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H.485

Introduced by Representative Clarkson of Woodstock

Referred to Committee on

Date:

Subject: Taxation and finance; property tax; agricultural land and forestland

Statement of purpose: This bill proposes to enact the proposals of the use
value appraisal task force.

An act relating to the use value appraisal program

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

~~*** Expand Dwelling Exclusion from Two to Five Acres~~

~~with Some Exceptions ***~~

~~Sec. 1. 32 V.S.A. § 3752(16) is added to read:~~

~~(16) “Dwelling” means any house, mobile home, camp, apartment, or
other structure intended for human habitation.~~

~~Sec. 2. 32 V.S.A. § 3752(8) is amended to read:~~

~~(8) “Housesite” means the two five acres of land surrounding any house,
mobile home or dwelling; except that if the dwelling is owned and occupied as
a principal residence by a farmer or by a person who earns at least one-half of
his or her income from the business of growing and harvesting trees, then
“housesite” means two acres of land. If more than one dwelling is under~~

1 ~~common ownership with the owners of the enrolled parcel, the additional~~
2 dwelling may be located on the same housesite as the principal dwelling or
3 each may have a separate two-acre housesite.

4 Sec. 3. 32 V.S.A. § 3752(9) is amended to read:

5 (9) "Managed ~~forest land~~ forestland means:

6 (A) any land, exclusive of any ~~house-site~~ housesite, which is at least
7 25 acres in size and which is under active long-term forest management for the
8 purpose of growing and harvesting repeated forest crops in accordance with
9 minimum acceptable standards for forest management. Land which is at least
10 27 acres and no more than 30 acres in size including a housesite and not owned
11 by a farmer or person who earns at least one-half of his or her income from the
12 business of growing and harvesting trees may qualify if at least 25 acres meet
13 the standards of this subdivision; however, only the acreage other than the
14 housesite can qualify for use value appraisal; or

15 * * *

16 * * * Method and Calculation of Land Use Change Tax * * *

17 Sec. 4. 32 V.S.A. § 3757 is amended to read:

18 § 3757. LAND USE CHANGE TAX

19 (a) Land which has been classified as agricultural land or managed ~~forest~~
20 ~~land~~ forestland pursuant to this chapter shall be subject to a land use change
21 tax upon the development of that land, as defined in section 3752 of this

1 ~~chapter. Said The tax shall be at the rate of 20 10 percent of the full fair~~
2 ~~market value of the changed land determined without regard to the use value~~
3 ~~appraisal; or the tax shall be at the rate of 10 percent if the owner demonstrates~~
4 ~~to the satisfaction of the director that the parcel has been enrolled continuously~~
5 ~~more than 10 years. If changed land is a portion of a parcel, the fair market~~
6 ~~value of the changed land shall be the fair market value of the changed land~~
7 ~~prorated on the basis of acreage, divided by the common level of appraisal.~~
8 Such fair market value shall be determined as of the date the land is no longer
9 eligible for use value appraisal. This tax shall be in addition to the annual
10 property tax imposed upon such property. Nothing in this section shall be
11 construed to require payment of an additional land use change tax upon the
12 subsequent development of the same land, nor shall it be construed to require
13 payment of a land use change tax merely because previously eligible land
14 becomes ineligible, provided no development of the land has occurred. The
15 land use change tax for land that has been withdrawn prior to the effective date
16 of this act shall be calculated according to the provisions of law that were in
17 effect at the time of withdrawal.

18 * * *

19 (c) The determination of the fair market value of the land as of the date the
20 land is no longer eligible for a use value appraisal, or as of the time of the
21 withdrawal of the land from use value appraisal, shall be made by the ~~director~~

1 ~~local assessing officials in accordance with the land schedule of their~~
2 municipality. The determination shall be made within 30 days after the date
3 that the owner ~~or assessing officials~~ petition petitions for the determination and
4 shall be effective on the date of dispatch to the owner. The local assessing
5 officials may make the determination on their own initiative following written
6 notice to the owner and a period of not less than 30 days for the owner to
7 respond. The determination may be appealed as set forth in subsection 3758 of
8 this title.

