

Report of Committee of Conference

H.541

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon House Bill, entitled:

H.541. An act relating to changes that affect the revenue of the State.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Income Taxes \* \* \*

\* \* \* Capital Gains Exclusion \* \* \*

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

\* \* \*

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income or \$350,000.00, whichever is less;

\* \* \*

(28) “Taxable income” means, in the case of an estate or a trust, federal taxable income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(B) decreased by the following items of income:

\* \* \*

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h), reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (28)(B)(ii) shall not exceed 40 percent of federal taxable income or \$350,000.00, whichever is less; and

\* \* \*

\* \* \* Medical Deduction \* \* \*

Sec. 2. 32 V.S.A. § 5811(21) is amended to read:

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(C) Decreased by the following exemptions and deductions:

(i) a personal exemption of \$4,150.00 per person for the taxpayer, for the spouse or the deceased spouse of the taxpayer whose filing status under section 5822 of this chapter is married filing a joint return or surviving spouse, and for each individual qualifying as a dependent of the taxpayer under 26 U.S.C. § 152, provided that no exemption may be claimed for an individual who is a dependent of another taxpayer;

(ii) a standard deduction determined as follows:

(I) for taxpayers whose filing status under section 5822 of this chapter is unmarried (other than surviving spouses or heads of households) or married filing separate returns, \$6,000.00;

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, \$9,000.00;

(III) for taxpayers whose filing status under section 5822 of this chapter is married filing joint return or surviving spouse, \$12,000.00;

(iii) an additional deduction of \$1,000.00 for each federal deduction under 26 U.S.C. § 63(f) that the taxpayer qualified for and received; and

(iv) an amount equal to the itemized deduction for medical expenses taken at the federal level by the taxpayer, under 26 U.S.C. § 213:

(I) minus the amount of the Vermont standard deduction and Vermont personal exemptions taken by the taxpayer under this subdivision (C); and

(II) minus any amount deducted at the federal level that is attributable to the payment of an entrance fee or recurring monthly payment made to a continuing care retirement community regulated under 8 V.S.A. chapter 151, which exceeds the deductibility limits for premiums paid during the taxable year on qualified long-term care insurance contracts under 26 U.S.C. 213(d)(10)(A).

(D) the The dollar amounts of the personal exemption allowed under subdivision (i) of ~~this subdivision (21)(C)~~ of this subdivision (21), the standard deduction allowed under subdivision (ii) of ~~this subdivision (21)(C)~~ of this subdivision (21), and the additional deduction allowed under subdivision (iii) of ~~this subdivision (21)(C)~~ of this subdivision (21) shall be adjusted annually for inflation by the Commissioner of Taxes beginning with taxable year 2018 by using the Consumer Price Index and the same methodology as used for adjustments under 26 U.S.C. § 1(f)(3); provided, however, that as used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

\* \* \* Tax Credit Affordable Housing; Down Payment Assistance \* \* \*

Sec. 3. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

(1) “Affordable housing project” or “project” means:

(A) a rental housing project identified in 26 U.S.C. § 42(g); or

(B) owner-occupied housing identified in 26 U.S.C. § 143 (c)(1) or

that qualifies under Vermont Housing Finance Agency criteria governing owner-occupied housing.

(2) “Affordable housing tax credits” means the tax credit provided by this subchapter.

(3) “Allocating agency” or “Agency” means the Vermont Housing Finance Agency.

(4) “Committee” means the Joint Committee on Tax Credits consisting of five members: a representative from the Department of Housing and Community Affairs Development, the Vermont Housing and Conservation Board, the Vermont Housing Finance Agency, the Vermont State Housing Authority, and the Office of the Governor.

(5) “Credit certificate” means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits that can be applied against the taxpayer’s individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

(6) “Eligible applicant” means any municipality, ~~private sector developer~~, State agency as defined in 10 V.S.A. § 6301a, the Vermont Housing Finance Agency, a for-profit organization, or a nonprofit organization qualifying under 26 U.S.C. § 501(c)(3) or cooperative housing organization, the purpose of which is to create and retain affordable housing for Vermonters with lower income and ~~which~~ that has in its bylaws a requirement that the housing the organization creates be maintained as affordable housing for Vermonters with lower income on a perpetual basis or that meets the application requirements of the allocation plan.

