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LANGUAGE BASED ON H.53 OF 2000
DRAFTED FOR CONSIDERATION BY THE
PROPERTY TAX EXEMPTION STUDY
COMMITTEE
OCTOBER 9, 2013

Introduced by

Referred to Committee on

Date:

Subject: Taxation; property taxes; exemptions

Statement of purpose of bill as introduced: This bill proposes to change the tax-exempt treatment of public, pious, and charitable properties. Under the bill, determinations of eligibility for the exemption would be done at that state-level, and qualified properties would be exempt from the statewide education property tax. Municipalities could vote to exempt qualified properties from municipal taxes. In addition, colleges and universities would eventually be exempt from all property taxes, but would be required to enter into agreements with local municipalities to pay fees for services.

An act relating to the public, pious, and charitable property tax exemption

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

1 * * * Public, Pious, and Charitable Properties * * *

2 Sec. 1. 32 V.S.A. § 3802(4) is amended to read:

3 (4) ~~Real and personal estate granted, sequestered or used for public,~~
4 ~~pious or charitable uses; real property owned by churches or church societies~~
5 ~~or conferences and used as parsonages and personal property therein used by~~
6 ~~ministers engaged in full time work in the care of the churches of their~~
7 ~~fellowship within the state; real and personal estate set apart for library uses~~
8 ~~and used by the public and private circulating libraries, open to the public and~~
9 ~~not used for profit; lands leased by towns or town school districts for~~
10 ~~educational purposes; and lands owned or leased by colleges, academies or~~
11 ~~other public schools or leased by towns for the support of the gospel; and lands~~
12 ~~and buildings owned and used by towns for the support of the poor therein; but~~
13 ~~private buildings on such lands shall be set in the list to the owners thereof, and~~
14 ~~shall not be exempt. The exemption of lands owned or leased by colleges,~~
15 ~~academies or other public schools, shall not apply to lands or buildings rented~~
16 ~~for general commercial purposes, nor to farming or timber lands owned or~~
17 ~~leased thereby; but this provision shall not affect the exemption of so-called~~
18 ~~school or college lands, sequestered to such use prior to January 28, 1911.~~

19 (A) Real and personal property owned by churches or synagogues or
20 religious societies or religious conferences and used as a house of worship,
21 parsonage, convent, center for religious education, administrative office, home

1 provided without regard to any ability to pay, or school; related outbuildings;
2 land not used to produce income adjacent to any of these buildings and kept
3 and used as a parking lot, lawn, playground, or garden, or any glebe lands
4 sequestered as tax-exempt;

5 (B) Real and personal estate set apart for library uses and used by the
6 public and private circulating libraries, open to the public and not used for
7 profit;

8 (C) Real property owned or leased by school districts for educational
9 purposes;

10 (D) Real property owned or leased by nonprofit colleges,
11 universities, academies, or other public schools, and used for educational
12 purposes, including student housing, and not used for general commercial
13 purposes. The exemption of property owned by nonprofit colleges and
14 universities under this section shall apply only to property acquired and owned
15 on or before April 1, 1941;

16 (E) Property owned by a hospital, including a diagnostic and
17 treatment center, which provides its services to all who need them without
18 regard to their ability to pay for those services. The property must be owned
19 and operated on a nonprofit basis, directly connected to the hospital's
20 operation, and such use of the property must confer a benefit on society.

