

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on General, Housing and Military Affairs to which was
3 referred House Bill No. 216 entitled “An act relating to preserving federally
4 assisted affordable housing” respectfully reports that it has considered the
5 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 Sec. 1. FINDINGS

8 The general assembly finds that:

9 (1) There exists a serious shortage of decent, safe, and energy efficient
10 rental units available for low income Vermonters. Many Vermonters are
11 denied access to decent housing because they are unable to meet the high cost
12 of rent. Rising housing costs in Vermont force low income households to live
13 in unsafe, substandard rental units; to spend an unreasonably high percentage
14 of their income on rent thereby reducing their ability to afford other
15 necessities; or to become homeless. The inadequate supply of decent, safe,
16 energy efficient, and affordable housing endangers public health and
17 jeopardizes public safety, the general welfare, and the good of the state.

18 (2) Vermonters living in many of the at-risk rental units in the state may
19 be threatened with displacement from their homes if the owner terminates
20 affordability restrictions. The loss of subsidized and federally assisted housing
21 in a time of limited public resources would inflict unacceptable harm on

1 current tenants and would precipitate a crisis in the supply of rental housing
2 available and affordable to low income Vermonters.

3 (3) There is a compelling need to preserve the affordability of rental
4 housing units for low and moderate income Vermonters in order to prevent
5 their displacement and to ensure an adequate supply of affordable housing in
6 the state.

7 Sec. 2. PURPOSE

8 The purpose of this act is to protect tenants from displacement, and to give
9 tenants, through an eligible entity, the opportunity to purchase assisted housing
10 and renew affordability restrictions.

11 Sec. 3. 24 V.S.A. chapter 116 is added to read:

12 CHAPTER 116. PUBLICLY ASSISTED HOUSING

13 § 4201. DEFINITIONS

14 For purposes of this chapter:

15 (1) “Affordability restriction” means a limit on rents that an owner may
16 charge for occupancy of a rental unit in a publicly assisted housing
17 development or a limit on tenant income for persons or families seeking to
18 qualify for admission to a publicly assisted housing development.

19 (2) “Agency” means the Vermont housing finance agency.

20 (3) “Board” means the Vermont housing and conservation board.

1 (4) “Comparable housing” means housing that is safe, sanitary, and in
2 compliance with all local and state housing codes, and is equivalent to the
3 dwelling in which the tenant currently resides in regard to the following:
4 apartment size; range of rent; kitchen and bathroom facilities; special facilities
5 for the disabled; school facilities; and area.

6 (5) “Department” means the department of economic, housing and
7 community development.

8 (6) “Enhanced Section 8 voucher” means rental assistance benefits
9 provided to the occupants of publicly assisted housing in which a project-based
10 rental assistance contract is proposed to be terminated.

11 (7) “Owner” means a person, firm, partnership, corporation, trust
12 organization, limited liability company, or other entity or its successors and
13 assigns that holds title to publicly assisted housing.

14 (8) “Preserve affordability” means to make reasonable and diligent
15 actions to retain, renew, or secure subsidies in order to maintain at least the
16 same number of units affordable to low and very low income households.

17 (9) “Publicly assisted housing” means rental housing which has project-
18 based rental assistance from the department of housing and urban development
19 under Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1473f,
20 or from USDA Rural Development under §§ 515 or 521 of the Housing Act of
21 1949, 42 U.S.C. §§ 1485, 1490a.

1 (10) “Qualified entity” means a partnership, corporation, trust,
2 organization, limited liability company, or other entity that the agency has
3 determined to have demonstrated expertise and experience developing and
4 operating permanently affordable rental housing.

5 (11) “Relocation costs” means the reasonable costs of moving into
6 comparable housing, including moving expenses, utility connection fees, and
7 rental and damage deposits.

8 (12) “Termination” means the expiration or early termination of project-
9 based rental assistance from the department of housing and urban development
10 under Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1473f,
11 or from USDA Rural Development under §§ 515 or 521 of the Housing Act of
12 1949, 42 U.S.C. §§ 1485, 1490a, including project-based certificates and
13 vouchers.

14 § 4202. HOUSING COVERED; EXEMPTIONS

15 (a) This chapter applies to all publicly assisted rental housing projects with
16 project-based rental assistance which are privately owned and are not subject
17 to a perpetual housing subsidy covenant approved by the Vermont housing and
18 conservation board or the Vermont housing finance agency.

19 (b) This chapter shall not apply to publicly assisted housing whose
20 owner has signed and recorded in the municipal land records a perpetual
21 housing subsidy covenant, mortgage, preservation agreement, or right of first

1 refusal or option to purchase which has been approved by the Vermont housing
2 and conservation board or the Vermont housing finance agency.

