

1 TO THE HONORABLE SENATE:

2 The Committee on Economic Development, Housing and General Affairs to  
3 which was referred Senate Bill No. 328 entitled “An act relating to housing  
4 and common interest communities” respectfully reports that it has considered  
5 the same and recommends that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 \* \* \* **Municipal Plans** \* \* \*

8 Sec. 1. 24 V.S.A. § 4388 is added to read:

9 § 4388. PLANNING FOR HOUSING TARGETS

10 A municipal plan shall include an analysis of regulatory and physical  
11 constraints preventing the municipality from developing sufficient housing to  
12 meet the regional housing targets developed pursuant to subdivision  
13 4348a(a)(9) of this title as follows:

14 (1) The municipality shall identify and analyze existing and projected  
15 housing needs for the projected population of the jurisdiction and provide  
16 regulations that allow for the rehabilitation, improvement, or development of  
17 the number of housing units needed, as identified in the land use plan and  
18 future land use map, including:

19 (A) a quantification of the jurisdiction’s existing and projected  
20 needed housing types, including location, age, condition, and occupancy  
21 required to accommodate existing and estimated population projections;

1           (B) an inventory of sites, including zoned, unzoned, vacant,  
2           underutilized, and potential redevelopment sites, available to meet the  
3           jurisdiction’s needed housing types;

4           (C) an analysis of any constraints to housing development, such as  
5           zoning, development standards, and infrastructure needs and capacity, and the  
6           identification of market-based incentives that may affect or encourage the  
7           development of needed housing types; and

8           (D) a detailed description of what actions the jurisdiction may take to  
9           accommodate the projected needed housing types identified in subdivision (A)  
10          of this subdivision (1), including:

11           (i) updates to specific zoning or municipal bylaw provisions or  
12          maps; and

13           (ii) updates to specific infrastructure, including municipal water  
14          and sewer capacity.

15          (2) The housing section of the land use plan and future land use map  
16          may incorporate by reference any information or policies identified in other  
17          housing needs assessments adopted by the governing body.

18          (3) If, after performing the analysis required in subdivision (1) of this  
19          section, the legislative body of the municipality determines that the total  
20          needed housing types may not be met due to lack of resources, development  
21          sites, infrastructure capacity, or other documented constraints, the legislative

1 body shall establish the minimum number of housing units that may be  
2 rehabilitated, improved, or developed within the jurisdiction over the 20-year  
3 planning period and the actions the legislative body may take to remove  
4 constraints to the development of those units over that period.

5 (4) Progress toward the construction of the housing units identified as  
6 needed to meet projected housing needs during the 20-year planning period of  
7 the land use plan must be documented at each municipal plan adoption,  
8 renewal, or readoption pursuant to section 4385 or 4387 of this title.

9 (5) The amount of detail provided in the analysis beyond the minimum  
10 criteria established in this section is at the discretion of the legislative body.

11 \* \* \* Tax Credits \* \* \*

12 Sec. 2. 32 V.S.A. § 5930u is amended to read:

13 § 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

14 \* \* \*

15 (b) Eligible tax credit allocations.

16 \* \* \*

17 (3)(A) The Vermont Housing Finance Agency shall have the authority  
18 to allocate affordable housing tax credits to finance down payment assistance  
19 loans that meet the following requirements:

20 (i) the loan is made in connection with a mortgage through an  
21 Agency program;



\* \* \* Vermont Housing Special Fund \* \* \*

Sec. 3. 10 V.S.A. § 10 is amended to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL  
INVESTMENTS

(a)(1) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b) and (c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9, the Vermont State Treasurer shall have the authority to establish on terms acceptable to the Treasurer:

(A) a credit facility of up to ~~10~~ 12.5 percent of the State's average cash balance ~~on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b) (c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9; and~~

(B) a credit facility of up to one percent of the State's average cash balance, provided that the credit facility established under subdivision (A) of this subdivision (1) shall be reduced by an equal amount to any credit facility amount established under this subdivision (B).

(2) The credit facility established in subdivision (1)(B) of this subsection may be used only to facilitate housing development through the bulk purchasing of off-site constructed housing and to aid in the purchase of off-site constructed housing units.