21 Sec. 2. 32 V.S.A. § 3831 is amended to read:

1 § 3831. COLLEGE, UNIVERSITY, OR FRATERNITY PROPERTY

2 (a) ~~Any real property acquired after April 1, 1941, by any college,~~
3 ~~university or fraternity such as would be exempt from taxation under the~~
4 ~~provisions of section 3802 of this title, shall be set to such institution in the~~
5 ~~grand list of the town or city in which such real property is located at the value~~
6 ~~fixed in the appraisal next preceding the date of acquisition of such property,~~
7 ~~and taxed on such valuation.~~ Any real property acquired and owned after
8 April 1, 1941, by any fraternity, such as would be exempt from taxation under
9 the provisions of section 3802 of this title, or by any nonprofit college or
10 university used for educational purposes, including student housing, and not
11 used for general commercial purposes shall for municipal tax purposes only, be
12 set to such institution in the grand list of the town or city in which such real
13 property is located at the value fixed in the appraisal next preceding the date of
14 acquisition of such property, and taxed on such valuation. However, the voters
15 of any town or city may at any legal meeting thereof vote to exempt such
16 property from taxation, either in whole or in part. Except as provided under
17 subsection (c) of this section, the value fixed on such property at such appraisal
18 shall not be increased so long as the property is owned and used by such
19 institution for other than commercial and investment purposes, whether or not
20 improvements are made thereon.

1 (b) The provisions of subsection (a) of this section shall not exempt from
2 county, town, or school taxes, lands owned by a college, and leased “as long as
3 wood grows and water runs,” securing to the lessees the right of preemption,
4 unless such lands were chartered as sequestered for the benefit of the college,
5 or became the property of the college prior to the organization of the town in
6 which they lie.

7 (c) In the event of a general reappraisal of all property in the municipality
8 completed after 1982, the appraisal value of property subject to subsection (a)
9 of this section shall first be changed to an amount which yields a municipal tax
10 liability (computed with reference to the tax rate applicable to the first tax year
11 based on the reappraisal) equal to the municipal tax liability for such property
12 for the tax year immediately preceding the reappraisal; provided, that in the
13 event the tax liability imposed on the majority of all taxable properties in the
14 municipality increases in the first tax year based on the reappraisal, then any
15 appraisal value of property subject to subsection (a) shall be further changed to
16 an amount that yields the tax liability computed above adjusted by the average
17 percentage increase or decrease in the tax liability of all taxable properties in
18 the municipality.

19 (d) ~~For the purposes of~~ As used in this section, the term “fraternity” shall
20 also mean “sorority.”

21 Sec. 3. 32 V.S.A. § 3832 is amended to read:

1 § 3832. PUBLIC, ~~PIOUS~~ AND CHARITABLE USES

2 ~~The exemption from taxation of real and personal estate granted,~~
3 ~~sequestered or used for public, pious or charitable uses shall not be construed~~
4 ~~as exempting:~~

5 (1) ~~Real and personal property held in trust for a municipal corporation~~
6 ~~by virtue of a trust which takes effect after passage of this act when the~~
7 ~~property is located outside the town where the said municipal corporation has~~
8 ~~its principal place of business, unless the town or municipality in which the~~
9 ~~property is located so votes at any regular or special meeting duly warned~~
10 ~~therefor.~~

11 (2) ~~Real estate owned or kept by a religious society other than a church~~
12 ~~edifice, a parsonage, the outbuildings of the church edifice or parsonage, a~~
13 ~~building used as a convent, school, orphanage, home or hospital, land adjacent~~
14 ~~to any of the buildings named in this subsection, kept and used as a parking lot~~
15 ~~not used to produce income, lawn, playground or garden and the so-called~~
16 ~~glebe lands.~~

17 (3) ~~Property of railroad corporations.~~

18 (4) ~~A municipal electric light plant when located outside the town~~
19 ~~wherein the municipality owning it is situated.~~

20 (5) ~~Real and personal property held by the state and located in any town~~
21 ~~other than that in which the institution of which it forms a part is located.~~

1 ~~(6) Real and personal property owned or kept by an orphanage, home or~~
2 ~~hospital including diagnostic and treatment center not used for the purpose of~~
3 ~~such institution but leased to others for income or profit, whether or not the~~
4 ~~institution is conducted by or connected with a religious society unless the~~
5 ~~town or municipality in which the property is located so votes at any regular or~~
6 ~~special meeting duly warned therefor.~~

7 ~~(7) Real and personal property of an organization when the property is~~
8 ~~used primarily for health or recreational purposes, unless the town or~~
9 ~~municipality in which the property is located so votes at any regular or special~~
10 ~~meeting duly warned therefor.~~

11 (a) The following property shall be exempt from statewide and local share
12 education property tax:

13 (1) Real and personal property, certified under section 3833 of this title
14 to be dedicated to a charitable or public use.

