

S.305

Introduced by Senators Ram Hinsdale, Brennan, Chittenden, Weeks and
Westman

Referred to Committee on

Date:

Subject: Conservation and development; housing; land use; Act 250;
municipal zoning; appeals; manufactured housing; Tier 1B; credit
score; common interest communities; Agency of Natural Resources;
permitting; CHIP

Statement of purpose of bill as introduced: This bill proposes to make multiple
changes related to land use and housing.

An act relating to housing and land use

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

* * * Municipal Zoning * * *

Sec. 1. 24 V.S.A. § 4412 is amended to read:

§ 4412. REQUIRED PROVISIONS AND PROHIBITED EFFECTS

Notwithstanding any existing bylaw, the following land development
provisions shall apply in every municipality:

(1) Equal treatment of housing and required provisions for affordable
housing.

* * *

(B) Except as provided in subdivisions 4414(1)(E) and (F) of this title, no bylaw shall have the effect of excluding mobile homes, modular housing, or prefabricated housing from any district that allows year-round residential development in the municipality, except upon the same terms and conditions as conventional housing is excluded. A municipality may establish specific site standards in the bylaws to regulate individual sites within preexisting mobile home parks with regard to distances between structures and other standards as necessary to ensure public health, safety, and welfare, provided the standards do not have the effect of prohibiting the replacement of mobile homes on existing lots.

* * *

(E) Except for flood hazard and fluvial erosion area bylaws adopted pursuant to section 4424 of this title, no bylaw shall have the effect of excluding as a permitted use one accessory dwelling unit that is located within or appurtenant to a single-family dwelling ~~on an owner-occupied lot~~. A bylaw shall require a single-family dwelling with an accessory dwelling unit to be subject to the same review, dimensional, or other controls as required for a single-family dwelling without an accessory dwelling unit. The criteria for conversion of an existing detached nonresidential building to habitable space

1 for an accessory dwelling unit shall not be more restrictive than the criteria
2 used for a single-family dwelling without an accessory dwelling unit.

3 * * *

4 Sec. 2. 24 V.S.A. § 4303 is amended to read:

5 § 4303. DEFINITIONS

6 The following definitions shall apply throughout this chapter unless the
7 context otherwise requires:

8 * * *

9 (42)(A) An area “served by municipal sewer and water infrastructure”
10 means an area within one-quarter mile of a road with water and sewer lines
11 where there is capacity or capacity is being added imminently to accommodate
12 housing or:

13 (i) an area where residential connections and expansions are
14 available to municipal water and direct and indirect discharge wastewater
15 systems and not prohibited by:

16 (I) State regulations or permits;

17 (II) identified capacity constraints; or

18 (III) municipally adopted service and capacity agreements; or

19 (ii) an area established by the municipality by ordinance or bylaw
20 where residential connections and expansions are available to municipal water
21 and direct and indirect discharge wastewater systems and which may exclude:

1 (I) flood hazard or inundation areas as established by statute,
2 river corridors or fluvial erosion areas as established by statute, shorelands,
3 areas within a zoning district or overlay district the purpose of which is natural
4 resource protection, and wherever year-round residential development is not
5 allowed;

6 (II) areas with identified service limits established by State
7 regulations or permits, identified capacity constraints, or municipally adopted
8 service and capacity agreements;

9 (III) areas served by sewer and water to address an identified
10 community-scale public health hazard or environmental hazard;

11 (IV) areas serving a mobile home park that is not within an area
12 planned for year-round residential growth;

13 (V) areas serving an industrial site or park;

14 (VI) areas where service lines are located to serve the areas
15 described in subdivisions (III)–(V) of this subdivision (ii), but no connections
16 or expansions are permitted; or

17 (VII) areas that, through an approved Planned Unit
18 Development under section 4417 of this title or Transfer of Development
19 Rights under section 4423 of this title, prohibit year-round residential
20 development.

