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Title 3: Executive

Chapter 45: ADMINISTRATION

§ 2289. Division of property valuation and review

(a) There is created within the department of taxes of the agency of administration, a division of property valuation and review.

(b) In addition to other responsibilities assigned to it by law, the division shall assist in the administration of property taxation and provide property taxation information to state officials and employees.

(c) The director of the division shall be an exempt employee and shall be appointed by the commissioner of taxes, with the concurrence of the secretary of administration.

Title 8: Banking and Insurance

Chapter 123: NONPROFIT HOSPITAL SERVICE CORPORATIONS

§ 4511. Purposes and definition

A corporation may be organized for the purpose of establishing, maintaining and operating a nonprofit hospital service plan whereby hospital care may be provided by a hospital maintained by a corporation organized for hospital purposes to such of the public who become subscribers to such plan under a contract which entitles each subscriber to certain hospital care. For the purposes of this chapter, the term "hospital service corporation" includes any corporation organized under the provisions of this chapter and also any unincorporated association furnishing hospital, medical, surgical or nursing services, or any combination of the foregoing, to subscribers or members, except as provided in section 4519 of this title.

§ 4518. Tax exemption

A hospital service corporation shall be exempt from all forms of taxation.

Chapter 125: NONPROFIT MEDICAL SERVICE CORPORATIONS

§ 4583. Purposes and definition

A medical service corporation is a nonprofit sharing corporation without capital stock, organized under the laws of this state for the purpose of establishing, maintaining and operating a plan whereby medical or medical and dental services may be provided at the expense of the corporation by duly licensed physicians and dentists to subscribers under contract, entitling each subscriber to certain medical services or medical and dental services as provided in such contract. Corporations formed under the provisions of this chapter shall have the privileges and be subject to the provisions of Title 11B as well as the applicable provisions of this chapter. In the event of a conflict between the provisions of Title 11B and the provisions of this chapter, the latter shall control.

§ 4590. Tax exemption

A medical service corporation shall be exempt from all forms of taxation.

Title 9: Commerce and Trade

Chapter 72: MOBILE HOMES

§ 2602. Sale; price disclosure; uniform mobile home bill of sale

(a) When a mobile home is sold or offered for sale:

(1) If a mobile home is appraised, the appraisal shall include a cover sheet which itemizes the value of the unsited mobile home, the value of any adjacent or attached structures located on the site and the value of the sited location, if applicable, and valuations of sales of comparable properties.

(2) In the case of a new mobile home, the seller shall provide to a prospective buyer a written disclosure which states the retail price of the unsited mobile home, any applicable taxes, the set-up and transportation costs and the value of the sited location, if applicable.

(3) [Deleted.]

(4) A legible copy of the disclosure required in subdivision (2) of this subsection shall be prominently displayed on a new mobile home in a location that is clearly visible to a prospective buyer from the exterior.

(b) No mobile home may be sold unless a mobile home uniform bill of sale as described in subsection (c) is completed and furnished by the seller to the buyer. The mobile home uniform bill of sale must be filed with the town clerk of the town in which the mobile home is to be located. Prior to resale, a mobile home uniform bill of sale must be endorsed by the town clerk of the town in which the mobile home is located and a copy sent to the town clerk where the mobile home will be located.

(c) No mobile home shall be moved over the highways of this state unless the operator of the vehicle hauling such mobile home has in his or her possession a copy of the mobile home uniform bill of sale endorsed pursuant to 32 V.S.A. § 5079 by the town clerk of the town in which the mobile home was last listed and by the clerk of the town in which the mobile home was last located. The mobile home uniform bill of sale shall contain the make, model, serial, size, year manufactured and location of each mobile home. It shall give the name and address of the owner of the property and whether the property is subject to a security interest and shall be substantially in the following form: VERMONT MOBILE HOME UNIFORM BILL OF SALE KNOW ALL PEOPLE BY THESE PRESENTS THAT, Seller(s), of County of and State of, in consideration of Dollars (\$) paid by, Buyer(s), of County of and State of the receipt and sufficiency whereof is hereby acknowledged, do hereby grant, sell, transfer and deliver unto said Buyer(s) the following goods and chattels, namely: Mobile Home Make: Model: Year: Serial Number: Size: Color: presently located at in the Town of [] Mobile Home will

remain at above location. [] Mobile Home will be located at in Town of TO HAVE AND TO HOLD all and singular the goods and chattels to the said Buyer(s) and Buyer(s) executors, administrators, and assigns, to Buyer(s) own use and behoof forever. And the Seller(s) hereby covenant(s) with the said Buyer(s) that Seller(s) is/are the lawful owner(s) of said goods and chattels, that they are free from all encumbrances, that Seller(s) has/have good right to sell the same as aforesaid, and that Seller(s) will warrant and defend the same against the lawful claims and demands of all persons. IN WITNESS WHEREOF, the Seller(s) hereto set(s) his/herhand(s), this day of A.D. 20 Witness Seller

..... Witness Seller NOTICE: Title 32 V.S.A. § 5079 requires that this Mobile Home Uniform Bill of Sale be signed by Sellers, Town Clerk of the Town where the Mobile Home is located prior to sale, and filed by Buyer with the Town Clerk of the Town where the Mobile Home will be located after the sale.

SECURITY INTEREST This property is subject to the following security interest or interests of record: Secured Party Date Discharged Town Record Number TO BE COMPLETED BY TOWN CLERK WHERE MOBILE HOME IS PRESENTLY LOCATED. I hereby acknowledge that: 1. Notation of above transfer has been made on the margin of the retained copy of the Mobile Home Uniform Bill of Sale whereby Seller(s) herein acquired title. 2. Copy of this bill of sale has been forwarded to Town Clerk of Town where above Mobile Home will be located. 3. Notation of security interest has been made. DATED: ATTEST: TOWN CLERK

Title 10: Conservation and Development

Chapter 12: VERMONT ECONOMIC DEVELOPMENT AUTHORITY

§ 212. Definitions

As used in this chapter:

* * *

(10) "Local development corporation" means any nonprofit organization incorporated in the state for the purpose of fostering, encouraging and assisting the physical location of business enterprises within the state and having as its principal purpose the industrial and economic development of one or more political subdivisions, and shall include the Northeastern Vermont Development Association and any state development company organized under section 216(13) of this title; however, in addition to the foregoing, for the purpose of providing assistance to small business incubator facilities, any nonprofit organization which enters into a written agreement with the authority to establish, operate and administer a small business incubator facility, including municipalities, local or regional nonprofit development corporations and higher educational institutions, shall have the rights and obligations of a local development corporation under this chapter;

§ 236. Taxes

(a) While a part of a building or industrial park owned by a local development corporation and subject to a mortgage to the authority or the state of Vermont under this subchapter remains unoccupied, that portion which remains unoccupied shall be exempt from all taxes and special assessments of the state or a municipality. Instead of taxes, payments shall be made by the local development corporation to the municipality in which the speculative building or industrial park is located for highway maintenance, fire protection or for other services.

(b) Any property to which the authority holds title by reason of foreclosure upon a mortgage or other security given by a local development corporation in connection with a loan made under this subchapter, or voluntary conveyance in lieu thereof, shall, as long as it is not leased or rented, be exempt from all taxes and special assessments of the state and all local municipal property taxes for the remaining balance of the tax year in which title becomes vested in the authority and the entire next succeeding year, provided however, that thereafter the authority shall pay 50 percent of the local municipal property taxes annually assessed against such property during the term of the authority's ownership.

§ 251. Taxation of eligible facilities

All real and personal property comprising an eligible facility financed under this subchapter shall be set in the grand list and taxed to the tenant of the facility as if the tenant were the owner of the property in fee.

Chapter 23: AIR POLLUTION CONTROL

§ 570. Exemption from taxation

Approved air pollution treatment facilities shall be exempted from real and personal property taxation in the same manner provided tax exemption of water treatment facilities under the provisions of section 3802 of Title 32.

Chapter 25: VERMONT HOUSING FINANCE AGENCY

§ 641. Tax exemption

(a) All property of the agency is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes, franchise fees and special assessments of whatever nature of the state or any subdivision. All bonds or notes issued under this chapter are issued by a body corporate and public of this state and for an essential public and governmental purpose and those bonds and notes, and the interest thereon and the income therefrom, and all activities of the agency and fees, charges, funds, revenues, incomes and other moneys of the agency whether or not pledged or available to pay or secure the payment of those bonds or notes, or interest thereon, are exempt from all taxation, franchise fees or special assessments of whatever kind except for transfer, inheritance and estate taxes.

(b) The agency is not required to make or file any reports, statements or informational returns required of any other bodies corporate except as provided in this chapter.

(c) Notwithstanding subsection (a) of this section, a tax lien on real property which has attached pursuant to 32 V.S.A. § 5061 shall not be extinguished as a result of the acquisition by the agency of property subject to such lien. No real property owned by the agency on April 1 of any year shall be assessed for taxes by any municipality and no lien for taxes pursuant to 32 V.S.A. § 5061 shall attach to such property whether or not the agency subsequently transfers the property to a taxable person prior to April 1 of the following year.

Chapter 155: ACQUISITION OF INTERESTS IN LAND BY PUBLIC AGENCIES

§ 6301. Purpose

It is the purpose of this chapter to encourage and assist the maintenance of the present uses of Vermont's agricultural, forest, and other undeveloped land and to prevent the

accelerated residential and commercial development thereof; to preserve and to enhance Vermont's scenic natural resources; to strengthen the base of the recreation industry and to increase employment, income, business, and investment; 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.

§ 6301a. Definitions

As used in this chapter:

(1) "State agency" means the agency of natural resources or any of its departments, agency of transportation, agency of agriculture, food and markets or Vermont housing and conservation board.

(2) "Qualified organization" means:

(A) an organization qualifying under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which is not a private foundation as defined in section 509(a) of the Code, and which has been certified by the commissioner of taxes as being principally engaged in the preservation of undeveloped land for the purposes expressed in section 6301 of this title.

(B) an organization qualifying under section 501(c)(2) of the Internal Revenue Code of 1986, as amended, provided such organization is controlled exclusively by an organization or organizations described in subdivision (2)(A) of this section.

(3) "Taxation" and "tax" means ad valorem taxes levied by the state and its municipalities.

§ 6302. Power to acquire

(a) In order to carry out the purposes set forth in section 6301 of this title any owner of real property located within this state or of any right or interest therein may sell, donate, devise, exchange or transfer that real property or any right or interest therein to a municipality of this state, a state agency or a qualified organization. A municipality of this state by the action of its legislative body or a state agency may acquire such real property or any right and interest therein by purchase with any authorized funds, or by donation, devise, exchange, or transfer, all as herein provided.

(b) For the purposes of this chapter, "real property" includes (without limitation) areas covered by water, areas beneath the surface of the ground, air space, and any buildings, other structures, and other improvements, and "real estate" as the same is defined in section 132 of Title 1.

(c) The general assembly hereby declares that the acquisition of real property or any right and interest therein, for the purposes expressed in section 6301 of this title, constitutes a public use and a public purpose for which public funds may be expended or advanced.

(d) Prior to the acquisition of any right or interest in real property by a state agency, the state agency shall submit a report thereon to the legislative body of the municipality

concerned, setting forth the location of the real property, the characteristics of the right or interest to be acquired, and the consideration to be given therefor.

§ 6303. Interests which may be acquired

(a) The rights and interests in real property which may be acquired, used, encumbered and conveyed by a municipality, state agency or qualified organization shall include, but not be limited to, the following:

(1) Fee simple;

(2) Fee simple subject to right of occupancy and use, which may be defined as full and complete title subject only to a right of occupancy and use of the subject real property or part thereof by the grantor for residential or agricultural purposes, subject to the provisions of section 6304 of this title and to such other terms as the legislative body of the municipality, the qualified organization, or the state agency may fix;

(3) Fee simple and resale of rights and interests, which may be defined as the acquisition of real property in fee simple and the subsequent reconveyance of rights and interests in such property to the former owner or to others, subject to the provisions of section 6304 of this title and to specified covenants, restrictions, conditions or affirmative requirements fixed by the legislative body of the municipality, the qualified organization, or the state agency in its discretion and designed to accomplish the purposes set forth in section 6301 of this title.

(4) Fee simple and lease back, which may be defined as the acquisition of real property in fee simple and the lease for the life of a person or for a term of years of rights and interests therein, subject to the provisions of section 6304 of this title and to specified covenants, restrictions, conditions or affirmative requirements fixed by the legislative body of the municipality, the qualified organization, or the state agency in its discretion and designed to accomplish the purposes set forth in section 6301 of this title.

(5) Less than fee simple. The acquisition and retention of any rights and interests in real property less than fee simple.

(6) Lease. The lease of land or rights and interests in land for a term, with or without an option to purchase.

(7) Option to purchase. The acquisition of an option to purchase land or rights and interests therein.

(b) The legislative body of a municipality, a state agency or a qualified organization, as the case may be, shall determine the types of rights and interests in real property to be acquired, including licenses, equitable servitudes, profits, rights under covenants, easements, development rights, or any other rights and interests in real property of whatever character.

(c) Where less than fee simple ownership is acquired or retained, such right and interest may, in the discretion of the legislative body of the municipality, the state agency or the

qualified organization, include a right to enter in order to accomplish the purposes of section 6301 of this title.

§ 6304. Sales of land

In any case where rights and interests in real property have been reconveyed or leased back to a person by a municipality or a department, the use of land subject thereto shall not be changed, and no residential, industrial or commercial construction except for the use of the owner or his family shall be undertaken, except with the consent of the legislative body of the municipality or the department or except as specifically provided in the instrument evidencing the reconveyance or lease. In the event of the termination of any rights or interests of such person, the legislative body of the municipality or the department shall pay to such person an amount equal to the fair market value of that portion of such right which remained unexpired on the date of such termination, unless such termination is caused by the breach by such person of a term of the instrument by which he acquired such right or interest. In any case of acquisition subject to a right of occupancy and use, or acquisition and reconveyance, or acquisition and lease, under section 6303(a) of this title, the legislative body or department shall give priority to the grantor thereof in selecting the grantee or lessee, as the case may be.

§ 6305. Exchanges of land

In exercising its authority to acquire property by exchange, a department may accept real property and rights and interests therein, and may convey to the grantor of such real property or rights and interests therein any state-owned property under the jurisdiction of the department, but only with the favorable advice and recommendation of the interagency committee on natural resources. In effecting such exchanges, the department may also utilize for exchange purposes any privately-owned land and rights and interests therein donated or made available to it for such purpose of an exchange. The land and rights and interests thus exchanged shall be approximately equal in fair market value, provided that the department may accept cash from or pay cash to the grantor in such an exchange, in order to equalize the value of the property and rights and interests therein being exchanged. Notwithstanding any other provisions of law and with the approval of the interagency committee on natural resources, state real property and rights and interests therein may, with the authorization of the department or other agency having custody thereof, be transferred without consideration, to the jurisdiction of a department designated under section 6302 of this title for use in carrying out the provisions of this chapter.

§ 6306. Exemption from taxation

(a) The rights and interests in real property acquired by a municipality or state agency under the authority of this chapter shall be considered as municipal or state-owned land, as the case may be, with respect to taxation and state reimbursement in lieu of taxes.

(b) The commissioner of the department of taxes may certify that real property acquired by a qualified organization under this chapter is being held and maintained for the purposes expressed in section 6301 of this title. As a condition of that certification, the

commissioner may require that the qualified organization provide adequate assurances that the property is being so held and maintained, including but not limited to written agreements with the department of taxes, deeds, covenants or other conveyances.

Property which is so certified:

(1) if in the nature of an interest in fee simple, shall be assessed on the basis of its actual use, or may be enrolled by the qualifying organization in a current use program under chapter 124 of Title 32; or

(2) shall be exempt from assessment and taxation, if in the nature of an interest other than fee simple.

For purposes of this section, where a qualified organization holds a lease in the property for a term greater than ten years, including renewal terms, or holds such other interests as the commissioner shall determine to be substantially equivalent to an interest in fee simple, the organization shall be deemed to hold an interest in fee simple.

(c) After acquisition by a municipality, state agency or qualified organization of a right or interest in real property under the authority of this chapter, the owner of any remaining right or interest therein not so acquired shall be taxed, under the applicable provisions of chapter 123 of Title 32, only upon the value of those remaining rights or interests to which he retains title. The state agency or qualified organization, and the department of taxes, shall cooperate with that owner, and with the town assessing such tax, in the determination of the fair market value of any such remaining right or interest.

(d) Property held by a qualified organization and taxed or exempted under subsection (b) of this section shall be subject to a conversion tax if the commissioner determines that it is no longer being held and maintained for the purposes expressed in section 6301 of this title. The amount of the conversion tax shall be five times the amount of the taxes avoided by reason of the exemption in the most recent year. The conversion tax shall be paid to the municipality in which the property is located.

§ 6307. Enforcement

(a) Injunction. In any case where rights and interests in real property are held by a municipality, state agency or qualified organization under the authority of this chapter, the legislative body of the municipality, the state agency or the qualified organization may institute injunction proceedings to enforce the rights of the municipality, state agency or qualified organization, in accordance with the provisions of this chapter, and may take all other proceedings as are available to an owner of real property under the laws of this state to protect and conserve its right or interest.

(b) Liquidated damages. Any contract or deed establishing or relating to the sale or transfer of rights or interests in real property under the authority of this chapter may provide for specified liquidated damages, actual damages, costs and reasonable attorney fees in the event of a violation of the rights of the municipality, state agency or qualified organization thereunder.

§ 6308. Termination of rights

(a) If the legislative body of a municipality in the case of municipal rights or interests, or a state agency, in the case of state-owned rights or interests, finds that the retention of the rights or interests is no longer needed to carry out the purposes of this chapter, the rights or interests may be released and conveyed to the co-owner, to another public agency, to another party holding other rights or interests in the land, or to a third party. Where the conveyance is to a party other than another public agency or qualified organization, the municipality or state agency shall receive adequate compensation from that party for the conveyance of the rights or interests.

(b) Wherever possible, in order to promote the interests of the state, municipalities, qualified organizations, or private landowners involved, agreements for the conveyance of rights or interests in real property less than fee simple, entered into under the authority of this chapter, shall contain a provision limiting the agreement to a specified number of years except where both parties agree, such agreements may provide for the conveyance of rights and interests in perpetuity.

§ 6309. Agency of agriculture, food and markets; leases

In the event that real property acquired by the agency of agriculture, food and markets is leased to a lessee other than a governmental entity of the state of Vermont, the lessee shall be taxed on the fair market value or the use value under the provisions of chapter 124 of Title 32 of the property by the municipality in which it is located.

Title 16: Education

Chapter 9: SCHOOL DISTRICTS

§ 427. Grand list

The grand list of a town or incorporated school district shall consist of one percent of the listed value of the real and personal estate taxable therein, added to the taxable polls therein.

Chapter 72: VERMONT STATE COLLEGES

§ 2178. Tax exemption

All real and personal property owned by the corporation and used for educational and not commercial purposes shall be exempt from taxation.

Chapter 87: GRANTS, SCHOLARSHIP, AND EDUCATION LOAN PROGRAMS

§ 2825. Tax exemptions (Vermont Student Assistance Corporation)

All real and personal property of the corporation is exempt from taxation. All bonds, notes and other obligations issued pursuant to this chapter are issued by a body corporate and public of this state and for an essential public and governmental purpose and those bonds, notes and other obligations, and the interest thereon and income therefrom, except as otherwise provided by resolution of the corporation authorizing the issuance of taxable debt pursuant to section 2868 of this title, and all activities of the corporation and fees, charges, funds, revenues, incomes and other moneys of the corporation whether or not pledged or available to secure the payment of these bonds, notes or other obligations, or interest thereon, are exempt from all taxation, franchise taxes, fees or special assessments of whatever kind except for transfer, inheritance and estate taxes.

Chapter 131: EDUCATIONAL AND HEALTH BUILDINGS FINANCING AGENCY

§ 3859. -Exemptions from taxation

(a) It is hereby found, determined and declared that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of Vermont, for the improvement of their education, health, welfare and prosperity, and is a public purpose, and that the agency will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. The state of

Vermont covenants with the holders of the bonds and notes that the agency shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of facilities, or upon any moneys, revenues or other income received by the agency; and that the bonds and notes of the agency and the income therefrom shall at all times be exempt from taxation, except for transfer and estate taxes.

(b) The state of Vermont does pledge to and agree with the holders of the bonds that the state will not limit or alter the rights hereby vested in the agency to acquire, mortgage, construct, reconstruct and equip the facilities, to maintain, reconstruct, improve and operate the facilities, to establish and collect such rates, rental, fees and other charges as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of the bonds or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest, thereon, with interest on any unpaid installment of interest, and all costs and expenses incurred by the agency in connection with the facilities or in connection with any action or proceedings by or on behalf of the bondholders, are fully met and discharged.

Title 17: Elections

Chapter 55: LOCAL ELECTIONS

§ 2646. Town officers; qualification; election

At the annual meeting, a town shall choose from among its legally qualified voters the following town officers, who shall serve until the next annual meeting and until successors are chosen, unless otherwise provided by law:

- (1) A moderator;
- (2) A town clerk for a term of one year unless a town votes that a town clerk shall be elected for a term of three years. When a town votes for a three year term for the office of town clerk, that three year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;
- (3) A town treasurer for a term of one year unless a town votes that a town treasurer shall be elected for a term of three years. When a town votes for a three year term for the office of town treasurer, that three year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;
- (4) One selectman for a term of three years who shall be elected by ballot;
- (5) One lister for a term of three years who shall be elected by ballot;
- (6) One auditor for the term of three years who shall be elected by ballot, unless the town has voted to eliminate the office of auditor in accordance with the provisions of section 2651b of this title;
- (7) A first constable, and if needed a second constable, unless the town has voted to authorize the selectmen to appoint constables as provided in section 2651a of this title. The terms of office of the first and second constable elected or appointed shall be for one year unless a town votes that they shall be elected or appointed for terms of two years. When a town votes for a two-year term for the offices of first and second constable, the two-year terms shall remain in effect until the town rescinds them by a majority vote of the legal voters voting at an annual meeting, duly warned for that purpose;
- (8) A collector of current taxes, if the town so orders;
- (9) A collector of delinquent taxes, if the town so orders, for a term of one year unless a town votes that a collector of delinquent taxes shall be elected for a term of three years. When a town votes for a three-year term for the collector of delinquent taxes, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;

- (10) One or more grand jurors;
- (11) A town agent to prosecute and defend suits in which the town or town school district is interested;
- (12) A trustee of public funds if the town has so ordered;
- (13) A trustee of public money, but only in towns that retain possession of a portion of the surplus funds of the United States received under the Act of 1836;
- (14) A cemetery commissioner if the town has so ordered;
- (15) One or more patrolmen to patrol town highways under the direction of the selectmen, if the town so orders;
- (16) One or two road commissioners who shall be elected by ballot if the town has so ordered; otherwise they shall be appointed by the selectmen as provided in section 2651 of this title. The road commissioners shall be elected for a term of one year unless a town votes that the commissioners shall be elected for a term of two or three years. When a town votes for a two-year or three-year term for the office of road commissioner, that two-year or three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose;
- (17) Three water commissioners unless the town votes to elect additional selectboard members, in which case the number of water commissioners shall, at the discretion of the selectboard, be the same as the number of members that comprise the selectboard. The commissioners shall be elected by ballot if the town has so ordered; otherwise they shall be appointed by the selectboard as provided in section 2651 of this title. (

§ 2647. Incompatible offices

An auditor shall not be town clerk, town treasurer, selectman, first constable, collector of current or delinquent taxes, trustee of public funds, town manager, road commissioner, water commissioner, sewage system commissioner, sewage disposal commissioner or town district school director; nor shall a spouse of or any person assisting any of these officers in the discharge of their official duties be eligible to hold office as auditor. A selectman or school director shall not be first constable, collector of taxes, town treasurer, auditor or town agent. A selectman shall not be lister. A town manager shall not hold any elective office in the town or town school district. Election officers at local elections shall be disqualified as provided in section 2456 of this title.

§ 2648. Exceptions

Section 2647 of this title shall not apply to towns having not more than 25 legal voters, but in these towns an auditor shall not audit his own accounts kept and rendered in some other official capacity, nor shall the husband or wife of any town official audit his or her spouse's official accounts.

§ 2649. Number of officers

Each town shall have three selectmen and three listers, unless additional selectmen or listers are elected under the provisions of section 2650 of this title, and three auditors. At each annual meeting one selectman, one lister and one auditor shall be elected, each for a term of three years. A town so voting may elect one or two road commissioners for a term of one, two, or three years, as provided in section 2646 of this title. A town so voting may elect three water commissioners. The terms of the water commissioners shall be the same as those of selectmen under sections 2646 and 2650 of this title, except that of those commissioners first elected one shall have a term of one year, one a term of two years, one a term of three years. One or two additional water commissioners may be authorized for one or two year terms as provided in subsection 2650(b) of this title relating to additional selectmen.

§ 2650. Additional selectmen and listers

(a) A town may vote at a special or annual town meeting to elect not more than two additional listers for terms of one year each.

(b) A town may vote at a special or annual town meeting to elect not more than two additional selectmen for terms of either one or two years each. When the terms of the additional selectmen are to be for two years, the warning for the meeting shall so specify. If two additional selectmen positions are created, they shall be for terms of the same length, but if the terms of the new positions are to be for two years, when the additional selectmen are first elected, one shall be elected for one year and the other selectman for two years. Terms of these additional selectmen shall end on annual meeting days. If the additional selectmen are elected at a special meeting the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election.

(c) A vote establishing additional selectmen or listers shall remain in effect until the town votes to discontinue the positions at an annual or special meeting duly warned for that purpose.

§ 2651c. Lack of elected lister; appointment

Notwithstanding any other provisions of law to the contrary, in the event the board of listers of a municipality falls below a majority and the selectboard is unable to find a person or persons to appoint as a lister or listers, the selectboard may appoint an assessor to perform the duties of a lister as set forth in subchapter 2 of chapter 121 of Title 32 until the next annual meeting. The appointed person need not be a resident of the municipality and shall have the same powers and be subject to the same duties and penalties as a duly elected lister for the municipality.

§ 2653. Acceptance of office

A person present at the meeting electing him to municipal office shall be treated as accepting, unless he declines before the meeting is adjourned. When not present, he shall be served as soon as possible with a written notice, signed by the clerk and served by the constable.

§ 2654. Refusal to serve

A person may refuse to accept election or appointment to any municipal office.

Title 18: Health

Chapter 121: CEMETERIES

§ 5317. Tax exemptions

Except as otherwise provided in this chapter, all cemetery lands, buildings and property, and the proceeds thereof, as defined in this chapter, which have been platted and devoted to or held exclusively for cemetery purposes, including donations or gifts and held in trust or otherwise, and all other funds held for the improvement, maintenance, repair and ornamentation of such cemetery, together with the income therefrom and all other revenues and income shall be exempt from taxation.

§ 5376. Sale of lots; tax exemption

The board, by one of the commissioners appointed by it for that purpose, in the name of the town, by deed, may grant and convey lots in such burial grounds to be used for the burial of the dead and on which tombs, cenotaphs and other monuments are to be erected. Such lots shall be exempt from taxation. The deeds thereof shall be recorded in the office of the town clerk of the town wherein such lots lie.

Title 19: Highways

Chapter 9: REPAIRS

§ 958. Laying out roads for removal of lumber

If it becomes necessary for the practical removal of lumber, wood, or other material, to pass through the lands of a person other than those of the owner of the land from which the lumber, wood or other material is to be removed, the selectmen may lay out a right-of-way through the land of any person for these purposes. The selectmen shall follow the procedures established by section 923 of this title.

Title 22: Libraries, History, and Information Technology

Chapter 3: PUBLIC LIBRARIES

§ 102. General authority; procedure

(a) Trustees to whom real or personal property is devised, bequeathed, granted, conveyed or donated for the foundation and establishment of a public library, may, unless otherwise provided by the deviser, grantor or donor of the property, in order to promote the establishment, maintenance and management of the library, form a corporation under the provisions of this section and section 103 of this title.

(b) The trustees may make, sign and acknowledge and file in the office of the secretary of state a statement in writing setting forth the intent of the trustees to form a corporation, a copy of the will or instrument by which the endowment of such library is provided, the name adopted for the corporation, which shall not be the name of a corporation already existing, and the name of the municipality in which the library and the principal place of business of the corporation will be located, the managers who may be designated trustees, managers or directors of such corporation, and the names of the trustees, managers or directors who are to constitute the original board and who shall hold office until their successors are elected and qualified as provided in section 106 of this title.

(c) The secretary of state shall, upon receipt of the statement, issue to the incorporators, under seal, a certificate of which the statement shall be a part, declaring that the organization of the corporation is perfected. The incorporators shall record the certificate in the office of the county clerk of the county in which the library is to be located. Upon recording of the certificate, the corporation shall be deemed fully organized and may proceed to carry out its corporate purposes and receive by conveyance from the trustees the property provided for the endowment of the library. The corporation may hold the property in whatever form it was received or conveyed by the trustees, until that form is changed by action of the corporation.