15 (2) Real property acquired and owned by nonprofit colleges and
16 universities after April 1, 1941, used for educational purposes, including
17 student housing, and not used for general commercial purposes.

18 (3) Real property owned by a nonprofit volunteer fire, ambulance, or
19 rescue company, and used exclusively for the purposes of such company, to
20 the extent voted exempt from municipal taxes under subsection (b) of this
21 section.

1 (b) A town may at a regular or special meeting duly warned, by a majority
2 of those present and voting, elect to exempt any of the following in whole or in
3 part from municipal tax authorized under 17 V.S.A. § 2664:

4 (1) Real and personal property, certified under section 3833 of this title
5 to be dedicated to a charitable or public use.

6 (2) Real and personal property held in trust for a municipal corporation,
7 but located outside the town where that municipal corporation has its principal
8 place of business.

9 (3) Property used primarily for recreational purposes, and which is
10 owned and operated on a nonprofit basis, dedicated unconditionally to public
11 use and used for the benefit of an indefinite class of the public and only for the
12 purpose of such institution, and the use of which confers a benefit on society.

13 (4) Real property owned by a nonprofit volunteer fire, ambulance, or
14 rescue company, and used exclusively for the purposes of such company.

15 Sec. 4. 32 V.S.A. § 3833 is added to read:

16 § 3833. CERTIFICATION OF CHARITABLE OR PUBLIC USE

17 (a) A property owner seeking a voted exemption under subsection
18 3832(b)(1) of this title or seeking an education property tax exemption under
19 subsection 3832(a)(1) of this title shall first obtain certification from a
20 certification officer to be appointed by the Commissioner of Taxes.

1 (1) An application for certification under this section shall be in writing,
2 in a form and with accompanying information as required by the certification
3 officer. An application under this section shall constitute a waiver of any right
4 to confidentiality with regard to any records in the possession of the
5 certification officer related to the application for certification, and these
6 records shall be public records.

7 (2) The applicant shall bear the burden of proving, by a preponderance
8 of the evidence, that the applicant meets the requirements for certification
9 under this section.

10 (3) The certification officer shall certify the property as charitable or
11 public use property if the officer finds that the property is owned and operated
12 on a nonprofit basis, dedicated unconditionally to public use and used for the
13 benefit of an indefinite class of the public primarily for charitable or public
14 purposes and to confer a benefit on society and is not:

15 (A) property held in trust for a municipal corporation by virtue of a
16 trust when the property is located outside the town where the municipal
17 corporation has its principal place of business;

18 (B) a municipal electric light plant when located outside the town
19 wherein the municipality owning it is situated;

20 (C) property leased for income or profit or used for general
21 commercial purposes;

1 (D) property used primarily for recreational purposes.

2 (b) A party aggrieved by a determination of the certification officer under
3 this section shall have a right to appeal that determination by filing a notice of
4 appeal with the Director of Property Valuation and Review within 30 days
5 after the date the determination is issued. The appeal to the Director shall be
6 de novo. Within five days after the Director receives a notice of appeal, the
7 Director shall give notice of the appeal to the town in which the property is
8 located, and to the Commissioner of Taxes. The town and the Commissioner
9 shall each have 10 days to file with the Director a notice of election to join as a
10 party. A party to the appeal shall have the right to appeal the Director's
11 determination to the Superior Court of the county in which the property is
12 located, pursuant to Rule 74 of the Vermont Rules of Civil Procedure, within
13 30 days of the date of the Director's determination, but the appeal shall be on
14 the record and without jury. A party to the Superior Court appeal shall have
15 the right to appeal the Superior Court decision to the Supreme Court, on the
16 record.

