

1 H.772

2 Representatives LaLonde of South Burlington and Burditt of West Rutland
3 move that the report of the Committee on General and Housing be amended as
4 follows:

5 First: By striking out Sec. 2, 12 V.S.A. § 663, in its entirety and inserting in
6 lieu thereof a new Sec. 2 to read as follows:

7 Sec. 2. 12 V.S.A. § 663 is added to read:

8 § 663. ALTERNATE SERVICE OF PROCESS; EJECTMENT

9 When a motion for alternative service of process is filed pursuant to Rule
10 4(d)(1) of the Vermont Rules of Civil Procedure in an action under 10 V.S.A.
11 chapter 153, 11 V.S.A. chapter 14, or chapter 169 of this title, the court shall
12 rule on the motion promptly.

13 Second: By striking out Sec. 3, 12 V.S.A. chapter 169, in its entirety and
14 inserting in lieu thereof a new Sec. 3 to read as follows:

15 Sec. 3. 12 V.S.A. chapter 169 is amended to read:

16 CHAPTER 169. EJECTMENT

17 * * *

18 Subchapter 3. Superior Court Ejectment

19 * * *

20 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

21 [~~Subsection (a) as amended by 2007, Act No. 125 (Adj. Sess.), § 1.~~]

~~[Subsection (a) as amended by 2007, Act No. 176 (Adj. Sess.), § 51.]~~

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1 (g) The tenant may at any time by motion apply to the court to reduce the
2 amount ordered to be paid into court under this section. The motion for
3 reduction shall be accompanied by affidavit setting forth particular facts in its
4 support.

5 * * *

6 (i) Notwithstanding subsection (d) of this section, the parties may come to
7 an agreement and at any time by motion apply to the court to reduce the
8 amount ordered to be paid into court under this section.

9 * * *

10 § 4854a. PROPERTY OF TENANT REMAINING ON PREMISES AFTER
11 EVICTION

12 (a) A landlord may dispose of any personal property remaining in a
13 dwelling unit or leased premises without notice or liability to the tenant or
14 owner of the personal property:

15 (1) ~~15 days after a writ of possession is served pursuant to this chapter~~
16 ~~or~~ immediately upon the landlord being legally restored to possession of the
17 dwelling unit or leased premises pursuant to this chapter, ~~whichever is later~~; or

18 (2) in the case of an eviction brought pursuant to 10 V.S.A. chapter 153,
19 40 days after a writ of possession issued for failure to pay rent into court
20 pursuant to subsection 4853a(h) of this title is served or upon the landlord
21 being legally restored to possession of the leased premises by a writ of

possession issued for failure to pay rent into court pursuant to subsection
4853a(h) of this title, whichever is later.

(b) Notwithstanding subsection (a) of this section, if the court stays the
execution of a writ of possession issued pursuant to this chapter, then a
landlord may dispose of any personal property remaining in a dwelling unit or
leased premises without notice or liability to the tenant or owner of the
personal property ~~one day~~ immediately after the landlord is legally restored to
possession of the dwelling unit or leased premises.

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Subchapter 4. Superior Court Ejectment for Nonpayment or Breach

§ 4861. ISSUANCE OF PROCESS BY SUPERIOR JUDGE FOR NONPAYMENT OR BREACH

When the lessee of lands or tenements, either by parole or written lease, or a
person holding under the lease, holds possession of the demised premises
without right, after the termination of the lease under 9 V.S.A. § 4467(a) or (b),
the person entitled to the possession of the premises may have from the
presiding judge of the Superior Court a writ to restore the person to the
possession thereof.

§ 4862. MODE AND SERVICE OF PROCESS; TRIAL BY JURY

(a) The process may issue as a summons, requiring the defendant to appear
and answer to the complaint of the plaintiff, which shall state that the

1 defendant is in the possession of the lands or tenements in question, with a
2 description thereof, that the tenant holds unlawfully and against the right of the
3 plaintiff. A copy of the rental agreement, if any, and any notice to terminate
4 the defendant's tenancy, including the affidavit required by 9 V.S.A.
5 § 4467(b)(2)(B), shall be attached to the complaint. If the complaint is based
6 on a termination under 9 V.S.A. § 4467(a), the complaint shall include a copy
7 of the rent ledger, if available.

8 (b) Either party shall have the right to a trial by jury.

9 § 4863. ANSWER; HEARING

10 (a) An answer to a complaint filed under this subchapter shall be
11 accompanied by an affidavit setting forth particular facts in opposition to the
12 complaint.

