

No. 146. An act relating to eligibility of reserve forestland for enrollment in the Use Value Appraisal Program.

(H.697)

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) Vermont's forests:

(A) provide unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife, wildlife habitat, air, water, and soil resources of the State;

(C) provide a resource for the State constitutional right to hunt and fish;

(D) mitigate the effects of climate change; and

(E) are a general benefit to the health and welfare of the persons of the State.

(2) Privately owned forestland:

(A) constitutes nearly 80 percent of Vermont's forests;

(B) provides the foundation for ecosystem services derived from Vermont's forests, including wildlife habitat, connectivity, and biodiversity; provisioning of clean air and carbon sequestration and storage; scenic beauty; flood attenuation; and clean water; and

(C) provides the foundation of the forest economy in the State that, in total, contributes more than 13,000 jobs and \$2.1 billion to Vermont's economy.

(3) The Use Value Appraisal Program:

(A) has encouraged and assisted in the maintenance of the working landscape and rural character of Vermont and the protection of natural ecological systems for more than 40 years;

(B) currently has approximately 16,000 forestland parcels encompassing two million acres of enrolled forestland;

(C) has enrolled approximately 70 percent of the eligible forestland acres in the State and 55 percent of the eligible forestland parcels in the State;

(D) is critical for helping landowners keep forest as forest and ensuring its careful stewardship and management; and

(E) has, with few exceptions, limited eligibility and enrollment to those lands that are actively managed for timber and related forest products.

(4) Climate change:

(A) is creating challenges that threaten forest health, working forests, and ecological functions;

(B) causes significant negative ecologic and economic impacts, and forests constitute Vermont's most valuable resource for adapting to and mitigating these impacts; and

(C) is best mitigated and adapted to through a diversity of forest management strategies and forest conditions in Vermont.

(5) Forests that exhibit old forest characteristics:

(A) can provide unique contributions to biodiversity;

(B) contribute to and complement the climate resilience and adaptive capacity of Vermont's working landscape;

(C) serve as ecological benchmarks against which to measure active management of Vermont's forests;

(D) are less than one percent of Vermont's forestland; and

(E) can be effectively attained through passive or restorative management or silviculture.

(6) Preserving the working landscape and attainment of old forest conditions at a meaningful scale are compatible and complementary goals within Vermont's landscape.

(7) However, forests that are managed passively for old forest characteristics are only eligible for enrollment in the Use Value Appraisal Program under very limited circumstances.

(8) It is in the public interest of the persons of the State to increase opportunities within the Use Value Appraisal Program for attainment of old forest while ensuring that the Program continues to effectively preserve the working landscape.

Sec. 2. 32 V.S.A chapter 124 is amended to read:

CHAPTER 124. AGRICULTURAL AND FOREST LANDS

Subchapter 1. Agricultural and Managed Forest Land Use Value

Appraisal Program

§ 3750. STATUTORY PURPOSES

The statutory purpose of the Vermont Use Value Appraisal Program in chapter 124 of this title is to preserve the working landscape, preserve the rural character of Vermont, and protect the natural ecological systems and natural resources of the forestland of Vermont.

§ 3751. STATEMENT OF PURPOSE

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forestland; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems and services, including air and water quality, wildlife habitat and wildlife corridors, enhanced biodiversity, and forest health and integrity; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; to assist in climate adaptation and mitigation; and to enable the citizens of Vermont to

plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare.

§ 3752. DEFINITIONS

As used in this subchapter:

* * *

(4) “Commissioner” means the Commissioner of Taxes.

(5)(A) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity.

(B) “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels that qualify for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the ~~use value appraisal program~~ Use Value Appraisal Program.

(C) “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or

conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation.

(D) “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10.

(E) The term “development” ~~shall~~ does not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

* * *

(9) “Managed forestland” means:

(A) ~~any~~ Any land, exclusive of any house site, that is at least 25 acres in size and that is under active long-term forest management for the purpose of growing and harvesting repeated forest crops or attaining old forest values and

functions in accordance with minimum acceptable standards for forest management. Such land may include ~~eligible ecologically significant treatment areas~~ the following in accordance with minimum acceptable standards for forest management and as approved by the Commissioner:

(i) eligible ecologically significant treatment areas; or

(ii) reserve forestland; or

(B) ~~any~~ Any land, exclusive of any house site, that is:

(i) certified under 10 V.S.A. § 6306(b);

(ii) owned by an organization that was certified by the

Commissioner of Taxes as a qualified organization as defined in 10 V.S.A.

§ 6301a and for at least five years preceding its certification was determined by

the Internal Revenue Service to qualify as a Section 501(c)(3) organization that

is not a private foundation as defined in 26 U.S.C. § 509(a); and

(iii) under active conservation management in accord with

standards established by the Commissioner of Forests, Parks and Recreation.

* * *

(12) “Use value appraisal” means, with respect to land, the price per acre that 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.

* * *

(16) “Ecologically significant treatment areas” means lands within a parcel of managed forestland that will be managed using protective or conservation management strategies and are not required to be managed for timber, including old forests; State-significant natural communities; rare, threatened, and endangered species; riparian areas; forested wetlands; and vernal pools.

(17) “Reserve forestland” means land that is managed for the purpose of attaining old forest values and functions in accordance with minimum acceptable standards for forest management and as approved by the Commissioner of Forests, Parks and Recreation. On parcels of up to 100 acres, 50 percent or more of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner. On parcels of 100 acres or more, 30 percent of the enrolled parcel acres shall be composed of significant and sensitive conditions in accordance with the minimum acceptable standards established by the Commissioner.