1 (B) Municipally adopted areas served by municipal sewer and water
2 infrastructure that limit sewer and water connections and expansions shall not
3 result in the unequal treatment of housing by discriminating against a year-
4 round residential use or housing type otherwise allowed in this chapter.

5 Sec. 3. 24 V.S.A. § 4412a is added to read:

6 § 4412a. UNION LABOR

7 Any residential housing construction that uses union labor for construction
8 may exceed a density bonus in a zoning bylaw by an additional 20 percent.

9 * * * Zoning Appeals * * *

10 Sec. 4. 24 V.S.A. § 4471 is amended to read:

11 § 4471. APPEAL TO ENVIRONMENTAL DIVISION

12 ~~(a) Participation required. A n interested person who has participated in a~~
13 ~~municipal regulatory proceeding authorized under this title may appeal a~~
14 ~~decision rendered in that proceeding by an appropriate municipal panel to the~~
15 ~~Environmental Division. Participation in a local regulatory proceeding shall~~
16 ~~consist of offering, through oral or written testimony, evidence or a statement~~
17 ~~of concern related to the subject of the proceeding. An appeal from a decision~~
18 ~~of the appropriate municipal panel, or from a decision of the municipal~~
19 ~~legislative body under subsection 4415(d) of this title, shall be taken in such~~
20 ~~manner as the Supreme Court may by rule provide for appeals from State~~
21 ~~agencies governed by 3 V.S.A. §§ 801-816, unless the decision is an~~

1 appropriate municipal panel decision which the municipality has elected to be
2 subject to review on the record. [Repealed.]

3 (b) Appeal on the record. If the municipal legislative body has determined
4 (or been instructed by the voters) to provide that appeals of certain appropriate
5 municipal panel determinations shall be on the record, has defined what
6 magnitude or nature of development proposal shall be subject to the production
7 of an adequate record by the panel, and has provided that the Municipal
8 Administrative Procedure Act shall apply in these instances, then an appeal
9 from such a decision of an appropriate municipal panel shall be taken on the
10 record in accordance with the Vermont Rules of Civil Procedure. [Repealed.]

11 (c) Notice. Notice of the appeal shall be filed by certified mailing, with
12 fees, to the Environmental Division and by mailing a copy to the municipal
13 clerk or the administrative officer, if so designated, who shall supply a list of
14 interested persons to the appellant within five working days. Upon receipt of
15 the list of interested persons, the appellant shall, by certified mail, provide a
16 copy of the notice of appeal to every interested person, and, if any one or more
17 of those persons are not then parties to the appeal, upon motion they shall be
18 granted leave by the Division to intervene. [Repealed.]

19 * * *

20 Sec. 5. 24 V.S.A. § 4472 is amended to read:

21 § 4472. EXCLUSIVITY OF REMEDY; FINALITY

* * *

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* * *

1 ~~(B) the decision being appealed is the grant or denial of interested~~
2 ~~person status; or~~

3 ~~(C) some other condition exists that would result in manifest injustice~~
4 ~~if the person's right to appeal was disallowed. [Repealed.]~~

5 * * *

6 (f) Stays.

7 (1) The filing of an appeal shall automatically stay ~~the act or decision in~~
8 ~~the following situations:~~

9 ~~(A) acts or decisions involving stream alteration permits or shoreline~~
10 ~~encroachment permits issued by the Secretary;~~

11 ~~(B) the denial of interested person status by a board of adjustment,~~
12 ~~planning commission, or development review board.~~

13 * * *

14 (h) De novo hearing. The Environmental Division, applying the
15 substantive standards that were applicable before the tribunal appealed from,
16 shall hold a de novo hearing on those issues that have been appealed, except in
17 the case of:

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

20 ~~(2) a decision of the Commissioner of Forests, Parks and Recreation~~
21 ~~under section 2625 of this title being appealed on the record, in which case the~~

1 court shall affirm the decision, unless it finds that the Commissioner did not
2 have reasonable grounds on which to base the decision.

3 * * *

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

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

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

13 (3) if a District Commission issues a partial decision under subsection
14 6086(b) of this title, any appeal of that decision must be taken within 30 days
15 following the date of that decision; and.

