

Missing the Target: S.234 Fails to Balance Housing Development and Land Conservation

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Vermont is in the midst of a housing crisis. Today, the Senate may consider [S.234](#), a bill that was heralded as an important step towards solving that crisis. But the solution – sold as balance of conservation and housing development friendly updates to Act 250 – failed to include a widely-popular provision to exempt our designated downtowns and designated growth areas from Act 250. It's a bad deal.

Housing developers, environmental advocates, the governor, and legislators came to agree over the past five years that Act 250 needed reforming. The legislature convened a commission to review the 50-year-old land use planning policy. An informal moratorium came about that stopped any changes while policy makers thoughtfully reviewed how best to amend

the law. One of the hopeful results was an apparent agreement that we needed more housing, and we should find a way to encourage it to be built in places where state goals say housing should be built and in the least environmentally disruptive way – in our downtowns.

Housing advocates and local officials proposed an elegant solution: Vermont could spark new smart growth by exempting from Act 250 housing developments in our neighborhood development areas, new town centers, and downtowns. These designated growth centers – including the 23 currently designated downtowns – go through a rigorous planning process which ensures the interests of neighbors, the environment, and Vermont's development goals strike the right balance. The Vermont League of Cities and Towns joined several other organizations in supporting the idea.

But the bill being considered today and that was heralded as a major step forward towards relieving the regulatory burden on housing development instead includes a modest reform targeting communities of fewer than 3,000 people. The narrow expansion would allow developers in those communities to double the number of units that qualify as a priority housing project (PHP) – from 25 to 50 units. PHPs allow developers to avoid duplicative Act 250 permitting processes for a limited number of homes if they build in a downtown, neighborhood area, new town center, or growth center and commit to building a certain percentage of affordable homes.

PHPs have been a key tool in our state's recent efforts to build more housing. However, while any easing of Act 250's jurisdiction over smart growth housing is a good thing, this PHP expansion won't begin to meet the challenge of the housing crisis. Our state's smallest communities can't do it alone.

S.234 goes on to increase Act 250 jurisdiction to protect connecting habitat and more forest land "not currently developed for non-forest use." This will effectively make developing housing more difficult by roping off swaths of forest land from development. According to the U.S. Forest Service, 76 percent of Vermont land is forested. Whether one thinks this is good policy or not, passing a law to aggressively protect land must be accompanied by an equally aggressive solution to house human beings in environmentally appropriate places.

In addition to increasing Act 250 jurisdiction, S.234 divorces the appeals process for Act 250 permits from other environmental permit appeals processes, including municipal permits. This move would create a new opportunity for delays and cost increases – as a project opponent

could appeal in two venues resulting in inconsistent outcomes. This action would undo a permitting reform completed in 2004 that successfully consolidated the appeals process to the Environmental Court.

When the Vermont League of Cities and Towns surveyed our members last August, selectboard members, clerks, and other municipal officials told us that affordable housing was the number one challenge facing their cities, towns, and villages. There are several provisions within S.234 that can help our members address the housing shortage, including new municipal planning grants to help our members rewrite zoning laws to encourage more housing development and an increase in the areas eligible for growth center designations. But without an Act 250 exemption for these areas, Vermont simply cannot claim to be serious about addressing the deepening housing crisis.