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H.537

Introduced by Representative LaLonde of South Burlington

Referred to Committee on

Date:

Subject: Commerce and trade; housing; landlord tenant; common interest
communities

Statement of purpose of bill as introduced: This bill proposes to prohibit a
landlord and a common interest community from restricting the installation
and use of a vegetable garden.

An act relating to the right to grow vegetable gardens

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

~~Sec. 1, 27A V.S.A. § 1-204 is amended to read:~~

~~§ 1-204. PREEXISTING COMMON INTEREST COMMUNITIES~~

~~(a)(1) Unless excepted under section 1-203 of this title, the following
sections and subdivisions of this title apply to a common interest community
created in this State before January 1, 1999: sections 1-103, 1-105, 1-106, 1-
107, 2-103, 2-104, and 2-121; subdivisions 3-102(a)(1) through (6) and (11)
through (16); and sections 3-111, 3-116, 3-118, 4-109, and 4-117 to the extent
necessary to construe the applicable sections. The sections and subdivisions~~

1 ~~described in this subdivision apply only to events and circumstances occurring~~
2 after December 31, 1998, and do not invalidate existing provisions of the
3 declarations, bylaws, plats, or plans of those common interest communities.

4 * * *

5 (3) Unless excepted under section 1-203 of this title, section 3-125 of
6 this title shall apply to a common interest community created in this State
7 before January 1, 1999. Section 3-125 applies only to events and
8 circumstances occurring after June 30, 2026, and does not invalidate existing
9 provisions of the declarations, bylaws, plats, or plans of those common interest
10 communities.

11 * * *

12 Sec. 2. 27A V.S.A. § 3-125 is added to read:

13 § 3-125. VEGETABLE GARDENS

14 (a) As used in this section, “vegetable garden” means a plot of land where
15 a person cultivates plants for personal consumption or donation and the land
16 and activities on it are not subject to the required agricultural practices. A
17 “vegetable garden” does not include cultivation of cannabis or any unlawful
18 crops or substances.

19 (b)(1) Any covenant, restriction, or condition contained in any deed,
20 contract, security instrument, or other instrument affecting the transfer or sale
21 of any interest in a common interest community, and any provision of a

1 ~~governing document associated with a common interest community, such as a~~
2 declaration, bylaw, or rule, that either effectively prohibits or unreasonably
3 restricts the installation or use of a vegetable garden in areas designated for
4 exclusive use of the unit owner or is in conflict with this section is void and
5 unenforceable.

6 (2) If approval is required for the installation of a vegetable garden, the
7 application for approval shall be processed and approved by the association in
8 the same manner as an application for approval of an architectural
9 modification to the common interest community and shall not be intentionally
10 avoided or delayed. The approval or denial of an application shall be in
11 writing. If an application is not denied in writing within 60 days from the date
12 of receipt of the application, the application shall be deemed approved, unless
13 that delay is the result of a reasonable request for additional information.

14 (3) The unit owner and each successive owner shall be responsible for
15 all of the following:

16 (A) costs for the installation, maintenance, repair, removal, or
17 replacement of the vegetable garden;

18 (B) costs for damage to any common element or limited common
19 element resulting from installation, maintenance, repair, removal, or
20 replacement,

1 (C) costs for water or electricity associated with the use of the
2 vegetable garden; and

3 (D) disclosing to prospective buyers of the unit the existence of any
4 vegetable garden and the related responsibilities of the unit owner under this
5 section.

6 (c) This section shall not prohibit an association from enacting bylaws or
7 rules that reasonably restrict the installation or use of a vegetable garden in an
8 area of the common interest community designated for exclusive use of the
9 unit owner, including:

10 (1) requiring that a vegetable garden be maintained in good condition if
11 visible from the street faced by the lot or from an adjoining lot;

12 (2) requiring that dead plant materials and weeds are regularly cleared
13 from the vegetable garden, with the exception of straw, mulch, compost, and
14 other organic material intended to encourage vegetation and retention of
15 moisture in the soil;

16 (3) restricting the use of property owned in common and not for the
17 exclusive use of a unit owner; and

18 (4) prohibiting the use of pesticides, as that term is defined in 6 U.S.A.
19 § 1101, or any other synthetic chemical product commonly used in the
20 growing of plant crops.

