) Renewal: \$50.00.

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

4 (D) Oil burning equipment installation, inspection, and service:
5 \$60.00.

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

7 (F) Limited oil burning equipment installation, inspection, and
8 service: \$60.00.

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

11 (i) Initial certification: \$60.00.

12 (ii) Renewal: \$20.00.

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

15 (i) Initial certification: \$60.00.

16 (ii) Renewal: \$20.00.

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

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

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

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

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

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

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

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

21 * * *

1 § 2733. ORDERS TO REPAIR, REHABILITATE, OR REMOVE

2 STRUCTURE

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

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

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

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

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

1 ~~commissioner~~ Commissioner may order such structure demolished and
2 removed.

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

12 § 2734. PENALTIES

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

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

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 the
6 ~~commissioner~~ Commissioner determines that the training, qualifications, and
7 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.

20 * * *

1 § 2738. FIRE PREVENTION AND BUILDING INSPECTION SPECIAL

2 FUND

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

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

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

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

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

12 and

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

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

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

21 * * *

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

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

3 § 2478. STATE RENTAL HOUSING REGISTRY; HOUSING DATA

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

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

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

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

15 (3) location of the unit;

16 (4) year built;

17 (5) type of rental unit;

18 (6) number of units in the building;

19 (7) school property account number;

20 (8) accessibility of the unit; and

21 (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. § 4301, 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 administrative
21 penalties not to exceed \$5,000.00 for each violation.

1 § 602a. 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 any
9 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.~~

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

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

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

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

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

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

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

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

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

1 ~~(B)(i) if a municipality has established a code enforcement office,~~
2 ~~provide information on each inspection according to a schedule and in a format~~
3 ~~adopted by the Department in consultation with municipalities that have~~
4 ~~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 officer~~
11 ~~shall post a copy of the inspection report in a common area of the property and~~
12 ~~include a prominent notice that the report shall not be removed until authorized~~
13 ~~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 ~~(e) 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. § 2731, 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 83 and 123; and applicable municipal law; and

1 (3) the Department of Health, the State Board of Health, and local health
2 officials have concurrent authority to enforce State and local laws governing
3 public health hazards and public health risks, as those terms are defined in
4 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.

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* * * 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).