16 (4) ~~it shall be the goal of the Environmental Division to issue a decision~~
17 ~~on a case regarding an appeal of an appropriate municipal panel decision under~~
18 ~~24 V.S.A. chapter 117 within 90 days following the close of the hearing.~~

19 [Repealed.]

20 * * *

1 (n) Intervention. Any person may intervene in a pending appeal if that
2 person:

3 (1) appeared as a party in the action appealed from and retained party
4 status;

5 (2) is a party by right;

6 (3) is the Land Use Review Board;

7 (4) is a person aggrieved, as defined in this chapter; or

8 (5) ~~qualifies as an "interested person," as established in 24 V.S.A. §~~
9 ~~4465, with respect to appeals under 24 V.S.A. chapter 117; or [Repealed.]~~

10 (6) meets the standard for intervention established in the Vermont Rules
11 of Civil Procedure.

12 * * *

13 * * * Act 250 * * *

14 Sec. 8. 10 V.S.A. § 6033 is amended to read:

15 § 6033. REGIONAL PLAN FUTURE LAND USE MAP REVIEW

16 * * *

17 (c) To obtain a Tier 1B area status under this section, the regional planning
18 commission shall demonstrate to the Board that the municipalities with Tier 1B
19 areas meet the following requirements as included in subdivision 24 V.S.A.

20 § 4348a(a)(12)(C):

* * *

* * *

Resources, technical determinations of the Agency shall be accorded
substantial deference by the District Commissions.

1 (C) The acceptance of such permit or permits shall create a
2 presumption that the application is not detrimental to the public health and
3 welfare with respect to the specific requirement for which it is accepted.

4 (2) Municipal permits.

5 (A) The Board may by rule allow a permit or permits of a specified
6 municipal government with respect to subdivisions ~~(a)(1) through (7)~~(a)(1)–(7)
7 and (9) and (10) of this section, or a combination of such permits or approvals,
8 in lieu of evidence by the applicant. The presumption established by this
9 subdivision (2) shall only apply to the issues addressed as a part of the terms of
10 the permit.

11 (B) A District Commission, in accordance with rules adopted by the
12 Board, shall accept determinations issued by a development review board
13 under the provisions of 24 V.S.A. § 4420, with respect to local Act 250 review
14 of municipal impacts.

15 (C) The acceptance of such approval, positive determinations, permit,
16 or permits shall create a presumption that the application is not detrimental to
17 the public health and welfare with respect to the specific requirement for which
18 it is accepted. ~~In the case of approvals and permits issued by the Agency of~~
19 ~~Natural Resources, technical determinations of the Agency shall be accorded~~
20 ~~substantial deference by the Commissions.~~ The acceptance of negative
21 determinations issued by a development review board under the provisions of

1 24 V.S.A. § 4420, with respect to local Act 250 review of municipal impacts,
2 shall create a presumption that the application is detrimental to the public
3 health and welfare with respect to the specific requirement for which it is
4 accepted. Any determinations, positive or negative, under the provisions of 24
5 V.S.A. § 4420 shall create presumptions only to the extent that the impacts
6 under the criteria are limited to the municipality issuing the decision. ~~Such a~~
7 ~~rule may be revoked or amended pursuant to the procedures set forth in 3~~
8 ~~V.S.A., chapter 25, the Vermont Administrative Procedure Act.~~

9 (3) Rebutting presumptions.

10 (A) Except as provided in subdivision (B) of this subdivision (3),
11 permits may be rebutted by evidence that is relevant and admissible.

12 (B) With respect to permits issued by a State agency that provides
13 notice, the ability to comment, and a right to appeal, prior to accepting
14 evidence to rebut a permit the Commission shall determine that the evidence:

15 (i) was not presented to the State agency issuing the permit that
16 resulted in the presumption;

17 (ii) was not capable of being discovered by due diligence prior to
18 the issuance of the permit;

19 (iii) is material; and

20 (iv) is not merely cumulative.

