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Comments on H.181 – An Act Relating to Residential & Commercial Building Energy Standards

Submitted to: House Committee on Energy & Digital Infrastructure

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Questions? Please contact:

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I am commenting as a member of the Building Energy Code Working Group representing Vermont's 11 regional planning commissions and the Vermont Association of Planning and Development Agencies (VAPDA).

I agreed to serve in this role based upon my background as Deputy Director of Planning and Zoning for Calvert County, Maryland, where I oversaw the Division of Inspections and Permits. That division was responsible for issuing building, grading, electrical, plumbing, and gas permits, and performed field inspections on these projects to ensure compliance with the applicable codes. Types of inspections conducted by staff included, building construction, electrical installation, plumbing installation, fire protection, and accessibility. I also grew up around the construction business in rural southwest Virginia. My father was a contractor who built new homes and restored historic properties, and my mother was a Century 21 real estate agency broker/owner.

I offer the following comments on H.181.

VAPDA's primary interest in this bill is to encourage increased building efficiency, but to do so in a way that does not put municipalities with little to no capacity in a position where they have a mandatory role in state regulatory administration. Requiring the filing of code compliance certificates with property records is a reasonable expectation. Requiring towns to provide building energy code information when a building or zoning permit is applied for may be reasonable but for reasons explained below may not lead to significantly greater code compliance. It may also lead property owners to assume that municipalities have a greater role in code compliance than they do.

The following comments are my own based upon my professional experience.

- Having a state code without having a statutorily-assigned state agency responsible for interpretation, administration, and enforcement could reasonably be expected to result in low code compliance.

- A code that is not interpreted, administered and enforced can lead to ambiguity in practice. That ambiguity can result in conflicts between buyers and sellers, contractors and consumers, and residents and state and local government. Those conflicts can lead to the expenditure of time and money – including lawsuits – that may not be necessary.
- Any state agency or other entity tasked with this responsibility must be properly resourced, and it must be resourced in such a manner that permit reviews and inspections do not result in significant construction delays. Time in construction is money and code compliance processes must be effective and expeditious.
- It is questionable whether requiring municipalities to provide energy code compliance information has a meaningful impact on actual code compliance. Within the approximately 40 towns with no zoning bylaws, there may be no municipal permit required to build a home. For towns with zoning, the threshold as to when a permit is or is not required may not align with the energy code requirements. In any case, variability among Vermont’s nearly 250 municipalities results in uneven execution of this statutory requirement.
- I am a House-appointed member of the Climate Council representing municipal government and we often discuss greenhouse gas reduction measurements and reports. It makes sense that it would be in the interest of the state for the Department of Public Service to collaborate on the development of a methodology for calculating and reporting greenhouse gas reductions annually. Many Climate Action Plan actions rely upon achieving greater building energy efficiency and reducing greenhouse gas production. That said, I don’t know how onerous a task this might be, and such work by the Department would need to be properly and sufficiently resourced.
- I have concerns about the existence of energy codes in the absence of a residential building code, especially when it comes to insulation and weatherization. Building systems (framing, electrical, plumbing, grading, etc.) all work together. It’s challenging enough with new construction, and getting it right with existing construction is arguably more challenging – especially when it comes to moisture management. In my opinion it’s good to have codes, and inspections of compliance with those codes, before a building is sealed up.
- Site grading, which is usually part of residential building codes, has huge implications for the comfort, health, and durability of a home, especially when it comes to moisture management. It can make the difference between a house that stands the test of time or one that eventually rots and must either be constantly maintained or demolished. Grading should take into account the current and projected climate conditions characterized by frequent and intense precipitation events, and extreme dry and wet soil conditions.

- I understand there are concerns with code requirements and enforcement as it relates to cost of construction. However, consideration should also be given to future costs associated with construction that does not meet code. I have had the personal experience of spending tens of thousands of dollars to make repairs that would not have been necessary if prior work had been done to code in the first place. This also has implications for energy and greenhouse gases. Repairs, demolition, and reconstruction necessitated by poor construction or renovation expends more energy and likely produces more greenhouse gases.