(7) “Eligible cash contribution” means an amount of cash:

(A) contributed to the owner, developer, or sponsor of an affordable housing project and determined by the allocating agency as eligible for affordable housing tax credits; or

(B) paid to the Agency in connection with the purchase of affordable housing tax credits.

(8) “Section 42 credits” means tax credit provided by 26 U.S.C. §§ 38 and 42.

(9) “Allocation plan” means the plan recommended by the Committee and approved by the Vermont Housing Finance Agency, which sets forth the eligibility requirements and process for selection of eligible rental housing projects to receive affordable housing tax credits and eligible owner-occupied

housing projects to receive loans or grants under this section. The allocation plan shall include:

(A) requirements for creation and retention of affordable housing for persons with low income; and

(B) requirements to ensure that eligible rental housing is maintained as affordable by subsidy covenant, as defined in 27 V.S.A. § 610 on a perpetual basis and that eligible owner-occupied housing or program funds for owner-occupied housing remain as an affordable housing source for future owners or buyers, and meets all other requirements of the Vermont Housing Finance Agency related to affordable housing.

(10) “Taxpayer” means a taxpayer who makes an eligible cash contribution or the assignee or transferee of or successor to such taxpayer as determined by the Department of Taxes.

(b) Eligible tax credit allocations.

(1) Affordable housing credit allocation for rental housing.

(A) An eligible applicant may apply to the allocating agency for an allocation of affordable rental housing tax credits under this section related to an affordable housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable rental housing project, the eligible applicant shall also be the owner or a person having the right to acquire ownership of the building and shall apply prior to placement of the



affordable housing project in service. ~~In the case of owner-occupied housing units, the applicant shall ensure that the allocated housing or program funds remain as an affordable housing resource for future owners.~~ The allocating agency shall issue a letter of approval if it finds that the applicant meets the priorities, criteria, and other provisions of subdivision (B) of this subdivision (b)(1). The burden of proof shall be on the applicant.

(B) Upon receipt of a completed application, the allocating agency shall award an allocation of affordable housing tax credits with respect to a project to an applicant, provided the applicant demonstrates to the satisfaction of the allocating agency all of the following:

(i) The owner of the project has received from the allocating agency a binding commitment for, a reservation or allocation of, or an out-of-cap determination letter for, Section 42 credits, or meets the requirements of the allocation plan ~~for development or financing of units to be owner-occupied.~~

(ii) The project has received community support.

(2) Affordable housing credit allocation for loans or grants for owner-occupied housing.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to provide funds to make loans or grants to eligible applicants for affordable owner-occupied housing. An eligible applicant may apply to the allocating agency for a loan or grant under

this section related to an affordable owner-occupied housing project authorized by the allocating agency under the allocation plan. In the case of a specific affordable owner-occupied housing project, the eligible applicants shall also be the owner or a person having the right to acquire ownership of the unit and shall apply prior to sale of the unit to the homeowner.

(B) The Agency shall require that the loan or grant recipient use such funds to maintain the unit as an affordable owner-occupied unit or as an affordable housing source for future owners or buyers.

(C) The Agency shall use the proceeds of loans or grants made under subdivision (b)(2)(A) of this section for future loans or grants to eligible applicants for affordable owner-occupied housing projects.

(D) The Agency may assign its rights under any loan or grant made under subdivision (b)(2)(A) of this section to the Vermont Housing and Conservation Board or any State agency or nonprofit organization qualifying under 26 U.S.C. § 501(c)(3) provided such assignee acknowledges and agrees to comply with the provisions of subdivision (b)(2) of this section.

(3) Down Payment Assistance Program.

(A) The Vermont Housing Finance Agency shall have the authority to allocate affordable housing tax credits to finance down payment assistance loans that meet the following requirements:

(i) the loan is made in connection with a mortgage through an Agency program;

(ii) the borrower is a first-time ~~homebuyer~~ home buyer of an owner-occupied primary residence; and

(iii) the borrower uses the loan for the borrower's down payment or closing costs, or both.