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(52) “Involved land” means those portions of any tract or tracts of land to be physically altered and upon which construction of improvements will occur for commercial housing purposes, including land that is incidental to the use such as lawns, parking lots, driveways, leach fields, and accessory buildings, bearing some relationship to the land that is actually used in the construction of improvements, such that there is a demonstrable likelihood that the impact on the values sought to be protected by Act 250 will be substantially affected by reason of the relationship. Where a project is to be completed in stages according to a plan, or it is evident under the circumstances that the project is incidental to or a part of a larger undertaking, all land involved in the entire project shall be included for the purposes of determining jurisdiction.

* * * Agency of Natural Resources * * *

Sec. 11. 3 V.S.A. § 2811 is added to read:

§ 2811. APPROVED ENGINEERS, CONSULTANTS, AND EXPERTS

(a) The Secretary of Natural Resources shall establish criteria for certifying engineers, consultants, and other experts as approved for purposes of providing permitting data or submitting permit applications for any permitting program administered by the Agency of Natural Resources. The criteria may include licensing requirements, education requirements, prior work history, and other

1 criteria deemed appropriate by the Secretary as indicating the necessary
2 expertise to provide accurate permitting data or permitting applications.

3 (b) Upon publication of the criteria for certifying approved engineers,
4 consultants, and other experts under subsection (a) of this section, the
5 Secretary of Natural Resources shall accept applications for certification.
6 Applications shall be submitted on a form or through a process established by
7 the Secretary.

8 (c) Upon certification under this section, permitting data or information
9 submitted by a certified engineer, consultant, or other expert shall be presumed
10 accurate and any permit application submitted by a certified engineer,
11 consultant, or other expert shall receive expedited review.

12 Sec. 12. 3 V.S.A. § 2822(g) is amended to read:

13 (g)(1) The Secretary shall ~~make all practical efforts to process permits in a~~
14 ~~prompt manner~~ and approve or deny any application for a permit to the Agency
15 of Natural Resources within three months after the date an application is
16 determined to be administratively complete. The Secretary shall establish time
17 limits for the processing of each permit as well as procedures and time periods
18 within which to notify applicants whether an application is complete. Any
19 denial of an application for a permit shall be based on clear, articulated
20 standards set forth in a denial letter to the permit applicant.

1 (2) The Secretary shall report no later than the third Tuesday of each
2 annual legislative session to the General Assembly by electronic submission.
3 The annual report shall assess the Agency's performance in meeting the time
4 limits under subdivision (1) of this subsection for processing permit
5 applications; identify areas that hinder effective Agency performance; list fees
6 collected for each permit; summarize changes made by the Agency to improve
7 performance; describe staffing needs for the coming year; certify that the
8 revenue from the fees collected is at least equal to the costs associated with
9 those positions; and discuss the operation of the Agency during the preceding
10 fiscal year and the future goals and objectives of the Agency. The provisions
11 of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report
12 to be made under this subsection. This report is in addition to the fee report
13 and request required by 32 V.S.A. chapter 7, subchapter 6.

14 * * * Common Interest Communities * * *

15 Sec. 13. 27A V.S.A. § 1-204 is amended to read:

16 § 1-204. PREEXISTING COMMON INTEREST COMMUNITIES

17 (a)(1) Unless excepted under section 1-203 of this title, the following
18 sections and subdivisions of this title apply to a common interest community
19 created in this State before January 1, 1999: sections 1-103, 1-105, 1-106, 1-
20 107, 2-103, 2-104, and 2-121; subdivisions ~~3-102(a)(1) through (6)~~3-
21 102(a)(1)–(6) and ~~(11) through (16)~~, (11)–(16); and sections 3-111, 3-116, 3-

1 118, 4-109, and 4-117 to the extent necessary to construe the applicable
2 sections. The sections and subdivisions described in this subdivision apply
3 only to events and circumstances occurring after December 31, 1998, and do
4 not invalidate existing provisions of the declarations, bylaws, plats, or plans of
5 those common interest communities.