13 (b)(1) Upon receipt of an answer to a complaint based on a termination
14 under 9 V.S.A. § 4467(a) or (b), the court shall set a final hearing date not later
15 than 90 days after the filing of the complaint absent good cause.

16 (2) The timeline in this subsection shall not apply when the plaintiff is in
17 possession of the lands or tenements in question or has received from the court
18 a writ of possession for the lands or tenements.

19 § 4864. DEFAULT

20 If the defendant fails to file an answer in the time provided pursuant to Rule
21 12 of the Vermont Rules of Civil Procedure, the plaintiff may file a motion for

1 a default judgment in accordance with Rule 55 of the Vermont Rules of Civil
2 Procedure. The court shall rule on the motion promptly.

3 § 4865. THREATENING BEHAVIOR; EXPEDITED HEARING

4 (a)(1) In an action for ejectment based on a termination under 9 V.S.A.
5 § 4467(b)(2), the plaintiff may file a motion for a judgment that the plaintiff is
6 entitled to immediate possession of the premises on the grounds that the
7 defendant's continued occupation of the lands or tenements is threatening the
8 health or safety of other residents, the landlord or the landlord's agent, or
9 neighbors.

10 (2) The motion may be filed and served with the complaint or at any
11 time after the complaint has been filed. The motion shall be accompanied by
12 an affidavit setting forth particular facts in support of the motion and a copy of
13 the lease agreement.

14 (b) A hearing on the motion shall be held promptly any time after 10 days'
15 notice to the parties but not later than 21 days after the motion is filed absent
16 good cause.

17 (c) At any time before the hearing, the defendant may oppose the motion
18 pursuant to Rule 7(b)(6) of the Vermont Rules of Civil Procedure by filing an
19 affidavit, a signed written statement, or a memorandum in opposition to the
20 motion. The affidavit, signed written statement, or memorandum shall set

1 forth particular facts to show that a genuine dispute of fact exists in relation to
2 the motion.

3 (d)(1) If the defendant fails to appear for the hearing, or to file an affidavit,
4 signed written statement, or memorandum in opposition to the plaintiff's
5 motion, or has failed to file an answer in the time provided pursuant to Rule 12
6 of the Vermont Rules of Civil Procedure, the plaintiff shall be entitled to
7 judgment by default for immediate possession of the premises.

8 (2) If the court finds that the defendant's continued occupation of the
9 lands or tenements is a threat to the health or safety of other residents, the
10 landlord or the landlord's agent, or neighbors, the court shall grant the
11 plaintiff's motion and issue judgment in favor of the plaintiff for immediate
12 possession of the premises.

13 (e) If the court issues judgment in favor of the plaintiff pursuant to
14 subsection (d) of this section, the court shall, on the date judgment is entered,
15 issue a writ of possession directing the sheriff of the county in which the
16 property or a portion thereof is located to serve the writ upon the defendant
17 and, not sooner than five days after the writ is served, to put the plaintiff into
18 possession.

19 § 4866. COSTS; JUDGMENT FOR PLAINTIFF; POSSESSION

20 If the court finds the plaintiff is entitled to possession, the plaintiff shall
21 have a judgment for possession and rents due, if applicable, including damages

1 and costs, and when a written rental agreement so provides, the court may
2 award reasonable attorney's fees. A writ of possession shall issue on the date
3 of judgment and shall direct any sheriff to serve the writ upon the defendant
4 and, not earlier than 14 days after the writ is served, put the plaintiff in
5 possession.

6 § 4867. PROPERTY OF TENANT REMAINING ON PREMISES AFTER
7 EVICTION

8 A landlord may dispose of any personal property remaining in a dwelling
9 unit or leased premises without notice or liability to the tenant or owner of the
10 personal property upon the landlord being legally restored to possession of the
11 dwelling unit or leased premises pursuant to this subchapter.

12 § 4868. TRESPASS ORDERS

13 After being legally restored to possession of the dwelling unit or leased
14 premises pursuant to this chapter, the plaintiff may issue the defendant an order
15 against trespass for the entire premises subject to the ejectment action in
16 accordance with 13 V.S.A. § 3705.

17 Third: In Sec. 5, 13 V.S.A. § 3705, by striking out subdivision (g)(2) in its
18 entirety and by renumbering the remaining subdivision to be numerically
19 correct.

- 1 Fourth: By striking out Sec. 6, 12 V.S.A. chapter 169, subchapter 5, and its
- 2 reader assistance heading in their entirety and inserting in lieu thereof a new
- 3 Sec. 6 to read as follows:
- 4 Sec. 6. [Deleted.]