

1 Introduced by Senate Committee on Economic Development and Housing and

2 General Affairs

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; land use; housing; Act 250

6 Statement of purpose of bill as introduced: This bill proposes to <Purpose>

7 An act relating to bringing everyone home

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

9 Sec. 1. SHORT TITLE

10 This act shall be known and may be cited as the “Be Home Act.”

11 * * * STUDY PLACEHOLDER * * *

12 Sec. 2. BUILDING CODE STUDY

13 (a) On or before January 15, 2025, the BLANK shall submit a report to the

14 Senate Committee on Economic Development, Housing, and General Affairs

15 and the House Committees on Environment and Energy and on General and

16 Housing on the identifying rate of adoption of the Federal Emergency

17 Management Agency’s flood resistant building code by Vermont

18 municipalities. The report shall recommend strategies to increase the adoption

19 of code.

1 (b) The sum of \$50,000.00 is appropriated from the General Fund to the
2 BLANK for the purpose of subsection (a) of this section.

3 * * * Parking effective date * * *

4 Sec. 3. 2023 Acts and Resolves No. 81, Sec. 10 is amended to read:

5 Sec. 10. 2023 Acts and Resolves No. 47, Sec. 47 is amended to read:

6 Sec. 47. EFFECTIVE DATES

7 This act shall take effect on July 1, 2023, except that:

8 (1) Sec. 1 (24 V.S.A. § 4414) shall take effect on ~~December~~ July 1,
9 2024.

10 * * *

11 * * * Act 250 * * *

12 Sec. 4. 10 V.S.A. § 8504 is amended to read:

13 § 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

14 * * *

15 (k) Limitations on appeals. Notwithstanding any other provision of this
16 section:

17 (1) there shall be no appeal from a District Commission decision when
18 the Commission has issued a permit and no hearing was requested or held, or
19 no motion to alter was filed following the issuance of an administrative
20 amendment;

1 (2) a municipal decision regarding whether a particular application
2 qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject
3 to appeal;

4 (3) if a District Commission issues a partial decision under subsection
5 6086(b) of this title, any appeal of that decision must be taken within 30 days
6 of the date of that decision-

7 (4) until January 1, 2026, the Environmental Division shall issue a
8 decision on a case regarding chapter 151 of this title within 180 days of the
9 case being filed with the Division.

10 * * *

11 Sec. 5. 10 V.S.A. § 8505 is amended to read:

12 § 8505. APPEALS TO THE SUPREME COURT

13 * * *

14 (d) The Supreme Court may award damages for project costs caused by
15 delays caused by the appeal to the Supreme Court in a decision regarding a
16 permit issued pursuant to chapter 151 of this title. The permit holders shall use
17 the damages awarded to cover the project costs.

18 Sec. 6. 10 V.S.A. § 6085a is added to read:

19 § 6085a. RECORDED HEARINGS

1 (a) Any appeal under section 6089 of this title shall be a review of the
2 record of the proceeding before the District Commission in accordance with
3 subdivision 8504(h)(3) of this title.

4 (b) Within 10 calendar days of receipt of a complete application under
5 section 6084 of this title, the District Commission shall provide notice of the
6 recorded hearings in accordance with the procedures of subdivision 6084(b)(1)
7 of this title.

8 (c) Each of the following shall apply to the review of an application under
9 this section:

10 (1) The District Commission shall extend the hearing schedule or take
11 other appropriate action as necessary to provide a fair and reasonable
12 opportunity for parties to prepare, present, and respond to evidence without
13 creating undue delay in the review of the application.

14 (2) The District Commission may require parties to submit prefiled
15 testimony and exhibits. If the District Commission requires submission of
16 prefiled evidence, the applicant and any parties supporting the application shall
17 submit their prefiled direct evidence first, and then other parties shall be given
18 a reasonable opportunity to submit their prefiled direct evidence. The District
19 Commission may then allow the submission or presentation of rebuttal
20 testimony and exhibits in the sequence and form that it determines to be
21 appropriate.

1 shall hold a de novo hearing on those issues which have been appealed, except
2 in the case of:

3 (1) a decision being appealed on the record pursuant to 24 V.S.A.
4 chapter 117;

5 (2) a decision of the Commissioner of Forests, Parks and Recreation
6 under section 2625 of this title being appealed on the record, in which case the
7 court shall affirm the decision, unless it finds that the Commissioner did not
8 have reasonable grounds on which to base the decision-; and

9 (3) a permit decision from a District Commission under chapter 151,
10 which shall be on the record.

