

From: Abby Shepard <AShepard@leg.state.vt.us>
Sent: Thursday, April 2, 2020 3:04 PM
To: Ann Cummings <ACUMMINGS@leg.state.vt.us>
Cc: Faith Brown <FBrown@leg.state.vt.us>
Subject: RE: Abatement of Property Taxes

You're welcome, Senator. As mentioned, this is the language of the bill that was signed by the Governor on March 30, H.681, Sec. 8:

<https://legislature.vermont.gov/Documents/2020/Docs/BILLS/H-0681/H-0681%20As%20Passed%20by%20Both%20House%20and%20Senate%20Unofficial.pdf>

(a) During a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, the Governor may authorize State agencies to extend any deadline applicable to municipal corporations or regional planning commissions. A deadline established by statute shall not be extended to more than 90 days after the date that the declared state of emergency ends. Any expiring license, permit, program, or plan issued to a municipal corporation or regional planning commission that is due to a State agency for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

(b) During a declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, a municipal corporation shall be permitted to extend any deadline applicable to municipal corporations, provided that the deadline does not relate to a State license, permit, program, or plan subject to subsection (a) of this section. A municipal corporation may extend or waive deadlines applicable to licenses, permits, programs, or plans issued by a municipal corporation. Any expiring license, permit, program, or plan issued by a municipal corporation that is due to the municipal corporation for renewal or review shall remain valid for 90 days after the date that the declared state of emergency ends.

Best,
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From: Abby Shepard <AShepard@leg.state.vt.us>
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Subject: RE: Abatement of Property Taxes

Good morning Senator,

Thank you for the clarification. Towns have a general authority to abate town taxes and other charges. Municipal property taxes apply at one rate to the entire grand list, regardless of whether the property is homestead or nonhomestead. The homestead/nonhomestead distinction is only made in the statewide education property tax. That a property is a nonhomestead does not impact the availability of abatement for an owner.

The abatement statute grants discretionary authority to a town's board of civil authority to "abate in whole or part taxes, water charges, sewer charges, interest, or collection fees, or any combination of those, other than those arising out of a corrected classification of homestead or nonhomestead property, accruing to the town" under certain circumstances. 24 V.S.A. § 1535(a). One of those circumstances, which would apply in the current pandemic situation is "taxes or charges of persons who are unable to pay their taxes or charges, interest, and collection fees." 24 V.S.A. § 1535(a)(3).

This section does not allow towns to abate charges "arising out of a corrected classification of homestead or nonhomestead property" for the statewide education property tax. 32 V.S.A. § 5410(g). These are 3% and 8% penalties. The governing body of a town has the discretion (it is not mandatory) to impose a 3% penalty when a property is either incorrectly declared as a homestead or if the owner fails to declare a homestead. *Id.* If the town has a lower homestead than nonhomestead tax rate, then the governing body of the municipality may (again, this is not mandatory) impose a penalty of up to 8% of the education tax liability when a property is incorrectly declared as a homestead or undeclared altogether. *Id.*

That said, there is a separate appeal process that allows taxpayers to contest these town penalties and request abatement from the town for hardship. 32 V.S.A. § 5410(j). "Hardship" means "an owner's inability to pay as certified by the Commissioner of Taxes in his or her discretion; or an owner's filing an incorrect, or failing to file a correct, homestead declaration due to one or more of the following:

- (1) full-time active military duty of the declarant outside the State;
- (2) serious illness or disability of the declarant;
- (3) serious illness, disability, or death of an immediate family member of the declarant;
- (4) fire, flood, or other disaster." 32 V.S.A. § 5410(l).

In terms of the state's ability to abate statewide education property taxes, the circumstances are more limited, but also apply to both homestead and nonhomestead taxes. "If by August 1 a municipality has failed to issue notices of assessment of the statewide education tax; or if the municipality fails for more than 90 days after the due date for any installment payment to enforce the tax in the municipality; then the Commissioner of Taxes shall either issue notices of assessment or collect the tax, or both, or bring appropriate court action to require the municipal officials to issue notices and collect the tax, as the Commissioner deems necessary." 32 V.S.A. § 5409(2). Under those specific circumstances, the "Commissioner may abate in whole or in part the statewide education taxes of a taxpayer who has been granted an abatement of municipal taxes under 24 V.S.A. § 1535." 32 V.S.A. § 5409(3)(C).

Lastly, the Commissioner of Taxes may grant extraordinary relief to taxpayers following an inaccurate classification of property as homestead or nonhomestead through no fault of the taxpayer. 32 V.S.A. §§ 3205 and 3206. This remedy is determined through a special proceeding

involving the Taxpayer Advocate, and granted only where no other plain, speedy, or adequate remedy is available. *Id.*

I will present this information this afternoon. Please let me know if you have other questions.

Best,
Abby

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