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H.485

Introduced by Representative Clarkson of Woodstock

Referred to Committee on

Date:

Subject: Taxation and finance; property tax; agricultural land and forestland

Statement of purpose: This bill proposes to enact the proposals of the use value appraisal task force.

An act relating to the use value appraisal program

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

* * * Expand Dwelling Exclusion from Two to Five Acres

with Some Exceptions * * *

Sec. 1. 32 V.S.A. § 3752(16) is added to read:

(16) "Dwelling" means any house, mobile home, camp, apartment, or other structure intended for human habitation.

Sec. 2. 32 V.S.A. § 3752(8) is amended to read:

(8) "Housesite" means the ~~two~~ five acres of land surrounding any ~~house, mobile home or dwelling; except that if the dwelling is owned and occupied as a principal residence by a farmer or by a person who earns at least one-half of his or her income from the business of growing and harvesting trees, then~~ "housesite" means two acres of land. If more than one dwelling is under

1 common ownership with the owners of the enrolled parcel, the additional
2 dwelling may be located on the same housesite as the principal dwelling or
3 each may have a separate two-acre housesite.

4 Sec. 3. 32 V.S.A. § 3752(9) is amended to read:

5 (9) “Managed ~~forest land~~ forestland means:

6 (A) any land, exclusive of any ~~house-site~~ housesite, which is at least
7 25 acres in size and which is under active long-term forest management for the
8 purpose of growing and harvesting repeated forest crops in accordance with
9 minimum acceptable standards for forest management. Land which is at least
10 27 acres and no more than 30 acres in size including a housesite and not owned
11 by a farmer or person who earns at least one-half of his or her income from the
12 business of growing and harvesting trees may qualify if at least 25 acres meet
13 the standards of this subdivision; however, only the acreage other than the
14 housesite can qualify for use value appraisal; or

15 * * *

16 * * * Method and Calculation of Land Use Change Tax * * *

17 Sec. 4. 32 V.S.A. § 3757 is amended to read:

18 § 3757. LAND USE CHANGE TAX

19 (a) Land which has been classified as agricultural land or managed ~~forest~~
20 ~~land~~ forestland pursuant to this chapter shall be subject to a land use change
21 tax upon the development of that land, as defined in section 3752 of this

1 chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair
2 market value of the changed land determined without regard to the use value
3 appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates~~
4 ~~to the satisfaction of the director that the parcel has been enrolled continuously~~
5 ~~more than 10 years. If changed land is a portion of a parcel, the fair market~~
6 ~~value of the changed land shall be the fair market value of the changed land~~
7 ~~prorated on the basis of acreage, divided by the common level of appraisal.~~
8 Such fair market value shall be determined as of the date the land is no longer
9 eligible for use value appraisal. This tax shall be in addition to the annual
10 property tax imposed upon such property. Nothing in this section shall be
11 construed to require payment of an additional land use change tax upon the
12 subsequent development of the same land, nor shall it be construed to require
13 payment of a land use change tax merely because previously eligible land
14 becomes ineligible, provided no development of the land has occurred. The
15 land use change tax for land that has been withdrawn prior to the effective date
16 of this act shall be calculated according to the provisions of law that were in
17 effect at the time of withdrawal.

18 * * *

19 (c) The determination of the fair market value of the land as of the date the
20 land is no longer eligible for a use value appraisal, or as of the time of the
21 withdrawal of the land from use value appraisal, shall be made by the ~~director~~

1 local assessing officials in accordance with the land schedule of their
2 municipality. The determination shall be made within 30 days after the date
3 that the owner ~~or assessing officials petition~~ petitions for the determination and
4 shall be effective on the date of dispatch to the owner. The local assessing
5 officials may make the determination on their own initiative following written
6 notice to the owner and a period of not less than 30 days for the owner to
7 respond. The determination may be appealed as set forth in subsection 3758 of
8 this title.

9 (d) The land use change tax shall be due and payable by the owner 30 days
10 after the tax notice is mailed to the taxpayer. The tax shall be paid to the
11 ~~commissioner for deposit into the general fund~~ municipality in which the land
12 is located. The ~~commissioner~~ local assessing officials shall issue a form to the
13 ~~assessing officials~~ commissioner which shall provide for a description of the
14 land developed, the amount of tax payable, and the fair market value of the
15 land at the time of development or withdrawal from use value appraisal. The
16 owner shall fill out the form and shall sign it under the penalty of perjury.
17 After receipt of payment, the ~~commissioner~~ local assessing officials shall
18 furnish the owner with one copy, ~~shall~~ retain one copy ~~and shall,~~ forward one
19 copy to the ~~local assessing officials~~ commissioner along with one-half of the
20 tax collected, and forward one copy to the register of deeds of the municipality
21 in which the land is located. Thereafter, the land which has been developed

1 shall be appraised and listed at its full fair market value in accordance with the
2 provisions of chapter 121 of this title.

