

January 28, 2025 – DHCD DRAFT

2025 HOUSING OMNIBUS BILL

SECTION EXPLAINER

Act 250 Definitions:

Implementation Timeline (amending dates throughout bill):

- [Act 181 Implementation Timeline Working Draft .xlsx](#)
- Extend Interim exemptions to 2035
- Allow more time for development of Tier 1A guidelines, regional mapping/planning, and approval by LURB
- Extend Tier 1 guidance to March 2026 & Tier 1 applications open September 1, 2026
- Extend benefits of existing designations until Jan

10 V.S.A. § 6001: Definitions

- (3)(D)(III) “Development” does not include...
 - o add reference to interim exemptions for ease of use
 - o ensure both construction AND subdivisions are exempt
- (28) “Mixed use”
 - o Change definition of “mixed use” to remove affordability mandate & explicitly prohibit “short term rentals”
 - This also frees the definition of “mixed use” to be added to the interim exemptions to ensure projects that would otherwise not trigger jurisdiction if built separately as residential & commercial could be built together as mixed-use housing/commercial in one structure.
 - Rutland example: Rutland mandates ground floor businesses. The NRB/LURB questioned whether the interim exemptions accounted for this
- (35) “Priority Housing Project”
 - o Add “mixed income housing” (as “mixed use” no longer would mean “mixed income”/affordable)
 - o Update definition to new reference in Chapter 117 because Chapter 76A is removed in 2032
- (46) “Tier 3” Repeal in its entirety
- (51) “Transit route”
 - o ability for LURB to define per rulemaking (LURB request)
- (52) “Infill” or “Infill Development”
 - o Add definition of “infill” to law. Previously only defined in the context of flood regulations, which limited the application of the definition.

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Repeal of Road Construction Rulemaking

Sec. 20. Of Act 181, 2024 – Rulemaking; Road Construction

- Repeal in entirety. Removing road construction as jurisdictional trigger for Act 250.

Jurisdictional Opinions

10 V.S.A. §6007. Act 250 Disclosure Statement; jurisdictional determination

- (c) adding “on behalf of the LURB” to ensure that district coordinator opinions all relate back to the LURB – aiming to create consistency and accountability
- (d) adding section to define power of coordinator to find a JO request “complete” or “incomplete”. The finding of “incomplete” is a JO itself, which can be amended.
 - o This existed in NRB rules

Land Use Review Board (LURB)

10 V.S.A. § 6021. Board; vacancy; removal

- (a)(1)(B): aligning terms with the State fiscal year after the initial appointments
 - o **Potential for other bill:** (c): Chair of the LURB may be removed by the Governor for cause – aiming to create accountability to the executive branch
- Add Sec. (d): Remove reference to “cases” as they LURB will not be hearing appeals. Remove ability to add a district coordinator to meet a quorum for a case.

Transition of NRB to LURB

10 V.S.A. § 6027. Powers

- Add Sec. (o) which makes LURB successor entity to NRB. LURB inherits all of NRB’s powers/authority/matters
- Add Sec. (o)(1) – NRB rules become LURB rules. (LURB is still directed to make/amend its rules to fit the new laws)

Tier 1B

10 V.S.A. § 6033. Regional plan future land use map review

- (c)(1) Municipal Opt-Out vs. Opt-In
 - o Municipality will automatically be mapped by RPC/LURB unless they vote to not be mapped.

Tier 1A

10 V.S.A. § 6034 Tier 1A area status

- (a)(1) – Extend date to **September 1, 2026** for Tier 1A requests to allow time for rulemaking, capacity building, mapping approvals, etc. (per request of NRB/LURB)

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- (b)(1)(F) – **remove entirely.**
- (b)(1)(G) – **remove entirely.**
- (I) lower barrier to 1A by Allowing RPC or contracted assistance to serve as additional capacity for Municipality to meet 1A requirements for staffing/expertise

Act 181, 2024, Sec. 29. TIER 1A AREA GUIDELINES

- Extend date for guideline publishing for Tier 1A to **March 1, 2026** to allow time for rulemaking, etc.

