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H.859

Introduced by Representatives Gannon of Wilmington and LaLonde of  
South Burlington

Referred to Committee on

Date:

Subject: Municipal government; public lands and funds; public lands;  
lease lands

Statement of purpose of bill as introduced: This bill proposes to require any  
municipality seeking to retain title to certain lease lands to affirmatively vote  
to retain ownership of the lease lands and vests municipal title to the lands in  
the leaseholders on January 1, 2020 if no affirmative vote is made.

An act relating to requiring municipal corporations to affirmatively vote to  
retain ownership of lease lands

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

~~Sec. 1. 24 V.S.A. § 2409 is added to read:~~

~~§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS~~

~~(a) As used in this section.~~

~~(1) "Lessee" means the person entitled to possess, enjoy, and use land  
subject to a perpetual lease and shall include the person's heirs, executors,  
administrators, and assigns.~~

1 (2) “Municipal corporation” shall have the same meaning as  
2 “municipality” in 1 V.S.A. § 126 and shall also include every municipal  
3 corporation identified in subdivision 1751(1) of this title, the University of  
4 Vermont and State Agricultural College, any unorganized towns and gores in  
5 the State, and any of the unified towns and gores of Essex County.

6 (3) “Perpetual lease” means any leasehold interest in Vermont land, and  
7 every estate in Vermont land other than fee simple absolute, the title to which  
8 is held by a municipal corporation according to section 2401 of this title,  
9 arising out of or created by an instrument of lease that conveys to a person  
10 designated as lessee the right to possess, enjoy, and use the land in perpetuity  
11 or substantially in perpetuity. “Perpetual lease” shall include leasehold  
12 interests that are subject to restrictions on the lessee’s use of the land and shall  
13 include lands that the municipal corporation may repossess for nonpayment of  
14 rent or other default under the terms of the lease.

15 (4) “Perpetual lease land” means all land described in a perpetual lease  
16 that is owned in fee simple by a municipal corporation. “Perpetual lease land”  
17 does not include land described in a perpetual lease that is held in title by any  
18 person other than a municipal corporation, or any land described in a perpetual  
19 lease over which the municipal corporation acts exclusively as trustee.

20 (b)(1) On January 1, 2020, title to perpetual lease lands shall vest in the  
21 current lessee of record, free and clear of any interest of a municipal

1 ~~corporation but subject to any other encumbrances of record, unless the~~  
2 municipal corporation votes in the affirmative to retain ownership of the  
3 perpetual lease land.

4 (2) Notwithstanding subdivision (b)(1) of this section, lease lands which  
5 do not have a current lessee of record, or which are abandoned, unused, or  
6 unoccupied, shall be deemed to vest in the municipal corporation as public  
7 lands.

8 (c)(1) Before January 1, 2020, a municipal corporation that seeks to retain  
9 ownership of perpetual lease land shall list every perpetual lease land owned  
10 by the municipal corporation. The list shall be in the same manner and form  
11 as required in 32 V.S.A. § 3610(b).

12 (2) The municipal corporation shall provide to every affected lessee a  
13 notice of the intent to retain ownership of perpetual lease lands.

14 (3) After notice to every affected lessee, the municipal corporation shall  
15 conduct a public hearing prior to holding a vote to retain ownership of a  
16 perpetual lease land.

17 (4) Nothing in this section shall prevent a municipal corporation that has  
18 retained ownership from later conveying the perpetual lease land pursuant to  
19 section 2406 of this title.

20 Sec. 2. EFFECTIVE DATE

21 ~~This act shall take effect on July 1, 2018.~~

*Sec. 1. 24 V.S.A. § 2409 is added to read:*

§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

(1) "Legislative body" means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation's lease lands.

(2) "Lessee" means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person's heirs, executors, administrators, and assigns.

(3) "Municipal corporation" shall have the same meaning as "municipality" in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1754(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. "Municipal corporation" shall not include the University of Vermont and State Agricultural College.

(4) "Perpetual lease" means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. "Perpetual lease" shall include

leasehold interests that are subject to restrictions on the lessee's use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) "Perpetual lease land" means all land described in a perpetual lease that is owned in fee simple by a municipal corporation. "Perpetual lease land" does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, title to perpetual lease lands shall vest in the current lessee of record, free and clear of any interest of a municipal corporation but subject to any other encumbrances of record, unless the legislative body of the municipal corporation votes in the affirmative to retain ownership of the perpetual lease land.

(2) Notwithstanding subdivision (b)(1) of this section, lease lands that do not have a current lessee of record, or that are abandoned, unused, or unoccupied, shall be deemed to vest in the municipal corporation as public lands.

(c) Nothing in this section shall prevent a municipal corporation that has retained ownership of perpetual lease land from later conveying the land according to section 2406 of this title.

~~Sec. 2. 24 V.S.A. § 106L is amended to read:~~

~~§ 106L. CONVEYANCE OF REAL ESTATE~~

~~\* \* \*~~

~~(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:~~

~~\* \* \*~~

~~(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.~~

~~(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.~~

~~\* \* \*~~

~~Sec. 3. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2018.~~

~~Sec. 1. 24 V.S.A. § 2409 is added to read:~~

~~§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS~~

~~(a) As used in this section:~~

~~(1) "Legislative body" means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation's lease lands.~~

~~(2) "Lessee" means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person's heirs, executors, administrators, and assigns.~~

(3) “Municipal corporation” shall have the same meaning as “municipality” in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1751(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. “Municipal corporation” shall not include the University of Vermont and State Agricultural College.

(4) “Perpetual lease” means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. “Perpetual lease” shall include leasehold interests that are subject to restrictions on the lessee’s use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) “Perpetual lease land” means all land described in a perpetual lease that is owned by or vested in a municipal corporation. “Perpetual lease land” does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, fee simple title to perpetual lease lands shall vest in the current lessee of record, free and clear of the interest of a municipal corporation in the perpetual lease lands held in accordance with section 2401 of this title, unless prior to that date the legislative body of the municipal corporation votes in the affirmative to retain ownership of some or all of the perpetual lease lands within that municipal corporation.

(2) At any time, the legislative body of a municipal corporation may vote to relinquish its interest in some or all of the perpetual lease lands within that municipal corporation held in accordance with section 2401 of this title. Upon such a vote, fee simple title to perpetual lease lands shall vest in the current lessee of record.

(3) When fee simple title to perpetual lease land vests in the current lessee of record pursuant to this subsection, the land shall remain subject to any other encumbrances of record, including municipal encumbrances and easements.

(c) Nothing in this section shall prevent a municipal corporation that has retained its interest in perpetual lease land held in accordance with section 2401 of this title from later conveying the land in accordance with section 2406 of this title.

Sec. 2. 24 V.S.A. § 1061 is amended to read:

§ 1061. CONVEYANCE OF REAL ESTATE



\* \* \*

*(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:*

\* \* \*

*(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.*

*(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.*

\* \* \*

*Sec. 3. EFFECTIVE DATE*

*This act shall take effect on July 1, 2018.*