11 * * *

12 * * * Housing Board of Appeals * * *

13 Sec. 8. 24 V.S.A. chapter 116 is added to read:

14 CHAPTER 116. HOUSING BOARD OF APPEALS

15 § 4201. BOARD ESTABLISHED

16 (a) Board established. There is established a Housing Board of Appeals to
17 hear appeals of municipal zoning decisions on housing projects. The Board
18 shall be composed of three members who shall be experienced in land use law
19 or housing development, or both. At least one member shall be an attorney
20 licensed to practice law in the State of Vermont, and at least one member shall
21 be either a professional engineer, land surveyor, or land use planner. The

1 members of the Board shall be full-time employees and shall not engage in any
2 other employment, appointments, or duties during their terms that is in conflict
3 with their duties as members of the Board.

4 (b) Terms; chair. The members of the Board shall be appointed by the
5 Supreme Court for a term of five years and until their successors are appointed
6 and qualified; provided, however, that any vacancy on the Board shall be filled
7 for the unexpired term. The initial members of the Board shall serve staggered
8 terms of three, four, and five years. The Supreme Court shall designate one
9 member as chair to serve in that capacity for the duration of the member's
10 term.

11 (c) Removal. Any member may be removed by the same authority for
12 inefficiency, neglect of duty, or malfeasance in office. Before removal, the
13 member shall be furnished with a copy of the charges and have an opportunity
14 to be heard in defense.

15 (d) Salary. Each member of the Board shall receive the annual salary of
16 BLANK and reasonable expenses, including transportation.

17 (e) Duties.

18 (1) The Board shall have power and authority to hear and affirm,
19 reverse, or modify, in whole or in part, appeals of final decisions of appropriate
20 municipal panels regarding questions of housing and housing development.
21 This shall include decisions on municipal zoning permits, subdivisions,

1 variances, and other municipal permits and fees applicable to housing and
2 housing developments.

3 (2) Matters subject to the Board’s authority may include mixed-use
4 combinations of residential and nonresidential uses, which may occur on
5 separate properties, provided such properties are all part of a common scheme
6 of development.

7 (3) In exercising its authority under this chapter, the Board shall have
8 the power to award all remedies available to the Superior Court in similar
9 cases, including permission to develop the proposed housing.

10 (4) After local remedies have been exhausted, an appeal may be brought
11 before the Board by the applicant or by any other person aggrieved as defined
12 in 10 V.S.A. § 8502. The municipality shall be a party to the action. If the
13 applicant is not the party initiating the action before the Board, then the
14 applicant shall automatically be an intervenor.

15 (5) The Board shall have authority to administer oaths and to compel the
16 attendance of witnesses to proceedings before it. The Board shall have the
17 power to subpoena and subpoena duces tecum. Witnesses compelled to appear
18 shall be paid the same fee and mileage that are paid to witnesses in the
19 Superior Court. A subpoena or subpoena duces tecum of the Board may be
20 served by any person designated in the subpoena or subpoena duces tecum to
21 serve it. Any testimony given by a person duly sworn shall be subject to the

1 pains and penalties of perjury. All applications or petitions to the Board for
2 which no filing fee has been otherwise specified by statute shall be
3 accompanied by a \$250.00 filing fee.

4 (f) Quorum; disqualification; temporary members. In all matters, a
5 majority of the Board shall constitute a quorum to transact business. No
6 member of the Board shall represent a party or testify as an expert witness or
7 render any professional service for any party or interest before the Board, and
8 any member having an interest in the subject matter shall be disqualified to act.
9 In the event of a disqualification or temporary disability of a member or
10 members of the Board, the Board shall appoint any temporary Board members
11 as shall be necessary. Temporary Board members shall serve with respect to a
12 matter until the same has been fully disposed of before the Board. Temporary
13 Board members shall have the same qualifications as regular Board members
14 in whose place they are acting. A temporary Board member shall be
15 compensated at the rate of \$75.00 for each day devoted to the work of the
16 Board and shall be reimbursed the necessary and reasonable expenses incurred
17 in the performance of the temporary Board member's duties. In the event of a
18 vacancy on the Board, the appellant may elect to continue the proceedings
19 while awaiting the appointment of a successor Board member.