(B) The Agency shall require the borrower to repay the loan upon the transfer or refinance of the residence.

(C) The Agency shall use the proceeds of loans made under the Program for future down payment assistance.

(c) Amount of credit. A taxpayer ~~who makes an eligible cash contribution~~ shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

(d) Availability of credit. The amount of affordable housing tax credit ~~allocated with respect to a project~~ set forth on the taxpayer's credit certificate shall be available to the taxpayer every year for five consecutive tax years, beginning with the tax year in which the eligible cash contribution is made.

Total tax credits available to the taxpayer shall be the amount of the first-year allocation plus the succeeding four years' deemed allocations.

(e) Claim for credit. A taxpayer claiming affordable housing tax credits shall submit with each return on which such credit is claimed ~~a copy of the allocating agency's credit allocation to the affordable housing project~~ and the taxpayer's credit certificate and with respect to credits issued under subdivision (b)(1), a copy of the allocating agency's credit allocation to the affordable housing project. Any unused affordable housing tax credit may be carried forward to reduce the taxpayer's tax liability for no more than 14 succeeding tax years, following the first year the affordable housing tax credit is allowed.

(f) [Repealed.]

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) \$400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for an aggregate limit of \$2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) ~~\$300,000.00~~ \$425,000.00 in total first-year credit allocations for loans or grants for owner-occupied unit financing or down payment loans as provided in subdivision (b)(2) of this section consistent with the allocation plan, including for new construction and manufactured housing, for an

aggregate limit of ~~\$1,500,000.00~~ \$2,125,000.00 over any given five-year period that credits are available under this subdivision (B).

~~(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding year deemed allocations shall not exceed \$3,500,000.00~~ If the full amount of first-year credits authorized by an award are not allocated to a taxpayer, the Agency may reclaim the amount not allocated and re-award such allocations to other applicants, and such re-awards shall not be subject to the limits set forth in subdivision (1) of this subsection.

(h)(1) In fiscal year 2016 through fiscal year ~~2022~~ 2019, the allocating agency may award up to \$125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section.

~~(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding year deemed allocations shall not exceed \$625,000.00~~ 2020 through fiscal year 2026, the allocating agency may award up to \$250,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(3) of this section.

\* \* \* Downtown Tax Credit Program \* \* \*

Sec. 4. 32 V.S.A. chapter 151, subchapter 11J is amended to read:

Subchapter 11J. Vermont Downtown and Village Center Tax Credit Program

§ 5930aa. DEFINITIONS

As used in this subchapter:

(1) “Qualified applicant” means an owner or lessee of a qualified building involving a qualified project, but does not include ~~a religious entity operating with a primarily religious purpose~~; a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) “Qualified building” means a building built ~~prior to 1983~~ at least 30 years before the date of application, located within a designated downtown or village center, which upon completion of the project supported by the tax credit will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organization may be qualified buildings, but in no event shall tax credits be used for religious worship.

(3) “Qualified code ~~or technology~~ improvement project” means a project:

(A)(i) to install or improve platform lifts suitable for transporting personal mobility devices, limited use/ or limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention,

life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety; or

~~(ii) to install or improve data or network wiring, or heating, ventilating, or cooling systems reasonably related to data or network installations or improvements, in a qualified building, provided that a professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the fact and cost of the installation or improvement;~~

\* \* \*

(7) “Qualified project” means a qualified code ~~or technology~~ improvement, qualified façade improvement, ~~qualified technology~~ infrastructure project, or qualified historic rehabilitation project as defined by this subchapter.

(8) “State Board” means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A.

\* \* \*

#### § 5930cc. DOWNTOWN AND VILLAGE CENTER PROGRAM TAX

##### CREDITS

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer’s State individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of

10 percent of qualified rehabilitation expenditures as defined in the Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

(b) Façade improvement tax credit. The qualified applicant of a qualified façade improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 25 percent of qualified expenditures up to a maximum tax credit of \$25,000.00.

