

1 S.214

2 Introduced by Senator Westman

3 Referred to Committee on Finance

4 Date: January 7, 2022

5 Subject: Taxation; property tax; valuation; time-share projects

6 Statement of purpose of bill as introduced: This bill proposes to amend the  
7 valuation of time-share projects to require towns to value time-share units  
8 similarly to comparable real property that does not contain time-share estates.

9 ~~An act relating to valuation of time-share projects~~

*An act relating to valuation for purposes of the education property tax*

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

11 ~~Sec. 1, 32 V.S.A. § 3610 is amended to read:~~

12 § 3619. TIME-SHARE PROJECTS

13 (a) As used in this section, a time-share project means a project involving  
14 real property containing time-share estates. A “time-share estate” is a right to  
15 occupy a unit or any of several units in a time-share project during separated  
16 time periods coupled with a freehold estate or an estate for years in a time-  
17 share property or a specified portion thereof.

18 (b) With respect to property taxes, both real and personal, on time-share  
19 ~~projects, each property owner of a time-share estate shall be liable for the~~

1 ~~payment thereof to the town. However, the owners' association, corporation,~~  
2 or whatever entity is authorized by the project instruments to manage the  
3 common property, shall be the agent of the time-share estate owners for the  
4 payment of property taxes from the individual owners to the town. The town  
5 shall set in the grand list as real estate the units and common property of the  
6 project of which the time-share estates are a part and shall list the entire  
7 property to the association, corporation, or whatever entity is authorized by the  
8 project instruments to manage the common property, which entity assumes the  
9 rights and liabilities of any owner of property in the grand list. However, with  
10 respect to each other, each owner of a time-share estate shall be responsible  
11 only for a fraction of such assessments, property taxes, both real and personal,  
12 and charges proportionate to the magnitude of his or her the owners' undivided  
13 interest in the fee to the whole estate of which ~~he or she~~ the owner is a part, as  
14 covered in the association's, corporation's, or entity's bylaws or other project  
15 instruments.

16 \* \* \*

17 (d) The town shall determine the estimated fair market value pursuant to  
18 subdivision 3481(1)(A) of this title, of each unit of a time-share project in the  
19 same manner as the town determines the value of comparable real property  
20 that does not contain time-share estates.

21 Sec. 2. EFFECTIVE DATE

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~~This act shall take effect on July 1, 2022.~~

Sec. 1. 32 V.S.A. § 5412(e) is amended to read:

*(e) A reduction made under this section shall be an amount equal to the loss in education grand list value multiplied by the tax rate applicable to the subject property in the year the request is submitted. However, the total amount for all reductions made under this section in one year shall not exceed ~~\$100,000.00~~ \$1,000,000.00. If total reductions for a calendar year would exceed this amount, the Director shall instead prorate the reductions proportionally among all municipalities eligible for a reduction so that total reductions equal ~~\$100,000.00~~ \$1,000,000.00.*

Sec. 2. 32 V.S.A. § 5413 is added to read:

§ 5413. STATE APPRAISAL AND LITIGATION ASSISTANCE PROGRAM

*(a) A State appraisal and litigation assistance program shall be created within the Division of Property Valuation and Review of the Department of Taxes to assist municipalities with the valuation of complex commercial, utility, or other unique properties within a municipality's jurisdiction and to assist with any appeals arising from those valuations. The Commissioner of Taxes may contract with one or more commercial appraisers to provide State appraisal and litigation assistance to municipalities under this section. The Commissioner may adopt rules to administer the provisions of this section.*

*(b) The Commissioner shall:*

*(1) determine the conditions for a property to be eligible for State assistance, including the grand list value or category of the property or other relevant factors as determined by the Commissioner; and*

*(2) provide a process by which a municipality may apply for assistance under this section for one or more properties.*

*(c) Any municipality assisted under this section shall be considered to have followed best practices pursuant to subdivision 5412(a)(1)(D) of this title.*

Sec. 3. COST ESTIMATE; NEW STATE PROGRAM

*On or before January 15, 2023, the Commissioner of Taxes shall submit a cost estimate for the creation of a new State appraisal and litigation assistance program within the Division of Property Valuation and Review of the Department of Taxes to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance. The cost estimate under this section shall include the upfront and ongoing operating costs required to create, implement, and maintain a new program.*

including contracting with one or more commercial appraisers to provide State assistance to municipalities.

Sec. 4. 32 V.S.A. § 4461(a) is amended to read:

*(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 after 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; provided, however, that the Director may waive, reduce, or refund the entry fee in cases of hardship or to join appeals regarding the same parcel. If, in the opinion of the Director, an appeal under this subsection involves a complex or unique property or valuation that would be best adjudicated by the Superior Court, the Director may decline to assign a property valuation hearing officer pursuant to section 4465 of this title and shall forward the appeal to the Superior Court where it shall be heard. An appeal forwarded by the Director under this subsection shall be considered timely filed in the Superior Court if it was timely appealed to the Director.*

Sec. 5. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY VALUATION HEARING  
OFFICER; OATH; PAY

*When an appeal to the Director is not withdrawn or forwarded by the Director to Superior Court pursuant to subsection 4461(a) of this title, the Director shall refer the appeal in writing to a person not employed by the Director, appointed by the Director as hearing officer. The Director shall have the right to remove a hearing officer for inefficiency, malfeasance in office, or other cause. In like manner, the Director shall appoint a hearing officer to fill any vacancy created by resignation, removal, or other cause. Before entering into their duties, persons appointed as hearing officers 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 hearing officer a sum not to exceed \$150.00 per diem for each day wherein hearings are held, together with reasonable expenses as the Director may determine. A hearing*

*officer may subpoena witnesses, records, and documents in the manner provided by law for serving subpoenas in civil actions and may administer oaths to witnesses.*

*Sec. 6. 32 V.S.A. § 4041a(a) is amended to read:*

*(a) ~~A municipality shall be paid \$8.50 per grand list parcel per year from 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. [Repealed.]~~*

*Sec. 7. 32 V.S.A. § 5405(f) is amended to read:*

*(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 \$12.00 per grand list parcel in the municipality for services provided to the Commissioner in connection with the performance of duties under this section, for preparation of the municipality's education property tax grand list, and for reappraisal and costs related to reappraisal of the municipality's education property tax grand list properties. Each municipality shall deposit payments received under this subsection into a special fund that shall be used to support the preparation of the municipality's education property tax grand list and reappraisals.~~*

*Sec. 8. REPORT; TIME-SHARE PROJECT VALUATION*

*On or before January 15, 2023, the Commissioner of Taxes shall submit a report to the House Committee on Ways and Means and the Senate Committee on Finance proposing options for addressing the complexities of valuing time-share projects in this State. The report under this section shall include a review of other states' time-share project valuation laws and an evaluation of the feasibility of applying those formulas in Vermont. The report shall propose any recommendations for legislative changes to clarify the valuation of time-share projects.*

*Sec. 9. EFFECTIVE DATES*

*This act shall take effect on passage, except that:*

*(1) Sec. 1 (refund for reduction in grand list value) shall take effect on January 1, 2023 and shall apply to municipal requests for reduction submitted on or after January 1, 2023 for a final appeal or court action resolved within the previous calendar year, beginning with the 2022 calendar year.*

(2) Sec. 2 (State appraisal and litigation assistance program) shall take effect on July 1, 2023, provided the General Assembly has, on or before July 1, 2023, appropriated funding to cover the Department of Taxes' operating costs required to create, implement, and maintain a new State appraisal and litigation assistance program.