

1 H.329

2 Introduced by Representatives Clarkson of Woodstock, Johnson of Canaan,
3 Malcolm of Pawlet, Stevens of Shoreham, Webb of Shelburne,
4 and Winters of Williamstown

5 Referred to Committee on

6 Date:

7 Subject: Taxation; use value appraisal

8 Statement of purpose of bill as introduced: This bill proposes to change the
9 rate of the land use change tax. The bill would change the way certain types of
10 land are categorized and would provide an easy opt-out for landowners who
11 are currently enrolled in the Use Value Program but who choose not to stay in
12 the Program. The bill also would require the Vermont Agricultural and Forest
13 Products Development Board to work on ways to improve the Use Value
14 Program in the future.

15 An act relating to the Use Value Program

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

17 Sec. 1. 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

1 tax upon the development of that land, as defined in section 3752 of this
2 chapter. ~~Said tax shall be at the rate of 20 percent of the full fair market value~~
3 ~~of the changed land determined without regard to the use value appraisal; or~~
4 ~~the tax shall be at the rate of 10 percent if the owner demonstrates to the~~
5 ~~satisfaction of the director that the parcel has been enrolled continuously more~~
6 ~~than 10 years. If changed land is a portion of a parcel, the fair market value of~~
7 ~~the changed land shall be the fair market value of the changed land prorated on~~
8 ~~the basis of acreage, divided by the common level of appraisal. Such~~ The tax
9 shall be expressed as a percentage of the full fair market value of the
10 developed or withdrawn land determined without regard to the use value
11 appraisal. If the property has been continuously enrolled by the same owner
12 for fewer than 12 years, the tax rate shall be ten percent. If the property has
13 been continuously enrolled by the same owner for 12 to 20 years, the tax rate
14 shall be five percent. If the property has been continuously enrolled by the
15 same owner for over 20 years, the tax rate shall be three percent. A change in
16 ownership that adds or subtracts a family member or that transfers the property
17 to a family member who is an heir does not interrupt the counting of
18 continuously enrolled years; however, a transfer in whole or in part to people
19 who are not family members or to a legal entity whose members are not all
20 family members does interrupt the counting of continuously enrolled years.
21 For purposes of this subsection, “family member” means a spouse, former

1 spouse, child, parent, grandparent, grandchild, sibling, aunt, uncle, or nephew
2 or niece, by blood, marriage, or adoption. For purposes of the land use change
3 tax, fair market value shall be determined as of the date the land is no longer
4 eligible for use value appraisal developed or at an earlier date, if the owner
5 petitions for the determination pursuant to subsection (c) of this section and
6 pays the tax within 30 days of notification from the local assessing official.

7 This tax shall be in addition to the annual property tax imposed upon such
8 property. Nothing in this section shall be construed to require payment of an
9 additional land use change tax upon the subsequent development of the same
10 land, nor shall it be construed to require payment of a land use change tax
11 merely because previously eligible land becomes ineligible, provided no
12 development of the land has occurred.

13 (b) Any owner of eligible land who wishes to withdraw land from use
14 value appraisal shall ~~petition for a determination of the fair market value of the~~
15 ~~land at the time of the withdrawal~~ notify the Director, who shall in turn notify
16 the local assessing official. In the alternative, if the Director determines that
17 development has occurred, the Director shall notify the local assessing official
18 of his or her determination. Thereafter, land which has been withdrawn or
19 developed shall be appraised and listed at its full fair market value in
20 accordance with the provisions of chapter 121 of this title and subsection
21 3756(d) of this title, according to the appraisal model and land schedule of the

1 municipality. ~~Said determination of the fair market value shall be used in~~
2 ~~calculating the amount of the land use change tax that shall be due when and if~~
3 ~~the development of the land occurs.~~

4 (c) ~~The~~ For the purposes of the land use change tax, the determination of
5 the fair market value of the land ~~as of the date the land is no longer eligible for~~
6 ~~a use value appraisal, or as of the time of the withdrawal of the land from use~~
7 ~~value appraisal,~~ shall be made by the ~~director~~ local assessing officials in
8 accordance with the provisions of subsection (b) of this section and divided by
9 the municipality's most recent common level of appraisal as determined by the
10 Director. The determination shall be made within 30 days after the date that
11 the Director notifies the local assessing officials that the owner or assessing
12 ~~officials petition for the determination and shall be effective on the date of~~
13 ~~dispatch to the owner~~ has petitioned for withdrawal from the Program or that
14 the Director or local assessing official has determined that development has
15 occurred. The local assessing officials shall notify the owner and the Director
16 of their determination, and the provisions for appeal relating to property tax
17 assessments in chapter 131 of this title shall apply.