(c) Code or technology improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$12,000.00 for installation or improvement of a platform lift, a maximum credit of ~~\$40,000.00~~ \$60,000.00 for the installation or improvement of a limited use/ or limited application elevator, a maximum tax credit of ~~\$50,000.00~~ \$75,000.00 for installation or improvement of an elevator, a maximum tax credit of \$50,000.00 for installation or improvement of a sprinkler system, a ~~maximum tax credit of \$30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating,~~



~~ventilating, or cooling system~~, and a maximum tax credit of \$50,000.00 for the combined costs of all other qualified code improvements.

§ 5930dd. CLAIMS; AVAILABILITY

(a) A taxpayer claiming credit under this subchapter shall submit to the Department of Taxes with the first return on which a credit is claimed a copy of the State Board's tax credit allocation.

(b) A credit under this subchapter shall be available for the first tax year in which the qualified project is complete. In the alternative, the State Board may allocate the credit available under this subchapter and make an allocation available upon completion of any distinct phase of a qualified project. The allocation and distinct phases of the qualified project shall be identified in the application package approved by the State Board.

(c) If within ~~five~~ three years after the date of the credit allocation to the applicant no claim for tax credit has been filed, the tax credit allocation shall be rescinded, unless the project has an approved federal application for a phased (60 month) project pursuant to Treasury Regulation 1.48-12(b)(2)(v), in which case the credit will not be rescinded until five years from the date of the credit allocation.

\* \* \*

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$2,400,000.00~~ \$2,600,000.00;

\* \* \*

\* \* \* Estate Tax; Exclusion Amount \* \* \*

Sec. 5. 32 V.S.A. § 7442a(b) is amended to read:

(b) The tax shall be computed as follows. The following rates shall be applied to the Vermont taxable estate:

Amount of Vermont Taxable Estate	Rate of Tax
Under \$2,750,000.00	None
<del>\$2,750,000.00 or more</del>	<del>16 percent of the excess</del> <del>over \$2,750,000.00</del>
<u>Under \$4,250,000.00</u>	<u>None</u>
<u>\$4,250,000.00 or more</u>	<u>16 percent of the excess</u> <u>over \$4,250,000.00</u>

The resulting amount shall be multiplied by a fraction not greater than one, where the numerator of which is the value of the Vermont gross estate plus the value of gifts under 32 V.S.A. § 7402(14)(C) with a Vermont situs, and the

denominator of which is the federal gross estate plus the value of gifts under subdivision 7402(14)(C) of this title.

Sec. 6. 32 V.S.A. § 7442a(b) is amended to read:

(b) The tax shall be computed as follows. The following rates shall be applied to the Vermont taxable estate:

Amount of Vermont Taxable Estate	Rate of Tax
<del>Under \$4,250,000.00</del>	<del>None</del>
<del>\$4,250,000.00 or more</del>	<del>16 percent of the excess over \$4,250,000.00</del>
<u>Under \$5,000,000.00</u>	<u>None</u>
<u>\$5,000,000.00 or more</u>	<u>16 percent of the excess over \$5,000,000.00</u>

The resulting amount shall be multiplied by a fraction not greater than one, where the numerator of which is the value of the Vermont gross estate plus the value of gifts under 32 V.S.A. § 7402(14)(C) with a Vermont situs, and the denominator of which is the federal gross estate plus the value of gifts under subdivision 7402(14)(C) of this title.

\* \* \* Rooms Tax; Booking Agents \* \* \*

Sec. 7. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

\* \* \*

(4) “Operator” means any person, or his or her agent, operating a hotel, whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or otherwise; and any person, or his or her agent, charging for a taxable meal or alcoholic beverage; and any person, or his or her agent, engaged in both of the foregoing activities. The term “operator” shall include booking agents. In the event that an operator is a corporation or other entity, the term “operator” shall include any officer or agent of such corporation or other entity who, as an officer or agent of the corporation, is under a duty to pay the gross receipts tax to the Commissioner as required by this chapter.