17 (c) Upon determination under this section that a property is charitable or
18 public use property, the person or court making the determination shall within
19 10 days of the date of that determination notify the town in which the property
20 is located. If the certification officer determines that an application has been

1 completed by October 1 of any year, then the officer shall issue the
2 determination to that applicant by December 31 of that year.

3 * * * Conforming Changes * * *

4 Sec. 5. 32 V.S.A. § 3431(a) is amended to read:

5 (a) Each lister shall take and subscribe and file in the town clerk's office,
6 before entering upon the duties of his or her office, the following oath; and the
7 oath as subscribed shall be recorded in the town clerk's office:

8 "I, _____, do solemnly swear (or affirm) that I will appraise all the
9 personal property subject to taxation and all the real property ~~subject to~~
10 ~~taxation~~ in the town (or city) of _____, so far as
11 required by law, at its fair market value, will list the same without
12 discrimination on a proportionate basis of such value for the grand list of such
13 town (or city), will set the same in the grand list of such town (or city) at one
14 per cent of the listed value and will faithfully discharge all the duties imposed
15 upon me by law. So help me God." (or, "under the pains and penalties of
16 perjury.")

17 Sec. 6. 32 V.S.A. § 4152(a) is amended to read:

18 (a) When completed, the grand list of a town shall be in such form as the
19 ~~director~~ Director prescribes and shall contain such information as the ~~director~~
20 Director prescribes, including:

1 (1) In alphabetical order, the name of each real property owner and each
2 owner of taxable personal property;

3 (2) The last known mailing address of all such owners;

4 (3) A brief description of each parcel of taxable and tax-exempt real
5 estate in the town. “Parcel” means all contiguous land in the same ownership,
6 together with all improvements thereon;

7 (4) The listed valuation of such owner’s personal estate taxable in the
8 town; and for property exempted under the provisions of sections 3834, 3836,
9 3837, and 3838 of this title, what the full listed value of the property would be
10 absent the exemption, the statutory authority for granting such exemption, the
11 year in which the exemption became effective and the year in which it ends;

12 (5) The listed valuation of each parcel which is not exempt;

13 (6) For those parcels which are exempt, what the full listed value of the
14 property would be absent the exemption and the statutory authority for
15 granting such exemption and, for properties exempt pursuant to a vote, the year
16 in which the exemption became effective and the year in which the exemption
17 ends;

18 (7) For those parcels appraised under the provisions of sections 3607a,
19 ~~subdivisions 3832(1), (6), and (7) 3832, and sections 3836, 3840, 3845, or~~
20 3847 of this title, the value which reflects the taxes to be paid on the property,
21 the full listed value absent such appraisal, the statutory authority for granting

1 such appraisal, the year in which such appraisal became effective and the year
2 in which it ends;

3 (8) The full listed value and the stabilization value agreed to by an
4 owner and a town pursuant to 24 V.S.A. § 2741 or section 3843 or 3846 of this
5 title, the year in which the stabilization agreement became effective and the
6 year in which it ends;

7 (9) Separate columns which will show the listed valuations of
8 homesteads as defined in subdivision 5401(7) of this title and housesites as
9 defined under subdivision 6061(11) of this title.

10 * * * Municipal Service Fees * * *

11 Sec. 7. REPEALS

12 The following are repealed on January 1, 2017:

13 (1) 32 V.S.A. § 3831 (valuation freeze for municipal taxation of college
14 and university property).

15 (2) 32 V.S.A. § 3832(a)(2) (education property tax exemption for
16 college and university property).

