

1 Introduced by Committee on Natural Resources, Fish, and Wildlife

2 Referred to Committee on

3 Date:

4 Subject: Taxation; use value appraisal; reserve forestland

5 Statement of purpose of bill as introduced: This bill proposes to authorize
6 enrollment of reserve forestland in the Use Value Appraisal Program as a new
7 category of managed forestland where active growing and harvesting of forest
8 crops would not be required.

9 An act relating to eligibility of reserve forestland for enrollment in the Use
10 Value Appraisal Program

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

12 Sec. 1. FINDINGS

13 The General Assembly finds that:

14 (1) Vermont's forests:

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

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

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

1 (D) mitigate the effects of climate change; and

2 (E) are a general benefit to the health and welfare of the people of the
3 State.

4 (2) Privately owned forestland:

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

6 (B) provides the foundation for ecosystem services derived from

7 Vermont’s forests, including wildlife habitat, connectivity, and biodiversity;

8 provisioning of clean air and carbon sequestration and storage; scenic beauty;

9 flood attenuation; and clean water; and

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

13 (3) The Use Value Appraisal Program:

14 (A) has encouraged and assisted in the maintenance of the working

15 landscape and rural character of Vermont and the protection of natural

16 ecological systems for more than 40 years;

17 (B) currently has approximately 16,000 forestland parcels

18 encompassing two million acres of enrolled forestland;

19 (C) has enrolled approximately 70 percent of the eligible forestland

20 acres in the State and 55 percent of the eligible forestland parcels in the State;

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

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

5 (4) Climate change:

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

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

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

13 (5) Forests that exhibit old forest characteristics:

14 (A) can provide unique contributions to biodiversity;

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

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

19 (D) are less than .01 percent of Vermont’s forestland; and

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

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

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

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

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

12 CHAPTER 124. AGRICULTURAL AND FOREST LANDS

13 Subchapter 1: Agricultural And Managed Forest Land Use Value
14 Appraisal Program

15 § 3750. STATUTORY PURPOSES

16 The statutory purpose of the Vermont Use Value Appraisal Program in
17 chapter 124 of this title is to preserve the working landscape and the rural
18 character of Vermont.

19 § 3751. STATEMENT OF PURPOSE

20 The purpose of this subchapter is to encourage and assist the maintenance
21 of Vermont’s productive agricultural and forestland; to encourage and assist in

1 their conservation and preservation for future productive use and for the
2 protection of natural ecological systems and services, including air and water
3 quality, wildlife habitat and wildlife corridors, enhanced biodiversity, and
4 forest health and integrity; to prevent the accelerated conversion of these lands
5 to more intensive use by the pressure of property taxation at values
6 incompatible with the productive capacity of the land; to achieve more
7 equitable taxation for undeveloped lands; to encourage and assist in the
8 preservation and enhancement of Vermont’s scenic natural resources; to assist
9 in climate adaptation and mitigation; and to enable the citizens of Vermont to
10 plan its orderly growth in the face of increasing development pressures in the
11 interests of the public health, safety, and welfare.

12 § 3752. DEFINITIONS

13 As used in this subchapter:

14 * * *

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

16 (5) “Development” means, for the purposes of determining whether a
17 land use change tax is to be assessed under section 3757 of this chapter, the
18 construction of any building, road, or other structure, or any mining,
19 excavation, or landfill activity. “Development” also means the subdivision of
20 a parcel of land into two or more parcels, regardless of whether a change in use
21 actually occurs, where one or more of the resulting parcels contains less than

1 25 acres each; but if subdivision is solely the result of a transfer to one or more
2 of a spouse, ex-spouse in a divorce settlement, parent, grandparent, child,
3 grandchild, niece, nephew, or sibling of the transferor, or to the surviving
4 spouse of any of the foregoing, then “development” shall not apply to any
5 portion of the newly created parcel or parcels that qualify for enrollment and
6 for which, within 30 days following the transfer, each transferee or transferor
7 applies for reenrollment in the ~~use value appraisal program~~ Use Value
8 Appraisal Program. “Development” also means the cutting of timber on
9 property appraised under this chapter at use value in a manner contrary to a
10 forest or conservation management plan as provided for in subsection 3755(b)
11 of this title during the remaining term of the plan, or contrary to the minimum
12 acceptable standards for forest management if the plan has expired; or a
13 change in the parcel or use of the parcel in violation of the conservation
14 management standards established by the Commissioner of Forests, Parks and
15 Recreation. “Development” also means notification of the Director by the
16 Secretary of Agriculture, Food and Markets under section 3756 of this title that
17 the owner or operator of agricultural land or a farm building is violating the
18 water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with
19 the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The
20 term “development” shall not include the construction, reconstruction,
21 structural alteration, relocation, or enlargement of any building, road, or other

1 structure for farming, logging, forestry, or conservation purposes, but shall
2 include the subsequent commencement of a use of that building, road, or
3 structure for other than farming, logging, or forestry purposes.