6 * * *

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

13 * * *

14 Sec. 14. 27A V.S.A. § 3-125 is added to read:

15 § 3-125. PROHIBITED USES DISALLOWED

16 (a) Leasing units.

17 (1) Any covenant, restriction, or condition contained in any deed,
18 contract, security instrument, or other instrument affecting the transfer or sale
19 of any interest in a common interest community, and any provision of a
20 governing document associated with a common interest community, such as a
21 declaration, bylaw, or rule, that either effectively prohibits or unreasonably

1 restricts a unit owner from leasing the individual unit owner's unit for
2 residential purposes or is in conflict with this section is void and
3 unenforceable.

4 (2) Nothing in this subsection shall prevent or prohibit any deed,
5 contract, security instrument, or other instrument affecting the transfer or sale
6 of any interest in a common interest community, and any provision of a
7 governing document associated with a common interest community, such as a
8 declaration, bylaw, or rule, from preventing the subleasing of a unit or
9 restricting the leasing of residential units as authorized by subdivision 3-
10 120(f)(3) of this title.

11 (3) This subsection shall not be interpreted to authorize transient
12 occupancy in a hotel, motel, or lodgings that would subject the occupant to a
13 tax levied under 32 V.S.A. chapter 225.

14 (4) This subsection shall not be interpreted to authorize a unit owner to
15 lease a unit as a short-term rental as that term is defined in 18 V.S.A. § 4301.

16 (5) This subsection shall not apply to common interest communities
17 reserved exclusively for nonresidential purposes.

18 (b) Family child care home.

19 (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 a unit owner from operating a family child care home, as that term is
4 defined in 33 V.S.A. § 3511, within the unit owner's unit is void and
5 unenforceable.

6 (2) Notwithstanding subdivision (1) of this subsection, a family child
7 care home operating within a common interest community shall comply with
8 applicable federal and State laws relating to the regulation of family child care
9 homes.

10 (c) Zoning; land use requirements. Unit owners shall comply with federal,
11 State, and local laws related to applicable zoning requirements, land use
12 requirements, and other covenants, conditions, and restrictions.

13 (d) Leasehold common interest communities. This section shall not apply
14 to leasehold common interest communities.

15 * * * Positive Rental Payment Pilot Program * * *

16 Sec. 15. POSITIVE RENTAL PAYMENT CREDIT REPORTING PILOT

17 (a) Definitions. As used in this section:

18 (1) "Contractor" means the third-party vendor that the State Treasurer's
19 Office contracts with to administer the pilot program described in this section.

20 (2) "Dwelling unit" has the same meaning as in 9 V.S.A. § 4451(3).

1 (3) “Participant property owner” means a landlord who has agreed in
2 writing to participate in the pilot program and has satisfied the requirements
3 described in subsection (c) of this section.

4 (4) “Participant tenant” means a tenant who has elected to participate in
5 the pilot program and whose landlord is a participant property owner.

6 (5) “Rental payment information” means information concerning a
7 participant tenant’s timely payment of rent. “Rent payment information” does
8 not include information concerning a participant tenant’s payment or
9 nonpayment of fees.

10 (b) Pilot program creation.

11 (1) The State Treasurer shall create and implement a two-year positive
12 rental payment reporting pilot program to facilitate the reporting of rent
13 payment information from participant tenants to consumer reporting agencies.

14 (2) On or before May 1, 2027, the State Treasurer shall contract with a
15 third party to administer a positive rental payment pilot program and facilitate
16 the transmission of rent reporting information from a participant property
17 owner to a consumer reporting agency. The third-party administrator shall be
18 required to:

19 (A) enter into an agreement with one or more participant property
20 owners in the State in accordance with the requirements of this section for
21 participation in the pilot program;

1 (B) ensure that information to a credit reporting agency includes only
2 rent payment information after the date on which the participant tenant elected
3 to participate in the pilot program;

4 (C) establish a standard form for a participant tenant to use to elect to
5 participate or cease participation in the pilot program, which shall include a
6 statement that the tenant's participation is voluntary and that a participant may
7 cease participating in the pilot program at any time and for any reason by
8 providing notice to the participant's landlord; and

9 (D) offer an optional financial education course for participant
10 tenants.

