

H.329

An act relating to use value appraisals

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

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 Such~~ The tax shall be expressed as a percentage of the full fair market value of the developed or withdrawn land determined without regard to the use value appraisal.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, or 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) ~~The~~ 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 use value appraisal or that the Director or local assessing official has determined that development

has occurred. The local assessing officials shall notify the Director of their determination, and the provisions for appeal relating to property tax assessments in chapter 131 of this title 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 unless, in the case of land use change tax due with respect to development occurring as a result of the issuance of a wastewater system permit, the landowner enters into a payment agreement with the commissioner of taxes. The tax shall be paid to the ~~commissioner for deposit into the general fund~~ Commissioner, 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~~ 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~~ 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~~ Director, who in turn shall notify the 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:

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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.~~

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

(i) ~~The director~~ After providing 30 days notice to the owner, 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~~ 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~~ 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. USE VALUE APPRAISAL "EASY-OUT"

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under 32 V.S.A. chapter 124 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 32 V.S.A. § 3757; 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 2013 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, 2013; and an owner who elects to discontinue enrollment under this section or any successor owner shall not 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. 6. LIMITATION ON EASY-OUT

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

Sec. 7. MUNICIPAL REIMBURSEMENT PAYMENTS

(a) There is created a Use Value Appraisal Municipal Reimbursement 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 on or before January 15, 2014, and the report shall be submitted to the House Committees on Agriculture and Forest Products and on Ways and Means and to the Senate Committees on Agriculture 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, 2013;

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

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

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

(5) 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;

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

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

(8) A member of the public appointed by the Governor who shall be a land owner with land subject to use value appraisal.

(b) Reimbursement. Members of the Committee who are not employees of the State of Vermont shall be entitled to compensation as provided in 32 V.S.A. § 1010. Legislative members of the Committee shall be entitled to the same per diem compensation and reimbursement for necessary expenses for attendance at a meeting when the General Assembly is not in session as provided to members of standing committees under 2 V.S.A. § 406.

Sec. 8. ASSESSMENT OF PROPERTY

On or before April 15, 2014, the Director of Property Valuation and Review shall publish guidance for the local assessing officials concerning:

(1) how to assess land permanently encumbered by a conservation easement;

(2) how to assess land subject to a use value appraisal; and

(3) how to apply the methodologies in subdivisions (1) and (2) of this section in a consistent manner across the State.

Sec. 9. REPEAL OF WASTEWATER PROVISIONS

The following provisions are repealed:

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

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

Sec. 10. EFFECTIVE DATE AND TRANSITION RULES

(a) Subject to Sec. 6 of this act, property withdrawn from use value appraisal on or before October 1, 2013 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 (land use change tax) of this act shall take effect on October 2, 2013.

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