§ 109. Exemption from taxation

When the instrument providing the endowment declares that the institution shall be a free public library, such library and other property of the corporation shall be forever exempt from taxation.

Title 23: Motor Vehicles

Chapter 1: GENERAL PROVISIONS

§ 4. Definitions

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and part 5 of Title 20, the following definitions shall apply:

* * *

(21) "Motor vehicle" shall include all vehicles propelled or drawn by power other than muscular power, except farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, snowmobiles, or tracked vehicles or electric personal assistive mobility devices.

* * *

(41) "Trailer coach" shall mean any trailer or semi-trailer designed to be towed by a motor vehicle and designed, equipped or used for sleeping, eating or living quarters.

* * *

Title 24: Municipal and County Government

Chapter 33: MUNICIPAL OFFICERS GENERALLY

§ 831. Oaths

The clerk, selectmen, constables, listers, grand jurors and fence viewers of a town shall be sworn before entering upon the duties of their offices. A record thereof shall be made by the town clerk.

§ 901. Actions by or against town officers

(a) Where an action is given to any appointed or elected municipal officer or town school district officer, the action shall be brought in the name of the town in which the officer serves and in the case of a town school district officer in the name of the town school district. If the action is given against such officers, it shall be brought against such town or town school district, as the case may be.

(b) The municipality shall assume all reasonable legal fees incurred by an officer when the officer was acting in the performance of his duties and did not act with any malicious intent.

§ 901a. Tort claims against municipal employees

(a) As used in this section, "municipal employee" means any person employed for a wage or salary by a municipality; a volunteer whose services have been requested by the legislative body of a municipality; a volunteer whose services have been requested by a municipal officer; or a volunteer whose services have been requested by an employee of the municipality acting within the scope of the employee's authority.

(b) When the act or omission of a municipal employee acting within the scope of employment is alleged to have caused damage to property, injury to persons, or death, the exclusive right of action shall lie against the municipality that employed the employee at the time of the act or omission; and no such action may be maintained against the municipal employee or the estate of the municipal employee.

(c) When a municipality assumes the place of a municipal employee in an action as provided in subsection (b) of this section, the municipality may assert all defenses available to the municipal employee, and the municipality shall waive any defense not available to the municipal employee, including municipal sovereign immunity.

(d)(1) The municipality shall defend and indemnify a municipal employee for any legal costs if a municipal employee is improperly named as a defendant in a proceeding.

(2) The municipality shall defend or, when a cause of action contains elements not covered by insurance, reimburse legal defense and expense costs incurred by a municipal employee in the event that a municipal employee is named as a party under subsection (e)

of this section and the employee is dismissed from the matter before the entry of a judgment by the court or the acts or omissions of the employee are determined not to be willful, intentional, or outside the scope of the employee's authority.

(e) This section shall not apply to an act or omission of a municipal employee that was willful, intentional, or outside the scope of the employee's authority.

(f) When two or more conflicting statutes provide protection to a municipal employee whose act or omission is alleged to have caused damage to property, injury to persons, or death, a court shall apply the statute that grants greater protection to the municipal employee.

§ 902. Penalty

Unless otherwise provided, a town officer who fails or neglects to perform a duty imposed upon him by law shall be fined not more than \$100.00.

§ 903. Nonliability of municipal officers for money paid out

An action shall not be maintained against a person for money paid out by him as an officer of a municipal corporation in accordance with a vote of such corporation, whether such vote was valid or not.

§ 931. Claims for personal services

Claims for personal services, except where compensation is fixed by law or by vote of the town or town school district, shall not be allowed to a town or town school district officer, but the auditors shall report claims and the nature and extent of the services at such meeting.

§ 932. Town may vote compensation

A town may vote to compensate any or all town officers for their official services. Such town in annual meeting may fix the compensation of such officers and of town employees.

§ 933. Selectboard may fix; when

When a town does not fix the amount of the compensation to be paid such officers and town employees, the selectboard shall fix and determine the same except as to their own pay which shall be fixed by the auditors at the time of the annual town audit. If the town has voted to eliminate the office of auditor and the voters fail to fix the compensation to be paid to members of the selectboard, selectboard members shall be compensated at the rate at which they were compensated during the immediately preceding year.

§ 934. Selectmen to adjudicate claims

The selectmen shall audit and in their discretion may allow claims against the town and draft orders therefor.

§ 961. Vacancy

(a) When a town officer resigns his or her office, or has been removed therefrom, or dies, or becomes insane or removes from town, such office shall become vacant. Notice of this vacancy shall be posted by the legislative body in at least two public places in the town, and in and near the town clerk's office, within 10 days of the creation of the vacancy.

(b) In the event there are so many vacancies on the selectboard that a quorum cannot be achieved, the remaining selectperson or selectpersons shall be authorized to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled pursuant to section 963 of this title.

§ 962. Special meeting

A town at a special meeting may fill a vacancy in a town office.

§ 963. Duties of selectpersons; special meeting

When a vacancy occurs in any town office, the selectpersons forthwith by appointment in writing shall fill such vacancy until an election is had; except that in the event of vacancies in a majority of the board of selectpersons at the same time, such vacancies shall be filled by a special town meeting called for that purpose. Such appointment shall be filed by them in the office of the town clerk and duly recorded by the town clerk in the book of town records. If there are no selectpersons in office, the secretary of state shall call a special election to fill any vacancies and for that interim shall appoint and authorize the town clerk or another qualified person to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled.

§ 991. Records to be delivered to successor

When a town or town school district office becomes vacant by expiration of the term of office of the incumbent, or otherwise, and a successor is elected or appointed, on demand, he shall be entitled to receive from the last incumbent of the office or anyone having possession of the same the records, files, books and papers of such office, or property of the town or the town school district, as the case may be. A person having such records, files, books, papers or other property in his possession who refuses for ten days after such demand to surrender the same shall be fined \$10.00 for each week's refusal.

§ 992. Annual settlements; penalty

Not less than twenty-five days before each annual town meeting, all officials and other persons authorized to receive or disburse money belonging to a town shall settle their accounts with the auditors of such town, and the treasurer shall include in such settlement his accounts as town school district treasurer. When an officer refuses or neglects to make such settlement, he shall be ineligible to reelection for the year ensuing.

Chapter 35: TOWN CLERKS

§ 1168. Return of names of listers to director of the division of property valuation and review

After each annual meeting, a town clerk shall report forthwith in writing to the director of the division of property valuation and review the name of each lister therein, his post office address and the length of his term of office. In like manner, such clerk shall notify the director of the division of property valuation and review of any lister appointed to fill a vacancy.

Chapter 41: UNIFIED TOWNS AND GORES IN ESSEX COUNTY

§ 1351. Definitions

In this chapter, unless the context otherwise required:

- (1) "Appraisers" means the appraisers for the unified towns and gores in Essex County, designated in section 1355 of this title.
- (2) "Board of governors" means the board of governors for the unified towns and gores in Essex County, elected in section 1351a of this title.
- (3) "Gores" means the unified towns and gores in Essex County, or any one of them.
- (4) "Supervisor" means the supervisor for the unified towns and gores in Essex County, appointed in section 1351b of this title.

§ 1351a. Board of governors

(a) The board of governors shall be comprised of three individuals residing in the gores. At each annual meeting, the residents of the gores shall elect a member, who shall serve for a term of three years, for each expired term. A vacancy on the board shall be filled at the next annual meeting in a manner to retain staggered terms.

(b) The residents of the gores may vote at an annual or special meeting to elect not more than two additional members of the board of governors for terms of two years each. When the additional members are first elected, one shall be elected for one year and the other member shall be elected for two years. Terms of these additional members shall end on annual meeting days. If the additional members are elected at a special meeting, the term of those elected for one year shall expire on the next annual meeting day and the term of those elected for two years shall expire on the second annual meeting day following their election. A vote establishing additional members of the board of governors shall remain in effect until the residents of the gores vote to discontinue the positions at an annual or special meeting duly warned for that purpose.

§ 1351b. Functions and duties of board of governors

(a) The board of governors shall hire, direct, or fire one or more supervisors for the gores who shall reside in Essex County, and who shall not be a current member of the board of

governors. The board of governors shall oversee the supervisor or supervisors in the execution of the supervisor's functions and duties.

(b) The board of governors shall appoint the appraisers. Each of the appraisers shall be a resident of the Gores.

(c) The board of governors shall perform the same functions and duties for the gores that a selectboard, school board, and board of civil authority perform for their municipality. Except as otherwise specifically provided, the board of governors shall enjoy the same powers, privileges, and immunities, and fees, and shall be subject to the same obligations, limitation, liabilities, and penalties in respect to the gores, as a selectboard, school board, and board of civil authority enjoy and are subject to in respect to their municipality.

§ 1353. Functions and duties of supervisor

The supervisor or supervisors shall perform the same functions and duties for the gores that the truant officer, constable, treasurer, collector of taxes, and town clerk perform for their municipality. Except as otherwise specifically provided, the supervisor or supervisors shall enjoy the same powers, privileges, immunities, and fees, and shall be subject to the same obligations, limitations, liabilities, and penalties in respect to the gores, as the truant officer, constable, treasurer, collector of taxes, and town clerk enjoy and are subject to in respect to their municipality.

§ 1354. Accounts; annual report

The supervisor or supervisors shall maintain an account showing in detail the revenue raised and the expenses necessarily incurred in the performance of the supervisor's duties. The supervisor or supervisors shall prepare an annual fiscal report by July 1 which shall conform to procedural and substantive requirements to be established by the board of governors and which, upon approval by the board of governors, shall be distributed to the residents of the gores.

§ 1355. Appraisers

Subject to the approval of the director of the division of property valuation and review, the supervisor shall appoint for the year 1973: one appraiser for a term of three years; one appraiser for a term of two years; and one appraiser for a term of one year. For each year thereafter, the board of governors shall annually appoint one appraiser for a term of three years. The board of governors may revoke any appointment made under this section and shall, subject to the approval of the director of the division of property valuation and review, fill any vacancy in the board of appraisers.

§ 1356. Functions and duties of board of appraisers

The board of appraisers shall perform the same functions and duties for the unorganized towns and gores that the listers perform for their municipality. Except as otherwise specifically provided, the appraisers shall enjoy the same powers, privileges, immunities, and remuneration, and shall be subject to the same obligations, limitations, liabilities and

penalties in respect to their unorganized towns and gores, as listers enjoy and are subject to in respect to their municipality.

Chapter 43: UNORGANIZED TOWNS AND GORES

(Does not apply to unified towns and gores in Essex County)

§ 1401. Appraisers; appointment

Subject to the approval of the governor, the director of the division of property valuation and review shall appoint biennially on the first Tuesday of March a board of three appraisers for the unorganized towns and gores in each county, with power to revoke any such appointment and to fill any vacancy in such board.

§ 1402. -Oath

Appraisers shall take and subscribe to an oath in form and substance as required of listers in towns and file the same in the office of the county clerk where he is to exercise the duties of his office.

§ 1403. Supervisors; appointment

Biennially, on February 1, to hold office for two years therefrom, the governor shall appoint and commission one supervisor for the unorganized towns and gores in each county who shall give a bond to the state. Such supervisor shall not be an appraiser.

§ 1404. -Oath; record

The commission and oath of each supervisor shall be recorded in the office of the county clerk where such towns and gores are situated.

§ 1405. Supervisor not liable for mistakes

A supervisor shall not be liable to an action which may accrue in consequence of any illegality in the assessment or apportionment of a tax, or any mistake, mischarge or overcharge in any tax bill, or any illegality or informality in any tax bill, warrant or other precept furnished him for the collection of a tax.

§ 1406. Taxes expended; how

Upon allowance of the accounts of supervisors and appraisers for unorganized towns and gores, the commissioner of finance and management shall certify forthwith the amount as allowed to the state treasurer and the balance, if any, of the moneys received from any supervisor, after deducting the amount of the county tax and regional planning costs, if any. The amount of such supervisors' and appraisers' accounts, so certified, shall be used for the laying out, construction and maintenance of highways and bridges in the unorganized towns and gores for which the supervisor is appointed, to be expended by and under the direction of the secretary of transportation, in the same manner as state transportation appropriations. The portion of the money which remains unexpended for more than one year may be used for like purposes and expended in a like manner in towns adjoining unorganized towns and gores.

§ 1407. Abatement of taxes

Appraisers for unorganized towns and gores shall have the same power to abate a tax in the hands of a supervisor that the board for the abatement of town taxes has to abate town taxes, and shall certify such abatement to the state treasurer.

§ 1408. Supervisor; general duties

Such supervisor shall act as selectman in matters of road encroachment, planning and related bylaws, as school director and truant officer, as constable, as collector of taxes and as town clerk in the matter of licensing dogs.

§ 1409. Supervisor's account

Quarterly, on the first Tuesday in February, May, August and November, each supervisor shall render to the commissioner of finance and management, an account showing in detail the time spent and expenses necessarily incurred by him in the performance of his duties, except such duties as relate to the collection of taxes or are compensated by fees. Such account, as allowed by the commissioner of finance and management shall be paid by the state out of the avails of the taxes assessed under section 4962 of Title 32.

Chapter 51: FINANCES; ACCOUNTS AND AUDITS

§ 1533. Town board for the abatement of taxes

The board of civil authority, with the listers and the town treasurer, shall constitute a board for the abatement of town, town school district taxes, and current use taxes. The act of a majority of a quorum at a meeting shall be treated as the act of the board. The above requirement in respect to a quorum need not be met if the town treasurer, a majority of the listers and a majority of the selectmen are present at the meeting.

§ 1534. - Meetings; how notified

Meetings of such board shall be notified like meetings of the board of civil authority, except that at least one of the listers shall have personal notice of such meetings.

§ 1535. Abatement

(a) The board may abate in whole or part taxes, interest, and collection fees, other than those arising out of a corrected classification of homestead or nonresidential property, accruing to the town in the following cases:

- (1) taxes of persons who have died insolvent;
- (2) taxes of persons who have removed from the state;
- (3) taxes of persons who are unable to pay their taxes, interest, and collection fees;
- (4) taxes in which there is manifest error or a mistake of the listers;
- (5) taxes upon real or personal property lost or destroyed during the tax year.
- (6) the exemption amount available under 32 V.S.A. § 3802(11) to persons otherwise eligible for exemption who file a claim on or after May 1 but before October 1 due to the claimant's sickness or disability or other good cause as determined by the board of abatement; but that exemption amount shall be reduced by 20 percent of the total exemption for each month or portion of a month the claim is late filed.
- (7) Repealed.
- (8) Repealed.
- (9) taxes upon a mobile home moved from the town during the tax year as a result of a change in use of the mobile home park land or parts thereof, or closure of the mobile home park in which the mobile home was sited, pursuant to 10 V.S.A. § 6237.

(b) The board's abatement of an amount of tax shall automatically abate any uncollected interest and fees relating to that amount.

(c) The board shall, in any case in which it abates taxes, interest, or collection fees accruing to the town, or denies an application for abatement, state in detail in writing the reasons for its decision.

(d) The board may order that any abatement as to an amount or amounts already paid be in the form of a refund or in the form of a credit against the tax for the next ensuing tax year, and for succeeding tax years if required to use up the amount of the credit.

Whenever a municipality votes to collect interest on overdue taxes pursuant to 32 V.S.A. § 5136, interest in a like amount shall be paid by the municipality to any person for whom an abatement has been ordered. Interest on taxes paid and subsequently abated shall accrue from the date payment was due or made, whichever is later. However, abatements issued pursuant to subdivision (a)(5) of this section need not include the payment of interest. When a refund has been ordered, the board shall draw an order on the town treasurer for such payment.

§ 1536. -Record; discharge

The board for the abatement of taxes shall make a record of taxes, interest and fees so abated which shall be recorded in the office of the town clerk and a certified copy shall be forwarded forthwith to the collector of taxes and the town treasurer. The collector shall mark in the tax bill the taxes, interest and fees abated and the persons against whom they were assessed shall be discharged from their payment. An abatement of a use change tax shall be separately recorded in the land records of the municipality in which the property subject to the abatement is located and shall effect a release of the land use lien on the portion of the property abated.

§ 1537. City or village board of tax abatement

The board for the abatement of taxes of a city shall consist of the mayor, city clerk and aldermen thereof and the justices of the peace and assessors residing therein; of a village, of the trustees and clerk thereof and the justices of the peace and listers residing therein. Such board may abate taxes, interest and fees accruing to such municipality in all cases where a different provision is not made by the charter, acts of incorporation, or amendments thereto, of such municipality.

§ 1538. Assessment of tax to pay execution

When a demand is made upon a city, town, town school district or incorporated village for payment of an execution issued against it, and funds are not available in its treasury to pay the same, the mayor and board of aldermen, selectmen or trustees shall forthwith assess a tax upon the grand list of the city, town, town school district or incorporated village, sufficient to pay such execution with the charges and twelve percent interest thereon, and cause the same to be collected within sixty days.

Chapter 53. INDEBTEDNESS (TIF's)

Subchapter V. Tax Increment Financing

§ 1891. Definitions

When used in this subchapter:

- (1) "Municipality" means a city, town, or incorporated village.
- (2) "District" or "TIF" means a tax increment financing district.
- (3) "Legislative body" means the mayor and alderboard, the city council, the selectboard, and the president and trustees of an incorporated village, as appropriate.
- (4) "Improvements" means the installation, new construction, or reconstruction of streets, utilities, and other infrastructure needed for transportation, telecommunications, wastewater treatment, and water supply, parks, playgrounds, land acquisition, parking facilities, brownfield remediation, and other public improvements necessary for carrying out the objectives of this chapter.
- (5) "Original taxable property" means all taxable real property located within the district on the day the district was created under this subchapter.
- (6) "Related costs" means expenses, exclusive of the actual cost of constructing and financing improvements, as defined in subdivision 1751(3) of this title, that are directly related to creation of the tax increment financing district and reimbursement of sums previously advanced by the municipality for those purposes, and attaining the purposes and goals for which the tax increment financing district was created, as approved by the Vermont economic progress council. As used in this subdivision, related costs are "improvements" as defined in subdivision 1751(3) of this title.

§ 1892. Creation of district

- (a) Upon a finding that such action will serve the public purposes of this subchapter, the legislative body of any municipality may create within its jurisdiction, special district or districts to be known as tax increment financing districts. They shall describe the district by its boundaries and the properties therein and shall show the district boundary on a plan entitled "Proposed Tax Increment Financing District (municipal name), Vermont." The legislative body shall hold one or more public hearings, after public notice, on the proposed plan.
- (b) When adopted by the act of the legislative body of that municipality, the plan shall be recorded with the municipal clerk and lister or assessor.

§ 1893. Purpose

The purpose of tax increment financing districts is to provide revenues for improvements, located wholly or partly within the district and related costs, which will stimulate

development or redevelopment within the district, provide for employment opportunities, improve and broaden the tax base, or enhance the general economic vitality of the municipality, the region, or the state.

§ 1894. Power and life of district

(a) A municipality may incur indebtedness against revenues of the tax increment financing districts for a period of up to 20 years following the creation of the district. The 20-year borrowing period of the district shall commence at 12:01 a.m. on April 1 of the year so voted. Any indebtedness incurred during the borrowing period may be retired over any period authorized by the legislative body of the municipality under section 1898 of this title. The district shall continue until the date and hour the indebtedness is retired.

(b) Notwithstanding subsection (a) of this section, any district created to use education tax increment financing that has not incurred indebtedness within five years following the creation of the district, shall request reapproval from the Vermont economic progress council in order to utilize education tax increment financing following that period.

§ 1895. Original taxable value

On or about 12:01 a.m., April 1, of the first year the lister or assessor for the municipality shall certify the assessed valuation of all taxable real property within the district as then most recently determined, which is referred to in this subchapter as the "original taxable value," and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the original taxable value has increased or decreased, and the proportion which any such increase bears to the total assessed valuation of the real property for that year or the proportion which any such decrease bears to the original taxable value.

§ 1896. Tax increments

(a) In each subsequent year, the listers or assessor shall include no more than the original taxable value of such real property in the assessed valuation upon which the listers or assessor computes the rates of all taxes levied by the municipality, the school district, and every other taxing district in which the tax increment financing district is situated; but the listers or assessor shall extend all rates so determined against the entire assessed valuation of such real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality treasurer shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property in the district which such excess valuation bears to the total assessed valuation. The amount so held apart each year is referred to in this act as the "tax increment" for that year. So much of the tax increments received with respect to the district and pledged and appropriated under section 1897 of this title for the payment of debt service on bonds issued for improvements and related costs shall be segregated by the municipality in a special account on its official books and records until all capital indebtedness of the district has been fully paid. The final payment shall be reported to the lister or assessor, who shall thereafter include the entire assessed valuation of the district in the assessed

valuations upon which tax rates are computed and extended and taxes are remitted to all taxing districts.

(b) Adjustment upon reappraisal. In the event of a reappraisal of 20 percent or more of all parcels in the municipality, the value of the original taxable property in the district shall be changed by a multiplier, the denominator of which is the municipality's education property grand list for the property within the district in the year prior to the reappraisal or partial reappraisal and the numerator of which shall be the municipality's reappraised or partially reappraised education property grand list for the property within the district. The state education property tax revenues for the district in the first year following a townwide reappraisal or partial town-wide reappraisal shall not be less than the dollar amount of the state education property tax revenues in the prior year.

§ 1897. Tax increment financing

(a) The legislative body may pledge and appropriate any part or all of the tax increments received from properties contained within the tax increment financing district for the payment of the principal of and interest on bonds issued for improvements contained wholly or partly within the district and for related costs; provided, that if any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(g), no more than 75 percent of the state property tax increment and no less than 75 percent of the municipal tax increment may be used to service this debt. Bonds shall only be issued if the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, shall give authority to the legislative body to pledge the credit of the municipality for these purposes.

(b) A municipality's pledge of credit for the purpose of issuing a bond under this subchapter shall include notice that if the tax increment received by the municipality from any property tax source is insufficient to pay the principal and interest on the debt in any year, for whatever reason, including a decrease in property value or repeal of a state property tax source, unless determined otherwise at the time of such repeal, the municipality shall remain liable for full payment of the bond principal and interest for the term of indebtedness.

§ 1898. Powers supplemental; construction

(a) The powers conferred by this subchapter are supplemental and alternative to other powers conferred by law, and this subchapter is intended as an independent and comprehensive conferral of powers to accomplish the purposes set forth herein.

(b) A municipality shall have power to issue general obligation and revenue bonds from time to time in its discretion to finance the undertaking of any improvements wholly or partly within such district. If revenue bonds are issued, such bonds shall be made payable, as to both principal and interest, solely from the income proceeds, revenues, tax increments and funds of the municipality derived from, or held in connection with its undertaking and carrying out of improvements under this chapter. So long as any such bonds of a municipality are outstanding the local governing body may deduct, in any one

or more years from any net increase in the aggregate taxable valuation of land and improvements in all areas covered by their district the amount necessary to produce tax revenues equal to the current debt service on such bonds, assuming the previous year's total tax rate and full collection. Only the balance, if any, of such net increase shall be taken into account in computing the sums which may be appropriated for other purposes under applicable tax rate limits. But all the taxable property in all areas covered by the district, including the whole of such net increase, shall be subject to the same total tax rate as other taxable property, except as may be otherwise provided by law. Such net increase shall be computed each year by subtracting, from the current aggregate valuation of the land and improvements in all areas covered by the district, the sum of the aggregate valuations of land and improvements in each such area on the date the district was approved under this section. An area shall be deemed to be covered as a district until the date all the indebtedness incurred by the municipality to finance the applicable improvements have been paid. Notwithstanding any provisions in this chapter to the contrary, any provision of a municipal charter of any municipality which specifies a different debt limit, or which requires a greater vote to authorize bonds, or which prescribes a different computation of appropriations under tax rate limits, or which is otherwise inconsistent with this subsection, shall apply.

(c) Bonds issued under the provisions of this chapter are declared to be issued for an essential public and governmental purpose.

(d) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in registered form, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium or payment, at such place or places, and be subject to such terms of redemption, such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.

(e) Prior to the resolution or ordinance of the local governing body authorizing the bonds issued under this section, the legislative body of the municipality shall hold one or more public hearings, after public notice, on a financial plan for the proposed improvements and related costs to be funded, including a statement of costs and sources of revenue, the estimates of assessed values within the district, the portion of those assessed values to be applied to the proposed improvements, the resulting tax increments in each year of the financial plan, the amount of bonded indebtedness to be incurred, other sources of anticipated revenues, and the duration of financial plan. A municipality that has approved the creation of a district under this chapter may designate a coordinating agency to administer the district to ensure compliance with this chapter and any other statutory or other requirements.

(f) Such bonds may be sold at not less than par at public or private sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality may determine or may be on the basis of par.

(g) In case any of the public officials of the municipality whose signatures appear on any bonds or coupons issued under this chapter shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provisions of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

(h) In any suit, action or proceeding involving the validity or enforceability of any bond issued under this chapter or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an improvement, as herein defined, shall be conclusively deemed to have been issued for such purpose and such improvement shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this chapter.

(i) [Repealed.]

§ 1899. Bonds as legal investments

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by a municipality pursuant to this chapter. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

§ 1900. Distribution

In addition to all other provisions of this chapter, with respect to any tax increment financing district, any municipal tax increment received in any tax year that exceeds the amounts pledged for the payment on principal and interest on the bonds issued for improvements and related costs in the district shall be distributed to the city, town, or village budget in proportion that each budget bears to the combined total of the budgets unless otherwise negotiated by the city, town, or village. Any state education tax increment received in any tax year that exceeds the amount pledged for the payment on principal and interest on the bonds issued for improvements and related costs in the district shall not be remitted to the municipality but shall be used only for prepayment of principal and interest on the bonds issued, placed in escrow for bond payment, or otherwise used for defeasance of the bonds.

Chapter 75: ECONOMIC DEVELOPMENT

§ 2741. Municipal corporations; property values fixed by contract

(a) A municipal corporation, as hereinafter provided, may enter into a contract with owners, lessees, bailees, or operators of agricultural, forest land, open space land, industrial or commercial real and personal property and alternate-energy generating plants for the purpose of:

- (1) fixing and maintaining the valuation of such property in the grand list;
 - (2) fixing and maintaining the rate or rates of tax applicable to such property;
 - (3) fixing the amount in money which shall be paid as an annual tax upon such property;
- or
- (4) fixing the tax applicable to such property at a percentage of the annual tax.

(b) A municipal corporation, by vote of a majority of those present and voting at an annual or special meeting warned for that purpose for a contract relating to agricultural or forest property, open space land, or to alternate-energy generating plants, or by a vote of two-thirds of those present and voting at annual or special meeting warned for that purpose for a contract relating to commercial or industrial property, may either:

- (1) provide general authority to its legislative branch to enter into such contracts as application is made, or
- (2) provide limited authority to its legislative branch to negotiate contracts which shall be effective upon ratification by a majority of those present and voting at an annual or special meeting warned for that purpose.

(c) Any contract entered into pursuant to this section:

- (1) shall not be for a period in excess of ten years except for a contract to stabilize taxes for an alternate-energy generating plant in which case the term shall not exceed the term of any license, permit or other approval required to operate such a plant;
- (2) shall be filed with the clerk of the municipal corporation and shall be available for public inspection;
- (3) may be with existing or new owners, lessees, bailees or operators of such property, or with persons who intend to become owners, lessees, bailees or operators of such property; and
- (4) may be applicable to existing agricultural or forest property or open space land; renovations of or additions to existing agricultural, commercial or industrial property, or open space land; or to new agricultural, forest, commercial or industrial property, or open space land.

(d) For purposes of this section:

(1) "Renewable energy source" means any inexhaustible, continuous or readily replaceable supply of energy including, without limitation, solar, wind, hydroelectric, and geothermal. "Renewable energy source" does not mean any biomass, fossil or mineral supply of energy including, without limitation, wood, organic waste, oil, coal or uranium.

(2) "Alternate-energy generating plant" means real and personal property that is built at an existing or new site after July 1, 1980, including any equipment, structure or facility, used for or directly related to the generation or production of electricity from renewable energy sources with a nameplate capacity of not more than 25 million watts.

(3) "Farmland" means real estate, exclusive of any housesite, which is actively and exclusively devoted to farming and is operated or leased as a farm enterprise by the owner.

(4) "Forest land" means any land, exclusive of any housesite, which is under active forest management for the purpose of growing and harvesting repeated forest crops.

(5) "Housesite" means the two acres of land surrounding any house, mobile home, or dwelling.

(6) "Open space land" means any land, exclusive of any housesite, that does not fall under the definition of "farmland" and "forest land," is not used for commercial or industrial purposes, and does not have structures thereon.