1           (3) Financial losses of the credit facility established in subdivision  
2           (1)(B) of this subsection shall be repaid from the Vermont Housing Special  
3           Fund established in section 12 of this title.

4           (b) The Treasurer may use amounts available under subsection (a) of this  
5           section to provide financing for infrastructure projects in Vermont mobile  
6           home parks and may modify the terms of such financing in the Treasurer’s  
7           discretion as is necessary to promote the availability of mobile home park  
8           housing and to protect the interests of the State.

9           (c) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary,  
10          and in addition to the provisions of subsection (a) ~~on~~ of this section, the  
11          Vermont State Treasurer shall have the authority to establish a credit facility of  
12          up to two and one-half percent of the State’s average cash balance on terms  
13          acceptable to the Treasurer and consistent with prudent investment principles  
14          and guidelines pursuant to 32 V.S.A. § ~~433(b)–(e)~~ 433(b) and (c) and the  
15          Uniform Prudent Investor Act, 14A V.S.A. chapter 9. The Treasurer may use  
16          amounts available under this subsection only to provide financing for climate  
17          infrastructure and resilience projects and may modify the terms of such  
18          financing in the Treasurer’s discretion as is necessary to protect the ~~interest~~  
19          interests of the State.

20          (d) Annually, on or before November 15, the Treasurer shall submit a  
21          report detailing the activities, financing, and accounting of any credit facilities

1 created pursuant to subsection (c) of this section during the preceding calendar  
2 year to the Governor; the House Committees on Appropriations, on Commerce  
3 and Economic Development, and on Ways and Means; and the Senate  
4 Committees on Appropriations, on Economic Development, Housing and  
5 General Affairs, and on Finance.

6 (e) The Treasurer shall retain any interest paid on loans authorized under  
7 this section. Interest funds shall be transferred upon receipt to the Vermont  
8 Housing Special Fund established in section 12 of this title.

9 **Sec. 4.** 10 V.S.A. § 12 is added to read:

10 § 12. VERMONT HOUSING SPECIAL FUND

11 (a) There is established the Vermont Housing Special Fund to be  
12 administered by the State Treasurer in accordance with 32 V.S.A. chapter 7,  
13 subchapter 5.

14 (b) The Fund shall consist of the following:

15 (1) any monies appropriated to the Fund by the General Assembly;

16 (2) any monies transferred to the Fund from the federal government,  
17 State agencies, or other governmental sources; and

18 (3) any interest paid on loans authorized pursuant to section 10 of this  
19 title.

20 (c)(1) The Treasurer shall use funds under this section to provide capital for  
21 housing projects in Vermont that, in the Treasurer's discretion, are necessary to

1 promote the increased availability of housing, including the bulk purchasing of  
2 off-site constructed housing as authorized in subdivision 10(a)(2) of this title.  
3 This capital may be provided on terms acceptable to the Treasurer, including in  
4 the form of grants, interest-free loans, or the investment of equity stakes in  
5 housing projects.

6 (2) The Treasurer may use funds to pay the administrative costs  
7 necessary to support the credit facilities created in section 10 of this title.

8 (d)(1) The Treasurer shall credit to the Fund all interest and income derived  
9 from the deposit and investment of monies in the Fund.

10 (2) Any unexpended and unencumbered monies at the end of a fiscal  
11 year shall remain in the Fund.

12 \* \* \* Off-Site Construction Accelerator Pilot \* \* \*

13 Sec. 5. OFF-SITE CONSTRUCTION ACCELERATOR PILOT

14 (a) The Agency of Commerce and Community Development in  
15 collaboration with the Department of Buildings and General Services shall  
16 develop a pilot demonstration project and study that explores the possibilities  
17 of reducing housing development costs through modular construction.

18 (b) The pilot will consider the following elements:

19 (1) bulk purchasing for a single development or aggregation of multiple  
20 developments;

1           (2) streamlining regulatory processes by creating preapproved modular  
2 designs;

3           (3) creating a loan loss reserve for construction loans;

4           (4) off-site construction, including panelized or volumetric modular  
5 construction;

6           (5) establishing a statewide procurement consortium for bulk orders of  
7 modular units and materials;

8           (6) aligning State and local permitting; and

9           (7) the creation and adoption of off-site building codes.