1 ~~(d) An association that intentionally violates this section shall be liable to~~
2 ~~the applicant unit owner or other party for actual damages and shall pay a civil~~
3 ~~penalty to the applicant unit owner or other party in an amount not to exceed~~
4 ~~\$1,000.00.~~

5 (e) This section shall not apply to a condominium.

6 Sec. 3. 9 V.S.A. § 4456c is added to read:

7 § 4456c. VEGETABLE GARDENS

8 (a) As used in this section, “vegetable garden” means the outdoor
9 cultivation of plants for personal consumption or donation and the land and
10 activities on it are not subject to the required agricultural practices. A
11 “vegetable garden” does not include cultivation of cannabis or any unlawful
12 crops or substances.

13 (b)(1) A landlord shall permit a tenant to grow a vegetable garden in
14 portable containers approved by the landlord in the tenant’s private area.

15 (2) A landlord may authorize a tenant to install a vegetable garden,
16 other than that which is contained in portable containers, on the rental
17 property.

18 (c) A landlord may place reasonable restrictions on the installation and use
19 of vegetable gardens, including:

20 ~~(1) requiring that a vegetable garden be maintained in good condition,~~

1 ~~(2) requiring that dead plant materials and weeds are regularly cleared~~
2 ~~from the vegetable garden, with the exception of straw, mulch, compost, and~~
3 ~~other organic material intended to encourage vegetation and retention of~~
4 ~~moisture in the soil;~~

5 ~~(3) requiring that the vegetable garden does not interfere with the~~
6 ~~maintenance of the rental property;~~

7 ~~(4) requiring that the placement of the vegetable garden does not~~
8 ~~interfere with a tenant parking space or create a health or safety hazard, block~~
9 ~~doorways, or interfere with walkways or utility services or equipment; and~~

10 ~~(5) prohibiting the use of pesticides, as that term is defined in 6 V.S.A.~~
11 ~~§ 1101, or any other synthetic chemical product commonly used in the~~
12 ~~growing of plant crops.~~

13 ~~(d) A landlord may require a tenant to pay for any excess water, electricity,~~
14 ~~and waste collection bills arising from the tenant's personal vegetable garden.~~

15 Sec. 4. EFFECTIVE DATE

16 ~~This act shall take effect on July 1, 2026.~~

Sec. 1. 27A V.S.A. § 1-204 is amended to read:

§ 1-204. PREEXISTING COMMON INTEREST COMMUNITIES

(a)(1) Unless excepted under section 1-203 of this title, the following sections and subdivisions of this title apply to a common interest community created in this State before January 1, 1999: sections 1-103, 1-105, 1-106, 1-

107, 2-103, 2-104, and 2-121; subdivisions 3-102(a)(1) through (6) and (11) through (16); and sections 3-111, 3-116, 3-118, 4-109, and 4-117 to the extent necessary to construe the applicable sections. The sections and subdivisions described in this subdivision apply only to events and circumstances occurring after December 31, 1998, and do not invalidate existing provisions of the declarations, bylaws, plats, or plans of those common interest communities.

* * *

(3) Unless excepted under section 1-203 of this title, section 3-125 of this title shall apply to all common interest communities that contain 12 or more units that may be used for residential purposes created in this State on or before January 1, 2011. Section 3-125 applies only to events and circumstances occurring after June 30, 2026, and does not invalidate existing provisions of the declarations, bylaws, plats, or plans of those common interest communities.

* * *

Sec. 2. 27A V.S.A. § 3-125 is added to read:

§ 3-125. VEGETABLE GARDENS

(a) As used in this section, “vegetable garden” means a plot of land where a person cultivates plants for personal consumption or donation and the land and activities on it are not subject to the required agricultural practices. A

“vegetable garden” does not include cultivation of cannabis or any unlawful crops or substances.

