

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.256 **Name of Bill:** An Act relating to disposal of property following an eviction, and fair housing and public accommodations

Agency/ Dept: DHCD **Author of Bill Review:** Jen Hollar, Dale Azaria and Shaun Gilpin

Date of Bill Review: April 2, 2015 **Related Bills and Key Players** _____

Status of Bill: (check one): _____ Upon Introduction _____ As passed by 1st body _____X_____ As passed by both

Recommended Position:

____X____ Support _____ Oppose _____ Remain Neutral _____ Support with modifications identified in #8 below

Analysis of Bill

1. Summary of bill and issue it addresses. *Describe what the bill is intended to accomplish and why.*

Section 1 of this bill eliminates a potentially problematic gap in the law governing evictions. There are 3 basic steps in the process of a landlord evicting a tenant. First, the court issues a writ of eviction. Then the writ must be served on the tenant. Finally, the sheriff executes the writ, which means removing the tenant from the dwelling unit and putting the landlord back in possession. Under current law, there must be at least 10 days between the date the writ is served on the tenant and the date the writ is executed. Current law also allows the landlord to dispose of the tenant's personal property 15 days after the writ is served. In the normal course of events, this allows for a 5-day "grace period" in which the tenant can reclaim any personal property that was left in the apartment. In the case of *JW LLC v. Ayer*, decided by the Vermont Supreme Court last spring, Justice Dooley noted that if the writ isn't executed promptly, a landlord might technically be entitled to dispose of a tenant's property even before the tenant has been removed from the premises. To address this problem, the bill says that the landlord may not dispose of the tenant's property until after the landlord has taken possession of the dwelling unit.

Section 2 of this bill amends the Fair Housing law as it pertains to retaliation, to clarify that in addition to prohibiting discrimination, the Fair Housing law also prohibits coercion, threats, and interference with the exercise of fair housing rights.

Section 3 of the bill deals with Effective Dates and stipulates that the Fair Housing provisions in Section 2 shall take effect upon passage and the provisions of Section 1 shall be applied to eviction proceedings beginning on or after July 1, 2015

2. Is there a need for this bill? *Please explain why or why not.*

Although Justice Dooley pointed out the potential problems with the eviction procedure that are addressed by Section 1, our understanding is that it is not critical, because in reality landlords will not try to dispose of a tenant's property before the tenant has been evicted.

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Section 2 is an important fix. Without the corrections proposed by Section 2 of the bill, Vermont's Fair Housing statute does not provide the same level of protection as the federal fair housing law. In addition to putting Vermont residents at risk of retaliation or coercion to prevent them from exercising their legal rights to address discrimination, it could jeopardize the state's standing with HUD and other federal agencies.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

None anticipated.

4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?

Section 2 facilitates the Human Rights Commission's ability to enforce the state Fair Housing law. Failure to enact this technical correction will hamper their ability to operate as well as their standing with the federal government.

5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)

Because both sections of this Bill are technical corrections, they are unlikely to result in any significant implications for other groups.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why?

Legal Aid, Vermont Tenants, Inc. and the Vermont State Housing Authority all support this bill as useful clarifications of landlord and tenant rights that do not modify existing law.

Vermont Human Rights Commission strongly supports the correction in Section 2 of the bill.

6.2 Who else is likely to oppose the proposal and why?

No opponents have been identified.

7. Rationale for recommendation: *Justify recommendation stated above.*

We support this bill. Section 1 eliminates a potentially troubling inconsistency in the law and Section 2 reinstates important protections that were inadvertently eliminated by previous amendments to the enforcement statute.

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8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

None needed.

9. Gubernatorial appointments to board or commission?

Not applicable.

Secretary/Commissioner has reviewed this document: **Jennifer Hollar** **Date: April 9, 2015**