

1 H.852

2 Introduced by Committee on Natural Resources and Energy

3 Date:

4 Subject: Conservation and development; taxation; State lands; use value
5 appraisal; maple sugar production

6 Statement of purpose of bill as introduced: This bill proposes to increase the
7 tapping fees for licenses issued by the Department of Forests, Parks and
8 Recreation for maple sap collection on State lands. The bill would authorize
9 the Department to modify the fee in the future by rule. The bill would also
10 exempt land acquired by the Agency of Natural Resources (ANR) from the
11 land use change tax in order to release lands acquired by ANR from land use
12 change tax liens. In addition, the bill would establish the Forestland
13 Intergenerational Transfer Study Committee to develop recommendations for a
14 statewide program to improve the capacity of providing successional planning
15 technical assistance to forestland owners in Vermont.

16 An act relating to State lands

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

2 Sec. 1. 10 V.S.A. § 2606b is amended to read:

3 § 2606b. LICENSE OF ~~FOREST LANDS~~ FORESTLANDS FOR MAPLE
4 SUGAR PRODUCTION

5 (a) The ~~general assembly~~ General Assembly finds and declares that:

6 (1) Maple sugaring is an important cultural tradition of Vermont life that
7 should be maintained and encouraged.

8 (2) Maple sugaring is an important component of the agricultural and
9 forest products economy in Vermont and is increasingly necessary for farmers
10 that must diversify in order to continue to farm in Vermont.

11 (3) Maple sugaring is a sustainable use of ~~forest land~~ forestland.

12 (4) State ~~forest land~~ forestland should be managed and used for multiple
13 uses, including maple sugar production.

14 (b) It is hereby adopted as ~~state~~ State policy to permit limited use of
15 designated ~~state-owned~~ State-owned land under the jurisdiction of the
16 ~~department~~ Department for maple sugar production.

17 (c) ~~Beginning on July 1, 2009, pursuant~~ Pursuant to guidelines developed
18 jointly by the ~~department of forests, parks and recreation and the Vermont~~
19 ~~maple sugar makers' association~~ Department of Forests, Parks and Recreation,
20 in consultation with the Vermont Maple Sugar Makers' Association, the
21 ~~department shall~~ Department may issue licenses for the use of ~~state forest land~~

1 State forestland for the tapping of maple trees, the collection of maple sap, and
2 the transportation of such sap to a processing site located off ~~state forest land~~
3 State forestland or to sites located on ~~state forest land~~ State forestland if
4 approved by the ~~commissioner~~ Commissioner. All tapping of maple trees
5 authorized under a license shall be conducted according to the guidelines for
6 tapping maple trees ~~agreed to~~ established by the ~~department and the Vermont~~
7 ~~maple sugar makers' association~~ Department of Forests, Parks and Recreation,
8 in consultation with the Vermont Maple Sugar Makers' Association. Each
9 person awarded a license under this section shall maintain and repair any road,
10 water crossing, or work area according to requirements set by the ~~department~~
11 Department in the license. Each license shall include such additional terms
12 and conditions set by the ~~department~~ Department as may be necessary to
13 preserve forest health and to assure compliance with the requirements of this
14 chapter and applicable rules. A license shall be issued for a fixed term not to
15 exceed five years and shall be renewable for two five-year terms subsequent to
16 the initial license. Subsequent renewals shall be allowed where agreed upon
17 by the ~~department~~ Department and the licensee. The ~~department~~ Department
18 shall have power to terminate or modify a license for cause, including damage
19 to forest health.

20 * * *

1 (f) There shall be an annual license fee imposed based on the number of
2 taps installed in the license area. The per tap fee for a license issued under this
3 section shall be ~~one quarter of the average of the per pound price of Vermont~~
4 ~~fancy grade syrup and the per pound price of Vermont commercial grade syrup~~
5 ~~as those prices are set on May 1 of each year. The fee set each May 1 shall~~
6 ~~apply to licenses issued by the department for the succeeding period beginning~~
7 ~~June 1 and ending May 31~~ \$0.75 per tap, unless modified by the Commissioner
8 by rule. Fees collected under this section shall be deposited in the ~~forest parks~~
9 ~~revolving fund~~ Lands and Facilities Trust Fund established under section ~~2609~~
10 2807 of this title and shall be used by the ~~department~~ Department to implement
11 the license program established by this section.