20 (g) Staff and office. The Board shall have such clerical, administrative, and
21 technical staff as may be necessary. The Board shall have an office in which

1 its records, documents, and books shall be kept and with a suitable room in
2 which it may hold hearings.

3 § 4202. HOUSING APPEALS

4 (a) In matters within its authority, the Board shall have concurrent,
5 appellate jurisdiction with the Superior Court. The decision by any party to
6 bring an action before the Board shall be deemed a waiver of any right to bring
7 an action in the Superior Court but shall not abrogate any party's right to
8 appeal decisions of the Board to the Supreme Court; as such, the Board shall
9 retain jurisdiction of any matter originally brought before it. At any time
10 during an appeal to the Board, if the Board determines that it does not have
11 jurisdiction to hear the appeal, the appellant shall have 30 days to file an appeal
12 with the Superior Court.

13 (b) In an appeal of a local decision on housing or housing development,
14 any claim that is within the Board's authority and that has previously been or is
15 subsequently included in an appeal in Superior Court by another party to the
16 decision or by any other aggrieved or injured party who can demonstrate legal
17 standing to appeal shall automatically be stayed by the court to provide the
18 party with standing the opportunity to intervene in the matter before the Board.
19 If intervenor status is granted, the stay of the court action regarding those
20 claims shall continue during the pendency of the appeal to the Board. After the
21 Board has decided the appeal, the court shall dismiss the matter before it to the

1 extent the matter has been resolved by the Board. Any claim included in an
2 appeal to Superior Court that is not within the Board’s authority shall not be
3 subject to automatic stay by the court.

4 (c) Appeals shall be filed with the Board within 30 days following the final
5 decision of the appropriate municipal panel. At the same time an appeal is
6 filed with the Board, the applicant shall notify the appropriate municipal panel
7 of the appeal.

8 (d) The appropriate municipal panel shall within 30 days following receipt
9 of notice of appeal submit to the Board a certified record of its proceedings on
10 the matter subject to the appeal.

11 (e) The Board shall serve notice in writing of the time, place, and cause of
12 any hearing upon all parties at least 20 days prior to the date of the hearing.

13 (f) The Board shall hold a hearing on the merits within 90 days following
14 its receipt of a notice of appeal.

15 (g) The Board shall make a decision on an appeal within 60 days after
16 conducting a hearing on the merits.

17 (h) Appeals to the Board shall be consistent with appeals to the Superior
18 Court. Appeals shall be on the certified record, and except in such cases as
19 justice may warrant, in the sole discretion of the Board, no additional evidence
20 will be introduced. The rules of evidence shall not strictly apply. The Board
21 shall record the proceedings of any hearing before it and shall make such

1 recording available to the public for inspection and recording from the date of
2 the hearing to a date that is 15 working days after the Board has made a final
3 decision on the matter that is the subject of the hearing, or, if an appeal is made
4 from such decision, the date upon which the matter has been finally
5 adjudicated, whichever date is later.

6 (i) The Board shall not reverse or modify a decision except for errors of
7 law or if the Board is persuaded by the **balance of probabilities**, on the
8 evidence before it, that said decision is **unreasonable**.

9 (j) Nonattorneys, including professional engineers, architects, and land
10 surveyors, may represent any party before the Board. Nothing in this section
11 shall prevent the Board from denying representation by any individual it deems
12 to be improper, inappropriate, or unable to adequately represent the interests of
13 the applicant.

14 (k) The Board's deliberative processes in adjudicatory proceedings shall be
15 exempt from the public meeting and notice provisions of 1 V.S.A. chapter 5.
16 Decisions and orders in adjudicatory proceedings shall be publicly available,
17 but only after they have been reduced to writing, signed by a quorum of the
18 Board, and served upon the parties, and shall set forth the Board's rulings of
19 law and findings of fact in support of its decisions. Discussions and actions by
20 the Board concerning procedural, administrative, legal, and internal matters
21 shall be exempt from the meeting and notice provisions of 1 V.S.A. chapter 5.

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Sec. 10. 10 V.S.A. § 8504 is amended to read:

§ 8504. APPEALS TO THE ENVIRONMENTAL DIVISION

* * *

(g) Consolidated appeals. The Environmental Division may consolidate or coordinate different appeals where those appeals all relate to the same project.