9 (d) The land use change tax shall be due and payable by the owner 30 days
10 after the tax notice is mailed to the taxpayer. The tax shall be paid to the
11 ~~commissioner for deposit into the general fund~~ municipality in which the land
12 is located. The ~~commissioner~~ local assessing officials shall issue a form to the
13 ~~assessing officials~~ commissioner which shall provide for a description of the
14 land developed, the amount of tax payable, and the fair market value of the
15 land at the time of development or withdrawal from use value appraisal. The
16 owner shall fill out the form and shall sign it under the penalty of perjury.
17 After receipt of payment, the ~~commissioner~~ local assessing officials shall
18 furnish the owner with one copy, ~~shall~~ retain one copy ~~and shall~~ forward one
19 copy to the ~~local assessing officials~~ commissioner along with one-half of the
20 tax collected, and forward one copy to the register of deeds of the municipality
21 in which the land is located. Thereafter, the land which has been developed

1 ~~shall be appraised and listed at its full fair market value in accordance with the~~
2 provisions of chapter 121 of this title.

3 (e) The owner of any classified land receiving use value appraisal under
4 this subchapter shall immediately notify the ~~director~~ local assessing officials
5 of:

6 * * *

7 Sec. 5. 32 V.S.A. § 3758(a) and (b) are amended to read:

8 (a) Whenever the director ~~denies~~ or local assessing officials deny in whole
9 or in part any application for classification as agricultural land or managed
10 ~~forest land~~ forestland or farm buildings, or ~~grants~~ grant a different
11 classification than that applied for, or ~~the director or assessing officials~~ fix a
12 use value appraisal, or determine that previously classified property is no
13 longer eligible or that the property has undergone a change in use, the
14 aggrieved owner may appeal the decision ~~of the director~~ to the director within
15 30 days of the decision. The aggrieved owner may appeal the director's final
16 decision to the commissioner within 30 days, and from there to the superior
17 court in the same manner and under the same procedures as an appeal from a
18 decision of a board of civil authority, as set forth in subchapter 2 of chapter
19 131 of this title; ~~and may appeal the decision of the assessing officials in the~~
20 ~~same manner as an appeal of a grand list valuation.~~

1 ~~(b) Any owner who is aggrieved by the determination of the fair market~~
2 ~~value of classified land for the purpose of computing the land use change tax~~
3 ~~may appeal in the same manner as an appeal of a grand list valuation to the~~
4 ~~director within 30 days of the local assessing official's decision and the~~
5 ~~director's decision may be appealed in the same manner and under the same~~
6 ~~procedures as an appeal of a decision of a board of civil authority as set forth~~
7 ~~in subchapter 2 of chapter 131 of this title.~~

8 * * * Easy Out * * *

9 Sec. 6. OPTION TO WITHDRAW FROM USE VALUE APPRAISAL

10 (a) The owner of any land that, prior to the passage of this act, was enrolled
11 in the use value appraisal program for agricultural land or forestland may elect
12 to withdraw any enrolled parcel, or the amount of land necessary to increase an
13 existing housesite exclusion to five acres, or a five-acre housesite for a
14 potential dwelling on a parcel on which there currently is no housesite
15 exclusion, and the withdrawn land shall be relieved of any obligation under
16 chapter 124 of Title 32, including the obligation for a land use change tax.
17 Land withdrawn pursuant to this subsection shall be ineligible for reenrollment
18 in the use value appraisal program for five years following the date of
19 withdrawal.

20 (b) The owner of any land that, prior to the passage of this act, was enrolled
21 in the use value appraisal program for agricultural or forestland may elect to

1 ~~withdraw any portion of any enrolled parcel and pay the land use change tax at~~
2 ~~the rate of 20 percent of the full fair market value of the changed land~~
3 ~~determined without regard to the use value appraisal, or the tax shall be at the~~
4 ~~rate of 10 percent if the owner demonstrates to the satisfaction of the director~~
5 ~~that the parcel has been enrolled continuously for more than 10 years. The fair~~
6 ~~market value of the changed land shall be the fair market value of the changed~~
7 ~~land prorated on the basis of acreage, divided by the common level of~~
8 ~~appraisal.~~

9 (c) A property owner who elects to withdraw from use value appraisal
10 pursuant to this section shall notify the local assessing officials in writing on or
11 before May 15, 2010, on a form prescribed by the director.