Chapter 85: URBAN RENEWAL

§ 3216. Property exempt from taxes and from levy and sale by virtue of an execution

(a) All property of a municipality, including funds, owned or held by it for the purposes of this chapter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a municipality be a charge or lien upon such property; provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this act by a municipality on its rents, fees, grants or revenues from urban renewal projects.

(b) The property of a municipality, acquired or held for the purposes of this chapter, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof; provided, that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

Chapter 87: SPECIAL ASSESSMENTS

§ 3251. Definitions

As used in this chapter:

- (1) "Legislative body" means "legislative body" as defined in section 2001 of this title.
- (2) "Property" means real estate.
- (3) "Sewage system" means "sewage system" as defined in section 3501(6) of this title.
- (4) "Special assessment" means a tax assessed against one or more properties receiving the benefit of a particular public improvement, as distinguished from a tax on the entire grand list of a municipality.
- (5) "Water system" means "water system" as defined in section 3341(b)(2) of this title without reference to any determination by the water commission.

§ 3252. Purpose of assessments

Special assessments may be made for the purchase, construction, repair, reconstruction or extension of a water system or sewage system, or any other public improvement which is of benefit to a limited area of a municipality to be served by the improvement.

§ 3253. Method of apportionment

A special assessment may be apportioned among the properties to be benefited thereby according to the listed value of such properties in the grand list, the frontage thereof, the added value accruing to each property by reason of the public improvement for which such assessment is made, or by any method other than the foregoing which results in a fair apportionment of the cost of the improvement in accordance with the benefits received.

§ 3254. Approval of voters

A special assessment under this chapter shall be levied only by vote of a majority of the qualified voters of the municipality voting at an annual or special meeting duly warned for that purpose. However, the question need not be submitted to the voters if all of the owners of record of property to be assessed, or of any interest therein, other than mortgagees or lien holders, consent in writing to the assessment. Either the vote or the consent shall include approval of the method of apportionment of the assessment.

§ 3255. Collection of assessments; liens

Special assessments under this chapter shall constitute a lien on the property against which the assessment is made in the same manner and to the same extent as taxes assessed on the grand list of a municipality, and all procedures and remedies for the collection of taxes shall apply to special assessments.

§ 3256. Construction with other laws

Nothing contained in this chapter shall prohibit the financing of any of the improvements referred to in this chapter by a tax on the grand list of a municipality, or by other means.

Chapter 91: CONSOLIDATED WATER DISTRICTS

§ 3352. -Tax exemption

Property of a consolidated water district shall be exempt from all taxation by any town within the district.

Chapter 105: CONSOLIDATED SEWER DISTRICTS

§ 3683. -Tax exemption

Property of a consolidated sewer district shall be exempt from all taxation by any town.

Chapter 113: HOUSING AUTHORITIES

§ 4002. Definitions

The following terms, wherever used or referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "Authority" or "housing authority" shall mean any of the public corporations created by section 4003 of this title, and the Vermont state housing authority created by section 4005 of this title.

* * *

§ 4020. Taxation

The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the state or any state public body thereof; provided however, that in lieu of such taxes or special assessments, the authority may agree to make payments to the state public body for improvements, services and facilities furnished by such state public body for the benefit of the housing project, but in no event shall the payments exceed the estimated cost to such state public body of the improvements, services or facilities to be so furnished.

Title 27: Property

Chapter 1: ESTATES IN REAL PROPERTY

§ 2. Estate in common preferred to joint tenancy; joint tenancy with unequal shares

(a) Conveyances and devises of lands, whether for years, for life or in fee, made to two or more persons, shall be construed to create estates in common and not in joint tenancy, unless it is expressed therein that the grantees or devisees shall take the lands jointly or as joint tenants or in joint tenancy or to them and the survivors of them. This provision shall not apply to devises or conveyances made in trust or made to husband and wife or to conveyance in which it manifestly appears from the tenor of the instrument that it was intended to create an estate in joint tenancy.

(b)(1) An instrument may create a joint tenancy in which the interests of the joint tenants are equal or unequal.

(2) Unless the instrument creating a joint tenancy contains language indicating a contrary intent:

(A) It shall be presumed that the joint tenants' interests are equal.

(B) Upon the death of a joint tenant, the deceased joint tenant's interest shall be allocated among the surviving joint tenants, as joint tenants, in proportion to their respective joint interests at the time of the deceased joint tenant's death.

Chapter 5: CONVEYANCE OF REAL ESTATE

§ 341. Requirements generally; recording

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a town clerk, notary public, master, county clerk, or judge or register of probate and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official seal being affixed to his or her signature.

(b) A deed or other conveyance of land which includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed, witnessed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

(1) the names of the parties to the lease as set forth in the lease;

- (2) a statement of the rights of a party to extend or renew the lease;
- (3) any addresses set forth in the lease as those of the parties;
- (4) the date of the execution of the lease;
- (5) the term of the lease, the date of commencement, and the date of termination;
- (6) a description of the real property as set forth in the lease;
- (7) a statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto;
- (8) a statement of any restrictions on assignment of the lease; and
- (9) the location of an original lease.

§ 350. Change in name or status of owner of real estate

Any person or corporation owning real estate or having an interest in real estate whose name has been changed, and any corporation which has been merged into or consolidated with another, may file with the town clerk of the town in which the real estate is located a certificate giving the names before and after the change, merger or consolidation, and the town clerk shall record and index the certificate in the land records.

Chapter 15: CONDOMINIUM OWNERSHIP ACT¹

§ 1302. Definitions

As used in this chapter, unless the context otherwise requires:

- (1) "Apartment" means a part of the property intended for any type of independent use including commercial uses. An "apartment" is one or more rooms or enclosed spaces located on one or more floors in a building, and with a direct exit to a public street or highway or to a common area leading to a street or highway.
- (2) "Apartment owner" means the person owning an apartment in fee simple absolute or any other estate in real property recognized by law and an undivided interest in the fee simple estate or any other estate in real property recognized by law of the common areas and facilities in the percentage specified and established in the declaration.
- (3) "Apartment number" or "site number" means the number, letter, or combination thereof, designating the apartment or site in the declaration.
- (4) "Association of owners" means all of the apartment or site owners acting as a group in accordance with the bylaws and declaration.

¹ See Title 27A for Vermont Common Interest Ownership Act (1994)

(5) "Building" means a building containing two or more apartments, or two or more buildings containing a total of two or more apartments, and comprising a part of the property.

(6) "Common areas and facilities," unless otherwise provided in the declaration or lawful amendments thereto, includes but is not limited to:

(A) Land on which the building or site is located;

(B) Foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;

(C) Basements, yards, gardens, private roads and streets, parking areas and storage spaces;

(D) Premises for the lodging of janitors or persons in charge of the property;

(E) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning, sewage disposal and incinerating;

(F) Elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(G) Such community and commercial facilities as may be provided for in the declaration; and

(H) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(7) "Common expenses" include:

(A) All sums lawfully assessed against the apartment or site owners by the association of owners;

(B) Expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(C) Expenses agreed upon as common expenses by the association of owners;

(D) Expenses declared common expenses by this chapter, or by the declaration or the bylaws.

(8) "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(9) "Declaration" means the instrument by which the property is made subject to this chapter, as herein provided, and as the instrument may be amended from time to time.

(10) "Limited common areas and facilities" means those common areas and facilities designated in the declaration as reserved for use of a certain apartment or apartments or sites to the exclusion of other apartments or sites.

(11) "Majority" or "majority of apartment owners" or "majority of site owners" means the apartment or site owners with more than fifty per cent of the votes in accordance with the percentages assigned in the declaration to the apartments or sites for voting purposes.

(12) "Person" means an individual, corporation, partnership, association, trustee or other legal entity.

(13) "Property" includes the land, the building or site and all improvements and structures thereon all owned in fee simple absolute or any other estate in real property recognized by law and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be made subject to this chapter.

(14) "Site" means the spatial location occupied or to be occupied by a mobile home, including all utilities and amenities appurtenant to the location such as piping, wiring, plants, platforms or supports, lights, walls, and other improvements but not including the land on which the site is located.

(15) "Mobile home park" has the meaning given in 10 V.S.A. § 6201.

§ 1303. Application of chapter

This chapter shall apply only to property, the sole owner or all of the owners of which make the property subject to this chapter by duly executing and recording a declaration as herein provided.

§ 1304. Status of the apartments or sites

Each apartment or site, together with its undivided interest in the common areas and facilities, shall for all purposes constitute real property.

§ 1305. Ownership of apartments or sites

Each apartment or site owner shall be entitled to the exclusive ownership and possession of his or her apartment or sit

§ 1306. Common areas and facilities

(a) Each apartment or site owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. That percentage shall be computed by taking as a basis the value of the apartment or site in relation to the value of the property.

(b) The percentage of the undivided interest of each apartment or site owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment or site owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment or site to which it appertains and shall run with the interest conveyed or encumbered even though not expressly mentioned or described.

(c) Common areas and facilities shall remain undivided. No apartment or site owner or any other person may bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this chapter as provided in sections 1316 and 1326 of this title. Any covenant to the contrary shall be null and void.

(d) Each apartment or site owner may use his or her respective common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment or site owners.

(e) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bylaws.

(f) The association of owners shall have the irrevocable right, to be exercised by the manager or board of directors, to have access to each apartment or site from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another apartment or apartments or sites.

§ 1311. Contents of declaration

The declaration shall contain the following particulars:

(1) Description of the land on which the building or sites and improvements are or are to be located.

(2) In the case of a building, a description of the building, stating the number of stories and basements, the number of apartments and the principal materials of which it is or is to be constructed; in the case of a mobile home park, a description of the entire property, stating the number of sites, the utilities and amenities provided to the several sites, the principal materials of which the mobile home foundations, walks, drives, and streets are or are to be constructed, and any buildings on the property.

(3) The apartment number of each apartment or site, and a statement of its location, approximate area, number of rooms in the case of an apartment, and immediate common area to which it has access, and any other data necessary for its proper identification.

(4) Description of the common areas and facilities.

(5) Description of the limited common areas and facilities, if any, stating to which apartments or sites their use is reserved.

(6) Value of the property and of each apartment or site, and the percentage of undivided interest in the common areas and facilities appertaining to each apartment or site and its owner for all purposes, including voting.

(7) Statement of the purposes for which each building and each of the apartments or sites are intended and restricted as to use.

(8) The name of a person to receive service of process in the cases herein provided, together with his or her residence or place of business which shall be within the city or county where the property is located.

(9) Provision as to the percentage of votes by the apartment or site owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property.

(10) Any further details in connection with the property which the person executing the declaration may consider desirable to set forth consistent with this chapter.

(11) The method by which the declaration may be amended, consistent with this chapter.

(12) Reference to recorded floor plan in the case of a building or site plan in the case of a mobile home park, and recorded lot plan.

Title 27A: Uniform Common Interest Ownership Act (1994)²

Chapter 1: GENERAL PROVISIONS

§ 1-101. Short title

This title shall be known and may be cited as the Vermont Common Interest Ownership Act.

§ 1-103. Definitions

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this title:

(1) "Affiliate of a declarant" means any person who controls, is controlled by or is under common control with a declarant.

(A) A person "controls" a declarant if the person

(i) is a general partner, officer, director or employer of the declarant,

(ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote or holds proxies representing, more than 20 percent of the voting interest in the declarant,

(iii) controls in any manner the election of a majority of the directors of the declarant, or

(iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant

(i) is a general partner, officer, director, or employer of the person,

(ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person,

(iii) controls in any manner the election of a majority of the directors of the person, or

(iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subdivision are held solely as security for an obligation and are not exercised.

(2) "Allocated interests" mean the following interests allocated to each unit:

² See Chapter 15 of Title 27 for Condominium Ownership Act

(A) In a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association.

(B) In a planned community, the common expense liability and votes in the association.

(3) "Association" or "unit owners' association" means the unit owners' association organized under section 3-101 of this title.

(4) "Common elements" mean

(A) In a condominium, all portions of the common interest community other than the units.

(B) In a planned community, any real estate within a planned community owned or leased by the association, other than a unit.

(5) "Common expenses" mean expenditures made by or financial liabilities of the association and any allocations to reserves.

(6) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 2-107 of this title.

(7) "Common interest community" means real estate described in a declaration with respect to which any person, by virtue of the person's ownership of a unit, is obligated to pay real estate taxes on; insurance premiums on; maintenance of; or improvement of any other real estate other than that unit described in the declaration. Ownership of a unit does not include holding a leasehold interest of less than five years in a unit, including renewal options.

(8) "Condominium" means a common interest community in which portions of the real estate are designated for separate ownership and the remainder of the real estate is designated for common ownership solely by the owners of those portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(9) "Conversion building" means a building that at any time before creation of the common interest community was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(10) "Cooperative" means a regime created pursuant to chapter 14 of Title 11; a cooperative is not a common interest community for the purposes of this title.

(11) "Dealer" means a person in the business of selling units for his or her own account.

(12) "Declarant" means any person or group of persons acting in concert who

(A) as a part of a common promotional plan, offers to dispose of the declarant's interest in a unit not previously disposed of; or

(B) reserves or succeeds to any special declarant right.

(13) "Declaration" means any instruments, however denominated, that create a common interest community and any amendments to those instruments.

(14) "Development rights" mean any right or combination of rights reserved by a declarant in the declaration to:

(A) add real estate to a common interest community;

(B) create units, common elements or limited common elements within a common interest community;

(C) subdivide units or convert units into common elements; or

(D) withdraw real estate from a common interest community.

(15) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(16) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

(17) "Identifying number" means a symbol or address that identifies only one unit in a common interest community.

(18) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(19) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of subdivision 2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units.

(20) "Master association" means an organization described in section 2-120 of this title, whether or not it is also an association described in section 3-101 of this title.

(21) "Offer" or "Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation or in any broadcast medium to the general public of a common interest community not located in this state is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the common interest community is located.

(22) "Person" means an individual, corporation, limited liability company, limited liability partnership, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity. In the case of a land trust, "person" means the beneficiary of the trust rather than the trust or trustee.

(23) "Planned community" means a common interest community which is not a condominium or cooperative. A condominium or cooperative may be part of a planned community.

(24) "Purchaser" means any person, other than a declarant or a dealer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than

(A) a leasehold interest, including renewal options, of less than 20 years; or

(B) as security for an obligation.

(25) "Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(26) "Residential purposes" mean use for dwelling or recreational purposes, or both.

(27) "Security interest" means an interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation.

"Security interest" includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

(28) "Special declarant rights" mean rights reserved for the benefit of a declarant to

(A) complete improvements indicated on plats and plans filed with the declaration as provided in section 2-109 of this title or to complete improvements described in the public offering statement pursuant to subdivision 4-103(a)(2) of this title;

(B) exercise any declarant right pursuant to section 2-110 of this title;

(C) maintain sales offices, management offices, signs advertising the common interest community, and models (section 2-115);

(D) use easements through the common elements for the purpose of making improvements within the common interest community or within real estate which may be added to the common interest community (section 2-116);

(E) make the common interest community subject to a master association (section 2-120);

(F) merge or consolidate a common interest community with another common interest community of the same form of ownership (section 2-121); or

(G) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control (section 3-103).

(29) "Time share" means a time share estate as defined by subsection 3619(a) of Title 32.

(30) "Unit" means a physical portion of the common interest community designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision 2-105(a)(5) of this title.

(31) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a person having an interest in a unit solely as security for an obligation. The declarant is the owner of any unit created by the declaration.

§ 1-104. Variation by agreement

Except as expressly provided in this title, provisions of this title may not be varied by agreement, and rights conferred by this title may not be waived. A declarant may not act under a power of attorney or use any other device to evade the limitations or prohibitions of this title or the declaration.

§ 1-105. Separate titles and taxation

(a) In a condominium or planned community:

(1) if there is any unit owner other than a declarant, each unit that has been created, together with its interest in the common elements, constitutes for all purposes a separate parcel of real estate;

(2) if there is any unit owner other than a declarant, each unit shall be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements for which a declarant has reserved no development rights.

(b) Any portion of the common elements for which the declarant has reserved any development right shall be separately taxed and assessed against the declarant, and the declarant alone is liable for payment of those taxes.

(c) If there is no unit owner other than a declarant, the real estate comprising a common interest community may be taxed and assessed in any manner provided by law.

§ 1-201. New common interest communities

(a) Except as provided in subsection (b) of this section and sections 1-203 and 1-204 of this title, this title applies to all common interest communities created within this state after the effective date of this title. The provisions of subchapter 1 of chapter 15³ of Title 27 shall not apply to common interest communities created after December 31, 1998.

(b) A mobile home park, as defined in chapter 153 of Title 10, existing before June 30, 1990, shall not be converted through the use of any device, directly or indirectly, into a common interest community pursuant to this title. Any person who offers for transfer ownership interests in a residential condominium unit in a mobile home park shall be

³ Chapter 15 of Title 27 is the Condominium Ownership Act

subject to the provisions of subchapter 3 of chapter 15 of Title 27 and other applicable laws.

(c) Common interest communities created under this title shall be subject to subchapter 2 of chapter 15 of Title 27.

Title 32: Taxation and Finance

Chapter 15: SALARIES AND FEES

§ 1227. Appraisers for unorganized towns and gores

An appraiser for unorganized towns and gores shall receive \$50.00 a day and necessary expenses for time actually spent in the performance of his duties.

§ 1228. Appraisers for unorganized towns and gores in Essex county

An appraiser for the unorganized towns and gores in Essex county shall receive \$50.00 a day and necessary expenses for the time actually spent in the performance of his duties. Amounts payable under this section shall be paid out of the avails of the taxes assessed under section 4981 of this title.

Chapter 101: CONSTRUCTION

§ 3001. Definitions

(a) "Person" as used in Parts 2⁴, 4 and 5 of this subtitle shall include a partnership, association, corporation or limited liability company.

(b) "Party to a civil union" is defined for purposes of Title 32 as under subdivision 1201(4) of Title 15.

(c) "Laws of the United States," "federal tax laws" and other references to United States tax law shall mean United States tax law applied as if federal law recognized a civil union in the same manner as Vermont law.

§ 3002. Taxable property construed

The words "taxable property" as used in this subtitle, shall include taxable estate, both real and personal.

§ 3003. Commissioner

The word "commissioner" as used in this subtitle with reference to matter of taxation shall mean the commissioner of taxes, appointed under section 3101 of this title.

§ 3004. Sunday; time extended

When an act under this subtitle is required to be done on or before a date which falls on Sunday, such act shall be valid if done on the following Monday.

⁴ Part 2 is Property Taxation

§ 3005. Temporary removal

The residence of a person for the purpose of taxation shall not be changed by a temporary removal from a town to avoid taxation.

§ 3006. Actions against nonresidents

The officers responsible for the collection of any tax due any state, commonwealth, or territory of the United States of America, or any political subdivision thereof, shall have the right to bring and maintain an action or suit in the courts of this state to recover any unpaid tax against a person subject to the jurisdiction of the courts of this state, when the same or a similar right is accorded to the proper officer of this state or any of its political subdivisions by such state, commonwealth, or territory either by law or comity.

§ 3007. Director

The word "director" as used in Parts 1 and 2 of this subtitle and chapter 211, subchapter 2, article 4 of this title means the director of the division of property valuation and review.

Chapter 121: GENERAL PROVISIONS

§ 3401. Powers and duties of director

The director may examine any inventory in the hands of listers, shall from time to time confer and advise with them touching their official duties, shall furnish them printed instructions and directions relating thereto and shall issue such bulletins as in his judgment will aid in enforcing the law. When a board of listers or members thereof so request, the director shall furnish such information as he shall deem pertinent.

3402. Director to collect data

The director shall collect such data and information touching methods of taxation and exemption therefrom and the work of listers in the various towns, as he shall deem advisable.

§ 3409. Preparation of property maps

Consistent with available resources, the director shall prepare orthophotographic maps of the state at a scale appropriate for the production and revision of town property maps. Periodically, such maps shall be revised and updated to reflect land use changes, new settlement patterns and such additional information as may have become available to the director.

(1) The director shall supply to the clerk and to the listers or assessors of each town such maps as have been prepared by the director of the total area of that town. Any map shall be available, without charge, for public inspection both in the office of the Vermont mapping program and in the office of the town clerk to whom the map was supplied.

(2) The director may copyright any map prepared under this section.

(3) A person, who without the written authorization of the director, copies, reprints, duplicates, sells, or attempts to sell any map prepared under this chapter shall be fined not to exceed \$1,000.00

(4) At a reasonable charge to be established by the director, the director shall supply to any person or agency other than a town clerk or lister a copy of any map prepared under this section

§ 3410. Maintenance of duplicate property records⁵

(a) To supplement and insure the safekeeping of town records, the director shall establish and maintain a central file of municipal grand lists. These grand lists shall be maintained at the office of the division for a period of two years.

(b) The town clerks of each town and city shall provide the director with one copy of the grand list at a reasonable charge.

(c) At a reasonable charge to be established by the director, the director shall supply to any person or agency a copy of any document contained in the file established under this section.

§ 3411. Powers of the property valuation and review division

The property valuation and review division shall through its director:

(1) employ such staff as is necessary, subject to the approval of the commissioner of the department of taxes;

(2) cooperate fully with the commissioner in any matter in which he requires assistance in connection with his duties, including the valuation of property for any tax administered and collected by the commissioner;

(3) adopt rules under chapter 25 of Title 3 to provide for the uniform administration of the property tax;

(4) maintain any information obtained by the director from any local official subject to the same rules as to public access and confidentiality as apply to such information in the possession of a local official, as contained in section 4009 of this title;

(5) provide technical assistance and instruction to the listers in a uniform appraisal system and provide other related assistance within the limits of available resources;

(6) prepare and provide to towns at a reasonable fee form books, other required forms and copies of relevant statutes in booklet form;

(7) to the extent of available resources to prepare and provide tax maps for all municipalities not having the same;

⁵ See also §4185 of Title 32

(8) from time to time to develop and recommend to the general assembly improved methods for standardizing property assessment procedures and to administer the current use program in accordance with chapter 124 of this title;

(9) annually publish the report described in section 3412 of this title;

(10) assist municipalities in administration of property taxes, including the appraisal of classes of property difficult to appraise, such as industrial and utility properties; and

(11) appraise property required by law to be appraised by the director, including but not limited to railroad property under 32 V.S.A. chapter 21

3412. Annual report

Before January 15 of each year, the director shall deliver to the speaker of the house of representatives and to the president pro tempore of the senate copies of an annual report including in that report all rules issued in the preceding year. The report shall include the rate per dollar and the amount of all taxes assessed in each and all of the towns, gores, school and fire districts and villages for and during the year ending with June 30, preceding, and the value of all exempt property on each grand list as required by subsection 4152(a) of this title. The report shall also include an analysis of the appraisal practices and methods employed through the state. The director shall include recommendations for statutory changes as he or she feels necessary. Copies of the annual report shall be forwarded to the chairman of the board of selectmen of each town. The presiding officer shall refer the report to the appropriate committees of the general assembly for their review and recommendation.

§ 3431. Lister's oath

(a) Each lister shall take and subscribe and file in the town clerk's office, before entering upon the duties of his office, the following oath; and the oath as subscribed shall be recorded in the town clerk's office: "I, _____, do solemnly swear (or affirm) that I will appraise all the personal and real property subject to taxation in the town (or city) of _____, so far as required by law, at its fair market value, will list the same without discrimination on a proportionate basis of such value for the grand list of such town (or city), will set the same in the grand list of such town (or city) at one per cent of the listed value and will faithfully discharge all the duties imposed upon me by law. So help me God." (or, "under the pains and penalties of perjury.")

(b) When the listers violate such oath, they shall each be guilty of perjury and punished accordingly.

§ 3432. Duties of listers

Listers shall render such assistance, give such information and make such returns to the director in relation to the subject of taxation as he may require.

§ 3433. Duties upon taking up inventories

A lister who takes up an inventory as provided by section 4041 of this title, at the time he receives the same, shall indorse thereon his name and the date of its receipt. When a lister accepts the inventory of a person not made out and sworn to as provided in this chapter, or wilfully neglects or refuses to indorse thereon his name and the date of receipt thereof, or wilfully neglects or refuses to appraise and set in the list, as required by law, each item described in an inventory filled out as provided in this chapter, he shall be fined not more than \$100.00 for each inventory so received, and for each such wilful refusal or neglect.

§ 3434. Meetings for instruction

The director shall call meetings of the listers to be held at such places and at such times as he shall designate for the purpose of instruction touching the requisites of a legal tax inventory, a valid grand list, the law governing their official duties and concerning the appraisal and listing of the various classes of taxable property.

§ 3436. Assessment education

(a) The director shall provide an assessment education program for municipal listers and assessors at convenient times and places during the year and is authorized to contract with one or more persons to provide part or all of the assessment instruction. On an annual basis, the director shall provide, to the extent allowed by available resources, instruction in lister duties, property inspection, data collection, valuation methods, mass appraisal techniques, and property tax administration.

(b) The director shall determine the necessary course work or evaluation of equivalent experience required for designation as Vermont lister/assessor, Vermont property evaluator, and Vermont municipal assessor. Designation for any one level shall be for a period of three years.

(c) Designation obtained under subsection (b) of this section may be renewed for three-year periods upon completion of requirements as determined by the director.

(d) The director shall also notify all towns annually of any new approaches which the division of property valuation and review is aware of for obtaining or performing mass reappraisals and for grand list maintenance.

§ 3465. Public records, CAMA

(a) Except for Social Security numbers or other governmentally assigned personal identification numbers, the information required to be collected by local governments under section 4152 of this title and submitted to the division of property valuation and review by local governments participating in the computer assisted mass appraisal system (CAMA) shall be public records subject to public inspection and copying under subchapter 3 of chapter 5 of Title 1.

(b) Notwithstanding subsection (a) of this section, any party in a legal transaction or proceeding related to a specific parcel of property shall have access to any court-required data.

Section 3481. Definition (*Appraisal Value and Fair Market Value*)

The following definitions shall apply in this Part and chapter 101 of this title, pertaining to the listing of property for taxation:

(1) "Appraisal value" shall mean, with respect to property enrolled in a use value appraisal program, the use value appraisal as defined in subdivision 3752(12) of this title, multiplied by the common level of appraisal, and with respect to all other property, the estimated fair market value. The estimated fair market value of a property is the price which the property will bring in the market when offered for sale and purchased by another, taking into consideration all the elements of the availability of the property, its use both potential and prospective, any functional deficiencies, and all other elements such as age and condition which combine to give property a market value. Those elements shall include a consideration of a decrease in value in non-rental residential property due to a housing subsidy covenant as defined in section 610 of Title 27, or the effect of any state or local law or regulation affecting the use of land, including but not limited to chapter 151 of Title 10 or any land capability plan established in furtherance or implementation thereof, rules adopted by the state board of health and any local or regional zoning ordinances or development plans. In determining estimated fair market value, the sale price of the property in question is one element to consider, but is not solely determinative.

For residential rental property that is subject to a housing subsidy covenant or other legal restriction, imposed by a governmental, quasi-governmental, or public purpose entity, on rents that may be charged, fair market value shall be determined by an income approach using the following elements:

(A) market rents with utility allowance adjustments for the geographic area in which the property is located as determined by the federal office of Housing and Urban Development;

(B) actual expenses incurred with respect to the property as provided by the property owner and certified by an independent third party;

(C) a vacancy rate that is 50 percent of the market vacancy rate as determined by the United States Census Bureau with local review by the Vermont housing finance agency; and

(D) a capitalization rate that is typical for the geographic area determined and published annually prior to April 1 by the division of property valuation and review after consultation with the Vermont housing finance agency.

(2) "Listed value" shall be an amount equal to 100 percent of the appraisal value.

The ratio shall be the same for both real and personal property.

§ 3482. Property listed at one per cent

Except as otherwise provided, all real and personal estate shall be set in the list at one per cent of its listed value on April 1, of the year of its appraisal.

§ 3483. False statement, perjury

A person who willfully swears falsely or who willfully makes a false statement under the pains and penalties of perjury in violation of any of the provisions of this Part shall be guilty of perjury and punished accordingly.

§ 3485. Records to be kept relating to deeds and mortgages

(a) Annually on April 1, town clerks shall furnish the listers with copies of the property tax returns filed by the clerk under section 9610 of this title relating to deeds which were filed for record during the year ending on the first day of such month. However, upon request in writing by the listers, on or before the fifteenth day of each month, town clerks shall furnish the listers with copies of the property transfer tax returns to deeds which were filed for record during the next preceding calendar month.

(b) Failure on the part of the town clerk to furnish the aforesaid copies shall not render the town liable in damages to any person. A town clerk who wilfully fails to furnish such copies shall be fined \$10.00 for each offense.

Chapter 123: HOW

§ 3601. Omitted.

§ 3602. Manufacturing machinery

Engines and boilers, electric motors, air compressors, traveling cranes and machinery, so fitted and attached as to be a part of a manufacturing or other plant and kept and used as such, shall be set in the grand list as real estate.