* * *

(k) Limitations on appeals. Notwithstanding any other provision of this section:

(1) there shall be no appeal from a District Commission decision when the Commission has issued a permit and no hearing was requested or held, or no motion to alter was filed following the issuance of an administrative amendment;

(2) a municipal decision regarding whether a particular application qualifies for a recorded hearing under 24 V.S.A. § 4471(b) shall not be subject to appeal;

(3) if a District Commission issues a partial decision under subsection 6086(b) of this title, any appeal of that decision must be taken within 30 days ~~of~~ following the date of that decision; and

1 Supreme Court, unless the failure or neglect to raise that objection is excused
2 by the Supreme Court because of extraordinary circumstances.

3 * * *

4 Sec. 12. HOUSING BOARD OF APPEALS POSITIONS;

5 APPROPRIATION

6 (a) The following new positions are created at the Housing Board of
7 Appeals for the purposes of carrying out this act:

8 (1) three full-time Housing Board of Appeal members; and

9 (2) one Staff Attorney 1.

10 (b) The sum of \$XXX,000.00 is appropriated to the Housing Board of
11 Appeals from the General Fund in fiscal year 2025 for the positions established
12 in subsection (a) of this section and for additional operating costs required to
13 implement the appeals process established in this act.

14 Sec. 13. HOUSING BOARD OF APPEALS CREATION

15 (a) The Governor shall appoint the members of Housing Board of Appeals
16 on or before July 1, 2025.

17 (b) The Housing Board of Appeals shall adopt rules of procedure for its
18 hearing process pursuant to 24 V.S.A. § 4203 on or before July 1, 2026.

19 * * * Wastewater Connection Permits * * *

20 Please note: in S.100- Sec. 25 directed ANR to review their permits for
21 duplication and report back on 1/31/25

1 Sec. 14. 10 V.S.A. § 1974 is amended to read:

2 § 1974. EXEMPTIONS

3 Notwithstanding any other requirements of this chapter, the following
4 projects and actions are exempt:

5 * * *

6 (9) A project completed by a person who receives an authorization from
7 a municipality that administers a program registered with the Secretary
8 pursuant to section 1983 of this title.

9 Sec. 15. 10 V.S.A. § 1983 is added to read:

10 § 1983. AUTHORIZATION FOR MUNICIPAL WASTEWATER SYSTEM
11 AND POTABLE WATER SUPPLY CONNECTIONS

12 (a) A municipality may issue an authorization for a connection or an
13 existing connection with a change in use to the municipal sanitary sewer
14 collection line via a sanitary sewer service line or a connection to a water main
15 via a new water service line in lieu of permits issued under this chapter,
16 provided that the municipality documents the following in a form prescribed
17 by the Secretary:

18 (1) The municipality owns or has legal control over connections to a
19 public community water system permitted pursuant to chapter 56 of this title
20 and over connections to a wastewater treatment facility permitted pursuant to
21 chapter 47 of this title.

1 (2) The municipality shall only issue authorizations for:

2 (A) a sanitary sewer service line that connects to the sanitary sewer
3 collection line; and

4 (B) a water service line that connects to the water main.

5 (3) The building or structure authorized under this section connects to
6 both the sanitary sewer collection line and public community water system.

7 (4) The authorizations from the municipality comply with the technical
8 standards for sanitary sewer service lines and water service lines in the
9 Wastewater System and Potable Water Supply Rules.

10 (5) The municipality requires documentation issued by a professional
11 engineer or licensed designer that is filed in the land records that the
12 connection authorized by the municipality was installed in accordance with the
13 technical standards.

14 (6) The municipality requires the authorization to be filed in the land
15 records.

16 (7) The municipality requires the retention of plans that show the
17 location and design of authorized connections.

18 (b) The municipality shall notify the Secretary 30 days in advance of
19 terminating any authorization. The municipality shall provide all
20 authorizations and plans to the Secretary as a part of this termination notice.

1 (c) A municipality issuing an authorization under this section shall require
2 the person to whom the authorization is issued to post notice of the
3 authorization as part of the notice required for a permit issued under 24 V.S.A.
4 § 4449 or other bylaw authorized under this chapter.