3 (c) This chapter shall not apply to the following:

4 (1) Government takings by eminent domain or a negotiated purchase in
5 lieu of a taking by eminent domain.

6 (2) An involuntary sale pursuant to a foreclosure.

7 (3) A deed in lieu of foreclosure.

8 (4) A proposed sale of a publicly assisted project to a principal or
9 current partner in the ownership entity or a family member of the owner that is
10 not a termination.

11 § 4203. NOTICE OF INTENT TO SELL, TERMINATE, OR CHANGE THE
12 USE OF PUBLICLY ASSISTED HOUSING

13 (a) The owner of publicly assisted housing shall not sell, complete a
14 termination, or change the use of the property unless the owner has given
15 notice as required by this section and complied with the requirements of this
16 chapter and all applicable state and federal laws or rules.

17 (b) The owner shall give each tenant a 24 month written notice of the
18 owner's intent to sell the property, terminate the subsidy contracts, change the
19 use of the property, or request the tenants to vacate the unit because of these
20 actions.

21 (c) The owner shall give any required notice to:

1 (1) The tenants and the tenant organization, if any.

2 (2) The clerk or chair of the legislative body of the municipality in
3 which the housing project is located.

4 (3) The agency.

5 (4) The department.

6 (d) The notice shall provide the address of the publicly assisted housing;
7 the owner's name and address; notification that the affordability restrictions
8 may terminate and the date of the termination; and any other information
9 required by the agency.

10 (e) An owner may serve notice by delivering the notice by certified or
11 registered mail, return receipt requested or, if to a tenant, by hand-delivering
12 the notice to the tenant or an adult member of the tenant's household.

13 (f) The notice requirements shall not be affected by the status of an offer,
14 purchase, or contract of sale under section 4204 of this chapter.

15 § 4204. NOTIFICATION AND REQUIRED ACTIONS PRIOR TO SALE

16 OF PUBLICLY ASSISTED HOUSING

17 (a) A notice of intention to sell the property as set out in section 4203 of
18 this title shall include the following:

19 (1) A statement that the owner intends to sell the property.

20 (2) The essential terms of the sale, including, at a minimum, the sales

21 price; whether the sales price is supported by an appraisal report; the terms of

1 seller financing, if any, including the amount, the interest rate, and the
2 amortization rate; the terms of assumable financing, if any, including the
3 amount, the interest rate, and the amortization rate.

4 (3) A statement of how the tenants will be moved to comparable
5 housing if they are displaced due to a sale.

6 (b)(1) For 90 days following the notice, the owner shall not make a final,
7 unconditional acceptance of an offer to purchase the property. During the 90
8 day period if the owner receives an offer to purchase from a qualified entity,
9 the owner shall not make a final, unconditional acceptance for an additional
10 120 days, unless the offer to purchase is made by the qualified entity.

11 (2) If the owner receives an offer from a qualified entity the owner shall
12 negotiate in good faith and comply with any reasonable request by the
13 qualified entity for documents related to the housing, including: a floor plan of
14 the housing; itemized lists of monthly operating expenses; capital expenditures
15 in each of the two preceding calendar years and deferred maintenance costs;
16 the amount of project reserves; utility consumption rates; copies of financial
17 and physical inspection reports filed with state, federal, or local agencies; the
18 most recent list of rents; a tenant list; a list of vacant units; and a statement of
19 the vacancy rate for each of the two preceding calendar years. The owner shall
20 make documents available during normal business hours at the owner's
21 principal place of business within 15 days of receiving a request.

1 (c) If the owner does not receive an offer from a qualified entity during the
2 90 day period, or if the owner and the qualified entity fail to reach a purchase
3 agreement, the owner may sell the property to a third-party provided that the
4 owner demonstrates that tenants displaced by the sale will receive enhanced
5 Section 8 vouchers from the U.S. department of housing and urban
6 development, or will be relocated to comparable housing at the owner's
7 expense. The closing on a sale to a third-party must be completed within 24
8 months from the expiration of the 90 day notice period. The terms of sale may
9 not be more favorable to the purchaser than the terms the owner offered to the
10 qualified entity. The sales price must be either not less than the price for
11 which the property was offered for sale to the qualified entity, or substantially
12 higher than the final written offer from the qualified entity.