\* \* \*

(8) “Rent” means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever; and any monies received in payment for time-share rights at the time of purchase; provided, however, that such money received shall not be considered rent and thus not taxable if a deeded interest is granted

to the purchaser for the time-share rights. The term “rent” shall include all amounts collected by booking agents except the tax required to be collected under this chapter. The term “rent” shall not include rental charges for living quarters, sleeping, or household accommodations to any student necessitated by attendance at a school as defined herein.

\* \* \*

(20) “Booking agent” means a person who facilitates the rental of an occupancy and collects rent for an occupancy and who has the right, access, ability, or authority, through an Internet transaction or any other means, to offer, reserve, book, arrange for, remarket, distribute, broker, resell, or facilitate an occupancy that is subject to the tax under this chapter.

Sec. 8. 32 V.S.A. § 9271 is amended to read:

§ 9271. LICENSES REQUIRED

Each operator prior to commencing business shall register with the Commissioner each place of business within the State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided, however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine, and a booking agent shall not be required to hold a separate license for each property the rental of that it facilitates. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper

administration of this chapter, the Commissioner shall issue without charge a license for each such place in such form as he or she may determine, attesting that such registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner if the business is sold or transferred or if the registrant ceases to do business at the place named.

\* \* \* Property Transfer Tax; Controlling Interest \* \* \*

Sec. 9. 32 V.S.A. § 9601 is amended to read:

§ 9601. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(2) “Person” means every natural person, association, trust, ~~or~~ corporation, partnership, limited liability company, or other legal entity.

\* \* \*

(5) “Transfer” includes a grant, assignment, conveyance, will, trust, decree of court, transfer or acquisition of a direct or indirect controlling interest in any person with title to property, or any other means of transferring title to property or vesting title to property in any person.

(6) “Value” means:

(A) ~~in~~ In the case of any transfer of title to property which that is not a gift and which that is not made for a nominal or no consideration, the amount of the full actual consideration for such transfer, paid or to be paid, including the amount of any liens or encumbrances on the property existing before the transfer and not removed thereby;

(B) ~~in~~ In the case of a gift, or a transfer for nominal or no consideration, “value” means the fair market value of the property transferred.

(C) In the case of a controlling interest in any person that has title to property, the fair market value of the property, apportioned based on the percentage of the ownership interest transferred or acquired in the person.

(D) “Value” shall not include the fair market value of private alternative energy sources as defined in section 3845 of this title.

\* \* \*

(12) “Controlling interest” means:

(A) In the case of a corporation, either 50 percent or more of the total combined voting power of all classes of stock of such corporation, or 50 percent or more of the capital, profits, or beneficial interest in such voting stock of such corporation.

(B) In the case of a partnership, limited liability company, association, trust, or other entity, 50 percent or more of the capital, profits, or

beneficial interest in such partnership, limited liability company, association, trust, or other entity.

(C) For purposes of the tax imposed pursuant to section 9602 of this title, all acquisitions of persons acting in concert are aggregated for purposes of determining whether a transfer or acquisition of a controlling interest has taken place; provided, however, interests in any partnership, limited liability company, association, or other entity originally purchased in connection with the federal low-income housing tax credit program under 26 U.S.C. § 42 shall not be counted in determining a change in the “controlling interest.” The Commissioner shall adopt standards by regulation to determine when persons are acting in concert. In adopting a regulation for this purpose, the Commissioner shall consider the following:

(i) Persons must be treated as acting in concert when they have a relationship with each other such that one person influences or controls the actions of another through common ownership.

(ii) When persons are not commonly owned or controlled, they must be treated as acting in concert only when the unity with which the purchasers have negotiated and will consummate the transfer of ownership interest supports a finding that they are acting as a single person. If the acquisitions are completely independent, with each purchaser buying without



regard to the identity of the other purchasers, the acquisitions must be considered separate acquisitions.

