1	S.67
2	Introduced by Senators Sirotkin, Brock and MacDonald
3	Referred to Committee on
4	Date:
5	Subject: Taxation; property transfer tax; controlling interest
6	Statement of purpose of bill as introduced: This bill proposes to clarify that
7	the property transfer tax applies to property transfers that occur when there is a
8	transfer of a controlling interest in a corporation or legal entity that holds real
9	property in Vermont.
10	An act relating to the property transfer tax
11	It is hereby enacted by the General Assembly of the State of Vermont:
12	Sec. 1. INTENT
13	The property transfer tax has historically applied to the transfer of real
14	property by deed in the State of Vermont and has not been significantly
15	amended since its original passage. It is the intent of the General Assembly to
16	update the property transfer tax to reflect the transfers of real property that
17	occur by the transfer of a controlling interest in a corporation or legal entity
18	that holds real property in Vermont.

1	Sec. 2. 32 V.S.A. § 9601 is amended to read:
2	§ 9601. DEFINITIONS
3	The following definitions shall apply throughout this chapter unless the
4	context requires otherwise:
5	* * *
6	(2) "Person" means every natural person, association, trust, or
7	corporation, partnership, or limited liability company.
8	* * *
9	(5) "Transfer" includes a grant, assignment, conveyance, will, trust,
10	decree of court, transfer or acquisition of a direct or indirect controlling interest
11	in any person with title to property, or any other means of transferring title to
12	property or vesting title to property in any person.
13	(6) "Value" means , :
14	(A) in In the case of any transfer of title to property which that is not
15	a gift and which that is not made for a nominal consideration, the amount of
16	the full actual consideration for such transfer, paid or to be paid, including the
17	amount of any liens or encumbrances on the property existing before the
18	transfer and not removed thereby;.
19	(B) in In the case of a gift, or a transfer for nominal consideration,
20	"value" means the fair market value of the property transferred.

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1	(C) In the case of a controlling interest in any person that has title to
2	property, the fair market value of the property, apportioned based on the
3	percentage of the ownership interest transferred or acquired in the person.
4	(D) "Value" shall not include the fair market value of private
5	alternative energy sources as defined in section 3845 of this title.
6	* * *
7	(12) "Controlling interest" means:
8	(A) In the case of a corporation, either 50 percent or more of the total
9	combined voting power of all classes of stock of such corporation, or
10	50 percent or more of the capital, profits, or beneficial interest in such voting
11	stock of such corporation.
12	(B) In the case of a partnership, association, trust or other entity,
13	50 percent or more of the capital, profits, or beneficial interest in such
14	partnership, association, trust, or other entity.
15	(C) For purposes of the tax imposed pursuant to section 9602 of this
16	title, all acquisitions of persons acting in concert are aggregated for purposes of
17	determining whether a transfer or acquisition of a controlling interest has taken
18	place. The Commissioner shall adopt standards by regulation to determine
19	when persons are acting in concert. In adopting a regulation for this purpose,
20	the Commissioner shall consider the following:

1	(i) Persons must be treated as acting in concert when they have a
2	relationship with each other such that one person influences or controls the
3	actions of another through common ownership.
4	(ii) When persons are not commonly owned or controlled, they
5	must be treated as acting in concert only when the unity with which the
6	purchasers have negotiated and will consummate the transfer of ownership
7	interest supports a finding that they are acting as a single person. If the
8	acquisitions are completely independent, with each purchaser buying without
9	regard to the identity of the other purchasers, the acquisitions must be
10	considered separate acquisitions.
11	Sec. 3. 32 V.S.A. § 9602 is amended to read:
12	§ 9602. TAX ON TRANSFER OF TITLE TO PROPERTY
13	A tax is hereby imposed upon the transfer by deed of title to property
14	located in this State. The amount of the tax equals one and one-quarter percent
15	of the value of the property transferred, or \$1.00, whichever is greater, except
16	as follows:
17	* * *
18	Sec. 4. 32 V.S.A. § 9603 is amended to read:
19	§ 9603. EXEMPTIONS
20	The following transfers are exempt from the tax imposed by this chapter:
21	* * *