12 * * * Increase the Property Transfer Tax for Enrolled Land * * *

13 Sec. 7. 32 V.S.A. § 9602(2) is amended to read:

14 (2) with respect to the transfer of property which is enrolled at the time
15 of the transfer in a program under chapter 124 of this title, or is otherwise a
16 working farm at the time of the transfer if not so enrolled, the tax shall be
17 imposed in the amount of five-tenths of one percent on the entire value of the
18 property transferred; provided, however that no part of the property is
19 converted to a use which would subject it to the land use change tax or an
20 obligation to repay property tax benefits under chapter 124 of this title for a
21 period of three years following the date of the transfer, or if it is a working

1 ~~farm which is not enrolled under chapter 124, that the property is not taken out~~
2 of agricultural production for a period of six years following the date of the
3 transfer. For the purposes of this subdivision, a working farm shall mean a
4 parcel of land actively used by a farmer, as that term is defined under
5 subdivision 3752(7) of this title. If the conditions of this subdivision are
6 breached by the buyer, the buyer shall be obligated to pay the full transfer tax
7 in the amount of one and one-quarter percent and this obligation shall run with
8 the land.

9 * * * Fee for Conversion to Electronic Administration * * *

10 Sec. 8. CURRENT USE PARCEL FEE FOR ELECTRONIC
11 ADMINISTRATION

12 (a) For years 2010, 2011, and 2012, there is hereby imposed an electronic
13 administration surcharge of \$25.00 on each parcel enrolled on April 1 in the
14 use value appraisal program established under chapter 124 of this title;
15 provided, however, that where the surcharge has been paid on more than four
16 parcels under common ownership, the owner may apply to the department for a
17 refund of surcharges paid in excess of \$100.00 per year.

18 (b) The department of taxes shall cooperate with municipalities to assess
19 the annual surcharge imposed under subsection (a) of this section. The
20 surcharge shall be included on property tax bills and subject to the same
21 payment, enforcement, penalty, and interest provisions provided for in this

1 ~~chapter for the payment of property taxes on enrolled land. The municipality~~
2 ~~shall remit the surcharge to the department, which shall deposit the surcharge~~
3 ~~into the program special fund created pursuant to 32 V.S.A. § 3756(e) for~~
4 ~~improvements to the use value appraisal program. If the surcharge is not paid~~
5 ~~when due, there shall be a late fee of an additional \$10.00 per month, or~~
6 ~~portion thereof. Each parcel on which all or a portion of the surcharge and late~~
7 ~~fees remain unpaid on March 1 of the subsequent year shall be sent a notice of~~
8 ~~discontinuance, and the parcel shall be withdrawn from the program effective~~
9 ~~for the following tax year and reinstated for subsequent tax years if in~~
10 ~~compliance with the requirements of the program.~~

11 Sec. 9. EFFECTIVE DATE

12 ~~This act shall take effect upon passage.~~

Sec. 1. USE VALUE APPRAISAL PROGRAM ASSESSMENT

For property tax bills prepared in 2010 only, there is imposed on each owner of land enrolled in the use value appraisal program pursuant to chapter 124 of Title 32 a one-time assessment of \$128.00. The assessment shall be collected as part of property tax bills prepared for the 2010 tax year, and the assessment shall show as a separate amount on all towns' bills. For the purpose of assessment and collection, the one-time assessment shall be a lien upon the real estate in the same manner and to the same effect as taxes are a lien upon real estate under 32 V.S.A. § 5061, and collection of the assessment shall be subject to all other provisions of chapter 133 of Title 32. The director of property valuation and review shall provide all towns with electronic notice of the parcels within each town that shall be subject to the one-time assessment. Using a form provided by the director, towns shall remit to the state treasurer for deposit in the general fund on May 1, 2011, the full amount collected as of that date. At the time of the May 1 payment, towns also will indicate the full amount that should have been collected and any amount that remains delinquent. Payment of any amount outstanding due to delinquencies shall be payable in full to the state treasurer on December 1, 2011.

**** Method and Calculation of Land Use Change Tax ****

Sec. 2. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed ~~forest~~ land forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. ~~Said~~ The tax shall be at the rate of ~~20~~ 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal; ~~or the tax shall be at the rate of 10 percent if the owner demonstrates to the satisfaction of the director that the parcel has been enrolled continuously more than 10 years. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land prorated on the basis of acreage, divided by the common level of appraisal. Such~~ For purposes of the land use change tax, fair market value shall be determined as of the date the land is no longer eligible for use value appraisal developed or at an earlier date, if the owner petitions for the determination pursuant to subsection (c) of this section and pays the tax within 30 days of notification from the local assessing officials. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

(b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall petition the director for a determination of the fair market value of the land at the time of the withdrawal. Thereafter land which has been withdrawn shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title. Said determination of the fair market value shall be used in calculating the amount of the land use change tax that shall be due when and if the development of the land occurs.