5 * * *Land Bank Study * * *

6 **Sec. 16. MUNICIPAL AND REGIONAL LAND BANKS; STUDY**

7 (a) Creation. There is created a Municipal and Regional Land Bank Study
8 Committee to review and consider models for creating municipal or regional
9 land banks, the purpose of which are to acquire and transfer for the purpose of
10 revitalizing blighted properties and underperforming real estate assets in
11 Vermont communities.

12 (b) Membership. The Committee is composed of the following members:

13 (1) [#] current members of the House of Representatives, not all from
14 the same political party, who shall be appointed by the Speaker of the House;

15 (2) [#] current members of the Senate, not all from the same political
16 party, who shall be appointed by the Committee on Committees;

17 (3) three municipal leaders with geographic diversity [appointed by
18 {whomever}];

19 (4) realtors [appointed by {whomever}];

20 (5) a representative of Habitat for Humanity [appointed by]

1 (6) a representative of the Vermont Regional Planning Commissions
2 (appointed by]

3 (7) a representative of an affordable housing nonprofit [appointed by]

4 (c) Powers and duties. The [Committee/Working Group/Task Force] shall
5 study [topic], including the following [questions/issues]:

6 (1) _____ ;

7 (2) _____ ; and

8 (3) _____ .

9 (d) Assistance. The [Committee/Working Group/Task Force] shall have
10 the administrative, technical, and legal assistance of [named entity]. *[Or, if*
11 *appropriate:* For purposes of scheduling meetings and preparing
12 recommended legislation, the {Committee/Working Group/Task Force} shall
13 have the assistance of the Office of Legislative Operations and the Office of
14 Legislative Counsel {and the Joint Fiscal Office}.

15 (e) Report. On or before [date], the [Committee/Working Group/Task
16 Force] shall [submit a written] report to [the General Assembly/the House
17 Committee on _____ and the Senate Committee on _____] with its
18 findings and any recommendations for legislative action.

19 (f) Meetings.

20 (1) [Person] shall call the first meeting of the [Committee/Working
21 Group/Task Force] to occur on or before [date].

1 (2) [Person] shall be the chair [OR describe how chair is selected - e.g.,
2 The Committee shall select a chair from among its members at the first
3 meeting].

4 (3) A majority {or an exact number, or other proportion} of the
5 membership shall constitute a quorum.

6 **Optional:** The default laws (or, in the case of all-legislator committees,
7 the default customs) regarding (1) whether a member’s physical presence is
8 required in order to count toward a quorum, (2) whether a member may vote to
9 take action without being physically present, and (3) the number of votes
10 required for an action to carry, are listed on pp.1–2 of doc # 301157. For
11 suggested language to override these defaults, see pp.3–4 of doc # 301157.

12 (4) The [Committee/Working Group/Task Force] shall cease to exist on
13 [date].

14 (g) Compensation and reimbursement.

15 (1) For attendance at meetings during adjournment of the General
16 Assembly, a legislative member of the [Committee/Working Group/Task
17 Force] [serving in his or her capacity as a legislator] shall be entitled to per
18 diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 23
19 for not more than [#] meetings. These payments shall be made from monies
20 appropriated to the General Assembly [or use subdiv. (3) if all members will be
21 paid from one source].

1 (2) **Optional** Other members of the [Committee/Working Group/Task
2 Force] shall be entitled to [per diem compensation/reimbursement of
3 expenses/both] as permitted under 32 V.S.A. § 1010 for not more than [#]
4 meetings [or Other members of the [Committee/Working Group/Task Force]
5 shall not be entitled to per diem compensation or reimbursement of expenses.].

6 These payments shall be made from monies appropriated to [which State
7 entity] [or use subdiv. (3) if all members will be paid from one source].

8 (3) Payments to members of the [Committee/Working Group/Task
9 Force] authorized under this subsection shall be made from monies
10 appropriated to [which State entity].

11 (h) **Optional** Appropriation. The sum of [\$.00] is appropriated to [which
12 State entity] from the [General Fund/other source] in fiscal year [year] for [per
13 diem compensation] [and reimbursement of expenses] for members of the
14 Committee/Working Group/Task Force [and add in any other expenses that
15 the section authorizes/directs the Committee/Working Group/Task Force to
16 incur].

17 Sec. 17. EFFECTIVE DATES

18 This act shall take effect on July 1, 2024.