12 (g) ~~On or before January 15, 2010, the commissioner of forests, parks and~~
13 ~~recreation shall submit to the senate and house committees on natural resources~~
14 ~~and energy and the senate and house committees on agriculture a report~~
15 ~~regarding the implementation of the requirements of this section. The report~~
16 ~~shall include:~~

17 (1) ~~A copy of the guidelines required by this section for issuing licenses~~
18 ~~for the use of state forest land for maple sap collection and production.~~

19 (2) ~~A summary of the process used to identify parcels of state forest land~~
20 ~~suitable for licensing for maple sap collection and production and the process~~
21 ~~by which the department allocated licenses.~~

1 ~~(3) A summary of the licenses issued for maple sap collection and~~
2 ~~production on state forest land.~~

3 ~~(4) An estimate of the fees collected for licenses issued under this~~
4 ~~section.~~

5 ~~(5) A copy of any rules adopted by or proposed for adoption by the~~
6 ~~commissioner to implement the requirements of this section. [Repealed.]~~

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

8 § 3757. LAND USE CHANGE TAX

9 (a) Land which has been classified as agricultural land or managed
10 forestland pursuant to this chapter shall be subject to a land use change tax
11 upon the development of that land, as defined in section 3752 of this chapter.
12 The tax shall be at the rate of 10 percent of the full fair market value of the
13 changed land determined without regard to the use value appraisal. If changed
14 land is a portion of a parcel, the fair market value of the changed land shall be
15 the fair market value of the changed land as a separate parcel, divided by the
16 common level of appraisal. Such fair market value shall be determined as of
17 the date the land is no longer eligible for use value appraisal. This tax shall be
18 in addition to the annual property tax imposed upon such property. Nothing in
19 this section shall be construed to require payment of an additional land use
20 change tax upon the subsequent development of the same land, nor shall it be
21 construed to require payment of a land use change tax merely because

1 previously eligible land becomes ineligible, provided no development of the
2 land has occurred.

3 * * *

4 (f)(1) When the application for use value appraisal of agricultural and
5 forestland has been approved by the State, the State shall record a lien against
6 the enrolled land in the land records of the municipality ~~which~~ that shall
7 constitute a lien to secure payment of the land use change tax to the State upon
8 development. The landowner shall bear the recording cost. The land use
9 change tax and any obligation to repay benefits paid in error shall not
10 constitute a personal debt of the person liable to pay the same, but shall
11 constitute a lien which shall run with the land. All of the administrative
12 provisions of chapter 151 of this title, including those relating to collection and
13 enforcement, shall apply to the land use change tax. The Director shall release
14 the lien when notified that:

15 (A) the land use change tax is paid;

16 (B) the land use change tax is abated pursuant to this section;

17 (C) the land use change tax is abated pursuant to subdivision 3201(5)
18 of this title;

19 (D) the land is exempt from the levy of the land use change tax
20 pursuant to this section and the owner requests release of the lien; or

1 (E) the land is exempt from the levy of the land use change tax
2 pursuant to this section and the land is developed.

3 (2) Nothing in this subsection shall be construed to allow the enrollment
4 of agricultural land or managed forestland without a lien to secure payment of
5 the land use change tax. Any fees related to the release of a lien under this
6 subsection shall be the responsibility of the owner of the land subject to the
7 lien.

8 (g) Upon application, the Commissioner may abate a use change tax levy
9 concerning agricultural land found eligible for use value appraisal under
10 subdivision 3752(1)(A) of this title, in the following cases:

11 (1) If a disposition of such property resulting in a change of use of it
12 takes place within five years of the initial assessment at use value because of
13 the permanent physical incapacity or death of the individual farmer-owner or
14 farmer-operator of the property.

15 (2) If a disposition of the property was necessary in order to raise funds
16 to continue the agriculture operation of the seller. In this case, the
17 Commissioner shall consider the financial gain realized by the sale of the land
18 and whether, in respect to that gain, payment of the use change tax would
19 significantly reduce the ability of the seller to continue using the remaining
20 property, or any part thereof, as agricultural land.

1 (h) Land condemned as a result of eminent domain or sold voluntarily to a
2 condemning authority in anticipation of eminent domain proceedings is exempt
3 from the levy of a land use change tax under this section.