(c) ~~The determination of the fair market value of the land as of the date the land is no longer eligible for a use value appraisal, or as of the time of the withdrawal of the land from use value appraisal,~~ shall be made by the ~~director~~ local assessing officials in accordance with the land schedule and the appraisal model used to list property of similar size to the withdrawn parcel in their municipality divided by the municipality's most recent common level of appraisal as determined by the director; provided, however, that if the land use change tax becomes payable as a result of a transfer of title pursuant to a bona fide arm's length transaction, the purchase price shall be deemed the fair

market value of the property for the purpose of calculating the land use change tax. The determination shall be made within 30 days after the date that the owner ~~or assessing officials petition~~ petitions for the determination and shall be effective on the date of dispatch the notice is sent to the owner. The director may initiate a determination on his or her own initiative following written notice to the owner and a period of not less than 30 days for the owner to respond. The director shall also send a copy of the notice to the local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland.

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the commissioner for deposit into the general fund municipality in which the land is located. The ~~commissioner~~ local assessing officials shall issue a form to the ~~assessing officials~~ commissioner which shall provide for a description of the land developed for which the tax is due, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal used to calculate the tax. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the ~~commissioner~~ local assessing officials shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing officials and commissioner along with one-half of the tax collected, forward one copy to the register of deeds of the municipality in which the land is located, forward one copy to the secretary of the agency of agriculture, food and markets if the land is agricultural land, and forward one copy to the commissioner of forests, parks and recreation if the land is managed forestland. Thereafter, the land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title.

(e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the director, local assessing officials, the secretary of the agency of agriculture, food and markets if the land is agricultural land, and the commissioner of forests, parks and recreation if the land is managed forestland of:

* * *

Sec. 3. 32 V.S.A. § 3758(a) is amended to read:

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed ~~forest land~~ forestland or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix a use value appraisal, or determine that

previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of ~~the director~~ to the director within 30 days of the decision. The aggrieved owner may appeal the director's final decision to the commissioner within 30 days, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of a board of civil authority, as set forth in subchapter 2 of chapter 131 of this title; and may appeal the decision of the assessing officials in the same manner as an appeal of a grand list valuation.

** * * Remove Preferential Property Transfer Tax Rate for Enrolled Land * * **

Sec. 4. REPEAL

32 V.S.A. § 9602(2) (providing preferential property transfer tax for land enrolled in the use value appraisal program) is repealed effective July 1, 2010.

** * * Electronic Administration of Use Value Appraisal Program * * **

Sec. 5. APPROPRIATION

(a) For fiscal year 2011, there is appropriated \$300,000.00 from the general fund to the use value appraisal program special fund created pursuant to 32 V.S.A. § 3756(e) for the purpose of administering the program electronically.

(b) It is the intent of the general assembly to appropriate \$300,000.00 from the general fund to the use value appraisal program special fund to continue administering the program electronically in each of fiscal years 2012 and 2013.

Sec. 6. NOTICE

(a) The director of property valuation and review shall timely provide written notice to each owner of land enrolled in the use value appraisal program of the changes provided for in this act and the options the owner has with respect to any enrolled land.

(b) The director shall timely provide written notice to all applicants to the use value appraisal program who applied to enroll land for the September 1, 2009, deadline of the changes provided for in this act and the options the applicant has with respect to the enrollment of land. Each applicant shall have the opportunity to do one of the following:

(1) Enroll all of the land as provided for in the original application; or

(2) Withdraw the application in its entirety by filing a notice of withdrawal with the director on or before July 1, 2010.

(c) Any applicant who does not provide notice to the director by July 1,

2010, pursuant to subsection (b) of this section shall be deemed to have elected to enroll all of the land as provided for in the original application pursuant to subdivision (b)(1) of this section. The director shall refund the application fee of any applicant who elects to withdraw the application in its entirety pursuant to subdivision (b)(2) of this section.

Sec. 7. WAIVER OF ERRORS AND OMISSIONS

For April 1, 2010, grand list only, the provisions of 32 V.S.A. § 4261, requiring selectboard approval before listers may correct errors on the grand list, are waived with respect to making changes to the grand list that are the result of withdrawal of applications for enrollment pursuant to Sec. 6(b)(2) of this act.