§ 3602a. Facilities used in the generation, transmission or distribution of electric power

All structures, machinery, poles, wires and fixtures of all kinds and descriptions used in the generation, transmission or distribution of electric power that are so fitted and attached as to be part of the works or facilities used to generate, transmit or distribute electric power shall be set in the grand list as real estate. Nothing in this section shall alter the scope of the exemption in section 3803(2) of this title, nor shall it alter the taxation of municipally-owned improvements accorded by section 3659 of this title.

§ 3603. Construction equipment

(a) Construction equipment and other personal estate used in the construction or repair of highways, dams, reservoirs, public utilities or buildings shall be listed and taxed on the same basis as other personal estate in the town in which it is located on April 1. Such equipment brought into the state after April 1 and prior to December 15 of any year shall

be taxed as other personal estate for that year in the town in which it is first used for a normal full work shift. The owner or person in charge of any equipment enumerated in this section shall, upon request of the treasurer or tax collector of any municipality, present evidence that it has been listed for tax purposes in a municipality in this state. The transportation board and other state agencies shall insert in all contracts for construction a term by which the contractor agrees to pay taxes assessed under this section and section 4151 of this title.

(b) Nothing herein shall be construed to tax as personal property registered automobiles or motor vehicles owned or used by public utilities authorized to do business in the state in the maintenance or construction of their properties nor shall this section be construed to amend section 3802 of this title.

§ 3604. Mines and quarries

The interest of a grantee in severance from surface ownership in mines, quarries, or the right of mining and quarrying, shall be set in the list as real estate, but this section shall not apply to leases named in section 3609 of this title.

§ 3605. Water rights

The interest of an owner in water rights, power rights and flowage rights, or any of such rights, owned by severance from real estate interests set in the grand list to another and in connection with which such rights exist, shall be appraised and set in the grand list as real estate to the owner of such rights. This section shall not be construed so as to affect any exemptions from taxation granted under any existing statute.

§ 3606. Standing timber

The sale or conveyance of standing timber shall not affect the valuation of the underlying land.

§ 3607. Orchard lands

When the owner of land, cultivated or uncultivated, has planted the same to fruit trees, such land shall continue to be set in the list at the same valuation as similar land not so planted, but which is used for general agricultural purposes. Increase in the valuation of such land for taxation shall not be made for fifteen years on account of trees growing thereon.

§ 3607a. Barns, silos and other farm structures

Barns, silos, sugarhouses, bunkers used for silage storage shall be entered in the grand list at fair market value as defined in section 3481(1) of this title, except that by a majority vote of those present and voting at an annual or special meeting warned for the purpose, a municipality may elect to exempt, or to appraise at less than fair market value, barns, silos, sugarhouses, bunkers used for silage storage located within the municipality which are owned or leased by a farmer as defined in 32 V.S.A. § 3752(7) and used by the farmer as part of a farming operation. An election to exempt or to reduce appraisals made

under this section shall remain in effect for future tax years until amended or repealed by a similar vote of the municipality.

§ 3608. Buildings on leased land

Buildings on leased land or on land not owned by the owner of the buildings shall be set in the list as real estate.

§ 3609. Perpetual or redeemable leases

Perpetual or redeemable leases upon which rent is reserved, except of lands exempt from taxation, shall have an appraisal value as personal estate at a sum of which the rent is six per cent.

§ 3610. Taxation of perpetual leased lands

(a) The term "perpetual lease" as used in this section includes every leasehold interest in land located in Vermont, and every estate in Vermont land other than fee simple absolute, arising out of or created by an instrument of lease which conveys to a person designated as lessee, his heirs, executors, administrators and assigns, the right to possess, enjoy and use the land in perpetuity or substantially in perpetuity, whether or not the instrument of lease contains restrictions on the use of the subject land by the person designated as lessee and whether or not the subject land may be repossessed by the owner because of nonpayment of rent or of other default under the instrument of lease. The term "lessee" as used in this section means the person entitled to possess, enjoy and use land subject to a perpetual lease.

(b) The listers of each town and the appraisers of each unorganized town and gore shall list every perpetual lease in a separate record in which shall be shown as to each lease a brief description of the leased land, the fair market value of the land as appraised by them, the name of the lessor, the annual rental payable thereunder, and as of April 1st of each year the name and address of the lessee. If for any reason the lease is exempt under subsection (d) of this section, the reason for the exemption shall be noted.

(c) For purposes of section 3481 of this title, the appraised value of each perpetual lease not exempt under subsection (d) of this section shall be its market value as determined by the listers or appraisers, taking into consideration all limitations upon the use of the land by the lessee which substantially diminish the value of his right to occupy, use or enjoy the land; but in no event is the appraised value of a perpetual lease to be in excess of the fair market value of the subject land as determined by the listers or appraisers.

(d) A perpetual lease is exempt from taxation against the lessee if so provided by an express term of the original grant of the subject land by the state of Vermont, or by a statute in effect at the time of the grant providing for exemption in perpetuity of the leases, or if the subject land would be exempt under chapter 125 of this title if the lessee were the owner of the land.

(e) Except as provided in subsection (d) of this section, every perpetual lease, whether or not the subject land is exempt from taxation, shall be set in the grand list as real estate against the lessee.

(f) The annual rental payable under a perpetual lease shall be credited in each year against the tax payable in respect of that lease to the town in which the subject land is located.

(g) Any tax levied by authority of this section shall be collected in the same manner as real estate taxes. The selectmen, treasurer and collector of taxes have the same authority and are subject to the same duties, requirements and penalties with respect to the collection of the tax as is provided in the case of real estate taxes. A town may vote to collect interest on overdue taxes and for the payment of the taxes by installments as in the case of real estate taxes.

(h) Commencing with the date of the filing by the listers of the grand list in the office of the town clerk, taxes lawfully assessed upon a perpetual lease shall be a first lien thereon, underlying all mortgages, assignments, attachments, liens or other encumbrances thereon, and all subleases for the term of a natural life or lives, for a term of years or for any other duration. The tax lien shall remain in full force and effect for a period of fifteen years, and it may be enforced separately against the perpetual lease in each parcel of the subject real estate. Notice to all parties having an interest in the perpetual lease shall be given as provided by law or as directed by courts. Courts of law may issue execution, as the facts warrant, to impress the tax lien upon the perpetual lease.

(i) A perpetual lease is subject to sale in the same manner and subject to the same procedures, notices, defenses, and statutes of limitations as in the case of tax sales of real estate. Any person acquiring a perpetual lease, under the authority of this section, is subject to his portion of the annual rental due the grantee.

§ 3611. Assessment against state easements for flood control projects

Lands over which the state has acquired or reserved an easement of flowage in the completion of its flood control projects shall be set in the grand list of the town to the owners thereof subject to such easement of flowage. The difference between the grand list so fixed and the grand list based on the appraisal next preceding the acquisition of such flowage rights by the state of Vermont shall be set in the grand list to the state of Vermont. Taxes assessed thereon shall be paid out of the general fund.

§ 3612. -Owner's improvements

In the event improvements shall be put on such land after acquisition of an easement of flowage by the state of Vermont in the completion of its flood control projects, such improvements shall be set in the grand list to the then owner of the land but shall not alter or change the grand list of the state on such flowage easements.

§ 3613. –Appeal

The state of Vermont shall have the same right to appeal from the appraisal of the listers and from the decision of the board of civil authority as is given to any interested individual as provided by chapter 131 of this title.

§ 3614. Property on federal land

Property of a railway or other corporation having a right of way over or location upon lands acquired by the United States shall be taxed as other similar property.

§ 3617. Repealed.

§ 3618. Business personal property

(a) If a town does not vote to exempt business personal property under section 3849 of this title, such property shall be appraised at fair market value; or, subject to a majority vote of those present and voting at an annual or special meeting warned for the purpose, a town may provide that business personal property shall be appraised for any taxable year according to either of the following methods, which may be elected at the option of the taxpayer:

(1) At fifty percent of its cost during the time that it has not been fully depreciated for federal income tax purposes under the laws of the United States. After the property has been thus depreciated, exclusive of salvage value, for federal income tax purposes, it shall be appraised at ten percent of its cost;

(2) At its net book value during the time that it has not been depreciated to ten percent of its cost or less for federal income tax purposes under the laws of the United States. After the property has been depreciated to ten percent of its cost or less, exclusive of salvage value, for federal income tax purposes, it shall be appraised at ten percent of its cost. Business personal property manufactured by the taxpayer for his own use, shall be valued at the net book value for federal income tax purposes under the laws of the United States. After the property has been depreciated to ten percent of its cost or less, exclusive of salvage value, for federal income tax purposes, it shall be appraised at ten percent of its cost.

(b) The taxpayer may elect either of the methods set forth in subsection (a) of this section in the first year for which this election is effective. In any subsequent year the taxpayer may not change the method elected in the previous year except with the prior permission of the board of listers. All of the taxpayer's business personal property shall be valued for any year according to only one of the two methods. Adjustments by the taxpayer or the federal authorities of the depreciation allowed or allowable on the property, for federal income tax purposes, shall not affect or change the appraisal of the property under this section for any year as to which, at the time of the adjustment in depreciation, the grand list has been lodged as required by section 4151 of this title.

(c) As used in this section:

(1) "Business personal property" means tangible personal property of a depreciable nature used or held for use in any trade, business, professional practice, transaction, activity or occupation conducted for profit including, without limitation, all furniture and fixtures, apparatus, tools, implements, books, machines, boats, construction devices, and all personal property used or intended to be used for the production, processing, fabrication, assembling, handling or transportation of anything of value, or for the production, transmission, control or disposition of power, energy, heat, light, water or waste. "Business personal property" does not include inventory, or goods and chattels so affixed to real property as to have become part thereof, and which are therefore not severable or removable without material injury to the real property, nor does it include poles, lines and fixtures which are taxable under sections 3620 and 3659 of this title.

(2) "Net book value" of property means the cost less depreciation of the property as shown on the federal income tax return required to be filed with the federal authorities on or nearest in advance of April 1 in any year.

§ 3619. Time-share projects

(a) For the purposes of this section a time-share project means a project involving real property containing time-share estates. A "time-share estate" is a right to occupy a unit or any of several units in a time-share project during separated time periods coupled with a freehold estate or an estate for years in a time-share property or a specified portion thereof.

(b) With respect to property taxes, both real and personal, on time-share projects, each property owner of a time-share estate shall be liable for the payment thereof to the town. However, the owners' association, corporation, or whatever entity is authorized by the project instruments to manage the common property, shall be the agent of the time-share estate owners for the payment of property taxes from the individual owners to the town. The town shall set in the grand list as real estate the units and common property of the project of which the time-share estates are a part and shall list the entire property to the association, corporation, or whatever entity is authorized by the project instruments to manage the common property, which entity assumes the rights and liabilities of any owner of property in the grand list. However, with respect to each other, each owner of a time-share estate shall be responsible only for a fraction of such assessments, property taxes, both real and personal, and charges proportionate to the magnitude of his undivided interest in the fee to the whole estate of which he is a part, as covered in the association's, corporation's or entity's bylaws or other project instruments.

(c) A lien by the town for the collection of taxes owed by an owner of a time-share estate shall be imposed upon the entire property composing the time-share project. With respect to notification and sale for collection of taxes under chapter 133, the owners' association, corporation or whatever entity is authorized by the project instruments to manage the common property, and not the town, is responsible for notifying all time-share estate owners of any delinquency or other notice required under chapter 133, and for payment of the delinquent tax together with interest and penalties.

§ 3620. Electric utility poles, lines and fixtures

Electric utility poles, lines and fixtures owned by nonmunicipal utilities shall be taxed at appraisal value as defined by section 3481 of this title.

§ 3651. General rule

Taxable real estate shall be set in the list to the last owner or possessor thereof on April 1 in each year in the town, village, school and fire district where it is situated.

§ 3652. Mortgagor deemed owner

When real estate is mortgaged, the mortgagor shall be deemed the owner thereof for the purpose of taxation, until the mortgagee takes possession, after which the mortgagee shall be deemed the owner.

§ 3653. Unoccupied and owner unknown

When the owner of unoccupied real estate is unknown to the listers, it shall be set in the list in the name of the original grantee or by such other description as in their judgment will best designate it. When a division of the original rights of grantees is made in whole or in part, each lot of every division shall be set apart in the list from other lots of the same right.

§ 3654. Undivided estate of deceased person

Undivided real estate of a deceased person shall be assessed to such person's estate or to his executor or administrator, or to the possessor thereof, until notice is given to the listers of the sale or division of the same and the names of the persons to whom it is transferred. When such estate is assessed to the estate, the executor or administrator shall pay the taxes assessed.

§ 3655. Facilities not within town limits

For the purpose of taxation:

- (1) Wharves erected in Lake Champlain and not within the limits of a town shall be considered as being in the towns adjoining such wharves.
- (2) Utility lines, including but not limited to submarine cables or pipelines, constructed or maintained in Lake Champlain and not otherwise within the limits of the towns of South Hero and Grand Isle shall be considered as being in whichever of those towns adjoin those facilities as if the northerly and southerly lines of those towns were extended easterly and westerly to the county lines.

§ 3656. Repealed.

§ 3659. Municipal lands

Land and buildings of a municipal corporation, whether acquired by purchase or condemnation and situated outside of its territorial limits shall be taxed by the municipality in which such land is situated. Said land shall be set to such municipal corporation in the grand list of the town or city in which such real estate is located at the value fixed in the appraisal next preceding the date of acquisition of such property and taxed on such valuation. The value fixed on such property at each appraisal thereafter shall be the same per acre as the value fixed on similar property in the town or city. Improvements made subsequent to the acquisition of the land shall not be taxed; except that an additional tax not to exceed seventy-five percent of the appraisal of the land may be levied in lieu of a personal property tax. Electric utility poles, lines and pole fixtures owned by a municipal utility lying beyond its boundaries shall be taxed at appraisal value as defined in section 3481 of this title.

§ 3660. Repealed.

§ 3691. General rule

Taxable tangible personal estate shall be set in the list to the last owner thereof on April 1 in each year, in the town, village, school and fire district where such property is situated, with the exception that such personal estate situated within this state owned by persons residing without the state or by persons unknown to the listers shall be set in the list to the person having the same in charge, in the town, village, school and fire district where the same is situated and shall be holden for all taxes assessed on such list. However, tangible personal estate owned by nonresident persons or corporation, and used in this state by the state or a department or institution thereof, under lease, contract or other agreement, written or oral, may be set in the list in the town where so used, to such nonresident owner.

§ 3692. Taxation of boats, outboard motors and trailer coaches

(a) Except as otherwise provided, snowmobiles, trailer coaches as defined by section 4 of Title 23 registered yearly for use on the highways and designed and used for recreational purposes except as provided by subsection (b) of this section, canoes, skiffs, sailboats, motor or power boats, boats, outboard motors, or any combination of boat and outboard motor, shall be taxed as personal property only when held as stock in trade, manufacturer's inventory, or when used for income producing purposes, and in such cases shall be set in the list in accordance with section 3691 of this title.

(b) A trailer coach shall be taxed as real property by the town in which it is located notwithstanding subsection (a) of this section if it is situated in the town on the same trailer site or camp site for more than 180 days during the 365 days prior to April 1. A trailer coach shall not be taxed as real property if it is stored on property on which the owner resides in another dwelling as a permanent residence.

§ 3701. Definitions

For the purposes of this subchapter:

(1) "State-owned property" means

(A) state-owned buildings, including buildings of the Vermont state colleges which are tax-exempt under section 2178 of Title 16; buildings of the University of Vermont and State Agricultural College used for educational and not commercial purposes; and buildings of the agency of transportation and the department of the military; but excluding the value of land on which the buildings are located, and excluding all highways and bridges and any land pertaining thereto; and

(B) state-owned lands which pertain to state correctional facilities.

(2) "Assessed value of state buildings" means the estimation of the current cost of replacing a building, maintained for insurance purposes by the state agency or other entity responsible for insuring the building, depreciated by the age and condition of the building.

(3) "Assessed value of state lands" means the fair market value of lands which pertain to state correctional facilities, as determined by the division of property valuation and review, subject to the provision of subsection 3704(b) of this title.

(4) "Adjusted municipal grand list" means the total assessed value of any state-owned property located in a municipality, multiplied by the common level of appraisal for the municipality as determined by the division of property valuation and review, multiplied by one percent, and added to the grand list of the municipality as determined pursuant to chapter 129 of this title.

(5) "Adjusted municipal tax rate" means the total sum of money voted by a municipality for all non-educational expenses pursuant to section 2664 of Title 17 or section 1309 of Title 24, divided by the adjusted municipal grand list of the municipality.

(6) "Municipality" means an incorporated city, town, village, or unorganized town, grant or gore in which a tax is assessed for non-educational purposes.

§ 3702. Payment of grants authorized

The secretary of administration shall determine annually the amount of payment due, as a state grant in lieu of property taxes, to each municipality in the state in which is located any state-owned property, in accordance with the provisions of this subchapter.

§ 3703. Grant formula

(a) The amount of a grant to a municipality authorized by this subchapter shall be based on the total assessed value of any state-owned property located in the municipality, multiplied by the common level of appraisal for the municipality as determined by the division of property valuation and review, multiplied by one percent, and multiplied by the adjusted municipal tax rate for the municipality in which the property is located.

(b) [Repealed.]

(c) The total of any grants under subsection (a) of this section for buildings owned by the University of Vermont and State Agricultural College shall be limited to a maximum of \$750,000.00.

(d) [Repealed.]

(e) The secretary of administration shall have authority to reduce any payments under this subchapter to avoid multiple payments to a municipality in the same year in lieu of taxes with respect to the same property.

§ 3704. Determination of assessed values; appeal

(a) Prior to August 1, 1997, and to May 1 of each taxable year thereafter, the secretary of administration shall provide assessed values of state buildings and lands, as defined under this subchapter, to every municipality to which a grant is payable under this subchapter.

(b) Any municipality aggrieved by the action of the secretary under this section may, within 30 days of receipt of the assessed values, appeal to the superior court of the district in which the municipality is located.

§ 3705. Adjusted municipal grand list and adjusted municipal tax rate

(a) Prior to October 1 in each taxable year, the division of property valuation and review shall provide the secretary of administration with the following:

(1) the adjusted municipal grand list for the prior assessment year, with the assessed values of all state-owned property shown separately, together with a statement of the common level of appraisal used to weight the assessed values of state-owned property;

(2) the adjusted municipal tax rate to be used in assessing taxes on the prior adjusted municipal grand list; and

(3) the total sum of money voted by the municipality for all noneducational expenses, pursuant to section 2664 of Title 17.

(b) Prior to issuing a grant under this subchapter, the secretary of administration may substitute his or her calculations of the adjusted municipal grand list or the adjusted municipal tax rate for a municipality if the secretary finds that those calculations provided by the municipality under this section are in error or are inconsistent with assessed values as determined pursuant to section 3704 of this title.

§ 3706. Payment to municipalities

Grants under this subchapter shall be made annually by the secretary of administration to each eligible municipality on or before December 1, 1997, and on or before October 31 in years thereafter. Nothing in this subchapter shall be construed or permitted to affect the tax exempt status of the University of Vermont and State Agricultural College, as provided by statute and guaranteed by that institution's charter.

§ 3707. Rules

The secretary of administration may adopt rules under chapter 25 of Title 3 to carry out the provisions of this subchapter.

§ 3708. Payments in lieu of taxes for lands held by the agency of natural resources

(a) All ANR land, excluding buildings or other improvements thereon, shall be appraised at fair market value by the director of property valuation and review and listed separately in the grand list of the town in which it is located. Annually the state shall pay to each municipality an amount which is the lesser of:

(1) one percent of the director's appraisal value for the current year for ANR land; or

(2) one percent of the current year use value of ANR land enrolled by the agency of natural resources in the use value appraisal program under chapter 124 of this title before January 1999; except that no municipality shall receive in any taxable year a state payment in lieu of property taxes for ANR land in an amount less than it received in the fiscal year 1980.

(b) "ANR land" in this section means lands held by the agency of natural resources.

(c) "Municipality" in this section means an incorporated city, town, village, or unorganized town, grant or gore in which a tax is assessed for noneducational purposes.

(d) "Fair market value" in this section shall be based upon the value of the land at its highest and best use determined without regard to federal conservation restrictions on the parcel or any conservation restrictions under a state agreement made with respect to the parcel.

(e) The selectboard of a town aggrieved by the appraisal of property by the division of property valuation and review under this section may, within 21 days after the receipt by the town listers of notice of the appraisal of its property by the division of property valuation and review, appeal from that appraisal to the superior court of the district in which the property is situated.

§ 3709. Pilot special fund

(a) There is hereby established a PILOT special fund consisting of local option tax revenues paid to the treasurer pursuant to 24 V.S.A. § 138. This fund shall be managed by the commissioner of taxes pursuant to subchapter 5 of chapter 7 of this title. Notwithstanding subdivision 588(3) of this title, all interest earned on the fund shall be retained in the fund for use in meeting future obligations. The fund shall be exclusively for payments required under subchapter 4 of chapter 123 of this title, state payment in lieu of property taxes. The commissioner of finance and management may draw warrants for disbursements from this fund in anticipation of receipts.

(b) If the PILOT special fund is insufficient to pay the full amount of all payments in lieu of taxes under subchapter 4 of this chapter, payments, after application of the cap in subsection 3703(c) of this title, shall be reduced proportionately.

Chapter 124: AGRICULTURAL AND FOREST LANDS

§ 3751. Statement of purpose

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forest land; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; 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; 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

For the purposes of this subchapter:

(1) "Agricultural land" means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock or to cultivate trees bearing edible fruit or produce an annual maple product, and which is 25 acres or more in size except as provided below. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of his farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; and

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00;

(iii) exceptions to these income requirements may be made in cases of orchard lands planted to fruit producing trees, bushes or vines which are not yet of bearing age. For the purposes of this section, the term "farm crops" also includes animal fiber, cider, wine and cheese produced on the enrolled land or on a housesite adjoining the enrolled land from agricultural products grown on the enrolled land.

(2) "Assessing officials" means the listers or other assessing authority of the municipality or the state of Vermont.

(3) "Board" means the current use advisory board established in section 3753 of this chapter.

(4) "Commissioner" means the commissioner of the department of taxes.

(5) "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. "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, 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 which qualifies for enrollment and for which, within 30 days following the transfer, each transferee applies for reenrollment in the use value appraisal program. "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, or contrary to the minimum acceptable standards for forest management; 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. The term "development" shall 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.

(6) "Director" means the director of the division of property valuation and review created by section 2289 of Title 3.

(7) "Farmer" means a person:

(A) who earns at least one-half of the farmer's annual gross income from the business of farming as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1954; or

(B)(i) who produces farm crops that are processed in a farm facility situated on land enrolled by the farmer in a use value appraisal program or on a housesite adjoining the enrolled land;

(ii) whose gross income from the sale of the processed farm products pursuant to subdivision (i) of this subdivision (B), when added to other gross income from the business of farming as used in subdivision (A) of this subdivision (7), equals at least one-half of the farmer's annual gross income; and

(iii) who produces on the farm a minimum of 75 percent of the farm crops processed in the farm facility;

(C) The agency of agriculture, food and markets shall assist the director in making determinations of eligibility pursuant to subdivision (B) of this subdivision (7).

(8) "Housesite" means the two acres of land surrounding any house, mobile home or dwelling.

(9) "Managed forest land" means:

(A) any land, exclusive of any house site, which is at least 25 acres in size and which is under active long-term forest management for the purpose of growing and harvesting repeated forest crops in accordance with minimum acceptable standards for forest management; or

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

(i) certified under subsection 6306(b) of Title 10;

(ii) is 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 which is not a private foundation as defined in Section 509(a) of the Internal Revenue Code; and

(iii) is under active conservation management in accord with standards established by the commissioner of forests, parks and recreation.

(10) "Owner" means the person who is the owner of record of any land, provided that a municipality shall not be an owner for purposes of this subchapter. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner.

(11) "Person" means any individual, firm, corporation, partnership or other form of organization or group of individuals.

(12) "Use value appraisal" means, with respect to land, the price per acre which 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. The director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.

(13) "Minimum acceptable standards for forest management" refer to certain standards established by the commissioner of the department of forests, parks and recreation.

(14) "Farm buildings" means all farm buildings and other farm improvements which are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. "Farm buildings" shall include up to \$100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling other than a dwelling in use during the preceding tax year exclusively to house one or more farm employees, as defined in section 4469 of Title 9, and their families, as a nonmonetary benefit of the farm employment. This subdivision

shall not affect the application of the definition of "farming" in subdivision 6001(22) of Title 10 or the definition of "farm structure" in subdivision 4413(d)(1) of Title 24.

(15) "Active use" of agricultural land includes that portion of otherwise eligible land that is enrolled in a conservation reserve enhancement program for agricultural lands through a contract with the state or federal government.

§ 3753. Current use advisory board; members; chairman

(a) There is hereby established a current use advisory board.

(b) The membership of the board shall consist of:

(1) The following persons or their designees:

(A) Commissioner of the department of taxes;

(B) Director of the division of property valuation and review;

(C) Secretary of the agency of agriculture, food and markets;

(D) Commissioner of the department of forests, parks and recreation;

(E) Dean of the college of natural resources, agriculture and life sciences of the University of Vermont; and

(F) [Repealed.]

(2) Eight additional members to be appointed by the governor with the advice and consent of the senate. Two of these members shall represent the private agricultural sector; two shall represent the private forestry sector; one shall be experienced in agricultural and forestry property appraisal and valuation techniques; one shall be a representative of local government; one shall be a selectboard member; and one shall be a lister. Fifty-one percent or more of the board membership shall be persons who do not own enrolled land, and have no spouse, child or parent who owns enrolled land. These members shall be appointed for three-year terms, beginning February first of the year in which the appointment is made, except that the initial appointment of three of the members shall be for a two-year term. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(c) A chair shall be designated biennially by the governor from among the members of the board and any vacancy in the office of chair shall be filled by designation of the governor.

(d) Members of the board who are not state employees shall be paid \$50.00 a day, each, for each day that they are actually engaged in the work of the board. All members shall be paid their actual expenses incurred as a result of that work.

(e) The board shall be attached for administrative purposes to the division of property valuation and review of the department of taxes of the agency of administration.

§ 3754. Powers and duties of board

(a) The board shall meet at least annually, prior to February first, to review all past current use land values for agricultural land and managed forest land recommended by past boards, to review the criteria for said lands previously established and to establish new criteria and values as legislation and land management practices may indicate, to establish a schedule of criteria and values to be recommended for the current tax year, and to recommend such changes and improvement in the administration of this subchapter as experience and public reaction may recommend. The board's criteria and recommended values may reflect the class, type, grade and location of the land, together with its productive capacity and income producing capability of agricultural and forest land.

(b) Annually in August the board shall hold a public hearing and such other hearings as they deem necessary to receive public testimony on the criteria and values for use value appraisals in the coming tax year and on the administration of this subchapter.

(c) Prior to February fifteenth each year, the board shall submit to the director its recommended schedule of criteria and values for use value appraisals for the current tax year. The director shall then distribute the valuations to all municipalities, towns and gores, and the assessing officials shall appraise qualifying agricultural and managed forest land at these use values.

(d) The board may adopt rules under the authority granted to agencies by sections 801 through 808 of Title 3 to interpret and carry out the provisions of this subchapter.

(e) A member of the board shall not vote on any issue on which he, or when applicable his agency, has a conflict of interest.

§ 3755. Eligibility for use value appraisals

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

(b) Managed forest land shall be eligible for use value appraisal under this subchapter 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), signed by the owner of a tract which complies with section 3752(9) of this title, filed with and approved by the department of forests, parks and recreation by October 1, which provides for continued conservation management or forest crop production on the tract for at least ten years. During a period of use value appraisal under this subchapter, a conservation or forest management plan for at least ten years, including the 12-month period beginning April 1 of the year for which use value appraisal is sought, signed by the owner, shall be on file with the department in such a manner and in such form as is prescribed by the department. Upon the expiration of a ten year plan, the owner shall file a new plan for at least the next succeeding ten years to remain in the program.

(A) The department may approve a forest management plan which provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the commissioner of forests, parks and recreation.

(B) The department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve: areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; open or natural areas located near population centers, or historically frequented by the public. In approving a plan, the department shall give due consideration to: the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not required; facilitation of appropriate, traditional public usage; opportunities for traditional or expanded use for educational purposes and for research.