4 * * *

5 (j)(1) Land transferred to the ~~United States~~ U.S. Forest Service is exempt
6 from the levy of a use change tax under this section, provided ~~all~~ one of the
7 following ~~apply~~ applies:

8 ~~(1)(A)~~ land transferred is eligible for use value appraisal at the time
9 of the transfer;

10 ~~(2)(B)~~ the transfer is in consideration for the receipt from the ~~United~~
11 ~~States~~ U.S. Forest Service of land of approximately equal value, as determined
12 by the Commissioner; ~~and~~ or

13 ~~(3)(C)~~ the landowner has submitted to the Commissioner in writing a
14 binding document that would substitute the land received for the land
15 transferred to the Forest Service, for the purposes of this chapter.

16 (2) Land acquired by the Green Mountain National Forest for public use
17 is exempt from the levy of a use change tax under this section.

18 (k) Conservation and preservation rights and interests held by an agency of
19 the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34,
20 shall be exempt from the levy of a use change tax. Upon request of the agency
21 or qualified holder, the Commissioner may petition the Director to release the

1 conservation and preservation rights and interests from any lien recorded
2 pursuant to this chapter.

3 (1) Land acquired by the Agency of Natural Resources; the Department of
4 Forests, Parks and Recreation; the Department of Fish and Wildlife; or the
5 Department of Environmental Conservation for public uses, as authorized by
6 10 V.S.A. § 6301(a)(1)–(4), is exempt from the levy of a land use change tax
7 under this section.

8 Sec. 3. FORESTLAND INTERGENERATIONAL TRANSFER STUDY
9 COMMITTEE

10 (a) Creation. There is created the Forestland Intergenerational Transfer
11 Study Committee to develop recommendations for a statewide program to
12 improve the capacity of providing successional planning technical assistance to
13 forestland owners in Vermont.

14 (b) Membership. The Forestland Intergenerational Transfer Study
15 Committee shall be composed of the following 10 members:

16 (1) the Commissioner of Forests, Parks and Recreation or designee;

17 (2) a member of the House of Representatives, appointed by the Speaker
18 of the House;

19 (3) a member of the Senate, appointed by the Committee on
20 Committees;

1 (4) a member of the public who is a forestland owner, appointed by the
2 Governor;

3 (5) an estate planning consultant or attorney, appointed by the Governor;

4 (6) the Vermont Extension Forester at the University of Vermont or
5 designee;

6 (7) a representative of the Vermont Woodlands Association, appointed
7 by the Speaker of the House;

8 (8) a representative of Vermont Coverts, appointed by the Committee on
9 Committees;

10 (9) a representative of the Vermont Natural Resources Council,
11 appointed by the Governor; and

12 (10) a representative of the Farm and Forest Viability Program at the
13 Vermont Housing and Conservation Board, appointed by the Speaker of the
14 House.

15 (c) Powers and duties. The Committee shall:

16 (1) develop recommended priorities for succession planning for
17 forestland owners;

18 (2) develop strategies for improving conservation investments or
19 incentives that facilitate the intergenerational transfers of intact forestland;

1 (3) develop other strategies for lessening the impact of estate taxes or
2 other pressures that could lead to the breaking up and subdivision of intact
3 forest parcels; and

4 (4) develop recommended legislative changes that may be needed to
5 implement its recommendations and strategies.

6 (d) Assistance. The Forestland Intergenerational Transfer Study
7 Committee shall have the administrative, technical, and legal assistance of the
8 Department of Forests, Parks and Recreation.

9 (e) Report. On or before January 15, 2017, the Forestland Intergenerational
10 Transfer Study Committee shall submit a report to the House Committees on
11 Natural Resources and Energy and on Ways and Means and the Senate
12 Committees on Natural Resources that shall include the Committee's findings
13 and any recommendations for legislative action.

14 (f) Meetings.

15 (1) The Commissioner of Forests, Parks and Recreation shall call the
16 first meeting of the Forestland Intergenerational Transfer Study Committee to
17 occur on or before September 1, 2016.

18 (2) The Commissioner of Forests, Parks and Recreation shall be the
19 Chair of the Committee.

20 (3) A majority of the membership of the Committee shall constitute a
21 quorum.

1 (4) The Forestland Intergenerational Transfer Study Committee shall
2 cease to exist on February 1, 2017.

3 (g) Reimbursement. Members of the Forestland Intergenerational Transfer
4 Study Committee shall not be entitled to compensation or reimbursement of
5 expenses for participation in the Committee.

6 Sec. 4. EFFECTIVE DATE

7 This act shall take effect on July 1, 2016.