10           (c) As part of the pilot, the Agency shall work with the Office of the State  
11 Treasurer to identify the feasibility of the State providing a guarantee or other  
12 device to facilitate bulk purchasing of the off-site construction of homes.

13           (d) The pilot shall occur in a municipality willing to participate in  
14 regulatory reforms necessary to implement the process and accept the  
15 constructed homes.

16           (e) A municipal planning grant shall be made available to the participating  
17 municipality to assist in enacting the necessary regulatory reforms.

18           (f) On or before November 15, 2028, the Agency shall submit a written  
19 report to the House Committee on General and Housing and the Senate  
20 Committee on Economic Development, Housing and General Affairs with its  
21 findings and any recommendations for legislative action based on the success

1 of the pilot. The report shall include information on whether to enact a  
2 statewide building code for off-site construction.

3 \* \* \* Common Interest Communities \* \* \*

4 Sec. 6. 27A V.S.A. § 1-204 is amended to read:

5 § 1-204. PREEXISTING COMMON INTEREST COMMUNITIES

6 (a)(1) Unless excepted under section 1-203 of this title, the following  
7 sections and subdivisions of this title apply to a common interest community  
8 created in this State before January 1, 1999: sections 1-103, 1-105, 1-106, 1-  
9 107, 2-103, 2-104, and 2-121; subdivisions 3-102(a)(1) through (6) and (11)  
10 through (16); and sections 3-111, 3-116, 3-118, 4-109, and 4-117 to the extent  
11 necessary to construe the applicable sections. The sections and subdivisions  
12 described in this subdivision apply only to events and circumstances occurring  
13 after December 31, 1998, and do not invalidate existing provisions of the  
14 declarations, bylaws, plats, or plans of those common interest communities.

15 \* \* \*

16 (3) Unless excepted under section 1-203 of this title, sections 3-125 and  
17 3-126 of this title shall apply to a common interest community created in this  
18 State before January 1, 1999. Sections 3-125 and 3-126 apply only to events  
19 and circumstances occurring after June 30, 2026, and do not invalidate existing  
20 provisions of the declarations, bylaws, plats, or plans of those common interest  
21 communities.

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Sec. 7. 27A V.S.A. § 3-125 is added to read:

§ 3-125. PROHIBITED USES DISALLOWED

(a) Leasing units.

(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 a unit owner from leasing the individual unit owner’s unit for residential purposes or is in conflict with this section is void and unenforceable.

(2) Nothing in this subsection shall prevent or prohibit 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, from preventing the subleasing of a unit or restricting the leasing of residential units as authorized by subdivision 3-120(f)(3) of this title.

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

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

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

8           (b) Family child care home.

9           (1) Any covenant, restriction, or condition contained in any deed,  
10          contract, security instrument, or other instrument affecting the transfer or sale  
11          of any interest in a common interest community, and any provision of a  
12          governing document associated with a common interest community, such as a  
13          declaration, bylaw, or rule, that either effectively prohibits or unreasonably  
14          restricts a unit owner from operating a family child care home, as that term is  
15          defined in 33 V.S.A. § 3511, within the unit owner's unit is void and  
16          unenforceable.

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

21          (c) Accessory dwelling units.

1           (1) Any covenant, restriction, or condition contained in any deed,  
2           contract, security instrument, or other instrument affecting the transfer or sale  
3           of any interest in a planned community, and any provision of a governing  
4           document associated with a planned community, such as a declaration, bylaw,  
5           or rule, that either effectively prohibits or unreasonably restricts a unit owner  
6           from building an accessory dwelling unit on the property restricted to the  
7           exclusive use of the unit owner is void and unenforceable.

8           (2) This subsection (c) shall only apply to a planned community where  
9           the unit owner has the right to an exclusive use of greater than one quarter of  
10           one acre.

11           (3) As used in this subsection, “accessory dwelling unit” has the same  
12           meaning as in 24 V.S.A. § 4303.

13           (d) Zoning; land use requirements. Unit owners shall comply with federal,  
14           State, and local laws related to applicable zoning requirements, land use  
15           requirements, and other covenants, conditions, and restrictions.

16           (e) Leasehold common interest communities. This section shall not apply  
17           to leasehold common interest communities.