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§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings that meet the criteria contained in this subchapter and in the rules adopted by the Board shall be eligible for use value appraisal.

(b) Managed forestland shall be eligible for use value appraisal under this ~~subchapter~~ chapter only if:

(1) The land is subject to a forest management plan, ~~or~~ subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

- (A) Is signed by the owner of the parcel.
- (B) Complies with subdivision 3752(9) of this title.
- (C) Is approved by the Department of Forests, Parks and Recreation.
- (D) Provides for continued conservation management, reserve

forestland management, or forest crop production on the parcel for 10 years.

An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

* * *

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest ~~or~~ management plan, conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management.

The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall be signed by all the owners and shall contain the tax identification numbers of all the owners. All information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation, except for any tax identification number included in the report. If any owner satisfies the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan that is required to be filed on or before October 1, or a management plan update that is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report that is required to be filed on or before February 1 of the year following the year when the management activity occurred, the owner may submit that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed.

(1) At intervals not to exceed 10 years, ~~that~~ the Department shall inspect each parcel of managed forestland qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion.

(2) The Department shall have the ability to enter parcels of managed forestland for the purpose of inspections. The Department may bring any other staff from the Agency of Natural Resources that have the expertise to evaluate compliance with this chapter or staff that may be required to ensure the safety of the Department while conducting the inspections.

(3) If ~~that~~ the Department finds that the management of the tract is contrary to the conservation plan or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days after the conclusion of the inspection process.

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then the forest management plan shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new forest management plan, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

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Sec. 3. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
REPORT ON ENROLLMENT OF RESERVE FORESTLAND
IN USE VALUE APPRAISAL

(a) On or before December 31, 2022, the Commissioner of Forests, Parks and Recreation, after consultation with the Division of Property Valuation and Review and the Current Use Advisory Board, shall submit to the House Committees on Natural Resources, Fish, and Wildlife, on Agriculture and Forestry, and on Ways and Means and the Senate Committees on Natural Resources and Energy, on Agriculture, and on Finance a report regarding the enrollment of reserve forestland in the Use Value Appraisal Program. The report shall include the following:

(1) The standards for the management of reserve forestland eligible for participation in the Use Value Appraisal Program under 32 V.S.A. § 3752(9)(A)(ii). The standards established by the Commissioner of Forests, Parks and Recreation shall be the same or substantially similar to the standards set forth in the Department of Forests, Parks and Recreation report on Considerations for a Reserve Forestland Subcategory in Vermont's Use Value Appraisal Program, dated October 15, 2021.

(2) A summary of how a property owner of land already enrolled in the Use Value Appraisal Program as productive forestland would enroll land as reserve forestland and how a property owner of land enrolled in the Use Value

Appraisal Program as reserve forestland would transition to enrollment as productive forestland.

(b) On or before December 31, 2024, the Commissioner of Taxes, after consultation with the Commissioner of Forests, Parks and Recreation, the Secretary of Agriculture, Food, And Markets, and the Current Use Advisory Board, shall submit to the House Committees on Natural Resources, Fish, and Wildlife, on Agriculture and Forestry, and on Ways and Means and the Senate Committees on Natural Resources and Energy, on Agriculture, and on Finance a report that examines the strategies and rates for the valuation of all land enrolled in the Use Value Appraisal Program and that recommends whether and how to ensure that the fiscal return to landowners and the State is consistent among use values and uses of the different categories of enrolled land.

Sec. 3a. IMPLEMENTATION

Beginning on July 1, 2023 and pursuant to 32 V.S.A. § 3755, managed forestland shall be eligible for enrollment in the Use Value Appraisal Program as reserve forestland in accordance with the minimum acceptable standards and administrative requirements established by the Commissioner of Forests, Parks and Recreation.

Sec. 4. REPORT ON ENROLLMENT OF RESERVE FORESTLAND

On or before January 15, 2026, the Commissioner of Forests, Parks and Recreation, after consultation with the Director of Property Valuation and

Review, shall report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance regarding enrollment of managed forestland under the Use Value Appraisal Program. The report shall include:

(1) a summary of how enrollment of managed forestland in the Use Value Appraisal Program has changed since passage of this act, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas;

(2) the number of persons enrolling land in the Use Value Appraisal Program as reserve forestland;

(3) any other information that the Commissioner determines is relevant to the ongoing enrollment of reserve forestland in the Use Value Appraisal Program, including any relevant information regarding any impacts to the overall managed forestland category;

(4) recommendations on how to promote the long-term enrollment of land in the reserve forestland category of enrolled land in order to attain old forest conditions or functions and values; and

(5) a recommendation on how to protect or conserve the functions and values of significant and sensitive acres enrolled as reserve forestland when the owner of the land wishes to amend the category or subcategory of enrollment.

Sec. 5. ANNUAL REPORT; DIVISION OF PROPERTY VALUATION
AND REVIEW

As part of the annual report required under 32 V.S.A. § 3412, the Director of the Division of Property Valuation and Review shall include an assessment of how enrollment of managed forestland in the Use Value Appraisal Program has changed since reserve forestland was approved as eligible managed forestland, including whether owners of managed forestland changed the status of enrollment of their land to reserve forestland or ecologically significant treatment areas.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 1 (findings), 3 (report on enrollment of reserve forestland), 3a (implementation), 4 (report on enrollment), and 5 (Division of Property Valuation and Review report) shall take effect on passage.

(b) Sec. 2 (Use Value Appraisal Program) shall take effect on July 1, 2023.

Date Governor signed bill: May 27, 2022