(2) a management report of whatever activity has occurred, signed by the owner, has been filed with the department of forests, parks and recreation by February 1 of the year following the year when the management activity occurred; and

(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 conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The report of conformance with any management plan shall be on a form prescribed by the commissioner of forests, parks and recreation in consultation with the commissioner of taxes and shall include a detachable section signed by all the owners that shall contain the federal tax identification numbers of all the owners. The section containing federal tax identification numbers shall not be made available to the general public, but shall be forwarded to the commissioner of taxes within 30 days after receipt and used for tax administration purposes. If any owner shall satisfy the department that he or she was prevented by accident, mistake or misfortune from filing a management plan which is required to be filed on or before October 1 or an annual conformance report which is required to be filed on or before February 1 of the year following the year when the management activity occurred, the department may receive that management plan or annual conformance report at a later date; provided, however, no management plan shall be received later than December 31 and no annual conformance report shall be received later than March 1.

(c) At intervals not to exceed five years, the department of forests, parks and recreation shall audit the management plans and the conformance reports for each parcel of managed forest land qualified for use value appraisal. Likewise, at intervals not to exceed five years, that department shall inspect each tract to verify that the terms of the management plan have been carried out in a timely fashion. If that department finds that the management of the tract is contrary to the conservation 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 of the inspection.

(d) After a parcel of managed forest land has been removed from use value appraisal due to an adverse inspection report, a new application for use value appraisal will not be considered for a period of five years, and then shall be approved by the department of forests, parks and recreation only if a compliance report has been filed with the new application certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

(e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of subdivision 317(a)(6) of Title 1.

§ 3756. Qualification for use value appraisal

(a) The owner of eligible agricultural land, farm buildings or managed forest land shall be entitled to have eligible property appraised at its use value provided the owner shall have applied to the director on or before September first of the previous tax year, on a form approved by the board and provided by the director. A farmer, whose application has been accepted on or before December 31 by the director of the division of property valuation and review of the department of taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

(b) Before January 15, the director shall submit to the assessing officials a list including a description of each parcel of land and any farm buildings for which an application has been received and preliminarily approved for that year. The listers shall review the list, and shall notify the director before February 15 if there is any reason why any property on the list should not be eligible for use value appraisal.

(c) The director shall notify the applicant no later than April 15 of his or her decision to classify or refusal to classify his or her property as eligible for use value appraisal by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode. In the case of a refusal, the director shall state the reasons therefor in the notification.

(d) The assessing officials shall appraise qualifying agricultural and managed forest land and farm buildings at use value appraisal as defined in section 3752(12) of this title. If the land to be appraised is a portion of a parcel, the assessing officials shall:

(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and

(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value.

(e) Once a use value appraisal has been applied for and granted under this section, such appraisal shall remain in effect for subsequent tax years pursuant to the provisions of subsection (f) of this section, and until the property concerned is no longer eligible under provisions of section 3752 or 3755 of this chapter, or due to a change of use or as otherwise provided in section 3757 of this chapter. The grant of use value appraisals of agricultural forest land and farm buildings shall be recorded in the land records of the municipality by the clerk of the municipality. The department of taxes may collect from applicants the fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title, for deposit in a special fund established and managed pursuant to chapter 7, subchapter 5 of this title, and which shall be available as payment for the fees of the clerk of the municipality.

(f) Each year, prior to March 15, the director shall determine whether previously classified property is still eligible for use value appraisal and whether the amount of the previous appraisal is still valid. If the director determines that previously classified property is no longer eligible, or that the property has undergone a change in use such that the use change tax may be levied, in accordance with section 3757 of this chapter, or that the use value appraisal should be fixed at a different amount than the previous year, he or she shall thereafter notify the property owner of that determination by delivery of the notification to him or her in person or by mailing such notification to his or her last and usual place of abode. If a change in use which would render the parcel ineligible occurs between March 1 and April 1, the director shall notify the owner by April 15.

(g) The director shall execute such other forms and the board shall adopt such other procedures and regulations, as are needed to assure a fair opportunity for owners to qualify under this subchapter and to assure compliance with the provisions of this chapter.

(h) By April 15, the director shall mail to each municipality a list of property in the municipality which is to be taxed based on its use value appraisal. The list shall include the owners' names, a grand list number or description of each parcel of land to be appraised at use value, the acreage to be taxed on the basis of use value, the use values to be used for land, and the number and type of farm buildings to be appraised by the assessing officials at use value. The assessing officials shall determine the listed value of the land to be taxed at use value and its estimated fair market value, and fill in these values and the difference between them on the form. This form shall be used by the treasurer or the collector of current taxes to make up tax bills such that the owner is billed only for taxes due on his or her property not enrolled in the program, plus taxes due on the use value of property enrolled in the program. The assessing officials shall submit the completed form to the director by July 5.

(i) The director shall remove from use value appraisal an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the department of forests, parks and recreation has not received a

conformance report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

(j) The commissioner may exempt a farmer-owner of agricultural land and farm buildings located within the municipality and otherwise eligible under this subchapter for use value appraisal from the terms of the definition of a "farmer" contained in subdivision 3752(7) of this chapter, for a year at a time, because of personal hardship created by personal or family disability or death, by economic disaster such as loss of farm buildings, equipment, or livestock due to fire or disease, or natural disaster such as flood or drought. The agricultural land and farm buildings concerned shall continue in this instance to be taxed on the basis of use value appraisal.

§ 3757. Land use change tax

(a) Land which has been classified as agricultural land or managed forest land 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 tax shall be at the rate of 20 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 fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. 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 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. The determination shall be made within 30 days after the date that the owner or assessing officials petition for the determination and shall be effective on the date of dispatch to the owner.

(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. The commissioner shall issue a form to the assessing officials

which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of payment, the commissioner shall furnish the owner with one copy, shall retain one copy and shall forward one copy to the local assessing officials and one to the register of deeds of the municipality in which the land is located. Thereafter, the land which has been 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 of:

(1) the development of the land, as defined in section 3752 of this chapter;

(2) of any change or discontinuance of use of the classified land so that it is no longer eligible for use value appraisal or is eligible for a different use value appraisal under this subchapter; and

(3) of any transfer of ownership. A transfer of ownership, alone, will not affect eligibility of the parcel, and no new maps will be required solely because of a transfer.

(f) The application for use value appraisal of agricultural and forest land, once approved by the state, shall be recorded in the land records of the municipality and shall constitute a lien to secure payment of the land use change tax to the state upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax.

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

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

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

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

(i) Nothing in this section shall be construed as permitting an owner to engage in the development of land in violation of any conservation restriction in effect on said land.

(j) Land transferred to the United States Forest Service is exempt from the levy of a use change tax under this section, provided all of the following apply:

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

(2) the transfer is in consideration for the receipt from the United States Forest Service of land of approximately equal value, as determined by the commissioner; and

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

(k) Conservation and preservation rights and interests held by an agency of the United States or by a qualified holder, as defined in chapter 34 of Title 10, shall be exempt from the levy of a use change tax. Upon request of the agency or qualified holder, the commissioner may petition the director to release the conservation and preservation rights and interests from any lien recorded pursuant to this chapter.

§ 3758. Appeals

(a) Whenever the director denies in whole or in part any application for classification as agricultural land or managed forest land or farm buildings, or grants a different classification than that applied for, or the director or assessing officials fix an erroneous 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, and from there 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.

(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal in the same manner as an appeal of a grand list valuation.

(c) Whenever the commissioner denies a request for an exemption from the terms of the definition of a "farmer" as provided in section 3756(j) of this title, the aggrieved person may appeal the decision to the commissioner, and from there to the superior court in the same manner and under the same procedures as an appeal from a decision of the board of civil authority, as set forth in subchapter 2 of chapter 131 of this title.

(d) Any owner who is aggrieved by a decision of the department of forests, parks and recreation concerning the filing of an adverse inspection report of the denial of approval of a management plan may appeal to the commissioner of the department of forests, parks and recreation. An appeal of this decision of the commissioner may be taken 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.

§ 3759. Repealed.

§ 3760. Payment to municipalities

(a) Annually the state shall pay to each town the amount necessary to limit its tax rate increase in the prior year due to the loss of municipal property tax revenue for that year based on use value of enrolled property as compared to municipal property tax revenue for that year based on fair market value of enrolled property, to zero. The director of property valuation and review shall determine the amount of the available funds under this section to be paid to each town, and a town may appeal the director's decision 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. On November 1 of each year, the director of property valuation and review shall pay to each municipality the amount calculated as described in this section. If the appropriation for the year is insufficient to pay the full amount due to every town under this subsection, payments in that year shall be made to such towns proportionately. The director's calculation of payment amounts to municipalities shall be based on grand list values and total tax appropriations as submitted to the director for the prior year.

(b) Assessing officials shall appraise property enrolled in the program at fair market value consistent with other appraisals. On or before July 5, the assessing officials shall provide the director with the listed value of all enrolled property in the municipality. If the director certifies that the value set by the assessing officials is significantly above the fair market value or is not equitable with other assessments, the director's estimate of the fair market value shall be substituted for that of the assessing officials.

(c) A town aggrieved by the director's decision under this section may appeal that decision under the same procedures as an appeal from a decision of the board of civil authority.

§ 3761. Notice to property taxpayers

Each year prior to June 1, the director shall prepare a notice of the current use value appraisal program established by this subchapter describing its pertinent provisions, the manner in which taxpayers may apply to participate, and the dates and deadlines for application. Such notice shall be printed by the director and supplied in sufficient number to each town in the state for inclusion in property tax bills. The town treasurer or collector of taxes shall include such notice in each tax bill, where applicable. Towns which use envelopes or mailers not able to accommodate notices describing the current use value appraisal program may distribute such notices in an alternative manner.

§ 3762. Repealed.

§ 3763. Public records

Notwithstanding any provision to the contrary in 1 V.S.A. § 317, 32 V.S.A. § 3102 or any other provision of law, the names and addresses of taxpayers, the description of eligible property, the current use valuation of such property participating in the current use value appraisal program under this chapter and the amount reimbursed by the state to the town with respect to the eligible property shall be public records subject to public inspection and copying under 1 V.S.A. chapter 5, subchapter 3.

§ 3763a. - §3775. Repealed.

§ 3776. Fee hunting prohibition

(a) As of September 1, 1997, no person may charge or receive a fee, consideration or other thing of value in exchange for the right to hunt or fish on land enrolled in a use value appraisal program under this chapter.

(b) Upon a finding by the secretary that there has been a violation of the provisions of this section, the land in question shall be removed from the use value appraisal program. Upon development, the land shall be subject to the land use change tax.

Chapter 125: EXEMPTIONS

§ 3801. Omitted.

§ 3802. Property tax

The following property shall be exempt from taxation:

(1) Real and personal estate owned by this state, except as otherwise provided, real and personal estate owned by the United States, United States' securities which are specially exempt from taxation by the laws of the United States at the time of making the list; except that this subsection shall not prohibit a federal agency from making payments for taxes on repossessed or voluntary conveyed single family, multifamily living units or farm properties.

(2) Real and personal property owned by a post of any veterans' organization chartered by act of Congress of the United States or owned by a corporation the members or stockholders of which are members of said post or its auxiliary, provided said real estate is used for purposes of the post or its auxiliary or such corporation only, is used as the principal meeting place of said post or its auxiliary in the exercise of its functions and activities, and is not leased or rented for profit; and real and personal property owned by and used for the purpose of its work by a nonprofit organization chartered by act of the Congress of the United States, such as a Red Cross, boy scout, girl scout, boy or girl organization.

(3) Personal estate owned by inhabitants of this state situated and taxed in another state;

(4) Real and personal estate granted, sequestered or used for public, pious or charitable uses; real property owned by churches or church societies or conferences and used as

parsonages and personal property therein used by ministers engaged in full time work in the care of the churches of their fellowship within the state; real and personal estate set apart for library uses and used by the public and private circulating libraries, open to the public and not used for profit; lands leased by towns or town school districts for educational purposes; and lands owned or leased by colleges, academies or other public schools or leased by towns for the support of the gospel; and lands and buildings owned and used by towns for the support of the poor therein; but private buildings on such lands shall be set in the list to the owners thereof, and shall not be exempt. The exemption of lands owned or leased by colleges, academies or other public schools, shall not apply to lands or buildings rented for general commercial purposes, nor to farming or timber lands owned or leased thereby; but this provision shall not affect the exemption of so-called school or college lands, sequestered to such use prior to January 28, 1911;

(5) Real and personal property held by and for the benefit of college fraternities and societies and corporations owning such property, but this exemption shall not apply to property held for investment purposes. The exemption from taxation of real and personal property held by and for the benefit of college fraternities and societies and corporations owning such property shall not be construed as exempting lands, buildings or property other than a fraternity or society house, the land occupied thereby, the land adjacent thereto and used as a lawn, playground or garden, and the household furniture, and equipment in actual use in such fraternity or society house;

(6) Buildings, land and personal property owned and occupied by a Young Men's Christian Association or a Young Women's Christian Association for the purposes of its work, the income of which is entirely used for such purposes;

(7) Lands used for cemetery purposes and the structures thereon, trust funds and other property belonging to or held by cemetery associations and the lots of the proprietors thereof;

(8) Household furniture and equipment of every person not regularly used as income producing property; household provisions; personal wearing apparel and ornament; private and professional libraries; shrubs and plants located in a commercial greenhouse or nursery; fowl; sheep; cattle; horses; goats; swine; bees; hay and produce sufficient to winter out the stock; tractors and other machinery of a farmer, not used for hire or contract purposes; real and personal farm property constructed and used for the storage of manure and designed to avoid water pollution; tools and implements of a mechanic or farmer; aircraft, automobiles and motor vehicles, but not including trailer coaches; and motorized highway-building equipment and road-making appliances as defined in section 4(19) and (31) of Title 23 required to be registered as motor vehicles;

(9) Grounds and property owned and occupied by agricultural societies so long as the same are used annually for agricultural fairs;

(10) Real property owned by an honorably discharged person who served in the army or navy of the United States in the Civil and Spanish-American Wars, or in the army, navy or marine corps of the United States between April 21, 1898, and July 4, 1902, or by his widow, if she is entitled to a pension under the federal laws, whether such property is

owned by or deeded to such soldier or sailor, such soldier or sailor and wife, or such widow, to the extent of a dwelling house used as a home, shall be exempt from taxation, provided that written application therefor shall be filed with the listers before the abstract of individual lists is completed. Such exemption shall be noted on the grand list book opposite the name of such person;

(11)(A) Real and personal property to the extent of \$10,000.00 of appraisal value, except any part used for business or rental, occupied as the established residence of and owned in fee simple by a veteran of any war or a veteran who has received an American Expeditionary Medal, his or her spouse, widow, widower or child, or jointly by any combination of them, if one or more of them are receiving disability compensation for at least 50 percent disability, death compensation, dependence and indemnity compensation, or pension for disability paid through any military department or the veterans administration if, before May 1 of each year, there is filed with the listers:

(i) a written application therefor; and

(ii) a written statement from the military department or the veterans administration showing that the compensation or pension is being paid. Application for an exemption under this section based upon permanent disability is only required to be filed with the listers before May 1 of the first year for which the exemption is sought, and the exemption shall remain on the grand list until title to the property is transferred.

Only one exemption may be allowed on a property.

(B) The terms used in this subdivision shall have the same definitions as in Title 38, U.S. Code § 101, except that:

(i) the definitions shall apply as if federal law recognized a civil union in the same manner as Vermont law;

(ii) such definitions shall not be construed to deny eligibility for exemption in the case where such exemption is based on retirement for disability and retirement pay is received from a federal agency other than the veterans administration ; and

(iii) the age and marital status limits in section 101(4)(A) shall not apply.

An unremarried widow or widower of a previously qualified veteran shall be entitled to the exemption provided in this subdivision whether or not he or she is receiving government compensation or pension. By majority vote of those present and voting at an annual or special meeting warned for the purpose, a town may increase the veterans' exemption under this subsection to up to \$40,000.00 of appraisal value. Any increase in exemption shall take effect for the taxable year in which it was voted, and shall remain in effect for future taxable years until amended or repealed by a similar vote.

(12) Real and personal property exclusively installed and operated for the abatement of pollution of the waters of the state of Vermont or waters within the purview of the New England Interstate Water Pollution Control Compact in accordance with engineering principles approved by the Vermont water resources board. This type of property shall be

exempt as long as its operation meets with the approval of the secretary of the agency of natural resources;

(13) Fallout shelters built at any time in compliance with then existing standards of the department of defense, office of civil defense, as long as the same are kept or used only for protection from radioactive fallout;

(14) [Repealed.]

(15) Real and personal property owned by a charitable, nonprofit organization devoted to the welfare, protection and humane treatment of animals, including any premises of a custodian or caretaker which is attached to or is located on the grounds of such an animal shelter.

(16) Real and personal property owned by a federally-qualified health center or a free standing, federally-designated rural health clinic, provided such center or clinic is governed by a community board of directors; offers care on a sliding scale based on ability to pay; is owned and operated on a nonprofit basis; is unconditionally dedicated to public use which directly benefits an indefinite class of the public and confers a benefit on society. Notwithstanding any provision of law to the contrary, this exemption shall apply without the need for a vote of the town or municipality in which such property is located.

§ 3803. Exemptions from local taxation

Except as otherwise provided, the following property shall not be set in the grand list to the owner thereof:

(1) real and personal estate used in operating a railroad, and appraised under sections 8281-8286, 8301-8306, 8321-8322, of this title including the section of the North Stratford, New Hampshire to Beecher Falls, Vermont railroad line owned by the state of New Hampshire and situated in the town of Canaan exempted from taxation under section 8286 of this title;

(2) real and personal estate, except land and buildings, used in carrying on telephone business or in operating a transportation company in this state;

(3) money, stocks, bonds, mortgages and other evidences of indebtedness.

§ 3831. College, university or fraternity property

(a) Any real property acquired after April 1, 1941, by any college, university or fraternity such as would be exempt from taxation under the provisions of section 3802 of this title, shall be set to such institution in the grand list of the town or city in which such real property is located at the value fixed in the appraisal next preceding the date of acquisition of such property, and taxed on such valuation. However, the voters of any town or city may at any legal meeting thereof vote to exempt such property from taxation, either in whole or in part. Except as provided under subsection (c) of this section, the value fixed on such property at such appraisal shall not be increased so long

as the property is owned and used by such institution for other than commercial and investment purposes, whether or not improvements are made thereon.

(b) The provisions of subsection (a) shall not exempt from county, town or school taxes, lands owned by a college, and leased "as long as wood grows and water runs," securing to the lessees the right of preemption, unless such lands were chartered as sequestered for the benefit of the college, or became the property of the college prior to the organization of the town in which they lie.

(c) In the event of a general reappraisal of all property in the municipality completed after 1982, the appraisal value of property subject to subsection (a) of this section shall first be changed to an amount which yields a tax liability (computed with reference to the tax rate applicable to the first tax year based on the reappraisal) equal to the tax liability for such property for the tax year immediately preceding the reappraisal; provided, that in the event the tax liability imposed on the majority of all taxable properties in the municipality increases in the first tax year based on the reappraisal, then any appraisal value of property subject to subsection (a) shall be further changed to an amount that yields the tax liability computed above adjusted by the average percentage increase or decrease in the tax liability of all taxable properties in the municipality.

(d) For the purposes of this section, the term "fraternity" shall also mean "sorority."

§ 3832. Public, pious and charitable uses

The exemption from taxation of real and personal estate granted, sequestered or used for public, pious or charitable uses shall not be construed as exempting:

(1) Real and personal property held in trust for a municipal corporation by virtue of a trust which takes effect after passage of this act when the property is located outside the town where the said municipal corporation has its principal place of business, unless the town or municipality in which the property is located so votes at any regular or special meeting duly warned therefor.

(2) Real estate owned or kept by a religious society other than a church edifice, a parsonage, the outbuildings of the church edifice or parsonage, a building used as a convent, school, orphanage, home or hospital, land adjacent to any of the buildings named in this subsection, kept and used as a parking lot not used to produce income, lawn, playground or garden and the so-called glebe lands.

(3) Property of railroad corporations.

(4) A municipal electric light plant when located outside the town wherein the municipality owning it is situated.

(5) Real and personal property held by the state and located in any town other than that in which the institution of which it forms a part is located.

(6) Real and personal property owned or kept by an orphanage, home or hospital including diagnostic and treatment center not used for the purpose of such institution but

leased to others for income or profit, whether or not the institution is conducted by or connected with a religious society unless the town or municipality in which the property is located so votes at any regular or special meeting duly warned therefor.

(7) Real and personal property of an organization when the property is used primarily for health or recreational purposes, unless the town or municipality in which the property is located so votes at any regular or special meeting duly warned therefor.

§ 3833. Repealed.

§ 3834. Factories; quarries; mines

If the amount invested exceeds \$1,000.00, manufacturing establishments, quarries, mines, and such machinery, tramways, appliances and buildings as are necessary for use in the business, machinery placed in an unoccupied building to be used in such business, and capital and personal property used in such business, may be exempted from taxation for a period not exceeding ten years from the commencement of business, if the town so votes.

§ 3835. -Reporting exemption

Within ten days after the adjournment of any town meeting at which an exemption is granted under the provisions of section 3834 of this title, the town clerk shall report to the director, upon forms to be furnished by him, the date upon which such exemption was granted and the length of the term thereof.

§ 3836. Homes and dwellings

Annually at town meeting, a town may vote to exempt from taxes the first \$75,000.00 or a smaller amount of the appraised value of buildings used and occupied exclusively as homes, dwelling houses or farm buildings whether for sale or rent, provided such buildings have been constructed or put in the process of construction during the 12 months immediately preceding the meeting or are to be constructed or put in the process of construction during the 12 months immediately following the meeting. The duration of such exemption shall not exceed three years, to be determined by the vote. The exemption shall first be applicable against the grand list of the year in which the vote is taken.

§ 3837. Airports

At an annual or special meeting a town may vote to exempt, for a period not exceeding five years at a time, real and personal estate used and occupied for or in connection with airport purposes.

§ 3838. Hotels

At an annual or special meeting a town may vote to exempt for a period not exceeding five years at a time real and personal estate used and occupied for hotel purposes. When a majority of those voting on the question of such exemption at an annual meeting vote in favor thereof, such vote shall not be valid unless it shall appear that the total grand list of such majority is equal to at least half of the total grand list of those voting on such

question. When a majority of those voting on the question of such exemption at a special meeting vote in favor thereof, such vote shall not be valid unless it shall appear that such majority is equal in number to a third of the total number of legal voters in such town, nor unless it shall appear that the total grand list of such majority is equal to at least half of the total grand list of those voting on such question.

§ 3839. Repealed.

§ 3840. Charitable and fraternal organizations

When a society or body of persons associated for a charitable purpose, in whole or in part, including fraternal organizations, volunteer fire, and ambulance or rescue companies, owns real estate used exclusively for the purposes of such society, body or organization, such real estate may be exempted from taxation, either in whole or in part, for a period not exceeding ten years, if the town so votes. Upon the expiration of such exemption, a town may vote additional periods of exemption not exceeding five years each.

§ 3841. Repealed.

§ 3842. Repealed.

§ 3843. Housing projects for low and moderate income occupants

(a) The board of selectmen of a town, the board of aldermen or city council of a city, or the supervisor of an unorganized town or gore, may enter into an agreement on behalf of the municipality with a person who owns or intends to acquire or seeks to construct a federally subsidized, low or moderate income housing project, for payments by such person to the municipality in lieu of all taxes which would otherwise be assessed against the property, where federal assistance would not be available in the absence of such an agreement. An agreement entered into under this section shall be in writing and shall be executed by the person owning or intending to acquire or to construct the project, and by the board of selectmen or aldermen, or in the case of an unorganized town or gore by the supervisor, on behalf of the municipality. Property which is subject to an agreement entered into under this section shall be included in the equalized grand list of the municipality under chapter 123 of Title 16 in an amount which at the tax rate in effect in the municipality would, if the property were subject to taxation, yield a tax equal to the amount of the payments in lieu of taxes provided for under the agreement. The amount of the payments and the date or dates when the payments are to be made shall be as specified in the agreement, and the term of the agreement shall not exceed 40 years, but otherwise the same may contain any provisions not inconsistent with this section.

(b) An agreement entered into under this section shall be filed in the office of the clerk of the town or city executing the same within ten days following its execution or in the case of an agreement executed by the supervisor of an unorganized town or gore, in the county clerk's office. The text of the agreement shall also be posted in at least five conspicuous places within the municipality and published in a newspaper circulating in the municipality within ten days following its execution.

(c) The agreement shall become effective 20 days following its execution unless a petition is filed for a referendum pursuant to section 3844 of this title in which case it shall become effective pursuant to the provisions of section 3844 of this title.

§ 3844. -Permissive referendum

(a) An agreement executed by a municipality under section 3843 of this title may be disapproved by a vote of a majority of the qualified voters of the municipality voting on the question at an annual or special meeting of the municipality warned for the purpose, pursuant to a petition signed and submitted in accordance with subsection (b) of this section.

(b) A petition for a vote on the question of disapproving an agreement entered into under the preceding section must be signed by not less than five per cent of the qualified voters of the municipality, and presented to the board of selectmen or city council or the municipality, or to the supervisor in the case of an unorganized town or gore, within 20 days following the date of execution of the agreement.

(c) When a petition is submitted in accordance with subsection (b) of this section, the board of selectmen, city council or supervisor, as the case may be, shall call a special meeting within 40 days from the day of receipt of the petition, or shall include an article in the warning for the next annual meeting of the municipality if the annual meeting follows within the 40-day period, to determine whether the voters will disapprove the agreement.

(d) Not less than two copies of the agreement shall be posted at each polling place during the hours of voting, and copies thereof shall be made available to voters at the polls on request. It shall be sufficient to refer to the agreement in the warning by title.

(e) An agreement as to which a petition for permissive referendum is submitted under this section shall become effective immediately upon a conclusion of the meeting unless the agreement is disapproved by a majority of the qualified voters voting on the question at the meeting.

§ 3845. Alternate energy sources

(a) At an annual or special meeting warned for that purpose, a town may, by a majority vote of those present and voting, exempt alternate energy sources, as defined herein, from real and personal property taxation. Such exemption shall first be applicable against the grand list of the year in which the vote is taken and shall continue until voted otherwise, in the same manner, by the town.

(b) For the purposes of this section alternate energy sources includes any plant, structure or facility used for the generation of electricity or production of energy used on the premises for private, domestic or agricultural purposes, no part of which may be for sale or exchange to the public. The term shall include, but not be limited to grist mills, windmills, facilities for the collection of solar energy or the conversion of organic matter to methane, and all component parts thereof including land upon which the facility is located, not to exceed one-half acre.

§ 3846. Farmland appraisal contracts

(a) For the purposes of this section:

(1) "Farmland" means real estate which is actively and exclusively devoted to farming and which is at least twenty-five acres in area and is operated or leased as a farm enterprise by the owner.

(2) "Forest land" means any land, exclusive of any housesite, which is at least twenty-five acres in size and which is under active forest management for the purpose of growing and harvesting repeated forest crops.

(3) "Owner" of farmland or forest land means the record holder of the legal title (with closed leaseland, of the perpetual leasehold interest therein) individually, jointly with a member of his family, or as a member of a partnership all members of which are actively engaged in agriculture in Vermont.

(b) The legislative body of a municipality may negotiate tax stabilization contracts with the owners of farmland or forest land pursuant to the provisions of section 2741 of Title 24 except that to negotiate such contracts the legislative body of the municipality shall be deemed to have the authorization of the municipality under subsection (b) of section 2741 of Title 24.

(c) Any tax stabilization contract negotiated without the approval of a vote of the municipality under subsection (b) of this section shall provide that each appropriate taxing jurisdiction in which the property is located, including municipalities and school districts, shall compute the difference between the taxes due on such land under a farmland or forest land stabilization contract and the amount of taxes that would have been owed on such land at a fair market value appraisal. In the event of a conversion of the land from farmland or forest land to another use in breach of the contract, the sum of the differences between these two amounts of taxes for the previous three years shall be paid by the owner of the land under contract to the municipality within 30 days of the conversion. The contract shall constitute a lien in favor of the municipality against the property subject to the contract for payment of any amounts due the municipality under this subsection.

(d) Whenever the assessing officials deny in whole or in part any application for classification as farmland or forest land or grant a different classification than that applied for, or fix an erroneous use value appraisal for eligible land, the aggrieved owner may appeal the decision in accordance with the provisions set forth in chapter 131 of this title. The appeal shall be heard in the same manner and under the same procedures as other appeals relating to real property appraisals and taxation.

§ 3847. Neighborhood housing improvement programs

At an annual or special meeting, a municipality may vote to exempt, for a period not exceeding five years, the property tax on the value of improvements made to principal dwelling units with funds provided in whole or in part by a nonprofit, neighborhood or municipal housing improvement program which limits eligibility to residents with

incomes below the median income of the state. Such programs include but are not limited to neighborhood housing services, community loan funds, community land trusts, neighborhood planning associations and municipal housing improvement programs.

§ 3848. Inventory tax; local option

(a) At an annual or special meeting warned for the purpose, a municipality may, by a majority vote of those present and voting, elect not to tax inventory of manufacturers and merchants, and of other trades and businesses including professional practices, except as otherwise provided by law. An election by a town not to tax inventory shall remain in effect until repealed or amended by a similar vote of the town.

