

1 H.237

2 Introduced by Representative Clarkson of Woodstock

3 Referred to Committee on

4 Date:

5 Subject: Taxation; property tax; use value program

6 Statement of purpose: This bill proposes to eliminate the preferential property
7 tax transfer tax rates for enrolled land and use the savings to fund a conversion
8 of the use value program to electronic administration. The bill also proposes to
9 change the rate of the land use change tax. The bill would change the way
10 certain types of land are categorized and would provide an easy opt-out for
11 landowners who are currently enrolled in the program but who do not like the
12 changes created by this bill. The bill also would create a program study
13 committee to consider how to improve the use value program in the future.

14 An act relating to the use value program

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

16 ~~Sec. 1. REPEAL~~

17 ~~32 V.S.A. § 9602(2) (providing preferential property transfer tax for land~~
18 ~~enrolled in the use value appraisal program) is repealed effective July 1, 2011.~~

1 Sec. 2. APPROPRIATION

2 (a) For fiscal year 2012, there is appropriated \$300,000.00 from the general
3 fund to the use value appraisal program special fund created pursuant to
4 32 V.S.A. § 3756(e) for the purpose of administering the program
5 electronically.

6 (b) It is the intent of the general assembly to appropriate \$300,000.00 from
7 the general fund to the use value appraisal program special fund to continue
8 administering the program electronically and, after the conversion to electronic
9 administration is complete, to continue to fund the general administration of
10 the program.

11 Sec. 3. 32 V.S.A. § 3757 is amended to read:

12 § 3757. LAND USE CHANGE TAX

13 (a) Land which has been classified as agricultural land or managed forest
14 ~~land~~ forestland pursuant to this chapter shall be subject to a land use change
15 tax upon the development of that land, as defined in section 3752 of this
16 chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair
17 market value of the changed land determined without regard to the use value
18 appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates~~
19 ~~to the satisfaction of the director that the parcel has been enrolled continuously~~
20 ~~more than 10 years. If changed land is a portion of a parcel, the fair market~~
21 ~~value of the changed land shall be the fair market value of the changed land~~

1 ~~prorated on the basis of acreage, divided by the common level of appraisal.~~
2 ~~Such~~ For purposes of the land use change tax, fair market value shall be
3 determined as of the date the land is ~~no longer eligible for use value appraisal~~
4 developed or at an earlier date, if the owner petitions for the determination
5 pursuant to subsection (c) of this section and pays the tax within 30 days of
6 notification from the local assessing official. This tax shall be in addition to
7 the annual property tax imposed upon such property. Nothing in this section
8 shall be construed to require payment of an additional land use change tax
9 upon the subsequent development of the same land, nor shall it be construed to
10 require payment of a land use change tax merely because previously eligible
11 land becomes ineligible, provided no development of the land has occurred.

12 (b) Any owner of eligible land who wishes to withdraw land from use
13 value appraisal shall ~~petition for a determination of the fair market value of the~~
14 ~~land at the time of the withdrawal~~ notify the director. Thereafter land which
15 has been withdrawn shall be appraised and listed at its full fair market value in
16 accordance with the provisions of chapter 121 of this title and subdivision
17 3756(d) of this title, according to the appraisal model and land schedule of the
18 municipality. ~~Said determination of the fair market value shall be used in~~
19 ~~calculating the amount of the land use change tax that shall be due when and if~~
20 ~~the development of the land occurs.~~ If the withdrawal happens between
21 April 1 and July 1 and the local assessing official determines that development

1 has taken place before July 1, the local assessing official may treat the
2 withdrawn land as if it had been withdrawn on March 31 of that year.

3 (c) For the purposes of the land use change tax, the determination of
4 the fair market value of the land as of the date the land is no longer eligible for
5 a use value appraisal, or as of the time of the withdrawal of the land from use
6 value appraisal, shall be made by the director local assessing officials in
7 accordance with the provisions of subsection (b) of this section and divided by
8 the municipality's most recent common level of appraisal as determined by the
9 director. The determination shall be made within 30 days after the date that the
10 owner or assessing officials petition petitions for the determination and shall be
11 effective on the date of dispatch the notice is sent to the owner. The director
12 may initiate a determination on his or her own initiative following written
13 notice to the owner and a period of not less than 30 days for the owner to
14 respond. The director shall also send a copy of the notice to the local assessing
15 officials and to the secretary of agriculture, food and markets if the land is
16 agricultural land and to the commissioner of forests, parks and recreation if the
17 land is managed forestland.