Sec. 10. 32 V.S.A. § 9602 is amended to read:

§ 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

A tax is hereby imposed upon the transfer by deed of title to property located in this State, or a transfer or acquisition of a controlling interest in any person with title to property in this State. The amount of the tax equals one and one-quarter percent of the value of the property transferred, or \$1.00, whichever is greater, except as follows:

\* \* \*

Sec. 11. 32 V.S.A. § 9603 is amended to read:

§ 9603. EXEMPTIONS

The following transfers are exempt from the tax imposed by this chapter:

\* \* \*

(6) Transfers to effectuate a mere change of identity or form of ownership or organization where there is no change in beneficial ownership;

\* \* \*

(25) Transfer made by a limited liability company to a member in connection with a complete dissolution of the limited liability company, pursuant to which transfer no gain or loss is recognized under the Internal

Revenue Code, except where the Commissioner finds that a major purpose of such dissolution is to avoid the property transfer tax-;

(26) Transfers of controlling interests in a person with a fee interest in property if the transfer of the property would qualify for exemption if accomplished by deed of the property between the parties to the transfer of the controlling interest.

Sec. 12. 32 V.S.A. § 9606 is amended to read:

§ 9606. PROPERTY TRANSFER RETURN

(a)(1) In the case of property transfer by deed, A a property transfer return complying with this section shall be delivered to a town clerk at the time a deed evidencing a transfer of title to property is delivered to the clerk for recording.

(2) In the case of transfer or acquisition of a controlling interest in a person with title to property for which a deed is not given, a property transfer return complying with this section shall be delivered to the Commissioner within 30 days after the transfer or acquisition.

\* \* \*

(e)(1) In the case of property transferred by deed, The the Commissioner of Taxes is authorized to disclose to any person any information appearing on a property transfer tax return, including statistical information derived therefrom, and such information derived from research into information appearing on

property transfer tax returns as is necessary to determine if the property being transferred is subject to 10 V.S.A. chapter 151, except the Commissioner shall not disclose the Social Security number, federal identification number, e-mail address, or telephone number of any person pursuant to this subsection.

(2) In the case of transfer or acquisition of a controlling interest in a person with title to property for which a deed is not given, the return submitted to the Commissioner shall be treated as a tax return and tax return information under 32 V.S.A. § 3102.

Sec. 13. 32 V.S.A. § 9607 is amended to read:

§ 9607. ACKNOWLEDGMENT OF RETURN AND TAX PAYMENT

Upon the receipt by a town clerk of a property transfer return and certificate and the fee required under subdivision 1671(a)(6) of this title, the clerk shall forthwith mail or otherwise deliver to the transferee of title to property with respect to which such return was filed a signed and written acknowledgment of the receipt of that return and certificate. A copy of that acknowledgment, or any other form of acknowledgment approved by the Commissioner, shall be affixed to the deed evidencing the transfer of property or the document evidencing the transfer or acquisition of a direct or indirect controlling interest in any person with title to property with respect to which the return and certificate was filed. The acknowledgment so affixed to a deed or document,

however, shall not disclose the amount of tax paid with respect to any return or transfer.

Sec. 14. 32 V.S.A. § 9608(a) is amended to read:

(a) Except as to transfers ~~which~~ that are exempt pursuant to subdivision 9603(17) of this title, no town clerk shall record, or receive for recording, any deed or document evidencing the transfer or acquisition of a direct or indirect controlling interest in any person with title to property to which is not attached a properly executed transfer tax return, complete and regular on its face, and a certificate in the form prescribed by the Natural Resources Board and the Commissioner of Taxes that the conveyance of the real property and any development thereon by the seller is in compliance with or exempt from the provisions of 10 V.S.A. chapter 151. The certificate shall indicate whether or not the conveyance creates the partition or division of land. If the conveyance creates a partition or division of land, there shall be appended the current “Act 250 Disclosure Statement,” required by 10 V.S.A. § 6007. A town clerk who violates this section shall be fined \$50.00 for the first such offense and \$100.00 for each subsequent offense. A person who purposely or knowingly falsifies any statement contained in the certificate required is punishable by fine of not more than \$500.00 or imprisonment for not more than one year, or both.