(b) As used in this section, "inventory" means tangible personal property of a nondepreciable nature held for consumption, sale, resale, leasing, or to be furnished under contracts of service, in a trade or business, and includes without limitation, raw materials, work in process, semi-finished or finished goods of manufacturers and processors, and the stock-in-trade of wholesalers and retailers.

(c) A repeal of the tax on inventory may be effective for 100 percent of inventory in the tax year following the vote; or the town may vote to exempt a stated percentage of inventory each year for a number of years not to exceed ten, until 100 percent of inventory is exempt.

§ 3849. Business personal property; local option

(a) At an annual or special meeting warned for the purpose, a municipality may, by a majority vote of those present and voting, elect not to tax, in whole or in part, business personal property according to this section. An election by a town not to tax business personal property shall remain in effect until repealed or amended by a similar vote of the town.

(b) As used in this section, "business personal property" means property defined in section 3618(c) of this title.

(c) If a town elects to repeal in whole the tax on business personal property, it may do so effective for 100 percent of property in the year following the vote, or it may vote to exempt an increasing percentage of property each year for a number of years not to exceed ten years, until 100 percent of business personal property is exempt.

Chapter 129: GRAND TAX LISTS

§ 4001. Inventory forms

(a) Annually on April 1, at the expense of the state, the director shall furnish to the several town clerks and boards of appraisers for unorganized towns and goes inventory forms sufficient in number to meet the requirements of this chapter. Such forms shall be formulated by the director, and, among other things, shall contain suitable interrogatories requiring each taxpayer to furnish therein a brief statement of all of each taxpayer's

taxable property, real and personal, and such other information, including income and expense information with respect to any income-producing properties, as will enable the listers or appraisers to appraise such part thereof as is required by law to be by them appraised, and to make up the abstract of individual lists and grand list in the manner prescribed by law.

(b) The director shall include in the blank inventories furnished pursuant to subsection (a) of this section sufficient space for describing the personal property of the taxpayer. This information may be furnished by schedules to be attached to the inventories.

(c) Listers shall obtain detailed inventory information respecting real and personal property only in such cases as in their judgment is necessary to ascertain the fair market value of property that is subject to an appraisal or reappraisal.

§ 4002. -Oath

Such form shall contain the following: I do solemnly swear (or affirm), under the pains and penalties of perjury, that, to my best knowledge and belief, the foregoing inventory by me subscribed is a full, true and correct list and description of all taxable property, both real and personal, which should be set in the list to me.

_____ Sign here

Listers may administer all oaths prescribed in this chapter other than such as are required to be administered to listers.

§ 4003. Distribution of inventories

Inventory forms and printed copies of the law prepared as provided in section 3411(6) of this title, shall be delivered by the town clerk or listers to all taxpayers requesting the same. At the expense of the town, listers shall forward by mail such inventories and copies to such foreign corporations and nonresidents who are taxable therein, except those taxable for real estate only, as shall be known to them; and the listers or town clerk in like manner may furnish such copies to any taxpayer. Failure on the part of the listers or town clerk to mail or otherwise to furnish such copies, or of the aforesaid persons or corporations to receive the same, shall not in any manner affect or invalidate a grand list prepared and filed according to law.

§ 4004. Return of inventories by individuals

On or before April 20, unless otherwise required, every taxable person shall procure such inventory form, make full answers to all interrogatories therein, subscribe the same, make oath thereto, and deliver or forward the same to one of the listers in the town wherein such person owns or possesses property required by law to be set to him in the grand list. When notice in writing to file, deliver or forward such inventory on or before a given date is delivered by one of the listers to a person, or mailed postage prepaid to him at his last known post office address, such person, within the time therein specified, shall properly fill out such inventory and deliver or forward the same to one of the listers, notwithstanding he may not own or possess property subject to taxation. Persons taxable

only for real estate and persons taxable only upon their polls shall not be required to file such inventory unless notified so to do as herein provided.

§ 4005. Return by corporations, estates or fiduciaries

The officer of a corporation on whom service of process may be made shall procure such form and the same shall be executed by its president or other principal officer and the same shall be delivered or forwarded to one of the listers. The person who has charge of the property of a trust, or the property of an estate of a decedent or of a ward or of the property of another person shall procure and deliver or forward such form to one of the listers.

§ 4006. Failure to return inventory

Failure of a taxpayer to make and return a signed, sworn to, or affirmed inventory within 45 days after the mailing of such inventory by the town listers shall bar the taxpayer from any statutory appeal under this chapter or chapter 131 of this title, unless such failure is due to factors beyond the taxpayer's control. In addition, a taxpayer who fails to submit an inventory within the time and in the form prescribed may be fined not more than \$100.00 for each violation.

§ 4007. Final disposition of inventories

Inventories filled out by taxpayers shall be lodged by the listers in the town clerk's office on or before June 1, shall be maintained in a manner reasonably calculated to protect the confidentiality of the information contained in the inventories and shall be retained therein for a period of not less than three years.

§ 4008. Wilful destruction

A person who wilfully destroys or removes an inventory from the office of the town clerk during the time the same is required to be preserved, except in obedience to process, shall be fined \$500.00.

§ 4009. Examination of inventories

Any inventory collected pursuant to section 4001 or 4452 of this title that is in the custody of the town clerk shall be available for inspection, tabulation and copying by any commission authorized to do so by the general assembly, a member of such commission, the attorney general, the director, the state's attorney of the county and any person designated in writing by the commission, or by any officials listed in this section. Listers, selectboard members, treasurers, collectors of taxes, town grand jurors, attorneys for the town and any person designated by the town to assist the town in appraising, as required under section 4041 of this title, the fair market value of the property identified on the inventory form may examine any inventory that they name, and the taxpayer, the taxpayer's administrator or executor, may examine the taxpayer's inventory. Town clerks shall upon request furnish a certified copy of an inventory to an official or person entitled to examine the same, and upon subpoena for that purpose, shall produce in court any inventory in the clerk's custody. Copies or abstracts so taken or furnished and any data or

information obtained by such examination or contained in such abstracts or copies shall not be disclosed in any manner that will reveal the name or identity of the person making such inventory, except for official use. Except as provided in this chapter, the town clerk shall not allow a person to examine such inventories. An official or person entitled to examine an inventory or any other person possessing such information by or through the town offices other than the reporting taxpayer, who, in a manner not provided for in this chapter, discloses any information so possessed shall be fined not more than \$100.00.

§ 4010. Inventories in unorganized towns and gores

Persons liable to pay taxes in unorganized towns or gores, except as otherwise provided, shall be subject to the same provisions in regard to making out and returning inventories of property to which taxpayers in organized towns are subject; and in taking the list for taxation in unorganized towns and gores, the appraisers therefor, except as otherwise provided, shall be governed by the provisions of this chapter.

§ 4041. Examination of property; appraisal

On April 1 the listers shall proceed to take up such inventories and make such personal examination of the property which they are required to appraise as will enable them to appraise it at its fair market value. When a board of listers are of the opinion that expert advice or assistance is needed in making any appraisal required by law, they may, with approval of selectmen or by vote of the town, employ such assistance.

§ 4041a. Reappraisal

(a) A municipality shall be paid \$8.50 per grand list parcel per year, from the equalization and reappraisal account within the education fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. Additionally, a municipality shall be paid \$3.65 per grand list parcel for the first 100 parcels \$0.20 for each of the next 100 parcels, and \$0.01 for each parcel in excess of 200 from the equalization and reappraisal account within the education fund, to be used only for costs to acquire assessment education provided under section 3436 of this title.

(b) If the director of the division of property valuation and review determines that a municipality's education grand list is at a common level of appraisal below 80 percent or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If the director orders a reappraisal, the director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the director, to develop a compliance plan, or both. If the director accepts a proposed compliance plan submitted by the municipality, the director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

(c) If a municipality fails to submit an acceptable plan or fails to carry out the plan, pursuant to subsection (b) of this section, the state shall withhold the education, transportation and other funds from the municipality until the director certifies that the town has carried out that plan.

(d) The director shall adopt rules necessary for administration of this section.

§ 4044. Appraisal of personalty on April 1

Unless otherwise provided, the taxable personal estate contained in the inventory shall be appraised by the listers at its fair market value on April 1.

§ 4045. Appraisal on other than April 1

If any business is normally operated for a period less than twelve consecutive months and is not in operation on April 1, an inventory shall be filed with the listers at least fifteen days prior to the anticipated annual suspension of such business and the stock in trade shall be appraised for the period of operation so as to represent an average of values of such property during that period in which the business has been carried on.

§ 4046. -Notice

The listers shall notify the taxpayer in writing within five days after the filing of such inventory of the appraised value of such property.

§ 4047. -Amending tax list

If no appeal is taken within the time allowed under section 4403 of this title, or if an appeal is taken, upon determination of such appeal, the listers shall amend the grand list and make a certificate thereon of that fact.

§ 4048. Evaluating real estate of nonresidents

When the last owner of record of real estate is a nonresident and not taxable for personal estate in the town where the real estate is situated, it shall be set to such owner at the same valuation as if he had made a legal inventory.

§ 4049. Appraisal of orchard lands

Upon the request of the listers of a town wherein orchard lands lie or upon the request of an owner of orchard lands, the director shall provide expert advice and assistance to the listers in making reappraisals of such lands.

§ 4050. Appraisal in unorganized towns and gores

As soon as may be after March 31 next succeeding their appointment, the appraisers shall, in the respective unorganized towns and gores for which they are appointed, perform the same duties as are prescribed by law for listers in towns, and be subject to the same liabilities.

§ 4051. -Basis for appraisals

The appraisals made under section 4050 of this title shall be the only appraisals for taxation in unorganized towns and gores. In making such appraisals the appraisers shall appraise and set in the list, apart from the taxable real estate, lands sequestered for public, pious or charitable uses and paying an annual rent.

§ 4052. Contract appraisals; certification

(a) No person, firm or corporation shall be employed by a municipality to perform appraisals of real property for the purpose of property taxation unless approved by the director of property valuation and review as qualified under this section.

(b) The director shall establish by rule reasonable qualifications for approval which shall include successful completion of educational and training courses approved by the director, and, in the case of an appraiser hired to do a townwide reappraisal, at least one year's experience with an appraiser who has satisfactorily completed townwide reappraisals.

(c) This section shall not apply to elected or appointed officials of any town.

§ 4081. Procedure when inventory properly completed

When an inventory is properly filled out, sworn to and delivered and, in the opinion of the listers, contains full, true and correct answers to all the interrogatories therein which such taxpayer is required to answer, and a full, true and correct statement of all the items of property for which the taxpayer filling out such inventory is taxable, the listers shall complete the list of such taxpayer as provided in this chapter.

§ 4082. Taxpayer's grand list

One per cent of the listed value of the real estate taxable to a person shall be added to one per cent of the listed value of his personal estate; and the sum so obtained shall constitute his grand list.

§ 4083. Repealed.

§ 4084. Procedure upon failure to return correct inventory

When a person wilfully omits to make, swear to and deliver an inventory, or to answer any interrogatory therein as required by this chapter, or makes a false answer or statement therein, or if the listers believe that an inventory does not contain a full, true and correct statement of the taxable property of such person, the listers shall ascertain as best they can the amount of the taxable property of such person and appraise the same at its fair market value. When, in the opinion of the listers, the amount so obtained is less than the amount of the taxable property of such person, they shall further appraise his property at a sum which will, in their judgment, equal the difference between the amount of such appraisal and the amount of his taxable property. When taxable property of such person is not ascertainable by the listers, they shall appraise the property of such person at a sum which, in their judgment, is the fair market value of all the taxable property owned by him. The amount so obtained, multiplied by the percent of fair market value that is used by the listers in the town in which the property is situated, shall be the listed value, one percent of which, together with the amount of the taxable poll, if any, shall constitute the grand list of such person.

§ 4085. Notice to taxpayers on nonreturn of inventory

When the list of a person has been made under the provisions of section 4084 of this title, he shall be notified thereof by the listers on or before fourteen days from the day fixed by law on or before which abstracts of individual lists shall be completed and lodged in the town clerk's office, by a written notice delivered to him personally, or by certified mail or left at his last and usual place of abode, if a resident, or if a nonresident, mailed to him at his last known residence. The notice to a corporation shall be delivered personally or by certified mail to the officer whose duty it is to make the inventory.

§ 4086. Omissions in inventory

When, prior to December 15, the listers learn that real or personal estate is omitted from the inventory of a person returned in such year or that a person has failed to return an inventory for such year, they shall notify such person in writing. If such person fails to return an inventory within ten days thereafter, the listers shall act as provided in section 4084 of this title. Taxes shall be assessed and collected upon such grand list as is provided for the assessment and collection of other taxes.

§ 4087. Notice to taxpayer of list prepared under preceding section

When the list of a person has been made under the provisions of section 4086 of this title, he shall be notified thereof by the listers on or before fourteen days from the day on which the listers will meet to hear grievances of such persons by a written notice delivered to him personally, or left at his last usual place of abode, if a resident, or if a nonresident, mailed to his last known residence.

§ 4088. -Contents

The notice to a corporation shall be delivered or mailed to the officer whose duty it is to make the inventory. Such notice shall be in writing and signed by the listers, setting forth their doings in respect thereof, and the time and place at which they will thereafter meet to hear the taxpayer therein named who is aggrieved by any of their actions relating to his list. Unless cause to the contrary is shown within the time named in such notice, such list will become the grand list of such person for the year beginning on the first day of the preceding April.

§ 4111. Abstracts of individual lists

(a) Subject to the provisions of section 4341 of this title, on or before May 5, the listers shall arrange in alphabetical order in a book or books required by law to be furnished for the abstract of individual lists and the grand lists, the names of the various taxpayers and all the data mentioned in section 4152 of this title. The listed valuation of all real and personal estate shall first be set in the appropriate columns therefor marked "valuation".

(b) Such books shall also contain a certificate, signed by the listers, that according to their best knowledge, information and belief they have therein set down the listed valuation of all taxable real and personal estate of each person therein named.

(c) Such book shall contain a notice in writing signed by the listers that the contents thereof will become the grand list of such town and of each person therein named, unless cause to the contrary is shown; and that, on or before May 20, as extended by section 4341 of this title, the listers will meet at some place therein designated by them to hear all grievances and make corrections in such list.

(d) Subject to the provisions of section 4341 of this title, on or before May 5, such book shall be lodged in the office of the town clerk for the inspection of the taxpayers in such town. The town clerk shall endorse thereon the time when the book was so lodged in his office. Such book when so lodged shall be the abstract of individual lists.

(e) When the listers return the grand list book to the town clerk, they shall notify by first class mail, on which postage has been prepaid and which has been addressed to their last known address, all affected persons, listed as property owners in the grand list book of any change in the appraised value of such property or any change in the allocation of value to the homestead as defined under subdivision 5401(7) of this title or the housesite as defined under subdivision 6061(11) of this title, and also notify them of the amount of such change and of the time and place fixed in the public notice hereinafter provided for, when persons aggrieved may be heard. Notices shall be mailed at least 14 days before the time fixed for hearing. Such personal notices shall be given in all towns and cities within the state, anything in the charter of any city to the contrary notwithstanding. At the same time the listers shall post notices in the town clerk's office and in at least four other public places in the town or in the case of a city, in such other manner and places as the city charter shall provide, setting forth that they have completed and filed such book as an abstract and the time and place of the meeting for hearing grievances and making corrections. Unless the personal notices required hereby were sent by registered or certified mail, or unless an official certificate of mailing of the same was obtained from the post office, in the case of any controversy subsequently arising it shall be presumed that the personal notices were not mailed as required.

(f) If the listers discover any error or omission in such abstract, they shall correct the same and shall forthwith give notice thereof in writing by mail, postage prepaid, or by personal delivery to the taxpayer whose list is thus changed, unless such change was made in his presence.

(g) A person who feels aggrieved by the action of the listers and desires to be heard by them, shall, on or before the day of the grievance meeting, file with them his objections in writing and may appear at such grievance meeting in person or by his agents or attorneys. Upon the hearing of such grievance the parties thereto may submit such documentary or sworn evidence as shall be pertinent thereto.

(h) Failure on the part of the listers so to arrange the names of taxpayers in alphabetical order or to perform any of the requirements hereinbefore provided touching the form of the aforesaid abstract of individual lists and grand lists shall not in any manner affect or invalidate the list of any taxpayer, provided it shall contain data which, upon inspection thereof, together with the inventory of the taxpayer, shall disclose taxable property whereon such taxpayer is liable for a tax lawfully laid or assessed.

§ 4112. Legalizing defective or invalid abstracts

If an abstract of individual lists is not lodged in the town clerk's office or is not lodged therein within the time prescribed by section 4111 of this title; or if a defective abstract is lodged therein within the time so prescribed, or subsequent thereto; or if a defective notice or no notice is given under the provisions of section 4111 of this title; or if such abstract is otherwise defective or invalid; or if the listers do not meet at the time and place specified in such notice, on or before February 1 next ensuing, they shall make in proper form and lodge in the town clerk's office a valid abstract or correct any defective one theretofore lodged therein, or perform any act theretofore omitted which is necessary to render such abstract valid.

§ 4113. Certificate to amended abstract

The listers shall add to such abstract so lodged or amended a certificate setting forth the particulars wherein it was defective or invalid, their doings in respect thereto and the date whereon such abstract was so lodged or amended. Failure on the part of the listers to incorporate in such certificate one or more particulars wherein such abstract was defective or invalid shall not in any manner invalidate their doings touching such abstract.

§ 4114. Certificate of clerk

When such abstract is so lodged or amended, the town clerk shall affix thereto his certificate showing the date whereon it was so lodged with him, or such amendments were added to one theretofore filed. Thereupon such abstract shall become lawful and valid and of the same force and effect as if the same had been filed within the time prescribed by law.

§ 4115. Notice by listers

The listers shall attach thereto a notice in writing signed by them setting forth their doings in respect thereto, and the time and place at which they will thereafter meet to hear all taxpayers therein named who are aggrieved by any of their actions relating to such abstract thus filed or amended; and that, unless cause to the contrary is shown within the time named in such notice, it will become the grand list of the town wherein the same is lodged for the year beginning on the first day of the preceding April. The date so fixed for hearing shall not be less than fifteen days from and after the date of such notice.

§ 4116. Notices posted and published; mail to nonresidents

(a) The listers shall forthwith post copies of such notice in the town clerk's office and in five or more public places within the town, and shall, at the expense thereof, publish such notice for two weeks successively in one or more newspapers printed or circulating therein, to be selected by the clerk thereof, the last publication to be at least three days prior to the date of such hearing. A certificate signed by such clerk specifying the names and dates of the newspapers wherein such notice was so published and the public places wherein such copies of notice were so posted shall be prima facie evidence thereof.

(b) Nonresident taxpayers shall receive notice by first class mail on which postage has been prepaid and addressed to their last known address.

§ 4151. Grand list of town

(a) Subject to the provisions of section 4341 of this title, on or before June 25, the listers shall make all corrections in the abstracts and shall lodge such completed book in the office of the town clerk.

(b) Subject to the provisions of section 4341 of this title, each lister shall, on or before June 25, attach to such lists thus completed the following oath:

"I do solemnly swear (or affirm) that according to my best knowledge, information and belief the foregoing list contains a true statement of the listed valuation of all real estate and taxable personal estate, within the town of So help me God." (or "under the pains and penalties of perjury.")

(c) The town clerk shall certify upon such list the time at which such oath was taken by each lister and the date when the completed grand list was so filed and thereupon such list so lodged, certified and sworn to shall become the grand list of such town, subject however, to any and all corrections or additions therein or thereto as otherwise provided by law.

(d) When by notice from the taxpayer or otherwise the listers are informed of the presence within the town of personal property of the nature described in section 3603 of this title, they shall within fifteen days of receipt of such knowledge correct the list of the owner of said property to show the assessed value thereof and shall give notice to the taxpayer of such change in the taxpayer's list in accordance with sections 4087 and 4088 of this title. Copies of said notice shall be transmitted by the listers to the town clerk and treasurer. Within eighteen days of receiving said notice the town treasurer, in the event of no appeal on the part of the taxpayer, shall send the taxpayer an amended statement of taxes due, payable not less than thirty nor more than ninety days from the date thereof. In the event of an appeal by the taxpayer, such notice of taxes due shall be sent within ten days of the termination of said appeal. Collection of such taxes shall be in accordance with the provisions of chapter 133 of this title.

§ 4152. -Contents

(a) When completed, the grand list of a town shall be in such form as the director prescribes and shall contain such information as the director prescribes, including:

- (1) In alphabetical order, the name of each real property owner and each owner of taxable personal property;
- (2) The last known mailing address of all such owners;
- (3) A brief description of each parcel of taxable real estate in the town. "Parcel" means all contiguous land in the same ownership, together with all improvements thereon;

(4) The listed valuation of such owner's personal estate taxable in the town; and for property exempted under the provisions of sections 3834, 3836, 3837 and 3838 of this title, what the full listed value of the property would be absent the exemption, the statutory authority for granting such exemption, the year in which the exemption became effective and the year in which it ends;

(5) The listed valuation of each parcel which is not exempt;

(6) For those parcels which are exempt, what the full listed value of the property would be absent the exemption and the statutory authority for granting such exemption and, for properties exempt pursuant to a vote, the year in which the exemption became effective and the year in which the exemption ends;

(7) For those parcels appraised under the provisions of sections 3607a, 3832(1), 3832(6), 3832(7), 3836, 3840, 3845 or 3847 of this title, the value which reflects the taxes to be paid on the property, the full listed value absent such appraisal, the statutory authority for granting such appraisal, the year in which such appraisal became effective and the year in which it ends;

(8) The full listed value and the stabilization value agreed to by an owner and a town pursuant to 24 V.S.A. § 2741 or section 3843 or 3846 of this title, the year in which the stabilization agreement became effective and the year in which it ends;

(9) Separate columns which will show the listed valuations of homesteads as defined in subdivision 5401(7) of this title and housesites as defined under subdivision 6061(11) of this title.

(b) When the grand list of a town contains a description of a mobile home, whether or not the mobile home is considered real or personal property, the description shall include, if available, the name of the manufacturer, the model number, the serial number and the dimensions of the home.

§ 4153. Repealed.

§ 4154. Endorsement of time of reception

When a grand list is completed and lodged in the office of the town or city clerk, such clerk shall duly endorse thereon the time of its reception and place the same with the permanent files of the office.

§ 4154a. State-owned land

At least two months prior to each annual town meeting, the listers of each municipality in which the agency of natural resources or one of its subdivisions holds title to lands and premises shall report to the selectboard of the municipality regarding the percentage of acreage within the municipality that is owned or otherwise controlled by the agency.

§ 4155. Certificate and attestation-No appeal or suit pending

When no statutory appeal as provided by law from the appraisal of the listers and no suit to recover taxes paid under protest is pending on the first Tuesday of February following such lodgment, the selectmen and listers of a town or the mayor and assessors of a city shall endorse a certificate to that effect upon the grand list and the same shall be attested by the town or city clerk with the date of such attestation.

§ 4156. -After appeal and suit determined

When any such appeal or suit is then pending, such certificate shall be made as soon as such appeal or suit has been finally determined.

§ 4157. -Effect of such certificate

From the date of endorsing such certificate upon the grand list as aforesaid to the effect that no such appeal or suit is pending, when offered in evidence in any court in this state, such list shall be received as a legal grand list of such town or city and its validity shall not be put in issue by any party to any action in any hearing or trial in any court.

§ 4158. Loss or destruction of grand list

When the grand list of a town becomes lost or destroyed, the listers shall at once make a new appraisal of all taxable property in such town and return the same to the office of the town clerk within sixty days from such appraisal in the manner provided for the appraisal of real and personal estate.

§ 4159. Unorganized towns and gores

The lists of unorganized towns and gores shall be made up by the boards of appraisers therefor in the form prescribed by this chapter, and deposited in the offices of the clerks of the counties in which such unorganized towns or gores are respectively situated, on or before June 15 next following the making up of the same. At least fourteen days prior to the date set for hearing grievances, the appraisers for unorganized towns and gores shall notify each taxpayer in writing by first class mail, on which postage has been prepaid and addressed to the last known address, of any change in the appraisal value of property. During such month, sitting at the places where the lists have been deposited, the appraisers shall hear and decide upon the applications of the persons aggrieved, and the appraisers shall not be required to give notice of hearings other than to fix the time therefor upon application. Changes shall not be made in the lists after July 7.

§ 4181. Form and deposit of abstract

Annually, on or before June 15, listers shall make and deposit with the town clerk an abstract of the grand list of such town. Annually, on or before July 5, a like abstract shall be made by the appraisers for unorganized towns and gores and deposited by them with the county clerk. Abstracts shall contain information prescribed by rule of the commissioner of taxes which is reasonably needed for the proper execution of his or her duties.

§ 4182. False abstracts

When a lister or appraiser knowingly makes or returns an incorrect abstract, he shall be fined not more than \$500.00.

§ 4183. Certification by clerk

The clerk to whom such abstract is returned shall compare the same with the grand list, and, if he finds it correct in every particular, shall so certify on the abstract; and if he finds that it is not correct, he shall so certify and state wherein, and the changes necessary to make it conform to the grand list.

§ 4184. -Neglect

A town or county clerk who fails to make such certificate, or transmit such abstract, or knowingly makes a false certificate or statement on such abstract, shall be fined not more than \$500.00.

§ 4185. Transmission to director; changes: remedy⁶

(a) The town or county clerk, as the case may be, annually, on or before August 15, shall transmit such abstract and a photocopy of the grand list by mail to the director, who shall keep the same on file in his office. When changes or additions in the grand list are made by the listers or other officials authorized so to do after such abstract has been so transmitted, such clerks shall forthwith certify the same to the director.

(b) If a town or county clerk fails without cause, as determined by the commissioner, to transmit the abstract or grand list in a timely manner, the commissioner shall notify the secretary of transportation and the commissioner of education, who shall withhold all general and other aid payments owing to the municipality until the abstract is filed. Federal funds are exempt from withholding if the secretary or commissioner have an opinion of counsel that withholding would be a violation of federal law.

§ 4186. Refunds based on false or incorrect abstracts

When the listers of a town, incorporated village or city, by mistake or otherwise, illegally insert assessments in their respective grand lists, and same are included in the abstract of such lists filed with the director, or if an incorrect abstract is filed whereby any such town, incorporated village or city is required to pay a state tax on an amount which embraces such illegal assessments or is otherwise incorrect, the director shall certify to the commissioner of finance and management the amount of the tax paid on such illegal assessments, or otherwise incorrectly paid, and the commissioner of finance and management shall issue his warrant in favor of the treasurer of such town, incorporated village or city for the amount of the illegal tax so paid.

⁶ See also §3410 of Title 32

§ 4221. Time and notice of hearings

On or before May 20, the listers shall meet at the place so designated by them and on that day and from day to day thereafter shall hear persons aggrieved by their appraisals or by any of their acts until all questions and objections are heard and decided. Listers shall add to the aforesaid abstract certificates setting forth such corrections therein as they shall determine and shall forward to each taxpayer a copy of any certificate relating to his list. Such hearings shall not be held later than June 2.

§ 4222. Procedure

The listers shall meet at the time and place designated in such notice to hear all persons aggrieved as aforesaid who have filed their objections in writing; and on that day, and from day to day thereafter, shall hear those appearing in person or by agents or attorneys until all such objections have been heard and considered. All objections filed in writing with the board of listers at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney, and proper notification of the listers determination shall be sent to the taxpayer.

§ 4223. Evidence; voluntary payment

A person so objecting may submit such evidence under oath or in documentary form as shall be pertinent thereto. Nothing herein contained shall permit the filing of objections by a person who has theretofore, without protest, voluntarily paid his taxes assessed on a defective or invalid grand list for that year.

§ 4224. Amendment; certificate; notice

When all objections so stated have been determined by the listers, they shall amend such abstract relating to the persons so aggrieved, if they shall so determine, and shall add thereto a certificate signed by them setting forth such amendments. By June 9, notice in writing of such amendments therein made shall be forthwith delivered or mailed postage prepaid to each of the persons filing such objections. The notice shall inform the taxpayer that he may appeal from this decision to the board of civil authority by lodging his appeal with the town clerk within 14 days of the mailing of the written notice of amendments. Unless the personal notices required by this section were sent by registered or certified mail, or unless an official certificate of mailing of the same was obtained from the post office, in the case of any controversy subsequently arising it shall be presumed that the personal notices were not mailed as required.

§ 4261. Correcting omission from grand list

When real or personal estate is omitted from the grand list by mistake, or an obvious error is found, the listers, with the approval of the selectboard, before December 31, may supply such omissions or correct such errors and make a certificate thereon of the fact; provided, however, the listers may make a correction resulting from the filing or rescission of a homestead declaration without approval of the selectboard.