Sec. 8. THE FUTURE OF THE USE VALUE APPRAISAL PROGRAM

(a) Given the critical importance of Vermont's use value appraisal program to the state's agricultural and forest industries as well as to the state's rural character and quality of life and in response to continuing fiscal challenges, the general assembly should consider multiple strategies to strengthen the effectiveness, efficiency, and fairness of the use value appraisal program and seek ways to find additional revenue generation or cost savings consistent with the program's policy objectives.

(b) There is created a current use committee to study issues relating to the use value appraisal program and to report to the house committees on agriculture, on natural resources and energy, on fish, wildlife and water resources, and on ways and means and to the senate committees on agriculture, on natural resources and energy, and on finance. The committee shall provide an interim report no later than January 15, 2011, and a final report no later than January 15, 2012. The members of the study committee shall be:

(1) The director of property valuation and review, who shall serve as the chair of the committee and shall call the first meeting of the committee on or before July 1, 2010;

(2) The secretary of the agency of agriculture, food and markets or designee;

(3) The commissioner of forests, parks and recreation or designee;

(4) A representative of the Vermont League of Cities and Towns, appointed by its board of directors;

(5) A representative of the Vermont Assessors and Listers Association, appointed by its board of directors;

(6) A member of the public appointed by the speaker of the house;

(7) A member of the public appointed by the committee on committees;

(8) A member of the public appointed by the governor;

(9) A member of the current use advisory board established pursuant to 32 V.S.A. § 3753, appointed by the chair.

(c) The committee report shall address the following issues in detail:

(1) The state's formula for municipal reimbursement payments ("hold harmless payments").

(2) The extent and degree of over-assessment of enrolled land;

(3) Whether there is a need to create incentives for landowners who keep enrolled land open for public recreation, and if so, what incentives.

(4) The feasibility of allowing enrollees to omit on an initial application or withdraw from the program an undesignated two-acre housesite that would be assessed at the highest value.

(5) Deferral of the land use change tax payment for development of on-farm housing.

(6) Eligibility requirements for agricultural parcels smaller than 25 acres.

(d) Members of the committee who are not state employees shall be entitled to compensation as provided under 32 V.S.A. § 1010.

Sec. 8a. USE VALUE APPRAISAL "EASY-OUT"

Notwithstanding any other provision of law, an owner of property enrolled in use value appraisal under chapter 124 of Title 32 as of the passage of this act, who elects to discontinue enrollment of the entire parcel may be relieved of the first \$100,000.00 of land use change tax imposed pursuant to section 3757 of that title; provided that, if the property owner does elect to discontinue enrollment and be relieved of the first \$100,000.00 of land use change tax, the owner shall pay the full property tax, based upon the property's full fair market value, for the 2010 assessment, and no state reimbursement shall be paid for that land. No property owner may be relieved of more than \$100,000.00 in land use change tax under this provision. An election to discontinue enrollment under this provision is effective only if made in writing to the director of property valuation and review on or before September 1, 2010; and no owner or successor who elects to discontinue enrollment under this section may re-enroll less than the entire withdrawn parcel in the succeeding five years.

Sec. 8b. LIMITATION ON EASY-OUT

The "easy-out" provided for in Sec. 8a of this act shall not be available for any parcel that has been developed, as that term is defined in 32 V.S.A. § 3752(5), prior to the effective date of this act.

Sec. 9. EFFECTIVE DATES AND TRANSITION RULES

(a) Any withdrawal of an application for use value appraisal pursuant to Sec. 6(b)(2) of this act after the date of passage of this act and before July 1, 2010, shall be deemed to affect the enrollment status of the withdrawn property for the grand list of April 1, 2010.

(b) Subject to the provisions of Secs. 8a and 8b of this act, property withdrawn from the use value appraisal program before the effective date of Secs. 2 and 3 of this act, but not developed before that date, shall be subject to the land use change tax under the provisions of 32 V.S.A. § 3757 that were in effect at the time of withdrawal; and revenues from land use change tax paid on any such property shall be paid to the commissioner for deposit into the general fund.

(c) This section and Secs. 1, 5, 6, 7, and 8 of this act shall take effect upon passage.

(d) Secs. 2 and 3 of this act shall take effect on November 1, 2010.

(e) Sec. 4 of this act shall apply to all property transfers on or after July 1, 2010.