18 (d) The land use change tax shall be due and payable by the owner 30 days
19 after the tax notice is mailed to the taxpayer. The tax shall be paid to the
20 commissioner for deposit into the general fund municipality in which the land
21 is located. The commissioner local assessing officials shall issue a form to the

1 ~~assessing officials~~ director which shall provide for a description of the land
2 ~~developed~~ for which the tax is due, the amount of tax payable, and the fair
3 market value ~~of the land at the time of development or withdrawal from use~~
4 ~~value appraisal~~ used to calculate the tax. The owner shall fill out the form and
5 shall sign it under the penalty of perjury. After receipt of payment, the
6 ~~commissioner~~ local assessing officials shall furnish the owner with one copy,
7 ~~shall retain one copy and shall~~ forward one copy to the local assessing
8 ~~officials and commissioner along with one-half of the tax collected, forward~~
9 one copy to the register of deeds of the municipality in which the land is
10 located, forward one copy to the secretary of agriculture, food and markets if
11 the land is agricultural land, and forward one copy to the commissioner of
12 forests, parks and recreation if the land is managed forestland. ~~Thereafter, the~~
13 ~~land which has been developed shall be appraised and listed at its full fair~~
14 ~~market value in accordance with the provisions of chapter 121 of this title.~~

15 (e) The owner of any classified land receiving use value appraisal under
16 this subchapter shall immediately notify the director, local assessing officials,
17 the secretary of agriculture, food and markets if the land is agricultural land,
18 and the commissioner of forests, parks and recreation if the land is managed
19 forestland of:

20 * * *

1 Sec. 4. 32 V.S.A. § 3756(d) is amended to read:

2 (d) The assessing officials shall appraise qualifying agricultural and
3 managed forest land and farm buildings at use value appraisal as defined in
4 subdivision 3752(12) of this title. If the land to be appraised is a portion of a
5 parcel, the assessing officials shall:

6 (1) determine the contributory value of each portion such that the fair
7 market value of the total parcel is comparable with other similar parcels in the
8 municipality; and

9 (2) notify the landowner according to the procedures for notification of
10 change of appraisal. The portion of the parcel that is not to be appraised at use
11 value shall be appraised at its fair market value determined in this subsection.

12 Sec. 5. 32 V.S.A. § 3752(12) is amended to read:

13 (12) "Use value appraisal" means, with respect to land, the price per
14 acre which the land would command if it were required to remain henceforth in
15 agriculture or forest use, as determined in accordance with the terms and
16 provisions of this subchapter. With respect to farm buildings, "use value
17 appraisal" means zero percent of fair market value. ~~The director shall annually
18 provide the assessing officials with a list of farm sales, including the town in
19 which the farm is located, the acreage, sales price, and date of sale.~~

1 Sec. 6. 32 V.S.A. § 3756(i) is amended to read:

2 (i) The director shall remove from use value appraisal an entire parcel of
3 managed forest land and notify the owner in accordance with the procedure in
4 subsection (b) of this section when the department of forests, parks and
5 recreation has not received a required management activity report or has
6 received an adverse inspection report, unless the lack of conformance consists
7 solely of the failure to make prescribed planned cutting. In that case, the
8 director may delay removal from use value appraisal for a period of one year at
9 a time to allow time to bring the parcel into conformance with the plan.

10 Sec. 7. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

11 (a) Given the critical importance of Vermont's use value appraisal program
12 to the state's agricultural and forest industries as well as to the state's rural
13 character and quality of life and in response to continuing fiscal challenges, the
14 general assembly finds that multiple strategies are needed to strengthen the
15 effectiveness, efficiency, and fairness of the use value appraisal program and to
16 find additional revenue generation or cost savings consistent with the
17 program's policy objectives.