§ 4262. Legalizing defective or invalid grand list

When the listers fail to subscribe and attach to the grand list the oath prescribed in section 4151 of this title within the time required; or fail to lodge the grand list within the time prescribed in such section; or if a defective or invalid grand list is lodged within the time so prescribed; or if such grand list is otherwise defective or invalid, on or before February 15 next ensuing, the listers shall correct any defective grand list theretofore lodged in the town clerk's office, subscribe and append thereto the oath prescribed and perform any act theretofore omitted which is necessary to render such grand list valid.

§ 4263. -Listers' certificate

The listers shall add to such grand list so amended and corrected a certificate setting forth their doings in respect thereto and the date whereon such amendments or corrections were made or the date whereon such list was lodged in the town clerk's office.

§ 4264. -Clerk's certificate

When such grand list is so amended or corrected, the town clerk shall affix thereto his certificate showing the date whereon such amendments were added or whereon such grand list was lodged in his office; and thereupon the same shall become the grand list of the town wherein the same is lodged for the year beginning on the first day of the preceding April, and shall be valid and of the same force and effect as if the same had been filed within the time prescribed in this chapter.

§ 4265. -When grand list not filed within time

In case an abstract or grand list is invalid solely on account of the failure of the listers to lodge such abstract or grand list in the office of the town clerk within the time required by law, or to return the appraisal within such time, they shall add a certificate thereto setting forth the date whereon the same was so lodged or returned. Thereupon such proceedings shall be had as are hereinbefore provided for legalizing abstracts, grand lists or appraisals otherwise defective or invalid.

§ 4301. Basis for county taxes

(a) The equalized municipal property tax grand lists for each town, unorganized town and gore shall be the basis of taxation for county purposes.

(b) Annually, on or before January 1, the director shall provide to each county treasurer the equalized municipal property tax grand list for each town, unorganized town, and gore within the county. "Equalized municipal property tax grand list" in this section shall mean the equalized education property tax grand list as defined in chapter 135 of this title plus inventory, machinery and equipment subject to municipal tax in that municipality at its grand list value.

§ 4302. Repealed.

§ 4303. Repealed.

§ 4304. Fire district list

In a town where a fire district is organized after the listers of such town have completed their grand list and in a town where a fire district has previously been organized and the listers have neglected to designate the list of such fire district as provided by law, upon the application of three legal voters of such fire district, the listers shall make such designation upon the grand list of the town and such list shall be valid.

§ 4341. Generally

The several dates fixed by law, on or before which: (1) abstracts of individual lists shall be completed and lodged in the town clerk's office; (2) meetings of listers may be held to hear grievances; (3) hearings upon such grievances shall be closed; (4) meetings of the board of civil authority shall be held to consider the same; (5) hearings upon such appeal shall be closed; (6) the grand list shall be completed and deposited in the town clerk's office; (7) listers shall lodge inventories of taxpayers with the town clerk; and (8) abstracts of the grand list shall be filed with the town clerk shall be extended as follows: In towns of fewer than five thousand inhabitants, thirty days; in towns of five thousand or more inhabitants, fifty days. Nothing contained in this section shall in any manner change the date fixed in a municipal charter whereon any of the aforesaid acts or things are therein required to be done or performed.

§ 4342. Extensions by the director

On written application therefor made by the listers or assessors of any town, with the approval of the selectmen of the town or mayor of the city, the several dates fixed by law and extended by the preceding section or the charter of any municipal corporation, on or before which certain acts must be done relating to duties of listers and assessors, may be further extended by the director and such extensions shall be in writing and shall be recorded in the office of the town clerk.

§§ 4042, 4043. Repealed.

Chapter 131: APPEALS

§ 4403. Appeal from appraisal made other than on April 1

Within fourteen days after the date of mailing of notice required under section 4046 of this title a person aggrieved by the decision of the listers under the provisions of section 4046 of this title may appeal therefrom pursuant to the provisions of sections 4407-4410 of this title.

§ 4404. Appeals from listers as to grand list

(a) Within 14 days after the date of notice thereof a person aggrieved by the final decision of the listers under the provisions of section 4221 of this title, may appeal in writing therefrom to the board of civil authority, by lodging his or her appeal with the town clerk,

who shall record the same in the book containing the abstract of individual lists. The grounds upon which such appeal is based shall therein be briefly set forth.

(b) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at such time, not later than 14 days after the last date allowed for notice of appeal, and at such place within the town as he or she shall designate. Notice of such time and place shall be given by posting a warning therefor in three or more public places in such town, and by mailing a copy of such warning, postage prepaid, to each member of the board, the agent of the town to prosecute and defend suits, the chairman of the board of listers and to all persons so appealing.

(c) The board shall meet at the time and place so designated, and on that day and from day to day thereafter shall hear and determine such appeals until all questions and objections are heard and decided. Each property, the appraisal of which is being appealed, shall be inspected by a committee of not less than three members of the board who shall report to the board within 30 days from the hearing on the appeal and before the final decision pertaining to the property is given. If, after notice, the appellant refuses to allow an inspection of the property as required under this subsection, including the interior and exterior of any structure on the property, the appeal shall be deemed withdrawn. The board shall, within 15 days from the time of the report, certify in writing its notice of decision, with reasons, in the premises, and shall file such notice with the town clerk who shall thereupon record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of the action of such board, by certified mail. If the board does not substantially comply with the requirements of this subsection and if the appeal is not withdrawn by filing written notice of withdrawal with the board or deemed withdrawn as provided in this subsection, the grand list of the appellant for the year for which appeal is being made shall remain at the amount set before the appealed change was made by the listers; except, if there has been a complete reappraisal, the grand list of the appellant for the year for which appeal is being made shall be set at a value which will produce a tax liability equal to the tax liability for the preceding year. The town clerk shall immediately record the same in the book wherein the appeal was recorded and forthwith notify the appellant in writing of such action, by certified mail. Thereupon the appraisal so determined pursuant to this subsection shall become a part of the grand list of such person.

(d) Listers and agents to prosecute and defend suits wherein a town is interested shall not be eligible to serve as members of the board while convened to hear and determine such appeals nor shall an appellant, his servant, agent or attorney be eligible to serve as a member of the board while convened to hear and determine any appeals. However, listers and agents to prosecute and defend suits wherein a town is interested shall be given the opportunity to defend the appraisals in question.

§ 4405. -Oath

The members of the board of civil authority shall each take, subscribe and file in the town clerk's office before entering upon the discharge of their duties under section 4404 of this title the following oath, and the oath as subscribed shall be recorded in such clerk's office:

"I do solemnly swear (or affirm) that I will well and truly hear and determine all matters at issue between taxpayers and listers submitted for my decision. So help me God." (or, "under the pains and penalties of perjury.")

§ 4406. Omitted.

§ 4407. Appeal from proceedings to correct abstracts

Within 14 days after the date of notice thereof, a person aggrieved by the final decision of the listers under the provisions of sections 4112-4116 and 4222-4224 of this title, may appeal therefrom and shall file his or her objections in writing with the town or city clerk, who shall call a meeting of the board of civil authority at a time and place to be determined by the clerk, but such time shall not be later than 14 days after the last date allowed for notice of appeal. Notices in writing of such appeal and of the time and place of such hearing shall be delivered in person or mailed, postage prepaid, to the appellant and one or more of the listers.

§ 4408. -Hearing by board

On the date so fixed by the town clerk and from day to day thereafter, the board of civil authority shall hear such appellants as appear in person or by agents or attorneys, until all such objections have been heard and considered. All objections filed in writing with the board of civil authority at or prior to the time fixed for hearing appeals shall be determined by the board notwithstanding that the person filing the objections fails to appear in person, or by agent or attorney.

§ 4409. - Certification of changes

The board of civil authority may increase, reduce, or sustain an appraisal made by listers. The action taken in such appeal proceedings shall be certified in writing by the board of civil authority to the town clerk, who shall record the same in such abstract and make proper notations therein opposite the name of each taxpayer whose appeal is thus determined, and shall forthwith notify the appellant in writing of the action of such board, sent by certified mail.

§ 4410. -When no appeal taken

When all appeals so taken have been determined as aforesaid, the listers shall amend or correct the grand list to conform to such abstracts, shall complete the grand list in the town clerk's office, shall subscribe and append thereto the oath prescribed in section 4151 of this title, and shall affix thereto a certificate setting forth their doings in respect thereof and the date whereon such grand list was so amended.

§ 4411. Modifying grand list to conform with results of an appeal

If, at the time when the listers are required to complete the grand list and to lodge the same with the town clerk by section 4151 of this title, an appeal from the listers is pending and undetermined, such appeal shall be determined as soon as may be thereafter, and the board deciding such appeal shall file with the town clerk a certificate setting forth

its decision in the premises, and he shall record the same in the grand list book, and thereupon the grand list shall be modified or amended to conform thereto.

§ 4441. Repealed.

§ 4442. Repealed.

§ 4452. Valuations

(a) On or before May 1 of each year, the division of property valuation and review of the department of taxes shall furnish the listers in each town or city with the valuation of all taxable property of any public utility situated therein as reported by such utility to the division.

(b) Each public utility shall furnish to the division not later than March 31 in each year a sworn inventory of all its taxable property in such form as will show the valuation of its property in each town, city or other municipality.

(c) The division shall prescribe the form of such report and the officer or officers who shall make oath thereto.

(d) The valuations so furnished shall be considered along with any other information as may reasonably be required by such listers in determining and fixing the valuations of such property for the purposes of local taxation.

§ 4461. Time and manner of appeal

(a) A taxpayer or the selectboard members of a town aggrieved by a decision of the board of civil authority under subchapter 1 of this chapter may appeal the decision of the board to either the director or the superior court of the county in which the property is located. The appeal to the superior court shall be heard without a jury. The appeal to either the director or the superior court shall be commenced by filing a notice of appeal pursuant to Rule 74 of the Vermont Rules of Civil Procedure, within 30 days of entry of the decision of the board of civil authority. The date of mailing of notice of the board's decision by the town clerk to the taxpayer shall be deemed the date of entry of the board's decision. The town clerk shall transmit a copy of the notice to the director or to the superior court as indicated in the notice and shall record or attach a copy of the notice in the grand list book. The entry fee for an appeal to the director is \$70.00.

(b) On or before the last day on which appeals may be taken from the decision of the board of civil authority, the agent of the town to prosecute and defend suits in which the town is interested, in the name of the town, on written application of one or more taxpayers of the town whose combined grand list represents at least three percent of the grand list of the town for the preceding year, shall appeal to the superior court from any action of the board of civil authority not involving appeals of the applying taxpayers. However, the town agent shall, in any event, have at least six days after receipt of such taxpayers' application for appeal in which to take the appeal, and the date for the taking of such appeal shall accordingly be extended, if necessary, until the six days shall have

elapsed. The \$70.00 entry fee shall be paid by the applicants with respect to each individual property thus being appealed which is separately listed in the grand list.

(c) [Repealed.]

(d) Fees collected under this section shall be credited to a special fund established and managed pursuant to subchapter 5 of chapter 7 of this title, and shall be available to the tax department to offset the costs of providing those services.

§ 4462. Repealed.

§ 4463. Objections to appeal

When a taxpayer, town agent or selectboard claims that an appeal to the director is in any manner defective or was not lawfully taken, on or before ten days after mailing of the notice of appeal by the clerk under Rule 74(b) of the Vermont Rules of Civil Procedure, the taxpayer, town agent or selectboard shall file objections in writing with the director, and furnish the appellant or appellant's attorney with a copy of the objections. When the taxpayer, town agent or selectboard so requests, the director shall thereupon fix a time and place for hearing the objections, and shall notify all parties thereof, by mail or otherwise. Upon hearing or otherwise, the director shall pass upon the objections and make such order in relation thereto as is required by law. The order shall be recorded or attached in the town clerk's office in the book wherein the appeal is recorded.

§ 4464. -Withdrawal of appeal

On application to the director an appellant may request leave to withdraw his appeal at any time before it is heard. When an appeal is withdrawn, the director shall so certify to the clerk of the town from the action of whose listers or board of civil authority the appeal was taken, and the clerk shall record the certificate of withdrawal of the appeal in the book wherein the appeal was recorded under the provisions of section 4462 of this title. The appraisal from which the appeal was taken shall then become a part of the appraisal or grand list of the taxpayer.

§ 4465. Appointment of appraiser; oath; pay

When an appeal to the director is not withdrawn, the director shall refer the appeal in writing to a person not employed by the director, appointed by the director as an appraiser. The director shall have the right to remove an appraiser for inefficiency, malfeasance in office or other cause. In like manner, the director shall appoint an appraiser to fill any vacancy created by resignation, removal or other cause. Before entering into their duties, persons appointed as appraisers shall take and subscribe the oath of the office prescribed in the constitution, which oath shall be filed with the director. The director shall pay each appraiser a sum not to exceed \$120.00 per diem for each day wherein hearings are held, together with reasonable expenses as the director may determine. An appraiser may subpoena witnesses, records and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.

§ 4466. Conduct of appeal before appraiser

Unless expressly waived by all parties to the appeal, the provisions of chapter 25 of Title 3 shall govern all proceedings before an appraiser except where inconsistent with this subchapter. An appraiser shall promptly notify in writing the clerk of the town and all other parties to the appeal of the place within the town wherein the appeal is taken, of the place within such town and the time at which the parties shall be heard, such notice to be delivered in person or by mail, postage prepaid.

§ 4467. Determination of appeal

Upon appeal to the director or the court, the appraiser or court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The appraiser or court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the appraiser or court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the appraiser or court shall set said property in the list at a corresponding value. The findings and determinations of the appraiser shall be made in writing and shall be available to the appellant. If the appeal is taken to the director, the appraiser shall inspect the property prior to making a determination.

§ 4468. Transmission and record of determination

The director or clerk of the court shall forward by certified mail one copy of the determination to the taxpayer, one copy to the commissioner and one copy to the town clerk, who shall record the same in the book in which the appeal was recorded under section 4461 of this title. The appraisal so fixed by the director or court shall become the basis for the grand list of the taxpayer for the year in which the appeal is taken and, if the appraisal relates to real property, for the two next ensuing years, except that if the real property is enrolled in use value appraisal under chapter 124 of this title, the value of enrolled land, prior to its being equalized, shall be the per acre value set annually by the current use advisory board multiplied by the number of acres enrolled. The appraisal, however, may be changed in the ensuing two years if the taxpayer's property is materially altered, changed, damaged or if the municipality, city or town in which it is located has undergone a complete revaluation of all taxable real estate.

§ 4469. Tax credit upon successful appeal

Whenever a taxpayer has had his appraisal reduced upon appeal and has paid the tax due upon the original appraisal which he appealed, the taxpayer shall be entitled to a credit against the tax for the next ensuing tax year, and for succeeding years if required to use up the amount of the credit, for the amount of tax paid in excess of that due upon the reduced appraisal.

§§ 4443-4451. Repealed.

§§ 4401, 4402. Repealed.

Chapter 133: ASSESSMENT AND COLLECTION OF TAXES

§ 4601. Taxes to be uniformly assessed

Taxes shall be uniformly assessed on the lists of the persons taxed, unless otherwise provided by law.

§ 4602. List upon which taxes are assessed

Subject to the provisions relating to the assessment of taxes on an amended or corrected grand list, state and county taxes assessed, and town, village, school and highway taxes assessed or voted on or after March 1 in any year and before March 1 following, and fire district taxes assessed or voted on or after January 1 in any year and before January 1 following, shall be assessed on the grand list returned to the town clerk's office in May of such year. In case of incorporated villages that have their annual meetings before March 1, taxes so voted at such annual meetings, subject to such provisions, shall be assessed on the grand list returned to the town clerk's office in May of the year when such taxes are voted.

§ 4603. Taxes assessed on defective list

All taxes assessed on a defective or invalid grand list described in sections 4262-4264 of this title, that have been theretofore voluntarily paid without protest shall be valid. All taxes theretofore or thereafter assessed on such grand list, and not paid as aforesaid, shall be assessed on such grand list so amended and corrected.

§ 4604. Assessment on corrected or amended list

Taxes voted and not assessed shall be assessed on the amended list described in section 4261 of this title. Where a tax has been assessed, an assessment of the same per cent may be made upon additions to such list. The collector shall collect the same as though it were in the original tax bill; and the warrant in such original tax bill shall be sufficient authority therefor.

§ 4605. Assessment when appraisal on other than April 1

(a) If no appeal is taken within the time allowed in section 4403 of this title, or if an appeal is taken, upon determination of such appeal, the treasurer shall forthwith assess the tax on the amended list described in section 4047 of this title and mail to the taxpayer at his last known address a notice stating the amount of his grand list, the tax rate, the amount of taxes due from him and when the same are payable. The same shall be payable to the tax collector not less than five nor more than fifteen days after such assessment. Unless otherwise provided, collection of such taxes shall be in accordance with the provisions of this chapter.

(b) Taxes voted and not assessed shall be assessed on such amended list. Where a tax has been assessed, an assessment of the same per cent may be made upon additions to such list. The collector shall collect the same as though it were in the original tax bill; and the warrant in such original tax bill shall be sufficient authority therefor.

§ 4606. Apportionment of assessment on transfer

When a part of a piece of real estate has been transferred in any year, the listers shall make such apportionment of the assessments thereon as they deem just.

§ 4607. Effect of irregularities

The assessment of a tax upon a list made up in part of property not taxable to the person assessed or of real estate carried from an irregular or void appraisal into an annual grand list or of property erroneously set in the list, shall not invalidate the whole tax but only such part thereof as is assessed upon the invalid part of the list.

§ 4608. Resident ownership ratio

(a) The board of listers of each town or city shall report annually to the director:

(1) The value as appears in the grand list of all taxable real property in the town or city, and

(2) The value as appears in the grand list of all such taxable property in the town or city, classified according to the use of the property and, within each use category, further classified as owned by one of the following:

- (A) resident of the town or city;
- (B) resident of the state but not of the town or city;
- (C) individual domiciled outside the state; or
- (D) corporation, partnership or other entity.

(b) The reports shall be made on forms provided by the director, and annually on October 1 or as soon thereafter as may be practical the director shall on the basis of available data compute the percentage at fair market value of all taxable property in the state and in each town or city, and the percentage of each use category of taxable property in the state and in each town or city, that is owned by residents of the town or city, other residents of the state, individuals domiciled outside the state, and corporations, partnerships and other entities.

(c) All such reports and computations shall be classified as public information, except that the director is authorized and directed to make reasonable charges for any documentation of such information to persons requesting the same, other than agencies of government, state or local.

(d) The director shall consult with local listers and establish the date or dates, in any or all cases, when such reports shall be made to him by local officials in each year, having

regard to resources of manpower and personnel available to him and to local officials, and he shall have power to alter or extend such due dates if such is reasonably necessary.

(e) "Resident" means those individuals who, to the best knowledge of the listers, are legal residents of the town, city, or state, as the case may be, on April 1.

Chapter 135: EDUCATION PROPERTY TAX

§ 5401. Definitions

As used in this chapter:

(1) "Coefficient of dispersion" is the average absolute deviation expressed as a percentage of the median ratio, and for a municipality in any school year shall be determined by the director of property valuation and review as follows:

(A) calculate the ratio of the listed value to the fair market value of each property used in determining the equalized education property value of the municipality as required by section 5406 of this title;

(B) determine the median of the ratios calculated in subdivision (A) of this subdivision;

(C) determine the absolute deviation of each ratio from the median ratio calculated in subdivision (B) of this subdivision;

(D) calculate the average absolute deviation.

(2) "Commissioner" means the commissioner of taxes.

(3) "Common level of appraisal" means the ratio of the aggregate value of local education property tax grand list to the aggregate value of the equalized education property tax grand list.

(4) "Director" means the director of the division of property valuation and review.

(5) "Education property tax grand list" means the list of property determined pursuant to section 5404 of this title. When the listed value of real property for school tax purposes is adjusted by a board of civil authority or a court, that board or court shall make a corresponding adjustment to the listed value for purposes of taxation under this chapter.

(6) "Equalized education property tax grand list" means one percent of the aggregate fair market value of all nonresidential and homestead property that is required to be listed at fair market value as certified during that year by the director of property valuation and review under section 5406 of this title, plus one percent of the aggregate value of property required to be listed at a value established under a stabilization agreement described under section 5404a of this title, plus one percent of the aggregate use value established under chapter 124 of this title of all nonresidential property that is enrolled in the use value appraisal program.

(7) "Homestead":

(A) "Homestead" means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual's domicile, or for purposes of the renter property tax adjustment under subsection 6066(b) of this title, rented and occupied by a resident individual as the individual's domicile.

(B) The parcel of land surrounding the dwelling shall be determined without regard to any road which intersects the land. If the parcel of land surrounding the dwelling is owned by a cooperative housing corporation incorporated under 11 V.S.A. chapter 14, or owned by a nonprofit land conservation corporation or community land trust with exempt status under Section 501(c)(3), the homestead includes a pro rata part of the land upon which the dwelling is built, as determined by the cooperative corporation, nonprofit corporation, or land trust.

(C) A homestead may consist of a part of a multi-dwelling or multi-purpose building, including cooperative property occupied as a permanent residence by a member of a cooperative housing corporation incorporated under 11 V.S.A. chapter 14. A mobile home may constitute a principal dwelling for purposes of this chapter.

(D) A dwelling owned by a trust may qualify as a homestead if it meets the requirements of subsection 6062(e) of this title.

(E) A homestead also includes a dwelling on the homestead parcel owned by a farmer as defined under section 3752 of this title, and occupied as the permanent residence by a parent, sibling, child, grandchild of the farmer, or shareholder, partner, or member of the farmer-owner, provided that the shareholder, partner, or member owns more than 50 percent of the farmer-owner, including attribution of stock ownership of a parent, sibling, child, or grandchild.

(F) A homestead also includes any other improvement or structure on the homestead parcel which is not used for business purposes. A homestead does not include that portion of a principal dwelling used for business purposes if the portion used for business purposes includes more than 25 percent of the floor space of the building.

(G) For purposes of homestead declaration and application of the homestead property tax rate, "homestead" also means a residence which was the homestead of the decedent at the date of death, and from the date of death through the next April 1 is held by the estate of the decedent and not rented.

(8) "Education spending" means "education spending" as defined in subdivision 4001(6) of Title 16.

(9) "Municipality" means a city, town, unorganized town, village, grant or gore; or, in the case of property located within the territorial limits of an incorporated school district, "municipality" means an incorporated school district.

(10) "Nonresidential property" means all property except:

(A) Property which is exempt from the municipal property tax by law and not by vote of the municipality.

(B) Property which is subject to the tax on railroads imposed by subchapter 2 of chapter 211 of this title, the tax on steamboat, car and transportation companies imposed by subchapter 3 of chapter 211 of this title, the tax on telephone companies imposed by subchapter 6 of chapter 211 of this title, or the tax on electric generating plants imposed by chapter 213 of this title.

(C) Homesteads declared in accordance with section 5410 of this title.

(D) Personal property, machinery, inventory and equipment, ski lifts and snow-making equipment for a ski area; provided, however, this subdivision shall not exclude from the definition of "nonresidential property" the following real or personal property:

(i) utility cables and lines, poles and fixtures (except those taxed under subchapter 6 of chapter 211 of this title); provided that utility cables, lines, poles and fixtures located on homestead property and owned by the person claiming the homestead shall be taxed as homestead property;

(ii) gas distribution lines (except aboveground meters, regulators and gauges, and leased water heaters are excluded personal property).

(E) The excess valuation of property subject to tax increment financing in a tax increment financing district established under subchapter 5 of chapter 53 of Title 24 to the extent that the taxes generated on the excess property valuation are pledged and appropriated for interest and principal repayment on bonded debt or prefunding future tax increment financing district debt and to the extent approved for this purpose by the Vermont economic progress council upon application by the district under procedures established for approval of tax stabilization agreements under section 5404a of this title, and that any such action shall be included in the annual authorization limits provided in subdivision 5930a(d)(1) of this title.

(F) Property owned by a municipality which is located within that municipality and which is used for municipal purposes including the provision of utility services.

(G) Machinery and equipment used directly in the processing of whey, whether or not such machinery or equipment is attached or affixed to real property.

(H) Real property, excluding land, consisting of unoccupied new facilities, or unoccupied facilities under renovation or expansion, owned by a business that has obtained the approval of the Vermont economic progress council under section 5930a of this title that is less than 75 percent complete, not in use as of April 1 of the applicable tax year, and for a period not to exceed two years.

(I) Real property consisting of the value of remediation expenditures incurred by a business that has obtained the approval of the Vermont economic progress council under section 5930a of this title for the construction of new, expanded or renovated facilities on contaminated property eligible under the redevelopment of contaminated properties program pursuant to subsection 6615a(f) of Title 10, including supporting infrastructure, on sites eligible for the United States Environmental Protection Agency "Brownfield Program," for a period of ten years.

(11) "Education property value" means the aggregate fair market value of all nonresidential and homestead real property that is required to be listed at fair market value as certified during that year by the director of property valuation and review under section 5406 of this title, plus the aggregate value of property required to be listed at a value established under a stabilization agreement described under section 5404a of this title, plus the aggregate use value established under chapter 124 of this title of all nonresidential real property that is enrolled in the use value appraisal program.

(12) "Excess spending" means:

(A) the per-equalized pupil amount of:

(i) the district's education spending, plus any amount required to be added from a capital construction reserve fund under 24 V.S.A. § 2804(b); minus

(ii) the portion of education spending which is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to 16 V.S.A. § 827 for capital construction costs by the independent school which has received approval from the state board of education, using the processes for preliminary approval of public school construction costs pursuant to 16 V.S.A. § 3448(a)(2); and minus

(iii) the portion of education spending attributable to the district's share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior;

(iv) a budget deficit in a district that pays tuition to a public school for all of its students in one or more grades in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed;

(B) in excess of 125 percent of the statewide average district education spending per equalized pupil in the prior fiscal year, as determined by the commissioner of education.

(13) "District spending adjustment" means the greater of: one or a fraction in which the numerator is the district's education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the base education payment for the school year, as defined in section 4001 of Title 16.

(14) "Domicile" means the principal dwelling of a person who has established permanent residence in the state. Intention to establish permanent residence is a factual determination to be made in the first instance by the commissioner. No one factor is conclusive of whether a dwelling is a permanent residence; the commissioner may consider any relevant factors, including but not limited to the following: formal and informal statements of the declarant; the location of residences owned or leased by the declarant; where the declarant spends time; the declarant's place of employment and business connections; the location of items of significant value (either monetary or sentimental) to declarant; where the declarant's family lives; place of voter registration;

place of issuance of automobile registration and driver's license; previous permanent residency of the declarant; and address listed on federal and state income tax returns filed by the declarant.

§ 5402. Education property tax liability

(a) A statewide education tax is imposed on all nonresidential and homestead property at the following rates:

(1) the tax rate for nonresidential property shall be \$1.59 per \$100.00; and

(2) the tax rate for homestead property shall be \$1.10 multiplied by the district spending adjustment for the municipality, per \$100.00, of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate for each municipality which is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) Calculation of education tax.

(1) The commissioner of taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Each homestead property tax bill shall include notice of the education spending per equalized pupil in the taxpayer's district and its relation to the base education payment; and the effect of the education spending in the district upon the homestead tax rate and the applicable percentage for income sensitivity; and shall also include an insert supplied by the commissioner of taxes which explains the relationship of district education spending and the common level of appraisal to property tax rates. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed. Each homestead property tax bill shall include a copy of the two page document attached to the May 11, 2007 memorandum from the speaker of the house to the commissioner of taxes, which shall be updated annually for each town by the commissioner of taxes.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the municipality's most recent common level of appraisal, but without regard to any district spending adjustment. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the commissioner shall determine the municipality's homestead tax rate as required under subdivision (b)(1) of this subsection.

(c) The treasurer of each municipality shall by December 1 of the year in which the tax is levied and on June 1 of the following year pay to the state treasurer for deposit in the education fund one half of the municipality's statewide nonresidential tax and one half of the municipality's homestead education tax, as determined under subdivision (b)(1) of this section. The commissioner of education shall determine the municipality's net nonresidential education tax payment, and its net homestead education tax payment to the state, and payment shall be accompanied by a return prescribed by the commissioner of education. The municipality may retain 0.225 of one percent of the total education tax collected, only upon timely remittance of net payment to the state treasurer.

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under section 5402a of this chapter shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its district spending adjustment.

(e) The commissioner of taxes shall determine a homestead education tax rate for each municipality which is a member of a union or unified union school district as follows:

(1) For a municipality which is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a district spending adjustment based upon the education spending per equalized pupil of the unified union.