Sec. 15. 32 V.S.A. § 9618 is amended to read:

§ 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 market value of all real property held in this State by the corporation at the time of the acquisition of the controlling interest. ~~As used in this section, a “controlling interest” means 50 percent or more of the total combined voting power of all classes of stock of the corporation.~~

\* \* \* Land Gains Tax \* \* \*

Sec. 16. 32 V.S.A. § 10002 is amended to read:

§ 10002. LAND AND RESIDENCES

(a) “Land” means all land, whether or not improved, that has been purchased and subdivided by the transferor within the six years prior to the sale or exchange of the land, but does not include land not exceeding 10 acres, necessary for the use of a dwelling used by the seller of such land as his or her principal residence. Buildings or other structures are not included in this definition of land. “Land” also means timber or rights to timber when that timber or those timber rights are sold within six years of their purchase, provided the underlying land is also sold within six years. “Underlying land”

Sec. 20. REPEAL OF ORIGINAL HEALTH CARE CLAIMS TAX

HEALTH IT-FUND REVENUE SUNSET

2013 Acts and Resolves No. 73, Sec. 53 (Health IT-Fund sunset) is repealed.

Sec. 21. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017 Acts and Resolves No. 73, Sec. 14 and 2018 Acts and Resolves No. 187, Sec. 5, is further amended to read:

(10) Secs. 48–51 (health claims tax) shall take effect on July 1, 2013 and Sec. 52 and 53 (health claims tax revenue; Health IT-Fund; sunset) shall take effect on July 1, 2019 2021.

\* \* \* Repeal \* \* \*

Sec. 22. 2017 Acts and Resolves No. 73, Sec. 18d is amended to read:

Sec. 18d. REPEAL

33 V.S.A. § 1955a (home health agency assessment) is repealed on July 1, 2019 2021.

\* \* \* Outreach \* \* \*

Sec. 23. OUTREACH ON ISSUES RELATED TO TAXING PREWRITTEN SOFTWARE ACCESSED REMOTELY

The Tax Department shall develop and implement a program of outreach and education for the technology sector to focus on information related to the current sales tax exemption for prewritten software accessed remotely and on

industry responsibilities under current law and under a possible repeal of the exemption.

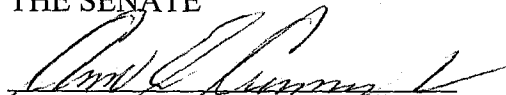
\* \* \* Effective Dates \* \* \*

Sec. 24. EFFECTIVE DATES


This act shall take effect on passage, except for:

- (1) Sec. 1 (capital gains exclusion) shall take effect on July 1, 2019 and apply to the sales of assets on or after that date.
- (2) Notwithstanding 1 V.S.A. § 214, Sec. 2 (medical deduction) shall take effect retroactively on January 1, 2019 and apply to taxable year 2019 and after.
- (3) Secs. 4 (downtown and village center tax credit), 7–8 (rooms tax), 9–15 (property transfer tax), and 18 (fuel tax) shall take effect on July 1, 2019.
- (4) Sec. 5 (estate tax exclusion at \$4,250,000.00) shall take effect on January 1, 2020 and apply to estates of decedents with a date of death on or after that date.
- (5) Sec. 6 (estate tax exclusion at \$5,000,000.00) shall take effect on January 1, 2021 and apply to estates of decedents with a date of death on or after that date.
- (6) Secs. 16–17 (land gains tax) shall take effect on January 1, 2020 and apply to gains from sales made on or after that date.


COMMITTEE ON THE PART OF  
THE SENATE

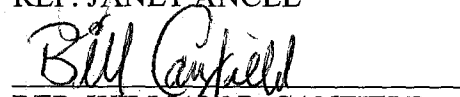
  
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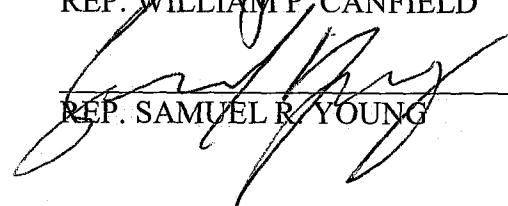
  
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SEN. RANDOLPH D. BROCK

  
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SEN. MARK A. MACDONALD

COMMITTEE ON THE PART OF  
THE HOUSE

  
\_\_\_\_\_  
REP. JANET ANCEL

  
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REP. WILLIAM P. CANFIELD

  
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REP. SAMUEL R. YOUNG