18           (f) Notwithstanding any provision of this section to the contrary, nothing in  
19           this section shall invalidate or otherwise void any housing subsidy covenant  
20           authorized and recorded in compliance with 27 V.S.A. § 610.

21           Sec. 8. 27A V.S.A. § 3-126 is added to read:

1     § 3-126. ELECTRIC VEHICLE SUPPLY EQUIPMENT

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

3             (1) “Electric vehicle supply equipment (EVSE)” means a device or  
4             system designed and used specifically to transfer electrical energy to a plug-in  
5             electric vehicle.

6             (2) “EVSE owner” means the unit owner who applies to install an EVSE  
7             and each successive unit owner associated with the initial application to install  
8             the EVSE unless there is a specific change in ownership of the EVSE, in which  
9             case the EVSE owner shall be the owner specified in a conveying document  
10            memorializing the change in ownership of the EVSE.

11            (3) “Plug-in electric vehicles” has the same meaning as in 23 V.S.A.  
12            § 4(85).

13            (4) “Reasonable restrictions” are restrictions that do not significantly  
14            increase the cost of the EVSE or significantly decrease the efficiency or  
15            specified performance of the EVSE.

16         (b) Protected uses.

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 the installation or use of an EVSE within a unit owner’s unit or in a  
2 designated parking space, including a deeded parking space, a parking space in  
3 a unit owner’s exclusive use common element, or a parking space that is  
4 specifically designated for use by a particular unit owner, or is in conflict with  
5 this section is void and unenforceable.

6 (2) This subsection shall not apply to provisions that impose reasonable  
7 restrictions on EVSE. However, it is the policy of the State to promote,  
8 encourage, and remove obstacles to the use of plug-in electric vehicles,  
9 including access to EVSE at home.

10 (3) The EVSE and all modifications and improvements to the common  
11 interest community shall comply with federal, State, and local law, and all  
12 applicable zoning requirements; land use requirements; and covenants,  
13 conditions, and restrictions.

14 (4) If approval is required for the installation or use of EVSE, the  
15 application for approval shall be processed and approved by the association in  
16 the same manner as an application for approval of an architectural modification  
17 to the common interest community and shall not be intentionally avoided or  
18 delayed. The approval or denial of an application shall be in writing. If an  
19 application is not denied in writing within 60 days from the date of receipt of  
20 the application, the application shall be deemed approved, unless that delay is  
21 the result of a reasonable request for additional information.

1           (5) If the EVSE is to be placed in a common element or a limited  
2           common element, as designated in the common interest community’s  
3           declaration, the following provisions apply:

4                   (A) The unit owner first shall obtain approval from the association to  
5           install the EVSE, and the association shall approve the installation if the unit  
6           owner agrees in writing to do all of the following:

7                           (i) comply with the association’s architectural standards for the  
8           installation of the EVSE;

9                           (ii) engage a licensed contractor to install the EVSE; and

10                           (iii) pay for both the costs associated with the installation of the  
11           EVSE and the electricity usage associated with the EVSE.

12                   (B) The unit owner and each successive owner of the EVSE shall be  
13           responsible for all of the following:

14                           (i) costs for damage to the EVSE, common element, or limited  
15           common element resulting from the installation, maintenance, repair, removal,  
16           or replacement of the EVSE;

17                           (ii) costs for the maintenance, repair, and replacement of the  
18           EVSE until the EVSE has been removed and for the restoration of the common  
19           element or limited common element after removal;



1 or endeavor relating to the sale of goods at retail where such goods are  
2 manufactured primarily out of State, and except further that an eligible facility  
3 or project shall not include the portion of an enterprise or endeavor relating to  
4 housing unless otherwise authorized in this chapter. Such enterprises or  
5 endeavors may include:

6 \* \* \*

7 (U) After consultation with, and with deference to, the Vermont  
8 Housing Finance Agency on applications that are eligible for financing from  
9 both the Authority and the Agency, multiunit housing developments of five or  
10 more units when requested by, and jointly financed with, a financing lender,  
11 except that the Authority shall not finance housing developments that utilize  
12 funding issued by the Agency.