17 Sec. 8. 32 V.S.A. § 3802(4)(D) is amended to read:

18 (D) Real property owned or leased by nonprofit colleges,
19 universities, academies, or other public schools, and used for educational
20 purposes, including student housing, and not used for general commercial
21 purposes. ~~The exemption of property owned by nonprofit colleges and~~

1 ~~universities under this section shall apply only to property acquired and owned~~
2 ~~on or before April 1, 1941.~~

3 Sec. 9. 32 V.S.A. § 3831 is added to read:

4 § 3831. COLLEGE AND UNIVERSITY PROPERTY

5 (a) A town and a nonprofit college or university shall negotiate an
6 agreement for payment to the town for municipal services. The amount of the
7 payment shall be based upon the value of town services and benefits provided
8 or available to the college or university, offset by the value of the services and
9 benefits provided to the community by the college or university which reduce
10 the cost of providing municipal services.

11 (b) An agreement under this section may be for a period of up to five years.
12 The college or university and the town shall negotiate a new agreement by
13 April 1 of a taxable year for which there is no agreement under this section.

14 (c) If the parties are unable to reach an agreement as described in this
15 section by April 1, then the parties shall enter into mediation under the
16 American Arbitration Association rules of mediation. If by the following
17 June 1 the parties are unable to select a mediator and to reach a payment
18 agreement, the parties shall submit the issue for binding arbitration under the
19 Vermont Arbitration Act. If the parties are unable to agree upon selection of
20 an arbitrator by June 10, then a court shall appoint an arbitrator as provided

1 under 12 V.S.A. § 5675. The determination of a fee through mediation or
2 arbitration shall be based upon:

3 (1) a finding of the value of town services and benefits provided or
4 available to the college or university; and

5 (2) a finding of the value of the services and benefits provided to the
6 community by the college or university which reduce the cost of providing
7 municipal services. The cost of mediation and arbitration shall be paid
8 one-half by the town and one-half by the college or university.

9 (d) If the arbitrator determines that the town has failed to participate as
10 necessary to reach a fee determination in arbitration, the college or university
11 shall not be required to make any payment to the town for municipal services
12 until such time as an agreement or fee determination is reached.

13 (e) If the arbitrator determines that the college or university has failed to
14 participate as necessary to reach a fee determination in arbitration, the college
15 or university shall pay to the town a fee for municipal services of 50 percent of
16 the town's current rate of tax authorized under 17 V.S.A. § 2664, on all
17 buildings which are exempt under subdivision 3802(4)(D) of this title. The fee
18 shall be applied to the estimated current cost of replacing the buildings,
19 depreciated by the age and condition of the buildings.

20 (f) An agreed payment under subsection (a) or (b) of this section or a fee
21 determined under subsection (c) or (e) of this section shall be a lien upon the

1 college or university real property, and the enforcement provisions and powers
2 of 24 V.S.A. § 3504(a), (b), and (d) shall apply in like manner to the payment
3 agreement or fee.

4 Sec. 10. REPORT

5 By January 15, 2015, the Vermont League of Cities and Towns and the
6 Association of Vermont Independent Colleges shall each submit a written
7 report to the House Committee on Ways and Means evaluating and proposing
8 any recommended changes to the procedure for property tax agreements and
9 fees as specified in Sec. 9 of this act.

10 Sec.11. EFFECTIVE DATE

11 (a) Sec. 4 (certificate of public use) shall take effect on July 1, 2015.

12 (b) Secs. 7 and 8 (college and university property) shall take effect on
13 January 1, 2017 and apply to the grand list for 2017 and after.

14 (c) Sec. 9 (college and university fee agreements) shall take effect January
15 1, 2017 and apply for property year 2017 and later; provided however, that for
16 any nonprofit college or university which has an agreement with a town for
17 payment in lieu of taxes which is in effect on January 1, 2017, Sec. 10 shall not
18 apply until the termination of that agreement without extension or renewal.

19 (d) Sec. 10 shall take effect on passage.

20 (e) All other sections of this act shall take effect on January 1, 2016 and
21 apply to grand lists for 2016 and after.