(2) For a municipality which is a member of a union school district:

(A) determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a district spending adjustment based on the education spending per total equalized pupil in the municipality who attends a school other than the union school;

(B) determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a district spending adjustment based on the education spending per equalized pupil of the union school district; and

(C) determine a combined homestead tax rate by calculating the weighted average of the rates determined under subdivisions (A) and (B) of this subdivision (2), with weighting based upon the ratio of union school equalized pupils from the member municipality to total equalized pupils of the member municipality; and the ratio of equalized pupils attending a school other than the union school to total equalized pupils of the member municipality. Total equalized pupils of the member municipality is based on the number of pupils who are legal residents of the municipality and attending school at public expense. If necessary, the commissioner may adopt a rule to clarify and facilitate implementation of this subsection.

§ 5402a. Electric generating plant education property tax

(a) There is assessed for the fiscal year July through June upon any operating electric generating plant subject to the tax under chapter 213 of this title, an education property tax in accordance with the following table:

If megawatt hour production is:	tax is:
Less than 2,300,000 megawatt hours	\$1.465 million
2,300,000 to 3,800,000 megawatt hours	\$1.465 million plus \$0.29 per megawatt hour over 2,300,000
3,800,001 to 4,200,000 megawatt hours	\$1.9 million
Over 4,200,000 megawatt hours	\$1.9 million plus \$0.29 per megawatt hour over 4,200,000

For purposes of this section, "megawatt hour production" means the average of net production for sale in the three most recent preceding calendar years.

(b) If an entity subject to this tax generates no electricity during the tax year due to termination or expiration of a necessary license or due to permanent cessation of operations, no tax shall be due for that year.

(c) The tax imposed by this section shall be paid to the commissioner of taxes by the person or corporation then owning or operating such electric generating plant, one-half on December 1 and one-half on June 1 each year, for deposit into the education fund. A person or entity failing to make returns or pay the tax imposed by this section within the time required shall be subject to and governed by the provisions of sections 3202, 3203, 5868, and 5873 of this title.

§ 5402b. Statewide education tax rate adjustments

(a) Annually, by December 1, the commissioner of taxes shall recommend to the general assembly, after consultation with the department of education, the secretary of administration and the joint fiscal office, the following adjustments in the statewide education tax rates under subdivisions 5402(a)(1) and (2) of this title:

(1) If there is a projected balance in the education fund budget stabilization reserve in excess of the five percent level authorized under section 4026 of Title 16, the commissioner shall recommend a reduction, for the following fiscal year only, in the statewide education tax rates which will retain the projected education fund budget stabilization reserve at the five percent maximum level authorized and raise at least 34 percent of projected education spending from the tax on nonresidential property; and

(2) If there is a projected balance in the education fund budget stabilization reserve of less than the three and one-half percent level required under section 4026 of Title 16, the commissioner shall recommend an increase, for the following fiscal year only, in the

statewide education tax rates which will retain the projected education fund budget stabilization reserve at no less than the three and one-half percent minimum level authorized under section 4026 of Title 16, and raise at least 34 percent of projected education spending from the tax rate on nonresidential property.

(3) In any year following a year in which the nonresidential rate produced an amount of revenues insufficient to support 34 percent of education fund spending in the previous fiscal year, the commissioner shall determine and recommend an adjustment in the nonresidential rate sufficient to raise at least 34 percent of projected education spending from the tax rate on nonresidential property.

(4) If in any year in which the nonresidential rate is less than the statewide average homestead rate, the commissioner of taxes shall determine the factors contributing to the deviation in the proportionality of the nonresidential and homestead rates and make a recommendation for adjusting statewide education tax rates accordingly.

(b) If the commissioner makes a recommendation to the general assembly to adjust the education tax rates under section 5402 of this title, the commissioner shall also recommend a proportional adjustment to the applicable percentage base for homestead income based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.8 percent.

5403. Repealed.

§ 5404. Determination of education property tax grand list

(a) Municipalities shall determine the education property tax grand list by calculating one percent of the listed value of nonresidential and homestead real property as provided in this section. The listed value of all nonresidential and homestead real property in a municipality shall be its fair market value, its value established under a stabilization agreement described in section 5404a of this title, or the use value of property enrolled in a use value program under chapter 124 of this title. If a homestead is located on a parcel of greater than two acres, the entire parcel shall be appraised at fair market value; the housesite shall then be appraised as if it were situated on a separate parcel and the value of the housesite shall be subtracted from the value of the total parcel to determine the value of the remainder of the parcel.

(b) Annually, on or before August 15, the clerk of a municipality, or the supervisor of an unorganized town or gore, shall transmit to the director in an electronic format as prescribed by the director: education and municipal grand list data, including exemption information and grand list abstracts; tax rates; and the total amount of taxes assessed in the town or unorganized town or gore. The data transmitted shall identify each parcel by a parcel identification number assigned under a numbering system prescribed by the director. Municipalities may continue to use existing numbering systems in addition to, but not in substitution for, the parcel identification system prescribed by the director. If changes or additions to the grand list are made by the listers or other officials authorized to do so after such abstract has been so transmitted, such clerks shall forthwith certify the same to the director.

(c) If a town clerk or the legislative body fails without good cause, as determined by the commissioner, to transmit the grand list data or the tax data in a timely manner and in the format required by the director, the commissioner shall notify the secretary of transportation and the commissioner of education, who shall withhold all general and other aid payments owing to the municipality until the grand list information is filed as required by the director under subsection (b) of this section. Federal funds are exempt from withholding if the secretary or commissioner has an opinion of counsel that withholding would be a violation of federal law.

(d) Municipalities shall include, on all property tax bills, the parcel identification number prescribed in subsection (b) of this section.

§ 5404a. Tax stabilization agreements; tax increment financing districts

(a) Tax agreements and exemptions affecting the education property tax grand list. A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

(1) a prior agreement, meaning that it was:

(A) a tax stabilization agreement for any purpose authorized under 24 V.S.A. § 2741 or comparable municipal charter provisions entered into or proposed and voted by the municipality before July 1, 1997, or a property tax exemption adopted by vote pursuant to chapter 125 of Title 32 or comparable municipal charter provisions before July 1, 1997; or

(B) an agreement relating to property sold or transferred by the New England Power Company of its Connecticut River system and its facilities along the Deerfield River which was warned before September 1, 1997; or

(2) a tax stabilization agreement relating to industrial or commercial property entered into under 24 V.S.A. § 2741, or comparable municipal charter provisions or an exemption for the purposes of economic development adopted by vote under sections 3834 (factories; quarries; mines), 3836 (private homes and dwellings), 3837 (airports), or 3838 (hotels) of Title 32 or comparable municipal charter provisions after June 30, 1997 if subsequently approved by the Vermont economic progress council pursuant to this subsection and section 5930a of this title. An agreement or exemption may be approved by the Vermont economic progress council only if it has first been approved by the municipality in which the property is located with respect to the municipal tax liability of the property in that municipality. Any agreement or exemption approved by the Vermont economic progress council may not affect the education tax liability of the property in a greater proportion than the agreement or exemption affects the municipal tax liability of the property. A municipality's approval of an agreement or exemption under this subsection may be made conditional upon approval of the agreement or exemption by the Vermont economic progress council. The legislative body of the municipality in which the property subject to the agreement or exemption is located or the business that is subject to the agreement or exemption may request the Vermont economic progress council to approve an

agreement or exemption pursuant to section 5930a of this title. The council shall also report to the general assembly on the terms of the agreement or exemption, and the effect of the agreement or exemption on the education property tax grand list of the municipality and of the state. If so approved by the council, an agreement or exemption shall be effective to reduce the property tax liability of the municipality under this chapter beginning April 1 of the year following approval.

(3) an agreement relating to affordable housing, which may be submitted to the council for its approval under subdivision (2) of this subsection, or alternatively may be approved under this subdivision by the commissioner of taxes upon recommendation of the commissioner of housing and community affairs provided the agreement provides either for new construction housing projects or rehabilitated preexisting housing projects and secures federal financial participation which may include projects financed with federal low income housing tax credits.

(4) an exemption of property owned by a nonprofit volunteer fire, rescue or ambulance organization and used for the purposes of the organization, adopted, extended or renewed by vote of a municipality under chapter 125 of this title or comparable municipal charter provision after July 1, 1997.

(5) an exemption of property owned by a municipality situated in another municipality, which has been exempted from municipal property taxes by vote of the municipality in which the property is situated, and which is used for municipal forest lands, municipal water supply, or for other noncommercial municipal purposes. To be exempted under this subsection, the property must have been voted an exemption by the municipality before January 1, 1998, and such exemption may be extended or renewed thereafter by a similar vote of the municipality.

(6) an exemption of a portion of the value of a qualified rental unit parcel. An owner of a qualified rental unit parcel shall be entitled to an exemption on the education property tax grand list of 10 percent of the grand list value of the parcel, multiplied by the ratio of square footage of improvements used for or related to residential rental purposes to total square footage of all improvements, multiplied by the ratio of qualified rental units to total residential rental units on the parcel. "Qualified rental units" means residential rental units which are subject to rent restriction under provisions of state or federal law, but excluding units subject to rent restrictions under only one of the following programs: Section 8 moderate rehabilitation, Section 8 housing choice vouchers, or Section 236 or Section 515 rural development rental housing. A municipality shall allow the percentage exemption under this subsection upon presentation by the taxpayer to the municipality, by April 1, of a certificate of education grand list value exemption, obtained from the Vermont Housing Finance Agency (VHFA). VHFA shall issue a certificate of exemption upon presentation by the taxpayer of information which VHFA and the commissioner shall require. An exemption granted by a municipality under this subsection shall expire upon transfer of the building, upon expiration of the rent restriction, or after ten years, whichever first occurs.

(b) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under

this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of ten years. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonresidential rate for the tax year.

(c) Tax agreements not affecting the education property tax grand list. A tax agreement shall not affect the education property tax grand list if it is:

(1) A tax exemption adopted by vote of a municipality after July 1, 1997 under chapter 125 of this title, or voted under a comparable municipal charter provision or other provision of law for property owned by nonprofit organizations used for public, pious or charitable purposes, other than economic development exemptions voted under sections 3834, 3836, 3837, or 3838 of this title and approved by the Vermont economic progress council, or exemptions of property of a nonprofit volunteer fire, rescue or ambulance organization adopted by vote of a municipality.

(2) A tax stabilization agreement relating to agricultural property, forest land, open space land or alternate energy generating plants entered into after July 1, 1997 by a municipality under section 2741 of Title 24.

(3) A tax stabilization agreement relating to commercial or industrial property entered into after July 1, 1997 by a municipality under section 2741 of Title 24, or a property tax exemption for purposes of economic development adopted by vote after July 1, 1997, which has not been approved by the Vermont economic progress council to affect the education grand list under subsection (a)(2) of this section and section 5930a of this title. In granting tax stabilization agreements for commercial or industrial property under section 2741 of Title 24, a municipality shall consider any applicable guidelines established for the approval of such stabilization agreements by the Vermont economic progress council established in section 5930a(c) of this title.

(4) Notwithstanding section 6306 of Title 10, a transfer of the development rights to real property under chapter 155 of Title 10 which is less than a permanent transfer of those rights, or is a lease of those rights for a fixed period, entered into on or after January 1, 1998, and a transfer or lease of such rights executed prior to January 1, 1998 upon the expiration of the period of the transfer or lease not to exceed five years.

(d) Tax agreements not affecting the education property tax grand list as defined in subsection (c) of this section shall not reduce the total education property tax liability of the municipality to the state under this chapter. However, such agreements shall reduce the education property tax liability of the owner of the property subject to the agreement to the extent provided in the agreement. A municipality shall assess a tax on its municipal grand list at a rate sufficient to raise an amount equal to the difference between the municipality's total education property tax liability to the state under this chapter and the amount collected from education property taxes in the municipality after reductions for all tax agreements in effect in the municipality as defined in subsection (c) of this section.

Any such tax assessed under this section shall be identified on the tax bill of the municipality as a separate tax for municipally voted tax agreements.

(e) Allocations. A municipality on behalf of a person may apply to the Vermont economic progress council for an allocation of the education grand list value for up to ten years, of a portion of the increase in the value and liability assessed under section 5402 of this title on new economic development that is subsequently approved by the Vermont economic progress council pursuant to this section and subsections 5930a(c) and (d) of this title. Allocation to a municipality pursuant to this subsection shall be in addition to any other payments to the municipality under chapter 133 of Title 16. If allocated, the allocated portion of the education fund liability shall be used by the municipality for infrastructure that includes wastewater treatment, water supply, transportation, and telecommunications and utility connections.

(f) A municipality that establishes a tax increment financing district under subchapter 5 of chapter 53 of Title 24 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the tax increment as defined in 24 V.S.A. § 1896 to repayment of debt issued to finance the improvements and related costs for up to 20 years, if approved by the Vermont economic progress council pursuant to this section.

(g) Any allocation approved pursuant to subsection (e) of this section or utilization of tax increment approved under subsection (f) of this section shall be in addition to any other payments to the municipality under chapter 133 of Title 16. Allocations and tax increment utilizations approved pursuant to subsections (e) and (f) of this section shall affect the education property tax grand list and the municipal grand list of the municipality under this chapter beginning April 1 of the year following approval and shall remain available to the municipality for the full period authorized and restricted only to the extent that the real property development giving rise to the increased value to the grand list fails to occur within the authorized period.

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont economic progress council shall do all the following:

(1) Review each application to determine that the new real property development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. A district created in a designated growth center under 24 V.S.A. § 2793c shall be deemed to have complied with this subdivision. The review shall take into account:

(A) The amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing.

(B) How the proposed development components and size would differ, if at all, without education property tax increment financing.

(C) The amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education

fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay the municipal tax increment bonds.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. § § 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont economic progress council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, or new town center.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values.

Subdivision (h)(3)(D) repealed effective July 1, 2008.

(D) The development or redevelopment is compact, high density, and located in or near existing commercial or residential areas.

(4) Project criteria. Determine that the proposed development within a tax incentive financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new housing that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. "Affordable" has the same meaning as in 10 V.S.A. § 6001(29).

(C) The project will affect the mitigation and redevelopment of a brownfield located within the district. For the purposes of this section, "brownfield" means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

(D) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

(E) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

(i) The Vermont economic progress council and the department of taxes shall make an annual report to the senate committee on economic development, housing and general affairs, the senate committee on finance, the house committee on commerce and the house committee on ways and means of the general assembly on or before January 15. The report shall include, in regard to each existing tax increment financing district, the year of approval, the scope of the planned improvements and development, the equalized education grand list value of the district prior to the TIF approval, the original taxable property, the tax increment, and the annual amount of tax increments utilized.

§ 5404b. Hydro-electric property; conservation easements; transfers

Notwithstanding any other provision of law, including the provisions of subdivisions 3481(1) and 3802(1) of this title:

(1) any real property subject to conservation easements granted pursuant to the terms of any agreement executed on or after January 1, 1997 between companies owning real property used for hydro-electric generation in this state and the state of Vermont shall continue to be assessed and property taxes collected as if such property were not subject to such easements;

(2) any real property purchased by the state pursuant to the terms of any agreement executed on or after January 1, 1997 between companies owning real property used for hydro-electric generation in this state and the state of Vermont, which property continues to be owned by the state, or by some successor owner which would otherwise be exempt from property taxes, shall continue to be assessed and property taxes collected as if such property were not so purchased by the state; and

(3) any real property and fixtures used for hydro-electric generation and purchased by the town of Rockingham on or after January 1, 2002, which property and fixtures continue to be owned by the town of Rockingham and used for purposes of hydro-electric generation, shall continue to be listed on the education property tax grand list and assessed as if such property were not so purchased by the town of Rockingham. The town shall, in lieu of property taxes, pay to any governmental body authorized to levy property taxes the amount which would be assessable as property taxes on the real and tangible personal property if that property were the property of a utility. These payments shall be due, and bear interest if unpaid, as in the case of taxes on the property of a utility. For purposes of these payments in lieu of taxes, the assessors of the taxing authority shall make a valuation and assessment of the property, and determine the tax that would be assessable if the property were owned by a utility. Payments in lieu of taxes made under this chapter shall be treated in the same manner as taxes for the purposes of all procedural and substantive provisions of law, including appeals, now and hereinafter in effect applicable to assessment and taxation of real and personal property, collection and abatement of these taxes, and the raising of public revenues.

§ 5405. Determination of equalized education property tax grand list and coefficient of dispersion

(a) Annually, on or before April 1, the commissioner shall determine the equalized education property tax grand list and coefficient of dispersion for each municipality in the state.

(b) The sum of all municipal equalized education property tax grand lists shall be the equalized education property tax grand list for the state.

(c) In determining the fair market value of property which is required to be listed at fair market value, the commissioner shall take into consideration those factors required by section 3481 of this title. The commissioner shall value property as of April 1 preceding the determination, and shall take account of all homestead declaration information available before October 1 each year.

(d) Any determination of fair market value made by the commissioner under this section shall be based upon such methods, as in the judgment of the commissioner, and in view of the resources available for that purpose, shall be appropriate to support that determination. If the common level of appraisal is calculated using the weighted mean of ratios, any outlier shall be carefully reviewed and deleted if it will significantly affect the weighted mean, particularly if the outlier is a high-value property.

(e) Individual appraisals performed by the division of property valuation and review may be used to supplement actual sales when necessary to obtain a representative sample.

(f) Within the limits of the resources available for that purpose, the commissioner may employ such individuals, whether on a permanent, temporary, or contractual basis, as shall be necessary, in the judgment of the commissioner, to aid in the performance of duties under this section. The commissioner shall pay each municipality the sum of \$1.00 per grand list parcel in the municipality, for services provided to the commissioner in

connection with his or her duties under this section. Such payment shall be made from the equalization and reappraisal account within the education fund.

(g) [Repealed.]

§ 5406. Notice of fair market value and coefficient of dispersion

(a) Not later than January 1 of each year, the director of the division of property valuation and review shall notify the town clerk and chair of the board of listers of each municipality of the equalized education property value and the coefficient of dispersion of that town for the prior year, and of the manner by which the equalized education property value and coefficient of dispersion were determined by the director.

(b) Not later than April 1 of each year, the director shall certify to the commissioner of education the equalized education property value and coefficient of dispersion for the prior year of every municipality of the state.

(c) If the director of property valuation and review certifies that a municipality has completed a townwide reappraisal, the common level of appraisal for that municipality shall be equal to its new grand list value divided by its most recent equalized grand list value, for purposes of determining education property tax rates.

§ 5407. Valuation appeal board

(a) There is established a valuation appeal board to consist of five members. The members shall be appointed by the governor with the advice and consent of the senate, for three-year terms beginning February 1 of the year in which the appointment is made, except that one of the initial appointments shall be for a term of one year and two of the initial appointments shall be for a term of two years. A vacancy in the board shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.

(b) Persons serving on the appeal board shall be knowledgeable and experienced in at least one of the following fields: agriculture, business management, law, taxation, appraisal and valuation techniques, municipal affairs or related areas. No member of the valuation appeal board shall be otherwise employed by the state or be a lister. In making appointments, attention shall be given to the desirability of providing geographical balance to the degree reasonably practical.

(c) A chair shall be designated biennially by the governor from among the members of the board and any vacancy in the office of the chair shall be filled by designation of the governor.

(d) Members of the valuation appeal board shall receive a sum not to exceed \$80.00 per diem for each day of official duties of the board together with reimbursement of reasonable expenses incurred in the performance of their duties, as determined by the director of property valuation and review.

(e) The board shall be attached for administrative purposes to the division of property valuation and review of the department of taxes of the agency of administration.

§ 5408. Petition for redetermination

(a) Not later than 30 days after the receipt by its clerk of a notice under section 5406 of this title, a municipality may petition the director of the division of property valuation and review for a redetermination of the municipality's equalized education property value and coefficient of dispersion. Such petition shall be in writing and shall be signed by the chair of the legislative body of the municipality or its designee.

(b) Upon receipt of a petition for redetermination under subsection (a) of this section, the director shall, after written notice, grant a hearing upon the petition to the aggrieved town. The director shall thereafter notify the town and the commissioner of education of his or her redetermination of the equalized education property value and coefficient of dispersion of the town or district, in the manner provided for notices of original determinations under section 5406 of this title.

(c) A municipality, within 30 days of the director's redetermination, may appeal the redetermination to the valuation appeal board. The board shall notify the appellee of the filing of the appeal. The appeal shall be heard de novo in the manner provided by chapter 25 of Title 3 for the hearing of contested cases.

(d) A municipality or the division of property valuation and review may appeal from a decision of the valuation appeal board to the superior court of the county in which the municipality is located. The superior court shall hear the matter de novo in the manner provided by Rule 74 of the Vermont Rules of Civil Procedure. An appeal from the decision of the superior court shall be to the supreme court under the Vermont Rules of Appellate Procedure.

§ 5409. Duties of municipalities and administration

The following shall apply with regard to the statewide education tax imposed under this chapter:

(1) Late payments of the tax by a municipality to the state shall be assessed interest at a per diem rate of eight percent per annum of the amount due. If a payment is more than 90 days overdue, any state funds due the municipality shall be withheld.

(2) If by August 1 a municipality has failed to issue notices of assessment of the statewide education tax; or if the municipality fails for more than 90 days after the due date for any installment payment to enforce the tax in the municipality; then the commissioner of taxes shall either issue notices of assessment or collect the tax or both, or bring appropriate court action to require the municipal officials to issue notices and collect the tax, as the commissioner deems necessary.

(3) In any case of administration under subdivision (2) of this section by the commissioner of taxes of education property tax:

(A) Sections 5868, 5869, 5873, 5875, 5881, 5882, 5883, 5884, 5885, 5886, 5887, 5891, 5892, 5893, 5894 and 5895 of Title 32, as amended, shall apply in the same manner as to income tax.

(B) Persons aggrieved by decisions of the listers may appeal in the manner provided for property tax appeals in chapter 131 of Title 32; and the commissioner of taxes shall have all the powers described in chapter 133 of Title 32.

(C) The commissioner may abate in whole or in part the statewide education taxes of a taxpayer who has been granted an abatement of municipal taxes under section 1535 of Title 24.

(4) [Deleted.]

(5) In case of insufficient property tax payment by a taxpayer to a municipality, payments shall be allocated first to municipal property tax, and next to statewide education tax. In case of insufficient payment by a taxpayer to the department of taxes, payments shall be allocated first to liabilities other than education taxes, and next to education tax.

(6) In case of overpayment by a taxpayer who has an income tax liability under chapter 151 of this title and a homestead property tax liability, a refund of the overpayment, after accounting for any benefit amount allowed under chapter 154 of this title, shall be deemed to be a refund of income tax for purposes of debt setoff under subchapter 12 of chapter 151 of this title.

(7) Notwithstanding section 435 of this title, the commissioner shall deposit the revenue from taxes imposed under this chapter in the education fund.

(8) A municipality's liability to the state for education taxes shall not be reduced by any early payment property tax discount or similar discount offered by the municipality.

§ 5410. Declaration of homestead

(a) A homestead owner shall declare ownership of a homestead for purposes of education property tax.

(b) Annually on or before the due date for filing the Vermont income tax return, without extension, each homestead owner shall, on a form prescribed by the commissioner, which shall be verified under the pains and penalties of perjury, declare his or her homestead, if any, as of, or expected to be as of, April 1 of the year in which the declaration is made.

(c) [Repealed.]

(d) The commissioner shall provide a list of homesteads in each town to the town listers by May 15. The listers shall notify the commissioner by June 1 of any residences on the commissioner's list which do not qualify as homesteads. The listers shall separately identify homesteads in the grand list.

(e) The commissioner shall adopt rules governing the eligibility requirements for declaring a homestead.

(f) [Repealed.]

(g) If the property identified in a declaration under subsection (b) of this section is not the taxpayer's homestead, or if the owner of a homestead fails to declare a homestead as required under this section, the commissioner shall notify the municipality and the municipality shall issue a corrected tax bill. The municipality shall also assess the taxpayer a penalty in an amount equal to one percent of the education tax on the property; or if the commissioner determines that the declaration or failure to declare was with fraudulent intent, then the municipality shall assess the taxpayer a penalty in an amount equal to 100 percent of the education tax on the property; plus any interest and late-payment fee or commission which may be due. Any penalty imposed under this section and any additional property tax interest and late-payment fee or commission shall be assessed and collected by the municipality in the same manner as a property tax under chapter 133 of this title.

(h) The filing of a new or corrected declaration or rescission of an erroneous declaration, on or before September 1 of the property tax year, that is not reflected in the first education fund payment under 16 V.S.A. § 4028 for that fiscal year or in a municipality's first payment to the education fund under subsection 5402(c) of this title for that fiscal year, shall be reflected in the final net payment to or from the education fund for that fiscal year. The municipality may retain one-eighth of one percent of the tax collected. Any reduction in tax paid to a municipality due to a new, revised, or rescinded declaration shall be paid by the municipality to the taxpayer no later than May 15 of the fiscal year. No later than June 1, each municipality shall provide to the state treasurer a list of taxpayers who filed late or corrected declarations or rescinded declarations, the amount of the change in education tax, and the amount of any interest and penalty billed the taxpayer.

(i) An owner filing a new or corrected declaration, or rescinding an erroneous declaration, after September 1 shall not be entitled to a refund resulting from the correct property classification; and any additional property tax and interest which would result from the correct classification shall not be assessed as tax and interest, but shall instead constitute an additional penalty, to be assessed and collected in the same manner as penalties under subsection (g) of this section. Any change in property classification under this subsection shall not be entered on the grand list.

(j) A taxpayer may appeal a determination of domicile for purposes of a homestead declaration or an assessment of fraud penalty under this section to the commissioner, in the same manner as an appeal under chapter 151 of this title. A taxpayer may appeal an assessment of any other penalty under this section to the listers within 14 days after the date of mailing of notice of the penalty, and from the listers to the board of civil authority and thereafter to the courts, in the same manner as an appraisal appeal under chapter 131 of this title. The legislative body of a municipality shall have authority in cases of hardship to abate all or any portion of a penalty appealable to the listers under this section and any tax, penalty, and interest arising out of a corrected property classification under this section; and shall state in detail in writing the reasons for its grant or denial of the requested abatement. The legislative body may delegate this abatement authority to the board of civil authority or the board of abatement for the municipality. Requests for

abatement shall be made to the municipal treasurer or other person designated to collect current taxes, and that person shall forward all requests, with his or her recommendation, to the body authorized to grant or deny abatement.

(k) A municipality may retain any penalties and interest assessed and collected in accord with this section.

(l) "Hardship" under this section means an owner's inability to pay as certified by the commissioner of taxes in his or her discretion; or means an owner's filing an incorrect, or failing to file a correct, homestead declaration due to one or more of the following:

(1) Full-time active military duty of the declarant outside the state.

(2) Serious illness or disability of the declarant.

(3) Serious illness, disability, or death of an immediate family member of the declarant.

(4) Fire, flood, or other disaster.

§ 5411. Rules

The commissioner of taxes and the director of property valuation and review may each adopt formal or informal rules in order to carry out the provisions of this chapter.

§ 5412. ~~Valuation appeals and recalculation of education tax liability~~

(a)(1) If a listed value is reduced as the result of an appeal, and if the municipality files a written request with the commissioner within 30 days after the date of the settlement agreement, determination, or entry of the final order, the commissioner shall recalculate the municipality's education property tax liability for the year at issue, in accord with the reduced valuation, provided that:

(A) the reduction in valuation is the result of an appeal under chapter 131 of this title to the director of property valuation and review or to a court, with no further appeal available with regard to that valuation;

(B) the municipality notified the commissioner of the appeal, in writing, within ten days after notice of the appeal was filed under section 4461 of this title; and

(C) as a result of the valuation reduction of the parcel, the value of the municipality's grand list is reduced at least one percent.

(2) The municipality's request shall include a copy of the agreement, determination or final order, and any other documentation necessary to show the existence of these conditions.

(b) To the extent that the municipality has paid that liability, the commissioner shall allow a credit for any reduction in education tax liability against the next ensuing year's education tax liability or, at the request of the municipality, may refund to the municipality an amount equal to the reduction in education tax liability.

(c) If a listed value is increased as the result of an appeal under chapter 131 of this title, whether adjudicated or settled, with no further appeal available with regard to that valuation, the commissioner shall recalculate the municipality's education property tax for each year at issue, in accord with the increased valuation, and shall assess the municipality for the additional tax at the same time the commissioner assesses the municipality's education tax liability for the next ensuing year, unless the resulting assessment would be less than \$300.00. Payment under this section shall be due with the municipality's education tax liability for the next ensuing year.

(d) Recalculation of education property tax under this section shall have no effect other than to reimburse or assess a municipality for education property tax changes which result from property revaluation.

Chapter 154: HOMESTEAD PROPERTY TAX INCOME SENSITIVITY ADJUSTMENT

§ 6061. Definitions

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(11) "Housesite" means that portion of a homestead, as defined under subdivision 5401(7) of this title but not under subdivision 5401(7)(G), which includes as much of the land owned by the claimant surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit; and in the case of multiple dwelling units, no more than two acres per dwelling unit up to a maximum of 10 acres per parcel.