



**Testimony for the House Committee on Judiciary in support of H. 619 - An act relating to creating reciprocal rights to landlord-tenant attorney's fees and expenses
2/16/24**

Introduction

Honorable Chair LaLonde, Vice Chair Burditt, and members of this committee, thank you for the opportunity to be here today. And thank you to Rep. Andriano for introducing H. 619. My name is Jess Hyman, and I am the Associate Director of Statewide Housing Advocacy Programs at the Champlain Valley Office of Economic Opportunity (CVOEO). At CVOEO, we operate 10 distinct yet interconnected programs that provide emergency services like shelter, housing, food, and warmth as well as services to help people access to critical and timely information, resources, and referrals, and gain economic independence.

Our Housing Advocacy Programs serve the entire state of Vermont, providing education, support, and technical assistance for individuals, households, organizations, and municipalities. The Housing Advocacy team serves thousands of renters, mobile home residents, families exiting homelessness, asylees, and people experiencing discrimination each year, and also partners with housing and service providers, municipal officials, and other organizations to promote inclusive, affordable housing for all. These services and activities are grounded in the understanding that housing is a basic human right and that everyone deserves equitable access to securing and maintaining a home, free from discrimination.

Purpose

I am here today to speak in support of H. 619 and the importance of reciprocal rights for landlord-tenant attorney's fees and expenses. I am not a lawyer, so I will leave it to our friends at Vermont Legal Aid to elaborate on the legal provisions and implications of this bill. What I will share is the current context of renting in Vermont, what we hear every day from clients and community members, and how H. 619 would help address the power imbalance that exists between landlords and tenants – and why that's important.

As we know all too well, Vermont is in the midst of a housing crisis and there simply aren't enough homes for people at all income levels and especially those of lower income. The historically low vacancy rate of less than 3% statewide and less than 1% in Chittenden County affects everyone – and especially those who are most vulnerable. About a third of the state's population rents their homes vs. owning them – that's more than 80,000 households – and a quarter are very low income.

Every day on our Vermont Tenants and Mobile Home Program hotlines and in our Fair Housing outreach work, we hear from people who are living in substandard conditions with water leaks, mold, lack of heat, and more and tolerating discrimination and harassment in their homes. Fear of retaliation and worries about losing the only home they have – even if it's barely habitable –

often results in renters not reporting issues or using their own money to make repairs, which can get them into sticky situations with their landlords.

For example, we hear from:

- Families who are at risk of losing their homes because of huge rent increases that they can't afford, like leases being renewed at \$200, \$300, even \$700 more than the previous year or no-cause evictions.
- Elderly people who are living without adequate heat or hot water and can't get local officials to enforce basic health and safety regulations.
- Immigrants and refugees who are putting up with substandard conditions or being harassed by landlords but are afraid to complain out of fear of retaliation.
- People who can't understand the important documents and notices that come to them from their landlords and property management because they are only in English.
- People with disabilities who are being denied basic accommodations that would allow them to live safely and comfortably in their homes.

Annual calls to the Vermont Tenants hotline have more than doubled since 2018 – with more than 1,500 last year. We are seeing the highest increase in calls related to eviction – with a significant increase in the proportion of those related to illegal eviction. This includes tenants being locked out, tenants being left without heating fuel or water supply to the rental, landlords harassing and intimidating tenants and sharing false information about the eviction process. We are also hearing an increase in landlords refusing to repair dilapidated rental housing that officials have determined to be in violation of state housing codes.

Of course, we generally only hear about what isn't working. Renters rarely contact us when things are going well. And I know that most landlords are decent people just trying to run their businesses, follow Vermont landlord tenant law, and keep up their units. However, even in the most positive rental arrangements, there is a significant power imbalance.

Our homes are central to our individual and family health and where we live determines access to jobs, schools, environmental benefits or threats, and community connections. Rent and related costs are the biggest expense for many low-income families, which impacts where are how people live. Landlords essentially control who has access to a home, the cost and condition of that home, and consequently the tenants' ability to remain in their communities.

Landlords set the terms of their leases and renters generally have no choice but to accept those terms if they want to secure a home. A landlord writes the lease and presents it to the tenant as a take-it-or-leave-it situation. Leases frequently contain a term that if the landlord has to take action against the tenant, the tenant is liable for the landlord's attorney's fees. Especially in this housing market, a prospective tenant has no bargaining power and isn't able to negotiate. In addition to being unfair, this undermines the concept of free-market enterprise.

Additionally, when issues go to court, renters are also often at a disadvantage in terms of representation. In landlord/tenant disputes, about 90% of landlords have lawyers compared to 5-10% of tenants. The simple fact that a landlord chooses to go to court means the tenant may

owe more money. Even if their tenancy is preserved, the unpaid legal fees could threaten their housing stability.

When only one party has rights, this can have a chilling effect on renters seeking relief because they face a higher level of risk and the stakes are high if they lose. And even if they win, they may still need to pay their own legal fees. This exacerbates the power imbalance.

Whatever the rationale for a clause in a lease that imposes the landlord's attorney fees on a tenant, that same rationale should allow the tenant's attorney fees to be imposed on the landlord. A one-sided clause is not fair. This type of reciprocal attorney fees statute for rental agreements is already in place in several states, including New York, Delaware, Connecticut. Vermont should promote a legal environment where Vermont tenants and landlords have equal access to legal support and the opportunity for fair and just results.

I urge you to pass this bill to create reciprocal rights to landlord-tenant attorney's fees and expenses to add some balance and fairness to rental agreements. This action would promote housing justice and increase housing stability for tens of thousands of Vermonters.

Thank you.

Jess Hyman

Associate Director of Statewide Housing Advocacy Programs

Champlain Valley Office of Economic Opportunity

jhyman@cvoeo.org

802-660-3456 Ext. 106

www.cvoeo.org