18 (b) There is created a current use study committee to examine the existing
19 formula for municipal reimbursement payments ("hold harmless payments") to
20 determine if the payments are equitable and appropriate in light of the
21 reallocation of land use change tax payments under this act and, if not, to

1 propose an alternative formula. The committee shall issue a report no later
2 than January 15, 2012, and the report should be submitted to the house
3 committees on agriculture, on natural resources and energy, on fish, wildlife
4 and water resources, and on ways and means and to the senate committees on
5 agriculture, on natural resources and energy, and on finance. The members of
6 the study committee shall be:

7 (1) The director of property valuation and review, who shall serve as the
8 chair of the committee and shall call the first meeting of the committee on or
9 before September 1, 2011;

10 (2) The secretary of commerce and community development or
11 designee;

12 (3) The executive director of the Vermont Housing and Conservation
13 Board or designee;

14 (4) Two representatives of the Vermont League of Cities and Towns,
15 one from a rural community and one from an urban community, appointed by
16 its board of directors;

17 (5) A member of the house appointed by the speaker of the house;

18 (6) A member of the senate appointed by the committee on committees;

19 (7) A member of the public appointed by the governor;

20 (c) Members of the committee who are not state employees shall be entitled
21 to compensation as provided under 32 V.S.A. § 1010.

1 (d) The general assembly has identified potential areas of additional
2 legislative action. These issues include:
3 (1) The extent and degree of over-assessment of enrolled or conserved
4 land, including land permanently protected by conservation easements, and
5 ensuring a consistent approach to assessment from town to town;
6 (2) The need to create incentives for landowners who keep enrolled land
7 open for public recreation;
8 (3) the eligibility of agricultural parcels of less than 25 acres and the
9 feasibility of developing productivity standards for such parcels;
10 (4) Methods by which the state can enhance the long-term financial
11 sustainability of the program without damaging its long-term effectiveness in
12 maintaining working farms, forests, and open space, including the feasibility of
13 using a tiered current use tax for lands devoted to different levels of production
14 or conservation and availability for public recreational access;
15 (5) The identification and analysis of lands removed from the program
16 over the past ten years and the subsequent use of those parcels;
17 (6) The application of the land use change tax to timber harvesting
18 operations after the approved forest management plan has expired and the land
19 is no longer enrolled in current use;
20 (7) The effect of allowing an owner to relocate an undeveloped
21 withdrawn site of two acres or less once within an enrolled parcel without

1 incurring the land use change tax, provided there is no net reduction in the area
2 of enrolled land;

3 (8) Creating a system of oversight for agricultural land that is
4 comparable and consistent with the oversight of forestland.

5 (e) Individuals and organizations who are interested in the issues listed in
6 subsection (d) are encouraged to create working groups to study these issues
7 and develop potential solutions. They are further encouraged to submit their
8 findings and recommendations to the general assembly on or before
9 December 1, 2011 and any additional findings and recommendations on or
10 before December 1, 2012. The reports should be submitted to the house
11 committees on agriculture, on natural resources and energy, on fish, wildlife
12 and water resources, and on ways and means and to the senate committees on
13 agriculture, on natural resources and energy, and on finance.

14 Sec. 8. USE VALUE APPRAISAL "EASY-OUT"

15 Notwithstanding any other provision of law, an owner of property enrolled
16 in use value appraisal under chapter 124 of Title 32 as of the passage of this act
17 who elects to discontinue enrollment of the entire parcel may be relieved of the
18 first \$100,000.00 of land use change tax imposed pursuant to section 3757 of
19 that title; provided that if the property owner does elect to discontinue
20 enrollment and be relieved of the first \$100,000.00 of land use change tax, the
21 owner shall pay the full property tax, based upon the property's full fair market

1 value, for the 2011 assessment, and no state reimbursement shall be paid for
2 that land. No property owner shall be relieved of more than \$100,000.00 in
3 land use change tax under this provision. An election to discontinue
4 enrollment under this provision is effective only if made in writing to the
5 director of property valuation and review on or before November 1, 2011; and
6 no owner who elects to discontinue enrollment under this section, or any
7 successor owner, shall re-enroll less than the entire withdrawn parcel in the
8 succeeding five years. If the property owner withdraws less than the entire
9 parcel, the provisions of this section do not apply.