3 (e) The owner of any classified land receiving use value appraisal under
4 this subchapter shall immediately notify the ~~director~~ local assessing officials
5 of:

6 * * *

7 Sec. 5. 32 V.S.A. § 3758(a) and (b) are amended to read:

8 (a) Whenever the director ~~denies or~~ local assessing officials deny in whole
9 or in part any application for classification as agricultural land or managed
10 ~~forest land~~ forestland or farm buildings, or ~~grants~~ grant a different
11 classification than that applied for, or ~~the director or assessing officials~~ fix a
12 use value appraisal, or determine that previously classified property is no
13 longer eligible or that the property has undergone a change in use, the
14 aggrieved owner may appeal the decision ~~of the director~~ to the director within
15 30 days of the decision. The aggrieved owner may appeal the director's final
16 decision to the commissioner within 30 days, and from there to the superior
17 court in the same manner and under the same procedures as an appeal from a
18 decision of a board of civil authority, as set forth in subchapter 2 of chapter
19 131 of this title; ~~and may appeal the decision of the assessing officials in the~~
20 ~~same manner as an appeal of a grand list valuation.~~

1 (b) Any owner who is aggrieved by the determination of the fair market
2 value of classified land for the purpose of computing the land use change tax
3 may appeal ~~in the same manner as an appeal of a grand list valuation to the~~
4 director within 30 days of the local assessing official's decision and the
5 director's decision may be appealed in the same manner and under the same
6 procedures as an appeal of a decision of a board of civil authority as set forth
7 in subchapter 2 of chapter 131 of this title.

8 * * * Easy Out * * *

9 Sec. 6. OPTION TO WITHDRAW FROM USE VALUE APPRAISAL

10 (a) The owner of any land that, prior to the passage of this act, was enrolled
11 in the use value appraisal program for agricultural land or forestland may elect
12 to withdraw any enrolled parcel, or the amount of land necessary to increase an
13 existing housesite exclusion to five acres, or a five-acre housesite for a
14 potential dwelling on a parcel on which there currently is no housesite
15 exclusion, and the withdrawn land shall be relieved of any obligation under
16 chapter 124 of Title 32, including the obligation for a land use change tax.
17 Land withdrawn pursuant to this subsection shall be ineligible for reenrollment
18 in the use value appraisal program for five years following the date of
19 withdrawal.

20 (b) The owner of any land that, prior to the passage of this act, was enrolled
21 in the use value appraisal program for agricultural or forestland may elect to

1 withdraw any portion of any enrolled parcel and pay the land use change tax at
2 the rate of 20 percent of the full fair market value of the changed land
3 determined without regard to the use value appraisal, or the tax shall be at the
4 rate of 10 percent if the owner demonstrates to the satisfaction of the director
5 that the parcel has been enrolled continuously for more than 10 years. The fair
6 market value of the changed land shall be the fair market value of the changed
7 land prorated on the basis of acreage, divided by the common level of
8 appraisal.

9 (c) A property owner who elects to withdraw from use value appraisal
10 pursuant to this section shall notify the local assessing officials in writing on or
11 before May 15, 2010, on a form prescribed by the director.

12 * * * Increase the Property Transfer Tax for Enrolled Land * * *

13 Sec. 7. 32 V.S.A. § 9602(2) is amended to read:

14 (2) with respect to the transfer of property which is ~~enrolled at the time~~
15 ~~of the transfer in a program under chapter 124 of this title, or is otherwise a~~
16 working farm at the time of the transfer ~~if not so enrolled~~, the tax shall be
17 imposed in the amount of five-tenths of one percent on the entire value of the
18 property transferred; provided, however that no part of the property is
19 converted to a use which would subject it to the land use change tax or an
20 obligation to repay property tax benefits under chapter 124 of this title for a
21 period of three years following the date of the transfer, or if it is a working

1 farm which is not enrolled under chapter 124, that the property is not taken out
2 of agricultural production for a period of six years following the date of the
3 transfer. For the purposes of this subdivision, a working farm shall mean a
4 parcel of land actively used by a farmer, as that term is defined under
5 subdivision 3752(7) of this title. If the conditions of this subdivision are
6 breached by the buyer, the buyer shall be obligated to pay the full transfer tax
7 in the amount of one and one-quarter percent and this obligation shall run with
8 the land.

9 * * * Fee for Conversion to Electronic Administration * * *

10 Sec. 8. CURRENT USE PARCEL FEE FOR ELECTRONIC
11 ADMINISTRATION

12 (a) For years 2010, 2011, and 2012, there is hereby imposed an electronic
13 administration surcharge of \$25.00 on each parcel enrolled on April 1 in the
14 use value appraisal program established under chapter 124 of this title;
15 provided, however, that where the surcharge has been paid on more than four
16 parcels under common ownership, the owner may apply to the department for a
17 refund of surcharges paid in excess of \$100.00 per year.

18 (b) The department of taxes shall cooperate with municipalities to assess
19 the annual surcharge imposed under subsection (a) of this section. The
20 surcharge shall be included on property tax bills and subject to the same
21 payment, enforcement, penalty, and interest provisions provided for in this

1 chapter for the payment of property taxes on enrolled land. The municipality
2 shall remit the surcharge to the department, which shall deposit the surcharge
3 into the program special fund created pursuant to 32 V.S.A. § 3756(e) for
4 improvements to the use value appraisal program. If the surcharge is not paid
5 when due, there shall be a late fee of an additional \$10.00 per month, or
6 portion thereof. Each parcel on which all or a portion of the surcharge and late
7 fees remain unpaid on March 1 of the subsequent year shall be sent a notice of
8 discontinuance, and the parcel shall be withdrawn from the program effective
9 for the following tax year and reinstated for subsequent tax years if in
10 compliance with the requirements of the program.

11 Sec. 9. EFFECTIVE DATE

12 This act shall take effect upon passage.