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1	(6) Transfers to effectuate a mere change of identity or form of
2	ownership or organization where there is no change in beneficial ownership;
3	* * *
4	(25) Transfer made by a limited liability company to a member in
5	connection with a complete dissolution of the limited liability company,
6	pursuant to which transfer no gain or loss is recognized under the Internal
7	Revenue Code, except where the Commissioner finds that a major purpose of
8	such dissolution is to avoid the property transfer tax-;
9	(26) Transfers of controlling interests in a person with a fee interest in
10	property if the transfer of the property would qualify for exemption if
11	accomplished by deed of the property between the parties to the transfer of the
12	controlling interest.
13	Sec. 5. 32 V.S.A. § 9606(a) is amended to read:
14	(a) A property transfer return complying with this section shall be delivered
15	to a town clerk:
16	(1) In the case of property transfer by deed, at the time a deed
17	evidencing a transfer of title to property is delivered to the clerk for recording.
18	(2) In the case of transfer or acquisition of a controlling interest in a
19	person with title to property for which a deed is not given, within 30 days of
20	the transfer or acquisition.

1	Sec. 6. 32 V.S.A. § 9607 is amended to read:
2	§ 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT
3	Upon the receipt by a town clerk of a property transfer return and certificate
4	and the fee required under subdivision 1671(a)(6) of this title, the clerk shall
5	forthwith mail or otherwise deliver to the transferee of title to property with
5	for the main of other wise deriver to the mainsferee of the to property with
6	respect to which such return was filed a signed and written acknowledgment of
7	the receipt of that return and certificate. A copy of that acknowledgment, or
8	any other form of acknowledgment approved by the Commissioner, shall be
9	affixed to the deed evidencing the transfer of property or the document
10	evidencing the transfer or acquisition of a direct or indirect controlling interest
11	in any person with title to property with respect to which the return and
12	certificate was filed. The acknowledgment so affixed to a deed or document,
13	however, shall not disclose the amount of tax paid with respect to any return or
14	transfer.
15	Sec. 7. 32 V.S.A. § 9608(a) is amended to read:
16	(a) Except as to transfers which that are exempt pursuant to subdivision
17	9603(17) of this title, no town clerk shall record, or receive for recording, any
18	deed or document evidencing the transfer or acquisition of a direct or indirect
19	controlling interest in any person with title to property to which is not attached
20	a properly executed transfer tax return, complete and regular on its face, and a
21	certificate in the form prescribed by the Natural Resources Board and the

1	Commissioner of Taxes that the conveyance of the real property and any
2	development thereon by the seller is in compliance with or exempt from the
3	provisions of 10 V.S.A. chapter 151. The certificate shall indicate whether or
4	not the conveyance creates the partition or division of land. If the conveyance
5	creates a partition or division of land, there shall be appended the current "Act
6	250 Disclosure Statement," required by 10 V.S.A. § 6007. A town clerk who
7	violates this section shall be fined \$50.00 for the first such offense and \$100.00
8	for each subsequent offense. A person who purposely or knowingly falsifies
9	any statement contained in the certificate required is punishable by fine of not
10	more than \$500.00 or imprisonment for not more than one year, or both.
11	Sec. 8. 32 V.S.A. § 9618 is amended to read:
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12 13 14 15 16	§ 9618. DUTY TO REPORT STOCK ACQUISITIONS Each person who acquires a controlling interest in a corporation, whether by one or more than one transfer of stock, shall, if the fair market value of all real property held in this State by the corporation exceeds \$500,000.00, report to the Commissioner of Taxes, within 30 days after the acquisition, the fair
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- 1 Sec. 9 . EFFECTIVE DATE
- 2 <u>This act shall take effect on July 1, 2019.</u>