(b)(1) Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in a common interest community, and any provision of a governing document associated with a common interest community, such as a declaration, bylaw, or rule, that either effectively prohibits or unreasonably restricts the installation or use of a vegetable garden in areas designated for exclusive use of the unit owner or is in conflict with this section is void and unenforceable.

(2) If approval is required for the installation of a vegetable garden, the application for approval shall be processed and approved by the association in the same manner as an application for approval of an architectural modification to the common interest community and shall not be intentionally avoided or delayed. The approval or denial of an application shall be in writing. If an application is not denied in writing within 90 days from the date of receipt of the application, the application shall be deemed approved, unless that delay is the result of a reasonable request for additional information.

(3) The unit owner and each successive owner shall be responsible for all of the following:

(A) costs for the installation, maintenance, repair, removal, or replacement of the vegetable garden;

(B) costs for damage to any common element or limited common element resulting from installation, maintenance, repair, removal, or replacement;

(C) costs for water or electricity associated with the use of the vegetable garden; and

(D) disclosing to prospective buyers of the unit the existence of any vegetable garden and the related responsibilities of the unit owner under this section.

(c) This section shall not prohibit an association from enacting bylaws or rules that reasonably restrict the installation or use of a vegetable garden in an area of the common interest community designated for exclusive use of the unit owner, including:

(1) regulating the erection and installation of permanent structures;

(2) requiring that a vegetable garden be maintained in good condition if visible from the street faced by the lot or from an adjoining lot;

(3) requiring that dead plant materials and weeds are regularly cleared from the vegetable garden, with the exception of straw, mulch, compost, and other organic material intended to encourage vegetation and retention of moisture in the soil;

(4) restricting the use of property owned in common and not for the exclusive use of a unit owner; and

(5) prohibiting the use of pesticides, as that term is defined in 6 V.S.A. § 1101, or any other synthetic chemical product commonly used in the growing of plant crops.

(d)(1) An association may provide written notice to a unit owner of a violation of the bylaws or rules adopted pursuant to this section and provide the unit owner not less than 10 days to correct the violation.

(2) An association may take steps to correct a violation that remains uncorrected after the 10-day period provided to the unit owner in subdivision (1) of this subsection.

(3) Any costs to the association necessary for correcting a violation may be charged back to the unit owner.

Sec. 3. 9 V.S.A. § 4456c is added to read:

§ 4456c. VEGETABLE GARDENS

(a) As used in this section, “vegetable garden” means the outdoor cultivation of plants for personal consumption or donation and the land and activities on it are not subject to the required agricultural practices. A “vegetable garden” does not include cultivation of cannabis or any unlawful crops or substances.

(b)(1) A landlord shall permit a tenant to grow a vegetable garden in portable containers approved by the landlord in the tenant's rented space.

(2) A landlord may authorize a tenant to install a vegetable garden, other than that which is contained in portable containers, on the rental property.

(c) A landlord may place reasonable restrictions on the installation and use of vegetable gardens, including:

(1) requiring that a vegetable garden be maintained in good condition;

(2) requiring that dead plant materials and weeds are regularly cleared from the vegetable garden, with the exception of straw, mulch, compost, and other organic material intended to encourage vegetation and retention of moisture in the soil;

(3) requiring that the vegetable garden does not interfere with the maintenance of the rental property;

(4) requiring that the placement of the vegetable garden does not interfere with a tenant parking space or create a health or safety hazard, block doorways, or interfere with walkways or utility services or equipment; and

(5) prohibiting the use of pesticides, as that term is defined in 6 V.S.A. § 1101, or any other synthetic chemical product commonly used in the growing of plant crops.

(d) A landlord may require a tenant to pay for any excess water, electricity, and waste collection bills arising from the tenant's personal vegetable garden.

(e)(1) A landlord may charge a security deposit for the installation of a vegetable garden under subdivision (b)(2) of this section for the purpose of securing against damages or removal of the vegetable garden upon the termination of the rental agreement.

(2) The provisions in section 4461 of this title shall apply to a security deposit received under this subsection.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.