Sec. XX. Tier 3 Rulemaking [Repealed]

Act 181 (2024), Sec. 22. TIER 3 RULEMAKING

- Remove Tier 3 in its entirety, including related study.
 - o [Note that this is in session law, not codified in statute]
- ***Keep working group & turn into a Study of critical natural resource areas***

Act 181 Sec. 14. Criterion 8(C) Rulemaking

Act 181, 2024 Sec. 14. CRITERION 8(C) RULEMAKING

- Extend date for convening the working group from **July 1 to September 1, 2025**
- Allow more time for initial LURB onboarding
- [Note that this is in session law, not codified in statute]

Exemptions

10 V.S.A. § 6081 Permits required; exemptions

- (p) adding “or related subdivision” to exemption to ensure both subdivision and construction are exempt
- (z)(1) add that an “existing project” is to be defined “by Board rules”
 - o Add that “Units constructed pursuant to this subsection shall not count towards the total units constructed in other Tier areas”
- (z)(2) clarify that “subdivision” is also exempt (in addition to construction)
 - o Add that “Units constructed pursuant to this subsection shall not count towards the total units constructed in other Tier areas”
 - o (i) Add provision allow 50 PHP units in Tier 1B “eligible” areas
 - New concept – enhances PHP use and importance
 - o (ii) Add provision PHP up to 75 units in Tier 1B areas.
 - Enhance PHP importance
 - o (3) Change “revoked” to terminated, as requested by NRB
 - o Add reference to permit discharge upon request (in §6091(e))
- (aa) add reference to permit amendments to ensure both previously permitted and new projects

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- (cc) Extend dates & avoid use of the term “commercial purpose” to avoid to narrowly defining what can be converted. Non-residential structure is undefined and therefore the most broad
- (dd) “Interim housing Exemptions”
 - o (1) Designated centers
 - Extend dates
 - Add provisions to account for “subdivisions” and “mixed use development”
 - Clarify flood regulations & standardize across the bill.
 - o (2)(A) village centers
 - Remove requirement for zoning/subdivision bylaws
 - Extend to “terminus of area served by water & sewer” even if beyond ¼ mile area
 - Amend “census designated urbanized areas” and “transit routes” to make more permissive
 - (B) – standardize flood regs
- **Exemptions Timing**
 - o Interim exemptions continue w/ Tier (if wider than Tiered exemption)
 - Extend until **2035**
 - Apply **retroactively** from **July 1, 2023**

Discharge of Act 250 Permits:

10 V.S.A. § 6091. Renewals, discharge, and nonuse

- (e) is added to create a process to discharge/release Act 250 permits in exempt areas, or where there is a change of use and they no longer apply
- The district commission or LURB can review and approve/deny request by land owner or permittee.
 - o Can deny a request if there are remaining conditions.
 - o LURB is responsible for monitoring/enforcement of remaining conditions
- Appeals of denial go to Env. Court

Act 47 (2023) Sec. 16a. ACT 250 EXEMPTION REQUIREMENTS

Sec. 16a. Act 250 Exemption Requirements

- No longer required to seek a JO for a PHP project that is exempt via the interim exemptions. JO is optional.
- Construction still must be substantially complete by 2035

LURB Public Meeting Exemption

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3 V.S.A. § 312(e) is amended:

- Adds LURB to entities exempt from public meeting requirements, similar to PUC

Wetlands Regulation Reform

Chapter 37: Wetlands Protection and Water Resources Management

- §902(6)(C) and (7)(B) – removes Class II wetlands that already have an Act 250 permit in industrial parks, downtown/village/growth centers, Tier 1A and 1B areas & interim exemption areas
 - o (9) Class II Wetlands
 - Amends buffer zone to 25 ft. in areas described above
 - o (10) Removes reference to ANR Water Resources Panel
- §918. Net gain of wetlands; State goal; rulemaking
 - o (a) Extends date to July 1, 2026 for ANR to amend wetlands rules
 - Removes exception to not consider restoration projects & dam removal in the goal making
 - o (b) adds 1:1 ratio for wetlands restoration for projects in existing Act 250 permitted industrial parks, designated areas, Tier 1A and 1B areas, and interim exemption areas. (lowered from 2:1)
- §919. Wetlands program reports
 - o (a)(2) adds requirement to estimate the amount of wetlands gained through restoration and dam removal efforts.
 - o (c) Dec. 15, 2025 – date to publish guidance on the mitigation and compensation sequence contemplated in Vermont Wetland Rule Sections 9.5.b and c

Commented [BT1]: @Krieger, Maxwell this should be only for Class II wetlands. I have updated.

Regulatory Reforms – 24 V.S.A. Chapter 117

- § 4348. Adoption and amendment of regional plan
 - o (g) clarification that regional plans go into effect upon regional approval and are not contingent on LURB approval. LURB approval unlocks Tier status and other statewide benefits – LURB duly approves the plan in a second step. If the LURB does not approve, the regional plan is still in effect.
 - o (p) adds clarifying date for RPCs to adopt plans between July 1, 2025 and December 31, 2026.

Consistency of Flood Planning requirements

- 24 V.S.A. § 4348a (12)(B)
 - o (iv) allows municipalities to adopt flood hazard and river corridor bylaws consistent with state requirements, or default to Vermont Flood Hazard and River Corridor rules.

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Community Investment Board Transition

- 24 V.S.A. § 5802 – CIB assumes any remaining responsibilities of the Downtown Board and powers under 24 V.S.A. Chapter 76A to ensure clean transition between the boards.

Designations Transition

- 24 V.S.A. Chapter 139 §5803(e) Dates extended:
- Downtown, village and new town centers to retain benefits extended to December 31, 2027 to reflect extension of Tier 1A dates]
- Vested designations to expire July 1, 2035 to match interim exemption expiration date

Appeals

- 10 V.S.A. § 6089.
 - o (b) add section to instruct Env. Court to hear appeals involving development of residential housing before other cases with the goal of speeding up process
- 24 V.S.A. § 4465. APPEALS OF DECISIONS OF THE ADMINISTRATIVE OFFICER
 - o (b)(4) Change 20-person appeal to 20% of population via petition can appeal
 - o (d) add requirement that appealing party must demonstrate a clear and substantial departure from the comprehensive plan or land use regulation that affects their property.
- 24 V.S.A. §4471. Appeal to Environmental Division
 - o (f) Env. Court must prioritize appeals regarding residential housing
 - o (g) add same requirement that appealing party must demonstrate a clear and substantial departure from the comprehensive plan or land use regulation that affects their property.
- § 8504. Appeals to the Environmental Division
 - o (4) makes it the goal of the Env. Division to hear cases regarding residential housing within 60 days (in addition to existing goal to issue a decision after a hearing within 90 days). Aiming to speed hearing and decision process.

Attorney's Fees and Costs

- 10 V.S.A. Chapter 220: Consolidated Environmental Appeals. §8507 is added:

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- Courts must require someone appealing a permit involving residential housing to pay attorney’s fees and costs of appeal if they lose the appeal.
 - Court may grant dispensation if there is undue hardship.

PROGRAMS

Vermont Rental Housing Improvement Program (VHIP)

- 10 V.S.A. § 699
 - (a)(5)(A) Exemption from Vermont Licensed Lender Law. Department of Housing and Community Development consulted with the Department of Financial Regulation and determined that the loans issued under VHIP are likely exempt from the licensed lender law, however it would provide better clarity to DHCD’s program partners if it was exempted via statute. DFR does not object to the exemption.
 - (d) amend to create an additional \$20k incentive to bring units up to the “visitable” standard in the Vermont Access Rules – aimed at clarifying standard
 - (e) remove 5 year loan option, as it is not currently used (could leave in if further flexibility is wanted)
 - (e)(2)(A)(iv) adds additional program eligibility for organizations holding a master lease and serving individuals that meet the other program requirements such as individuals exiting homelessness, refugees, etc.
 - (e)(4)(B) change from strict 10 percent to a pro-rated amount to allow more flexibility
 - (f)(1)(A) & (B) – fix the 10-year loan incentive and put it back to what it was prior to Act 181. The structure is to have:
 - A shorter 5-year time period with more strict requirements (housing the homeless, refugees, etc.) AND
 - A long 10-year period with less strict requirements (charging fair market rent).

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- Act 181 make the 10-year option requirements the same as the 5-year, which removed the incentive entirely. This restores the 2 tiers of incentives.
- (i) Creates a revolving fund for any funds repaid or recaptured by VHIP. DHCD can use the funds for more program expenditures and admin costs.

Manufactured Housing Improvement and Repair Program (MHIR)

- 10 V.S.A. 700 is created:
 - MHIR provides grants and awards for three things:
 - 1. Repairs to owner occupied mobile homes;
 - 2. New foundations for mobile home owners looking to move into a park;
 - 3. Funding to mobile home park owners to fix park infrastructure to enable the placement of more units.
 - MHIR only existed in session law previously, and this codifies the program in statute and houses it in the Department of Housing and Community Development
 - This language follows the language in prior iterations. The program is still operating with one-time general funds.

Downtown and Village Center Tax Credits

- 32 V.S.A. § 5930ee – Increases the tax credit limit from \$3,000,000 to \$5,000,000

STRATEGIC PROJECTS FOR ADVANCING RURAL COMMUNITIES (SPARC)

SPARC is a municipal financing tool to help communities fund infrastructure, housing, and economic development projects. It drives strategic investment in critically needed projects throughout Vermont. This, along with statute updates to the existing TIF program, will make critically needed economic development tools available in more parts of Vermont. The changes and recommendations below are essential to meet demands for necessary development.

- This model allows for municipalities and investment partners to create partnerships via Community Agreements (CAs) to initiate projects identified by the municipality that address community needs such as infrastructure, housing, and economic development.
- CAs will be subject to approval and oversight by VEPC. VEPC will review the terms of CAs and verify their financial capacity and viability. VEPC will approve and monitor all

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projects and has the authority to allow the municipality to use increment to pay the developer for a portion of project costs.

- The debt incurred can be repaid pursuant to the terms of CAs which may allow for up to 100 percent of the educational and municipal increment to be used for related project costs and improvements. The investment partner assumes the risk associated with the project. Municipalities have five years to incur the debt upon VEPC's approval of the SPARC project.
- *Community Agreement Structure:* Municipalities in this model will negotiate with investment partners to return a portion up to 100 percent of incremental property taxes to offset eligible costs, as outlined in CAs. CAs are customizable, although it is anticipated that most agreements will range between 10-15 years, depending on project scope.

CHANGES TO EXISTING TIF STATUTE:

24 VSA 1891 (4)

- VEPC staff received feedback from current TIF districts and feedback from our October retreat that the two-year limit for funding of debt service interest payments is restrictive and a current barrier. In reviewing TIF statutes nationwide, this limit is overly restrictive and creates barriers.

24 VSA 1891 (7)

- This codifies in statute BANs cannot be considered a first or last incurrence of debt and aligns the statute with the TIF rule.

24 VSA 1892 (b)

- It can take several months for between the time a municipality approves a TIF district and when VEPC approves a TIF district, which results in districts losing a year to incur debt. TIF districts identified this issue and this change would make the timeline workable for municipalities to maximize their incurrence period.

24 VSA 1892 (e) and (f)

- Repeal section because it was a one-time report from 2018.

24 VSA 1894 (a)(4)

- Helps clarify that to be incurred the debt must be executed.

24 VSA 1896 (a)

- Provides clarification that all capital indebtedness of the district does not need to be paid, however all capital indebtedness financed by educational increment should be paid. As an example, Winooski's retention period ended. They had municipal debts

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that were not using educational increments in their TIF district, however as the language is currently drafted the district would need to remain open until all debts were paid even though the retention period ended and no educational increment was being used to pay that debt.

24 VSA 1898 (f)

- Clarifies and codifies the bond premium issue that the SAO identified in the Burlington downtown TIF district and creates a process for TIF districts that sell bonds above par or receive a bond premium to get VEPC approval before spending those proceeds.

32 VSA 5405 (f)

- Removing the limits on the number of TIF districts in the state, the number of TIF districts allowed in a county, and the number of TIF districts allowed in a municipality.
- For example, Burlington has two TIF districts and there is interest in creating a third to create housing. However, Burlington would not be allowed to create another TIF district until the current districts expire which will not occur until 2036. Barre is in a similar position.
- Barre has a housing project that could move forward, but the current statute would not allow them to create a second district until the current one expires in 2039. Rutland county will meet the two-county cap this year which would preclude any other town in Rutland county from creating a TIF district for at least twenty years.

32 VSA 5405 (3)

- Rationale is to include another location criteria to encourage housing in areas targeted by the state.

32 VSA 5405 (4)

- Added a sixth criteria to make TIF an option for municipalities devastated by the 2023/24 floods.

32 VSA 5405 (l)

- This statutory change shifts the cost of SAO audits from the municipalities to the SAO. Municipalities have reported to VEPC staff during monitoring visits that the SAO charges municipalities between \$70,000-\$200,000 for each audit they conduct with at least three over the life of the district.

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- The current statute allows these costs to be paid a “related cost” using educational tax increment. The municipalities must warn voters of the amount dedicated to related costs.
By having the SAO perform the audit and have sole discretion on the cost, there is no check on the amount billed to the municipality and no way for a municipality to accurately warn voters.
- Since the audits are statutorily required by the state, the SAO should include the cost of the Statutorily required Audits in their budgetary request to the legislature, as is the practice of other Government Agencies and Elected Offices.

Tax Value Freeze

32 V.S.A. chapter 125, subchapter 3 §3870. Definitions

- (v) Remove section limiting program to areas affected by the 2023 floods. Make the program available state-wide
- §3871(d)(2) – make the exemption last for 5 years (vs. 3)

Water and Sewer Connections

3 V.S.A. Chapter 51 § 2822

- All projects permitted under a municipal water or wastewater connection general permit will be \$500

10 V.S.A. § 1971

- Allows delegation of review of state water/wastewater permit review to municipalities - aiming to streamline the process and ease any bottlenecks at the state level while giving municipalities more control

10 V.S.A. § 1972

- Definition amended to include “service connection to a public water system of any size.”

10 V.S.A. § 1973

- ANR will issue general permits for water/wastewater connections reviewed by municipalities & other permits as stated under rulemaking

10 V.S.A. § 1976. Delegation of Authority to Municipalities

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- Section amended to allow municipalities to request ANR delegate authority to undertake permit review. Aiming to streamline process and reduce state bottlenecks

Vermont Infrastructure Sustainability Fund

24 V.S.A. Chapter 119: Vermont Bond Bank; Subchapter 6: SPECIAL FUNDS §4678a is added

- Creates a special fund under the Vermont Bond Bank to provide bonds and loans to municipalities to provide capital to extend and increase capacity of water and sewer service, and other public infrastructure in municipalities where lack of extension or capacity is a barrier to housing development.
- Creates a revolving fund so any funds repaid will go back into the program.
- Can be used for:
 - o Water/sewer capacity and expansion
 - o Road/sidewalk/similar infrastructure
- Must be tied to:
 - o Housing development & future housing development capacity
- Bond bank to work with the Department of Housing and Community Development to develop program parameters

Tax Department Housing Data Access

32 V.S.A. § 5404(b)

- Directs Tax Dept. to provide an extract of the assessor database also referred to as a Computer Assisted Mass Appraisal (CAMA) system or Computer Assisted Mass Appraisal database
- The purpose of this is to allow for better data on housing development

Vermont Community Development Program – Environmental Review

10 V.S.A. §690b. is added to read: §690b. Environmental Review Services

- Allows the Vermont Community Development Program in the Department of Housing and Community Development to charge other federal and state agencies for environmental review services which previously were provided at the Program's expense
- Other entities like the Vermont Housing and Conservation Board, and the Regional HUD office utilize VCDP's environmental officers for environmental review of their HUD funded projects. VCDP does not have a statutory mechanism to request reimbursement for these services, and cannot use its own HUD funds to pay for them,

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therefore the funding comes out of DHCD's budget. This language allows for charges for these services.

- The other entities have administrative allowances that can be used for these expenses.

APPROPRIATIONS

Base Funding

Vermont Rental Housing Improvement Program (VHIP) – 10 V.S.A. §699

- \$300,000 annually for two (2) Full Time Employees (FTE); and
- \$4,000,000 annually for program funding

Manufactured Home Improvement and Repair program - 10 V.S.A. §700

- \$150,000 annually for one (1) Full Time Employee (FTE); and
- \$2,000,000 annually for program funding

One Time Appropriations

DHCD Housing Development Technical Assistance and Data Coordinator Limited Service Positions

- \$300,000 for two (2) Limited Service Full Time Employees (FTE)
 - o One to provide technical assistance to municipalities, non-profit organizations, and private developers to aid in the development of infill and missing-middle housing through the Homes for All initiative; and
 - o One to coordinate funding distribution amongst State entities, and to gather and analyze housing data to ensure efficient use of funds.

Brownfields:

- \$2,000,000 General Fund is appropriated to the Department of Economic Development for Brownfields redevelopment
- Up to \$1,000,00 may be awarded to RPCs for Brownfield assessment
 - o (The original allocation was contemplated at \$6,000,000, so the RPC award will likely be adjusted down to match at a similar ratio).

3 V.S.A. Chapter 51. Water/Sewer Database

- \$50,000 to ANR-DEC to create and manage the Water/Sewer Database
 - o This database will be a state-level resource to track water/sewer permits, even if permitting is delegated to municipalities

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VHFA Middle Income Homeownership Development

- \$15,000,000 to DHCD to grant to the Vermont Housing Finance Agency (VHFA) for the Middle Income Homeownership Development program which provides funds to develop housing for individuals up to 150% AMI.

VHFA Rental Housing Revolving Loan Fund (RHRLF)

- \$15,000,000 to DHCD to grant to the Vermont Housing Finance Agency (VHFA) for the Rental Housing Revolving Loan Fund which provides funds to develop affordable rental housing.

Vermont Bond Bank - Infrastructure Sustainability Fund

- \$9,100,000 to DHCD to grant to the Vermont Bond Bank to develop and implement the Vermont Infrastructure Sustainability Fund.