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 unless, in the case of land use
20 change tax due with respect to development occurring as a result of the
21 issuance of a wastewater system permit, the landowner enters into a payment

1 agreement with the commissioner of taxes. The tax shall be paid to the
2 ~~commissioner for deposit into the general fund~~ Commissioner, who shall
3 deposit one-half of the tax paid into the General Fund and remit one-half of the
4 tax paid to the municipality in which the land is located. The ~~commissioner~~
5 Commissioner shall issue a form to the assessing officials which shall provide
6 for a description of the land developed, the amount of tax payable, and the fair
7 market value of the land at the time of development or withdrawal from use
8 value appraisal. The owner shall fill out the form and shall sign it under the
9 penalty of perjury. After receipt of payment, the ~~commissioner~~ Commissioner
10 shall furnish the owner with one copy, shall retain one copy, and shall forward
11 one copy to the local assessing officials ~~and~~, one copy to the register of deeds
12 of the municipality in which the land is located, and one copy to the Secretary
13 of Agriculture, Food and Markets if the land is agricultural land and in all other
14 cases to the Commissioner of Forests, Parks and Recreation. ~~Thereafter, the~~
15 ~~land which has been developed shall be appraised and listed at its full fair~~
16 ~~market value in accordance with the provisions of chapter 121 of this title.~~

17 (e) The owner of any classified land receiving use value appraisal under
18 this subchapter shall immediately notify the ~~director~~ Director, local assessing
19 officials, the Secretary of Agriculture, Food and Markets if the land is
20 agricultural land and in all other cases the Commissioner of Forests, Parks and
21 Recreation of:

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

(d) The assessing officials shall appraise qualifying agricultural land and managed ~~forest land~~ forestland 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.~~

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

2 (i) ~~The director~~ After providing 30 days notice to the owner, the Director
3 shall remove from use value appraisal an entire parcel of managed forest land
4 and notify the owner in accordance with the procedure in subsection (b) of this
5 section when the ~~department of forests, parks and recreation~~ Department of
6 Forests, Parks and Recreation has not received a required management activity
7 report or has received an adverse inspection report, unless the lack of
8 conformance consists solely of the failure to make prescribed planned cutting.
9 In that case, the ~~director~~ Director may delay removal from use value appraisal
10 for a period of one year at a time to allow time to bring the parcel into
11 conformance with the plan.

12 Sec. 5. USE VALUE APPRAISAL “EASY-OUT”

13 Notwithstanding any other provision of law, an owner of property enrolled
14 in use value appraisal under 32 V.S.A. chapter 124 as of the passage of this act
15 who elects to discontinue enrollment of the entire parcel may be relieved of the
16 first \$100,000.00 of land use change tax imposed pursuant to 32 V.S.A.
17 § 3757; provided that if the property owner does elect to discontinue
18 enrollment and be relieved of the first \$100,000.00 of land use change tax, the
19 owner shall pay the full property tax, based upon the property’s full fair market
20 value, for the 2013 assessment, and no state reimbursement shall be paid for
21 that land. No property owner shall be relieved of more than \$100,000.00 in

1 land use change tax under this provision. An election to discontinue
2 enrollment under this provision is effective only if made in writing to the
3 Director of Property Valuation and Review on or before October 1, 2013; and
4 an owner who elects to discontinue enrollment under this section or any
5 successor owner shall not reenroll less than the entire withdrawn parcel in the
6 succeeding five years. If the property owner withdraws less than the entire
7 parcel, the provisions of this section do not apply.

8 Sec. 6. LIMITATION ON EASY-OUT

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

12 Sec. 7. MUNICIPAL REIMBURSEMENT PAYMENTS

13 (a) There is created a Use Value Program Municipal Reimbursement Study
14 Committee to examine the existing formula for municipal reimbursement
15 payments (“hold harmless payments”) to determine if the payments are
16 equitable and appropriate in light of the reallocation of land use change tax
17 payments under this act and, if not, to propose an alternative formula. The
18 Committee shall issue a report on or before January 15, 2014, and the report
19 shall be submitted to the House Committees on Agriculture, on Natural
20 Resources and Energy, on Fish, Wildlife and Water Resources, and on Ways

1 and Means and to the Senate Committees on Agriculture, on Natural Resources
2 and Energy, and on Finance. The members of the Study Committee shall be:

3 (1) The Director of Property Valuation and Review, who shall serve as
4 the Chair of the Committee and shall call the first meeting of the Committee on
5 or before September 1, 2013;

6 (2) The Secretary of the Agency of Agriculture, Food and Markets or
7 designee;

8 (3) The Commissioner of the Department of Forests, Parks and
9 Recreation or designee;

10 (4) The Executive Director of the Vermont Assessors and Listers
11 Association or designee;

12 (5) Two representatives of the Vermont League of Cities and Towns,
13 one from a rural community and one from an urban community, appointed by
14 its Board of Directors;

15 (6) A member of the House appointed by the Speaker of the House;

16 (7) A member of the Senate appointed by the Committee on
17 Committees;

18 (8) A member of the public appointed by the Governor who shall be a
19 land owner enrolled in the Use Value Program.

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

4 Sec. 8. ASSESSMENT OF CONSERVED PROPERTY

5 On or before January 1, 2014, the Director of Property Valuation and
6 Review shall publish guidance for the local assessing officials concerning how
7 to assess land permanently encumbered by a conservation easement and how to
8 apply the methodology in a consistent manner across the State.

9 Sec. 9. REPORT ON ADDITIONAL ISSUES

10 (a) The Vermont Agricultural and Forest Products Development Board,
11 created by 6 V.S.A. § 2966, shall examine issues related to the Use Value
12 Program, in consultation with the Current Use Tax Coalition and other
13 stakeholders, including:

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

16 (2) the application of the land use change tax to timber harvesting
17 operations after the approved forest management plan has expired and the land
18 is no longer enrolled in the Use Value Program;

19 (3) the effect of allowing an owner to relocate an undeveloped
20 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 (4) creation of a system of oversight for agricultural land that is
4 comparable and consistent with the oversight of forestland;

5 (5) deferral of the land use change tax payment for development of
6 on-farm housing;

7 (6) expansion of the “hardship” provisions pertaining to the sale of
8 enrolled agricultural land to include enrolled forestland;

9 (7) development of a program for public education about the Use Value
10 Program and its importance in retaining Vermont’s working landscape; and

11 (8) methods by which the State can enhance the long-term financial
12 sustainability of the Program without damaging its long-term effectiveness in
13 maintaining working farms, forests, and open space; and

14 (9) the need to create incentives for landowners to permit public
15 recreation on enrolled land.

16 (b) The Vermont Agricultural and Forest Products Development Board
17 shall report on its findings and any recommendations for legislative action on
18 or before January 15, 2015. The Vermont Agricultural and Forest Products
19 Development Board shall submit its report to the House Committees on
20 Agriculture, on Natural Resources and Energy, on Fish, Wildlife and Water

1 Resources, and on Ways and Means and to the Senate Committees on
2 Agriculture, on Natural Resources and Energy, and on Finance.

3 (c) The Vermont Agricultural and Forest Products Development Board
4 shall report to the General Assembly at the beginning of each biennium on any
5 issue described in this section and any other current issues related to the Use
6 Value Program, and the Board shall make findings and recommendations for
7 any legislative action. The Vermont Agricultural and Forest Products
8 Development Board shall submit its report by January 15th of the first year of
9 each biennium to the House Committees on Agriculture, on Natural Resources
10 and Energy, on Fish, Wildlife and Water Resources, and on Ways and Means
11 and to the Senate Committees on Agriculture, on Natural Resources and
12 Energy, and on Finance.

13 Sec. 10. REPEAL OF WASTEWATER PROVISIONS

14 The following provisions are repealed:

15 (1) 2011 Acts and Resolves No. 45, Sec. 13a (wastewater permits);

16 (2) 2012 Acts and Resolves No. 143, Secs. 41 through 43 (wastewater
17 permits).

18 Sec. 11. EFFECTIVE DATE AND TRANSITION RULES

19 (a) Subject to Sec. 6 of this act, property withdrawn from the Use Value
20 Appraisal Program on or before October 1, 2013 but not developed before that
21 date shall be subject to the land use change tax under the provisions of

1 32 V.S.A. § 3757 in effect at the time of withdrawal; and revenues from the
2 land use change tax paid on any such property shall be paid to the
3 Commissioner for deposit into the General Fund.

4 (b) Sec. 1 (land use change tax) of this act shall take effect on
5 October 2, 2013.

6 (c) Sec. 9(c) (biennial report) of this act shall take effect on July 1, 2015.

7 (d) All other sections of this act shall take effect on July 1, 2013.