

To: Senate Economic Development, Housing and General Affairs Committee
From: Maura Collins, Executive Director
Date: February 10, 2023
Re: Municipal energy codes

The Vermont Housing Finance Agency (VHFA) recommends the Committee add the same language as appears in H.68:

Any energy codes and regulations adopted after July 1, 2023 shall not be more restrictive than the Residential Building Energy Standards or the stretch code adopted under 30 V.S.A. § 51 or the Commercial Building Energy Standards adopted under 30 V.S.A. § 53, except where enabled by a municipal charter.

Energy codes are complex documents of interrelated requirements and their creation and adoption can trigger extensive impacts on the cost and availability of housing, as well as the availability of the workforce to be trained in and implement the codes. You've heard testimony from Kathy Beyer, of Evernorth, supporting this and I strongly believe there is wide support in the housing community for this if more testimony were had.

At the very least, municipalities should be required to follow the same thoughtful process as the state when writing its energy codes. Therefore, we recommend at least adding the following to the bill:

Municipalities may enact more stringent local residential building energy standards only for homes that are larger than 1,800 square feet per unit, so long as the municipality receives approval by the Public Service Department that the municipality followed [30 V.S.A. § 51\(c\)\(1\)](#) and [30 V.S.A. § 51\(c\)\(2\)](#). Municipalities may enact more stringent local commercial building energy standards only for homes that are larger than 1,800 square feet per unit, so long as the municipality receives approval by the Public Service Department that the municipality followed [30 V.S.A. § 53\(c\)\(1\)](#) and [30 V.S.A. § 53\(c\)\(2\)](#).

The intention is to prohibit municipalities from setting its own energy codes for housing units that are smaller than 1,800 square feet in recognition of the natural efficiency by virtue of their size. For larger units, municipalities would need to receive the state's approval that they went through the same process required by the state when they write energy codes. As a reminder, the state is required to do the following when updating the Residential Building Energy Standards (RBES) and Commercial Building Energy Standards (CBES):

(1) Any amendments to the RBES shall be:

- (A) consistent with duly adopted State energy policy, as specified in section 202a of this title, and consistent with duly adopted State housing policy;
- (B) evaluated relative to their technical applicability and reliability; and
- (C) cost-effective and affordable from the consumer's perspective.

(2) Each time the RBES are amended by the Commissioner, the amended RBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than three months after the date of adoption. Persons commencing residential construction before the effective date of the amended RBES shall have the option of complying with the applicable provisions of the earlier or the amended RBES. After the effective date of the original or the amended RBES, any person commencing residential construction shall comply with the most recent version of the RBES.

...

(1) Any amendments to the CBES shall be:

- (A) consistent with duly adopted State energy policy, as specified in 30 V.S.A. § 202a; and
- (B) evaluated relative to their technical applicability and reliability.

(2) Each time the CBES are amended by the Commissioner of Public Service, the amended CBES shall become effective upon a date specified in the adopted rule, a date that shall not be less than three months after the date of adoption. Persons submitting an application for any local permit authorizing commercial construction, or an application for construction plan approval by the Commissioner of Public Safety pursuant to 20 V.S.A. chapter 173, before the effective

date of the amended CBES shall have the option of complying with the applicable provisions of the earlier or the amended CBES. After the effective date of the original or the amended CBES, any person submitting such an application for commercial construction in an area subject to the CBES shall comply with the most recent version of the CBES.