13 \* \* \*

14 \* \* \* Service-Supported Housing \* \* \*

15 Sec. 10. 3 V.S.A. § 3098 is added to read:

16 § 3098. SERVICE-SUPPORTED HOUSING ADVISORY COUNCIL

17 (a) The Service-Supported Housing Advisory Council is created for the  
18 purpose of identifying opportunities for increased alignment between human  
19 services programs and policies serving individuals who receive Medicaid-  
20 funded developmental disability services and housing capital and support  
21 services programs.

1       (b) The Advisory Council shall be overseen by the Department of  
2       Disabilities, Aging, and Independent Living and shall be composed of the  
3       following individuals:

4           (1) one member, appointed by the Vermont Housing and Conservation  
5       Board;

6           (2) the Secretary of Human Services or designee;

7           (3) the Commissioner of Disabilities, Aging, and Independent Living or  
8       designee;

9           (4) the State Treasurer or designee;

10          (5) the Commissioner of Housing and Community Development or  
11       designee;

12          (6) two members, appointed by the Developmental Disabilities Housing  
13       Initiative;

14          (7) the Executive Director of the Vermont Developmental Disabilities  
15       Council or designee;

16          (8) two members, appointed by Green Mountain Self-Advocates; and

17          (9) one member, appointed by Vermont Care Partners.

18       (c)(1) The Advisory Council shall meet at least monthly.

19           (2) The Commissioner of Disabilities, Aging, and Independent Living  
20       shall convene the first meeting of the Advisory Council, during which the  
21       Advisory Council shall elect a chair from among its members.

1        (d) The Advisory Council shall report annually on or before November 15  
2        to the House Committees on General and Housing and on Human Services and  
3        the Senate Committees on Economic Development, Housing and General  
4        Affairs and on Health and Welfare regarding:

5            (1) administrative and programmatic reforms carried out to better align  
6            support-services and housing development programs and policies, including  
7            examples of projects or progress enabled by those changes;

8            (2) a housing needs assessment for individuals with developmental  
9            disabilities, including a summary of the number of units and an overview of  
10          the types of housing needed to support this population;

11          (3) activities undertaken pursuant to this section; and

12          (4) recommendations for future legislative action, including actionable  
13          recommendations for changes in State laws or policies that are obstacles to the  
14          creation of housing needed by individuals with Medicaid-funded home- and  
15          community-based services.

16        (e) The Advisory Council shall have the administrative, technical, and legal  
17        assistance of the Department of Disabilities, Aging, and Independent Living.

18        (f) Members of the Advisory Council who are not otherwise compensated  
19        for their time shall be entitled to per diem compensation as permitted under 32  
20        V.S.A. § 1010 for not more than 12 meetings per year.



1 effect of excluding these multiunit or multifamily dwellings from the  
2 municipality. In any district that allows year-round residential development,  
3 duplexes shall be ~~an allowed~~ a permitted use with dimensional standards that  
4 are not more restrictive than is required for a single-unit dwelling, including no  
5 additional land or lot area than would be required for a single-unit dwelling. In  
6 any district that is served by municipal sewer and water infrastructure that  
7 allows residential development, multiunit dwellings with four or fewer units  
8 shall be a permitted use on the same size lot as a single-unit dwelling, ~~unless~~  
9 ~~that district specifically requires multiunit structures to have more than four~~  
10 ~~dwelling units.~~

11 \* \* \*

12 Sec. 12. 24 V.S.A. § 4303 is amended to read:

13 § 4303. DEFINITIONS

14 The following definitions shall apply throughout this chapter unless the  
15 context otherwise requires:

16 \* \* \*

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

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

4 (I) State regulations or permits;

5 (II) identified capacity constraints; or

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

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

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

15 (II) areas with identified service limits established by State  
16 regulations or permits, identified capacity constraints, or municipally adopted  
17 service and capacity agreements;

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

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

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

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

5 (VII) areas that, through an approved Planned Unit  
6 Development under section 4417 of this title or Transfer of Development  
7 Rights under section 4423 of this title, prohibit year-round residential  
8 development.

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

13 Sec. 13. 24 V.S.A. § 4412a is added to read:

14 § 4412a. UNION LABOR

15 Any residential housing construction that uses union labor for construction  
16 may receive a density bonus in a zoning bylaw by an additional 20 percent.

17 \* \* \* Positions \* \* \*

18 Sec. 14. POSITIONS

19 (a) The following positions are created in the Department of Housing and  
20 Community Development:



