

Proposal from VDH, Legal Aid, DHCA, Affordable Housing Coalition, and Sarah Carpenter-- changes from S.163 highlighted – 5/1/2019

An act relating to housing safety and rehabilitation

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

* * * Housing Health and Safety; Rental Housing

Health Code Enforcement * * *

Sec. 1. 18 V.S.A. § 5 is amended to read:

§ 5. DUTIES OF DEPARTMENT OF HEALTH

The Department of Health shall:

(1) Conduct studies, develop State plans, and administer programs and State plans for hospital survey and construction, hospital operation and maintenance, medical care, and treatment of substance abuse.

(2) Provide methods of administration and such other action as may be necessary to comply with the requirements of federal acts and regulations as relate to studies, development of plans and administration of programs in the fields of health, public health, health education, hospital construction and maintenance, and medical care.

(3) Appoint advisory councils, with the approval of the Governor.

(4) Cooperate with necessary federal agencies in securing federal funds ~~which~~ that become available to the State for all prevention, public health, wellness, and medical programs.

(5) Seek accreditation through the Public Health Accreditation Board.

(6) Create a State Health Improvement Plan and facilitate local health improvement plans in order to encourage the design of healthy communities and to promote policy initiatives that contribute to community, school, and workplace wellness, which may include providing assistance to employers for wellness program grants, encouraging employers to promote employee engagement in healthy behaviors, and encouraging the appropriate use of the health care system.

(7) Serve as the leader on State rental housing health laws.

(8) Provide policy assistance; and technical support, and legal guidance to municipalities concerning the interpretation, implementation, and enforcement of State rental housing health and safety laws.

Sec. 2. 18 V.S.A. § 603 is amended to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2) A written inspection report shall:

(A) contain findings of fact that serve as the basis of one or more violations;

(B) specify the requirements and timelines necessary to correct a violation;

(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.

(3) A local health officer shall:

(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and

(B) in the case of a municipality that has not established a code enforcement office, provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose, and

~~(B)~~(C) in the case of a municipality that has established a code enforcement office, provide information on each inspection according to a schedule and in a format set by the Department in consultation with those municipalities.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized

(5) A municipality shall make an inspection report available as a public record.

(b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more than ~~\$100.00~~ \$200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is \$800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.

(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney shall-may commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.

(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 3. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(21) Violations of State or municipal rental housing health and safety laws when the amount of the cumulative penalties imposed pursuant to 18 V.S.A. § 603 is \$800.00 or less.

* * *

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except:

~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of

municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

Sec. 4. ~~Deleted.~~ DEPARTMENT OF HOUSING AND COMMUNITY

DEVELOPMENT; COLLECTION OF RENTAL HOUSING DATA

(a) On or before January 15, 2020, the Department of Housing and Community Development shall design and implement a comprehensive rental housing data management system, through which the Department is able to collect, organize, and make available to the public information concerning rental housing in this State, including:

(1) location of building;

(2) age of building;

(3) number of units;

(4) type of units;

(5) School Property Account Number;

(6) owner name and contact information; and

(7) manager name and contact information.

(b) In performing its duties pursuant to this section, the Department shall consult, and shall have the full cooperation and assistance of:

(1) the Department of Taxes and other agencies and departments as necessary;

(2) the Vermont Assessors and Listers Association;

(3) the Vermont Center for Geographic Information;

(4) the Vermont Enhanced 911 Board;

(5) the Vermont Housing Finance Agency;

(6) the Vermont League of Cities and Towns;

(7) representatives of the Regional Planning Commissions;

(8) the Agency of Digital Services; and

(9) any other affected stakeholders.

Sec. 5. DEPARTMENT OF HEALTH; HEALTH INSPECTION REPORTS

The Department of Health shall create and manage an electronic system to collect and maintain health inspection reports submitted by local health officers pursuant to 18 V.S.A. § 603.

Sec. 6. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT
SYSTEM; RECOMMENDATIONS; REPORT

(a) On or before January 15, 2020, in collaboration with the Rental Housing Advisory Board, the Department of Health and the Department of Public Safety shall develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws, which shall include:

(1) an outline of options, including an option for a State government-run system, with a timeline and budget for each;

(2) a needs assessment outlining the demand for inspections based on inspection information collected through the electronically system created pursuant to Sec. 5 of this act, summary information for fiscal year 2019 inspection reports provided pursuant to 18 V.S.A. section 603(a)(3) and subsection

(c) of this section, summary information from municipalities with self-governed

rental housing health code programs and other stakeholders and relevant sources;

and

(3) any additional recommendations from the Rental Housing Advisory Board, the Department of Public Safety, the Department of Housing and Community Development, or other executive branch agencies.

(b) On or before September 30, 2019, the Department of Health shall provide an interim progress report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

(c) On or before August 1, 2019, each municipality in this State shall provide to the Department of Health summary information on its inspection activity from July 1, 2018 through June 30, 2019 in order to assist the Department in completing the needs assessment pursuant to subdivision (a)(2) of this section.

Sec. 7. DUTIES CONTINGENT UPON FUNDING

(a) The following duties imposed on the Department of Housing and Community Development are contingent upon the appropriation of funds in fiscal year 2020 for the purposes specified:

(1) to implement a rental housing data management system pursuant to

Sec. 4 of this act;

(2) to update and maintain the RentalCodes.org website, or a similar resource, that provides easy access to information for consumers, landlords, municipal officials, and the public concerning rental housing health and safety laws; and

(3) to design and implement a Vermont Rental Housing Incentive Program pursuant to Sec. 12 of this act.

(b) The following duties imposed on the Department of Health are contingent upon the appropriation of funds in fiscal year 2020 for one additional full-time equivalent position:

(1) to provide additional training to town health officers concerning best practices, the health officer role and responsibilities, and rental housing health and safety issues; and

(2) to provide additional guidance and support to municipalities concerning difficult rental housing enforcement issues.