10 Sec. 9. LIMITATION ON EASY-OUT

11 The "easy-out" provided for in Sec. 5 of this act shall not be available for
12 any parcel that has been developed, as that term is defined in 32 V.S.A.
13 § 3752(5), prior to passage of this act.

14 Sec. 10. EFFECTIVE DATE AND TRANSITION RULES

15 (a) Subject to Sec. 5 of this act, property withdrawn from the use value
16 appraisal program on or before November 1, 2011, but not developed before
17 that date shall be subject to the land use change tax under the provisions of
18 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the
19 land use change tax paid on any such property shall be paid to the
20 commissioner for deposit into the general fund.

21 (b) Sec. 3 of this act shall take effect on November 2, 2011.

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~~(c) All other sections of this act shall take effect on July 1, 2011.~~

Sec. 1. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest~~ ~~land~~ forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said tax shall be at the rate of 20 percent of the full fair market value of the changed land determined without regard to the use value appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ The tax shall be expressed as a percentage of the full fair market value of the changed land determined without regard to the use value appraisal. If the property has been continuously enrolled by the same owner for fewer than 12 years, the tax rate shall be ten percent. If the property has been continuously enrolled by the same owner for 12 to 20 years, the tax rate shall be eight percent. If the property has been continuously enrolled by the same owner for over 20 years, the tax rate shall be five percent. A change in ownership that adds or subtracts a family member or that transfers the property to a family member who is an heir does not interrupt the counting of continuously enrolled years; however, a transfer in whole or in part to people who are not family members, or to a legal entity whose members are not all family members, does interrupt the counting of continuously enrolled years. For purposes of this subsection, "family member" means a spouse, former spouse, child, parent, grandparent, grandchild, sibling, aunt, uncle, nephew or niece by blood, marriage, or adoption. For purposes of the land use change tax, fair market value shall be determined as of the date the land is ~~no longer eligible for use value appraisal~~ developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing official. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

~~(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall petition for a determination of the fair market value of the land at the time of the withdrawal notify the director, who shall in turn notify the local assessing official. In the alternative, if the director determines that development has occurred, the director shall notify the local assessing official of his or her determination. Thereafter, land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title and subsection 3756(d) of this title, according to the appraisal model and land schedule of the municipality. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.~~

~~(c) For the purposes of the land use change tax, the determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal, shall be made by the director local assessing officials in accordance with the provisions of subsection (b) of this section and divided by the municipality's most recent common level of appraisal as determined by the director. The determination shall be made within 30 days after the date that the director notifies the local assessing officials that the owner or assessing officials petition for the determination and shall be effective on the date of dispatch to the owner has petitioned for withdrawal from the program or that the director has determined that development has occurred. The local assessing officials shall notify the owner and the director of its determination, and the provisions for appeal relating to property tax assessments in chapter 131 shall apply.~~

~~(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the commissioner for deposit into the general fund who shall deposit one-half of the tax paid into the general fund and remit one-half of the tax paid to the municipality in which the land is located. The commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the commissioner shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing officials and, one copy to the register of deeds of the municipality in which the land is located, and one copy to the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases to the commissioner of forests, parks and recreation. Thereafter, the land which has been developed~~

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

~~(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of agriculture, food and markets if the land is agricultural land, and in all other cases the commissioner of forests, parks and recreation of:~~

* * *

Sec. 2. 32 V.S.A. § 3756(d) is amended to read:

~~(d) The assessing officials shall appraise qualifying agricultural and managed forest land and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, the assessing officials shall:~~

~~(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and~~

~~(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value determined in this subsection.~~

Sec. 3. 32 V.S.A. § 3752(12) is amended to read:

~~(12) "Use value appraisal" means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, "use value appraisal" means zero percent of fair market value. ~~The director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.~~~~

Sec. 4. 32 V.S.A. § 3756(i) is amended to read:

~~(i) The director shall remove from use value appraisal an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.~~

Sec. 5. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly finds that multiple strategies are needed to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use study committee to examine the existing formula for municipal reimbursement payments ("hold harmless payments") to determine if the payments are equitable and appropriate in light of the reallocation of land use change tax payments under this act and, if not, to propose an alternative formula. The committee shall issue a report no later than January 15, 2012, and the report should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before September 1, 2011;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of the department of forest, parks and recreation or designee;

(4) The executive director of the Vermont Assessors and Listers Association or designee;

(5) The executive director of the Vermont housing and conservation board or designee;

(6) Two representatives of the Vermont League of Cities and Towns, one from a rural community and one from an urban community, appointed by its board of directors;

(7) A member of the house appointed by the speaker of the house;

(8) A member of the senate appointed by the committee on committees;

(9) A member of the public appointed by the governor who shall be a land owner enrolled in the use value appraisal program.

(c) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010, unless otherwise compensated.

(d) The general assembly has identified potential areas of additional legislative action. These issues include:

(1) The extent and degree of over-assessment of enrolled or conserved land, including land permanently protected by conservation easements, and ensuring a consistent approach to assessment from town to town;

(2) The need to create incentives for landowners who keep enrolled land open for public recreation;

(3) the eligibility of agricultural parcels of fewer than 25 acres and the feasibility of developing productivity standards for such parcels;

(4) Methods by which the state can enhance the long-term financial sustainability of the program without damaging its long-term effectiveness in maintaining working farms, forests, and open space, including the feasibility of using a tiered current use tax for lands devoted to different levels of production or conservation and availability for public recreational access;

(5) The identification and analysis of lands removed from the program over the past ten years and the subsequent use of those parcels;

(6) The application of the land use change tax to timber harvesting operations after the approved forest management plan has expired and the land is no longer enrolled in use value appraisal;

(7) The effect of allowing an owner to relocate an undeveloped withdrawn site of two acres or less once within an enrolled parcel without incurring the land use change tax, provided there is no net reduction in the area of enrolled land;

(8) Creating a system of oversight for agricultural land that is comparable and consistent with the oversight of forestland;

(9) Whether the land use change tax is a tax or a penalty, and if it is a tax, whether additional penalties are appropriate for land leaving the program or for land enrolled in the program that is not, in fact, qualified for enrollment.

(10) Deferral of the land use change tax payment for development of on-farm housing.

(e) Individuals and organizations who are interested in the issues listed in subsection (d) are encouraged to create working groups to study these issues and develop potential solutions. They are further encouraged to submit their

findings and recommendations to the general assembly on or before December 1, 2011 and any additional findings and recommendations on or before December 1, 2012. The reports should be submitted to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance.

Sec. 6. USE VALUE APPRAISAL "EASY-OUT"

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under chapter 124 of Title 32 as of the passage of this act who elects to discontinue enrollment of the entire parcel may be relieved of the first \$100,000.00 of land use change tax imposed pursuant to section 3757 of that title; provided that if the property owner does elect to discontinue enrollment and be relieved of the first \$100,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property's full fair market value, for the 2011 assessment, and no state reimbursement shall be paid for that land. No property owner shall be relieved of more than \$100,000.00 in land use change tax under this provision. An election to discontinue enrollment under this provision is effective only if made in writing to the director of property valuation and review on or before October 1, 2011; and no owner who elects to discontinue enrollment under this section, or any successor owner, shall reenroll less than the entire withdrawn parcel in the succeeding five years. If the property owner withdraws less than the entire parcel, the provisions of this section do not apply.

Sec. 7. LIMITATION ON EASY-OUT

The "easy-out" provided for in Sec. 6 of this act shall not be available for any parcel that has been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to passage of this act.

Sec. 8. EFFECTIVE DATE AND TRANSITION RULES

(a) Subject to Sec. 6 of this act, property withdrawn from the use value appraisal program on or before October 1, 2011, but not developed before that date shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(b) Sec. 1 of this act shall take effect on October 2, 2011.

(c) All other sections of this act shall take effect on July 1, 2011.