13 § 4205. NOTIFICATION AND REQUIRED ACTIONS PRIOR TO
14 TERMINATION

15 If an owner has given his or her notice of intention to terminate assistance
16 for the publicly assisted housing as set out under section 4203 of this title, the
17 owner shall also do the following:

18 (1) The owner shall provide rent stabilization and good cause eviction
19 protection throughout the notice period. The owner shall make every
20 reasonable effort to cooperate in the process of obtaining enhanced Section 8
21 vouchers or other rental assistance for low and very low income tenants of the

1 building. The rent for a dwelling unit occupied by a tenant who does not
2 receive rental assistance shall not be increased more than once annually and by
3 no more than the increase in the Consumer Price Index. During this period, a
4 tenant shall not be evicted or involuntarily displaced from the dwelling except
5 for good cause related to tenant fault. A notice of rent increase shall be
6 provided to all affected tenants and the agency at least 120 days before the
7 increase takes effect.

8 (2) The owner shall pay the actual documented cost of relocation, not to
9 exceed \$3,000.00, to any tenant entitled to receive notice under section 4203 of
10 this chapter. Relocation costs shall be payable within 10 days after the tenant
11 submits the itemized request in writing to the owner, provided that the
12 relocation costs may be reduced by any rent due by the tenant prior to the date
13 the unit is vacated.

14 § 4206. AFFORDABLE HOUSING MITIGATION FEE

15 On the date that the owner completes a termination and converts the project
16 to a use other than affordable housing, the owner shall pay the Vermont
17 housing and conservation board an affordable housing mitigation fee of four
18 percent of the fair market value of the project after conversion to the new use.
19 The fee shall be paid prior to the recording of a certificate of occupancy or use
20 by the municipality in which the project is located. The proceeds from the fee
21 shall be used by the Vermont housing and conservation board to provide grants

1 and loans to qualified entities to further the purposes of this chapter, including
2 the protection of lower income residents of publicly assisted housing from
3 displacement, the ownership of publicly assisted housing by qualified entities,
4 and the production of perpetually affordable housing units for low and very
5 low income residents. The fee shall not apply to publicly assisted housing
6 exempted under this chapter.

7 § 4207. CIVIL ACTION AGAINST OWNER

8 The tenants in the affected assisted housing project or the agency may bring
9 a civil action against an owner who violates this chapter. An owner found to
10 have violated this chapter shall be liable to the prevailing party in the amount
11 of \$100,000.00 or 50 percent of the gain realized by the sale of the property,
12 whichever is greater, and for costs and reasonable attorney's fees. An owner
13 found to have violated this subchapter shall, in addition to any other damages
14 allowable, pay a civil penalty of \$2,000.00 to each tenant household affected
15 by the violation.

16 § 4208. EDUCATION PROPERTY TAX EXEMPTION

17 If the owner of publicly assisted housing extends affordability restrictions
18 for five years or longer, the housing shall be entitled to an exemption on the
19 education property tax grand list of 5 percent for each 5 year extension of
20 affordability restrictions, up to a maximum of 20 percent of the grand list value
21 of the housing.

1 § 4209. OWNER ELIGIBILITY FOR HUD PROGRAMS THAT EXTEND
2 AFFORDABILITY RESTRICTIONS

3 Nothing in this chapter is intended to preclude an owner or buyer from
4 participating in programs offered by the department of housing and urban
5 development, including the Mark Up to Market program.

6 Sec. 4. 32 V.S.A. § 5404a is amended to read:

7 § 5404A. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
8 FINANCING DISTRICTS

9 (a) Tax agreements and exemptions affecting the education property tax
10 grand list. A tax agreement or exemption shall affect the education property tax
11 grand list of the municipality in which the property subject to the agreement is
12 located if the agreement or exemption is:

13 * * *

14 (7) an exemption of a portion of the value of a qualified publicly
15 assisted housing parcel. The owner of a publicly assisted housing parcel shall
16 be entitled to an exemption on the education property tax grand list of 5
17 percent for each 5 year extension of affordability restrictions, up to a maximum
18 of 20 percent of the grand list value of the parcel. A municipality shall allow
19 the percentage exemption under this subdivision upon presentation by the
20 taxpayer to the municipality, by April 1, of a certificate of education grand list
21 value exemption, obtained from the Vermont housing finance agency (VHFA).

1 VHFA shall issue a certificate of exemption upon presentation by the taxpayer
2 of information which VHFA and the commissioner shall require. An
3 exemption granted by a municipality under this subdivision shall expire upon
4 the transfer of the building, the expiration of affordability restrictions, or after
5 20 years, whichever occurs first.

6 * * *

7 Sec. 5. ENERGY EFFICIENCY

8 The owner of publicly assisted housing who extends affordability
9 restrictions for at least ten years shall have priority to receive assistance from
10 state energy efficiency programs. By January 15, 2013 the department of
11 public service and the office of economic opportunity shall finalize policies
12 and procedures regarding how owners shall qualify for the priority assistance.

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17 (Committee vote: _____)

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Representative [surname]

FOR THE COMMITTEE