

1 H.878

2 Senator Sears moves to amend the bill by adding three new sections to be
3 Secs. 46, 47, and 48 to read as follows:

4 Sec. 46. 32 V.S.A. § 9605 is amended to read:

5 § 9605. PAYMENT OF TAX

6 (a) The tax imposed by this chapter shall be paid to the Commissioner
7 within 30 days after transfer of title to property subject to the tax or, in the case
8 of a transfer or acquisition of a controlling interest in a person with title to
9 property for which a deed is not given, within 30 days after transfer or
10 acquisition.

11 (b) If an agreement, instrument, memorandum, or other writing evidencing
12 a transfer of title to property is taxed as a deed at the time of its recording, the
13 later recording of the deed to the property shall not be subject to the transfer
14 tax.

15 (c) Notwithstanding any provision of law to the contrary, in the case of a
16 transfer of interest in property through a validly executed enhanced life estate
17 deed recorded pursuant to 27 V.S.A. chapter 6, payment shall be due by the
18 transferee within 30 days after transfer of title to the transferee pursuant to the
19 deed. A completed property transfer return, noting the amount of tax due to
20 the Department, shall be recorded along with the deed.

21 Sec. 47. 32 V.S.A. § 9617 is amended to read:

1 § 9617. NOTICES; APPEALS

2 Unless otherwise provided by this title:

3 * * *

4 (8)(A) At any time within three years after the date a property is
5 transferred, a taxpayer may petition the Commissioner in writing for the refund
6 of all or any part of the amount of tax paid. The Commissioner shall thereafter
7 grant a hearing subject to the provisions of 3 V.S.A chapter 25 upon the matter
8 and notify the taxpayer in writing of the Commissioner’s determination
9 concerning the refund request. The Commissioner’s determination may be
10 appealed as provided in subdivision (5) of this section. This shall be a
11 taxpayer’s exclusive remedy with respect to the refund of taxes under this
12 chapter, except as provided under subdivision (B) of this subsection.

13 ~~(B) If the transfer taxed by this chapter was an enhanced life estate~~
14 ~~interest and that interest is revoked or revised pursuant to 27 V.S.A. chapter 6,~~
15 ~~the person who paid the tax may petition for a refund, provided that the~~
16 ~~petition is made within eight years after the date of payment of the tax and~~
17 ~~within one year after the date of revocation or revision. No petition for a~~
18 ~~refund shall be granted for the revocation or revision of an interest that~~
19 ~~occurred eight years or more after the date of payment of the tax. In the case~~
20 ~~of a revision, the revised enhanced life estate interest transfer shall be subject~~
21 ~~to tax under this chapter.~~

1 Sec. 48. 27 V.S.A. § 654 is amended to read:

2 § 654. EXECUTION AND RECORDING OF AN ENHANCED LIFE

3 ESTATE DEED

4 (a) Subject to the rights expressly reserved in the deed, a validly executed
5 and recorded ELE deed does not:

6 (1) affect the ownership rights of the grantor or the grantor's creditors;

7 (2) transfer or convey any present right, title, or interest in the property
8 or create any present legal or equitable interest in the grantee; or

9 (3) subject the grantor's property to process from the grantee's creditors.

10 (b) The grantor may convey the property described in an ELE deed, or any
11 portion thereof, without the need for joinder by, consent from, agreement of, or
12 notice to the grantee.

13 (c) If not previously conveyed during the lifetime of the grantor, upon the
14 death of the grantor, subject to encumbrances of record, the interest stated in an
15 ELE deed vests in the grantee or, for a deceased grantee, the interest passes
16 pursuant to section 658 of this title.

17 (d) An executed and recorded ELE deed shall be subject to the property
18 transfer tax ~~under~~ according to the provisions of 32 V.S.A. chapter 231
19 § 9605(c).

20

21 and by renumbering the remaining section to be numerically correct.