



**House Government Operations Committee
February 23, 2018
H.859, Lease Lands**

Thank you for the opportunity to testify.

We recognize the effort that you are making in H.859 to straighten out a property issue that has been centuries in the making. We are grateful that you are not considering H.813, a much more onerous piece of legislation. We have several concerns with H.859 as it was introduced, and also a few suggestions to improve it.

The bill anticipates that municipalities will give up a real property interest that may have value to the municipality. It should not be accomplished on a wholesale basis.

It would be an enormous and exorbitantly expensive job to list every perpetual lease land owned by the municipal corporation and then to provide every affected lessee a notice of intent to retain ownership of perpetual lease lands. It cannot be accomplished in fewer than two years. Nor is it necessary. Statewide, there is no crisis and many towns and cities are not aware of the issue this committee is presently discussing. Also, there are many kinds of liens and restrictions on property, many of which are not municipal in nature (such as timber rights and logging rights of way).

It is often quite difficult to determine exactly which parcels in a given municipality are lease land. H.859 does not address how to handle disputes over whether or not a particular parcel is lease land. The current proposal may trigger litigation if a town wants to retain lease land but there is a dispute over which properties are affected.

The statute could make clear at 24 V.S.A section 2406 that lease lands may be conveyed without any payment. The statute could provide for the voters to grant the local legislative body authority generally to dispose of lease lands without a separate public hearing when particular instances arise and the local legislative body determines conveying lease lands to the underlying land owner is appropriate.

In subsection (c) (1), there is no reason to make the municipality list every perpetual lease parcel it owns. It should only have to list the ones it wishes to retain. Any leases not listed would automatically be extinguished.

There should be language that makes provision for disposition of funds accrued from rents.

To eliminate ambiguity in the transfer of title as contemplated by this legislation, H.859 should provide that, to the extent title to specific lease land becomes vested in the occupier or possessor thereof, the original lease land reservation in the underlying grant is repealed. That should put to rest the ability of any person to claim some residual or derivative right in the lease land.

| -As the bill is drafted, there is no easy way to tell after any deadline established in statute if a particular parcel is still lease land. After voting to retain land, a municipality should record a notice in the land records identifying each parcel that it will retain. (The notice should be indexed under the names of the municipality and the lessee(s).) That way, a title searcher who finds references to municipal lease land can presume that the municipality's interest is extinguished unless a notice is recorded.

| Thank you for the opportunity to testify.

Karen Horn, Director
Public Policy and Advocacy