4 * * *

5 (9) “Managed forestland” means:

6 (A) any land, exclusive of any house site, that is at least 25 acres in
7 size and that is under active long-term forest management for the purpose of
8 growing and harvesting repeated forest crops or attaining old forest in
9 accordance with minimum acceptable standards for forest management. Such
10 land may include ~~eligible ecologically significant treatment areas~~ the following
11 in accordance with minimum acceptable standards for forest management and
12 as approved by the Commissioner;

13 (i) eligible ecologically significant treatment areas; or

14 (ii) reserve forestland; or

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

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

17 (ii) ~~is~~ owned by an organization that was certified by the

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

19 § 6301a and for at least five years preceding its certification was determined by

20 the internal revenue service to qualify as a Section 501(c)(3) organization

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

1 (iii) is under active conservation management in accord with
2 standards established by the Commissioner of Forests, Parks and Recreation.

3 * * *

4 (12) “Use value appraisal” means, with respect to land, the price per
5 acre ~~which~~ that the land would command if it were required to remain
6 henceforth in agriculture or forest use, as determined in accordance with the
7 terms and provisions of this subchapter. With respect to farm buildings, “use
8 value appraisal” means zero percent of fair market value.

9 * * *

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

16 (17) “Reserve forestland” means land that is managed for the purpose of
17 attaining old forest values and functions in accordance with minimum
18 acceptable standards for forest management and as approved by the
19 Commissioner.

20 * * *

1 § 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

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

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

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

12 (A) Is signed by the owner of the parcel.

13 (B) Complies with subdivision 3752(9) of this title.

14 (C) Is approved by the Department of Forests, Parks and Recreation.

15 (D) Provides for continued conservation management, reserve

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

17 An initial forest management plan or conservation management plan must be

18 filed with the Department of Forests, Parks and Recreation on or before

19 October 1 and shall be effective for a 10-year period beginning the following

20 April 1. Prior to expiration of a 10-year plan and on or before April 1 of the

1 year in which the plan expires, the owner shall file a new conservation or forest
2 management plan for the next succeeding 10 years to remain in the program.

3 * * *

4 (3) There has not been filed with the Director an adverse inspection
5 report by the Department stating that the management of the tract is contrary to
6 the forest management plan or, conservation management plan, or contrary to
7 the minimum acceptable standards for forest or conservation management.
8 The management activity report shall be on a form prescribed by the
9 Commissioner of Forests, Parks and Recreation in consultation with the
10 Commissioner of Taxes and shall be signed by all the owners and shall contain
11 the tax identification numbers of all the owners. All information contained
12 within the management activity report shall be forwarded to the Department of
13 Forests, Parks and Recreation, except for any tax identification number
14 included in the report. If any owner satisfies the Department that he or she was
15 prevented by accident, mistake, or misfortune from filing an initial or revised
16 management plan that is required to be filed on or before October 1, or a
17 management plan update that is required to be filed on or before April 1 of the
18 year in which the plan expires, or a management activity report that is required
19 to be filed on or before February 1 of the year following the year when the
20 management activity occurred, the owner may submit that management plan or
21 management activity report at a later date; provided, however, no initial or

1 revised management plan shall be received later than December 31, and no
2 management plan update shall be received later than one year after April 1 of
3 the year the plan expires, and no management activity report shall be received
4 later than March 1.

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

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

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

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

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

9 * * *

10 Sec. 3. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
11 REPORT ON MANAGEMENT STANDARDS FOR RESERVE
12 FORESTLAND

13 On or before January 15, 2023, the Commissioner of Forests, Parks and
14 Recreation, after consultation with the Division of Property Valuation and
15 Review and other interested parties, shall submit to the House Committees on
16 Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate
17 Committees on Natural Resources and Energy and on Finance proposed
18 standards for the management of reserve forestland eligible for participation in
19 the Use Value Appraisal Program under 32 V.S.A. § 3752(9)(A)(ii). The
20 report shall include:

1 (1) the threshold conditions or requirements for eligibility of reserve
2 forestland in the Use Value Appraisal Program, including the specific
3 attributes of parcels that would qualify for enrollment as reserve forestland;

4 (2) the requirements of a forest management plan for reserve forestland;

5 (3) the management activities allowed or prohibited on reserve
6 forestland;

7 (4) how a property owner, including an owner of land already enrolled
8 in the Use Value Appraisal Program, would enroll land as reserve forestland;

9 (5) the reporting and inspection requirements for reserve forestland; and

10 (6) proposed legislation, if any, that the Commissioner of Forests, Parks
11 and Recreation recommends to implement enrollment of reserve forestland in
12 the Use Value Appraisal Program, including staffing or funding necessary for
13 implementation.

14 Sec. 4. EFFECTIVE DATES

15 (a) This section and Sec. 3 (report on reserve forestland) shall take effect
16 on passage.

17 (b) Secs. 1 and 2 (Use Value Appraisal Program) shall take effect on July
18 1, 2022.