11 (c) Program agreements. A participant property owner shall agree in
12 writing:

13 (1) to participate in the pilot program for the duration of the program;

14 (2) not to charge a participant tenant for participation in the pilot
15 program;

16 (3) to comply with the requirements of the program;

17 (4) to provide information as required by the State Treasurer concerning
18 the implementation of the pilot program; and

19 (5) to assist in the recruitment of tenants to participate in the pilot
20 program.

1 (d) Program participants. On or before June 1, 2027, the contractor shall,
2 in coordination with the State Treasurer, recruit not more than 10 participant
3 property owners and, to the extent practicable, not fewer than 100 participant
4 tenants to participate in the pilot program. The contractor shall seek to select
5 participant tenants from populations that are under-served and under-
6 represented in home ownership. The contractor shall also seek to recruit
7 participant landlords who offer:

8 (1) a variety of types of dwelling units for rent, including dwelling units
9 of various sizes;

10 (2) dwelling units for rent that are located in geographically diverse
11 areas of the State; and

12 (3) at least five dwelling units for rent.

13 (e) Termination. The State Treasurer may terminate the pilot program at
14 any time in the Treasurer's sole discretion or terminate participation of a
15 participant property owner for failure to comply with the requirements of the
16 program.

17 (f) Reports.

18 (1) On or before November 1, 2028, the State Treasurer shall submit an
19 interim report to the House Committee on General and Housing and the Senate
20 Committee on Economic Development, Housing and General Affairs regarding
21 the findings of the pilot program. The report shall include:

1 (A) the number of participant tenants, including information
2 regarding the demographic makeup of participant tenants, such as race,
3 ethnicity, gender, income, and age, as voluntarily provided by the participants;

4 (B) the number of participant tenants who ceased participating in the
5 program;

6 (C) a breakdown of costs of administering the program, including the
7 monthly costs associated with rent reporting;

8 (D) a description of challenges faced by the participant property
9 owners and participant tenants during the pilot program;

10 (E) an analysis of the outcomes of rent reporting on participant
11 tenant's credit scores; and

12 (F) recommendations for legislative action, including proposed
13 statutory language and an appropriation for associated costs.

14 (2) On or before November 1, 2029, the State Treasurer shall submit a
15 final report to the House Committee on General and Housing and the Senate
16 Committee on Economic Development, Housing and General Affairs regarding
17 the findings of the pilot program. The report shall include an update to the
18 information required in the interim report.

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* * * Taxes * * *

(C) decreased by the following exemptions and deductions:

* * *

(D) minus the amount of the Vermont standard deduction and Vermont personal exemptions taken by the taxpayer under this subdivision (C); and

(H) minus any amount deducted at the federal level that is attributable to the payment of an entrance fee or recurring monthly payment made to a continuing care retirement community regulated under 8 V.S.A. chapter 151, which exceeds the deductibility limits for premiums paid during the taxable year on qualified long term care insurance contracts under 26 U.S.C. 213(d)(10)(A).

* * * CHIP * * *

Sec. 18. 24 V.S.A. § 1909 is amended to read:

§ 1909. HOUSING INFRASTRUCTURE AGREEMENT

(a) The housing infrastructure agreement for a housing infrastructure project shall:

* * *

(3) obligate the tax increments retained pursuant to section 1910c of this subchapter for not more than the financing and related costs for the housing infrastructure project; and

~~(4) provide that any housing unit within the housing development be offered exclusively as a primary residence until all indebtedness for the housing infrastructure project of which the housing development is part has been retired, provided that this condition shall be satisfied by biennially providing a landlord certificate or homestead declaration; and [Repealed.]~~

* * *

* * * Effective Date * * *

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2026.