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To: Chair Martin LaLonde, House Judiciary Committee
From: Jean Murray, Attorney, Vermont Legal Aid
Date: March 16, 2026
Re: H.772 and House Judiciary Proposed Amendment

Thank you for your time, engagement, and thoughtful work on H.772, and for the opportunity for Vermont Legal Aid to provide testimony. We appreciate your willingness to hear from a range of perspectives as you consider this bill. In that spirit, we wanted to explain how H. 772, even with House Judiciary's Amendment, continues to unfairly affect judicial process and discretion, provide landlords with an advantage, and take away tenants' due process. These points are offered in the hope they are helpful for context as the discussion moves forward.

Two processes may give rise to two simultaneous lawsuits.
H.772 creates confusion. Currently, evictions for all reasons proceed under subchapter 3 of ch.169 of Title 12.
H.772 adds an additional subchapter for proceedings under <u>some</u> evictions; those for non-payment or breach of rental agreement. (9 VSA 4467(a)(b) But the RRAA allows landlords to proceed under multiple reasons for termination. 9 V.S.A. 4467(i). It is common practice for a landlord to send multiple notices of termination, often including notice of termination for no cause. 9 VSA 4467(c) (e).
H. 772 does not limit sending multiple notices, nor does it make landlords choose one process. It is possible under H. 772 for a landlord to bring two cases at the same time, one under subchapter 3 and one under subchapter 4. Tenants should not have to face two simultaneous lawsuits.

Neither H. 772 nor the House Judiciary Amendment require judicial review of need for expedited hearing, and neither requires a hearing with evidence in open court.
House Judiciary's Amendment to H. 772's show cause process does not go far enough to protect a tenant's right to due process before being deprived of their home.
The Amendment does not give the court discretion to decide whether a Landlord's Complaint and Affidavit describe a threat of harm to other residents, etc., before setting a hearing. As in H. 772, if a landlord files a case citing 9 VSA 4467(b)(2), the court must schedule a hearing whether or not the affidavit states any specific facts that arise to the level of a threat of harm.
The Amendment to proposed 12 VSA 4865(c) requires a tenant who wants an evidentiary hearing to make a written opposition "pursuant to VRCP 7(b)(6)." That rule by no means guarantees an evidentiary hearing even when it is requested.

> **VRCP 7(b)(6)** ***Evidentiary Hearings.*** Except for motions governed by Rule 56, the court shall provide an opportunity to present evidence if requested, <u>unless the court finds that an evidentiary hearing is not necessary. The request for an opportunity to present evidence shall include a</u>

> statement of the evidence which the party wishes to offer. When a moving party wishes to request an opportunity to present evidence the request shall be submitted with the motion to which it applies or within 7 days of service of the memorandum in opposition. A request by an opposing party for an opportunity to present evidence shall be submitted with the memorandum in opposition. When this rule requires a motion to be in writing, the request for an opportunity to present evidence shall be in writing. (emphasis added).

H. 772 allows a basic unfairness: the court has no discretion to decide whether the landlord's written Motion describes sufficient facts that rise to the level of harm before scheduling an expedited hearing, but the court has discretion to deny a tenant's request for evidence at the expedited hearing based on whether the tenant's writing rises to the level of justification of live evidence. Keep in mind that when the tenant makes their request, the only information the tenant has to go on is whatever the landlord included in their affidavit, which may not disclose the source of the information.

Under H. 772 and House Judiciary's Amendment, it is quite possible that in an expedited process where a tenant has no opportunity to explore facts other than those disclosed by a landlord's affidavit, a landlord could gain possession with an affidavit only, regardless of whether the affidavit was based on inadmissible hearsay.

H. 772 and House Judiciary Amendment remove court discretion regarding rent-into-court orders and process.

A landlord can make a motion for payment for rent into court. Again, a tenant's opposition must be in writing pursuant to VRCP 7(b)(6), or the tenant cannot bring evidence to the hearing. No evidence at hearing means the landlord's version of the amount of monthly rent, and that rent is currently owed, must be accepted by the court.

Courts use their discretion to order partial payment of what is owed to account for the dates tenants receive their income, and whether tenants need a payment plan to pay the amount accrued since the commencement of the case. H. 772 and House Judiciary Amendment take that discretion away.

Further, there is nothing requiring the landlord to let the court know how much of the rent is paid by subsidy, and what amount is tenant's responsibility to pay. It is common for the landlord's pleading to state only the market rent, even if tenant is only responsible for a portion. Deleting 12 VSA 4853a(g) prevents the court from correcting mistakes in the order regarding the amount of rent that the tenant owes.

In sum:

H. 772 systematically takes away tenant protections and due process rights and ensures that tenants are at a disadvantage in eviction processes. We urge House Judiciary to propose changes to H. 772 to make eviction processes logical, fair and provide due process to tenant defendants in eviction.

Thank you again for your time and consideration. We hope further changes will be made to ensure the bill better reflects the realities facing Vermont communities. We appreciate the opportunity to share our perspective and look forward to continuing the conversation.