

Vermont PACE Enabling Laws

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Current through the 2019 Regular Session

Chapter 15: Vermont Housing and Conservation Trust Fund

Subchapter 1: General Provisions

§ 301. Short title

This chapter may be cited as the "Vermont Housing and Conservation Trust Fund Act."

History: Added 1987, No. 88, § 1, eff. June 11, 1987.

§ 302. Policy, findings, and purpose

(a) The dual goals of creating affordable housing for Vermonters, and conserving and protecting Vermont's agricultural land, forestland, historic properties, important natural areas, and recreational lands are of primary importance to the economic vitality and quality of life of the State.

(b) In the best interests of all of its citizens and in order to improve the quality of life for Vermonters and to maintain for the benefit of future generations the essential characteristics of the Vermont countryside, and to support farm, forest, and related enterprises, Vermont should encourage and assist in creating affordable housing and in preserving the State's agricultural land, forestland, historic properties, important natural areas and recreational lands, and in keeping conserved agricultural land in production and affordable for future generations of farmers.

(c) It is the purpose of this chapter to create the Vermont Housing and Conservation Trust Fund to be administered by the Vermont Housing and Conservation Board to further the policies established by subsections (a) and (b) of this section.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 2011, No. 118 (Adj. Sess.), § 1; 2011, No. 142 (Adj. Sess.), § 3, eff. May 15, 2012.

§ 303. Definitions

As used in this chapter:

- (1) "Board" means the Vermont Housing and Conservation Board established by this chapter.
- (2) "Fund" means the Vermont Housing and Conservation Trust Fund established by this chapter.
- (3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:
 - (A) the preservation, rehabilitation, or development of residential dwelling units that are affordable to:
 - (i) lower income Vermonters; or
 - (ii) for owner-occupied housing, Vermonters whose income is less than or equal to 120 percent of the median income based on statistics from State or federal sources;

- (B) the retention of agricultural land for agricultural use, and of forestland for forestry use;
- (C) the protection of important wildlife habitat and important natural areas;
- (D) the preservation of historic properties or resources;
- (E) the protection of areas suited for outdoor public recreational activity;
- (F) the protection of lands for multiple conservation purposes, including the protection of surface waters and associated natural resources;
- (G) the development of capacity on the part of an eligible applicant to engage in an eligible activity.

(4) "Eligible applicant" means any:

- (A) municipality;
- (B) State agency as defined in section 6301a of this title;
- (C) nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code; or
- (D) cooperative housing organization, the purpose of which is the creation or retention of affordable housing for lower income Vermonters and the bylaws of which require that such housing be maintained as affordable housing for lower income Vermonters on a perpetual basis.

(5) "Lower income" means less than or equal to the median income based on statistics from State or federal sources.

(6) "Important natural area" means any area containing one or more endangered species as defined in chapter 123 of this title or any area essential to maintaining the ecological diversity or natural heritage of the State.

(7) "Historic property or resource" means any building, structure, object, district, area, or site that is significant in the history, architecture, archeology, or culture of this State, its communities, or the nation.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 2011, No. 138 (Adj. Sess.), § 29; 2011, No. 142 (Adj. Sess.), § 3, eff. May 15, 2012; 2015, No. 157 (Adj. Sess.), § T.3.

§§ 304-310. Repealed. 1973, No. 197 (Adj. Sess.), § 4.

Subchapter 2: Establishment and Organization

§ 311. Creation of the Vermont Housing and Conservation Board

(a) There is created and established a body politic and corporate to be known as the "Vermont Housing and Conservation Board" to carry out the provisions of this chapter. The Board is constituted a public instrumentality exercising public and essential governmental functions, and the exercise by the Board of the powers conferred by this chapter shall be deemed and held to be the performance of an essential governmental function of the State. The Board is exempt from licensure under 8 V.S.A. chapter 73.

(b) The Board shall consist of the following 11 members:

- (1) The Secretary of Agriculture, Food and Markets or designee.
- (2) The Secretary of Human Services or designee.
- (3) The Secretary of Natural Resources or designee.

- (4) The Executive Director of the Vermont Housing Finance Agency or designee.
- (5) Three public members appointed by the Governor with the advice and consent of the Senate, who shall be residents of the State and who shall be experienced in creating affordable housing or conserving and protecting Vermont's agricultural land and forestland, historic properties, important natural areas, or recreational lands, one of whom shall be a representative of lower income Vermonters and one of whom shall be a farmer as defined in 32 V.S.A. § 3752(7).
- (6) One public member appointed by the Speaker of the House, who shall not be a member of the General Assembly at the time of appointment.
- (7) One public member appointed by the Senate Committee on Committees, who shall not be a member of the General Assembly at the time of appointment.
- (8) Two public members appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate as follows:
 - (A) One member from the nonprofit affordable housing organizations that qualify as eligible applicants under subdivision 303(4) of this title who shall not be an employee or board member of any of those organizations at the time of appointment.
 - (B) One member from the nonprofit conservation organizations whose activities are eligible under subdivision 303(3) of this title who shall not be an employee or member of the board of any of those organizations at the time of appointment.

(c) The public members shall serve terms of three years beginning February 1 of the year of appointment. However, two of the public members first appointed by the Governor shall serve initial terms of one year; and the public members first appointed by the Speaker and Committee on Committees shall serve initial terms of two years. A vacancy occurring among the public members shall be filled by the respective appointing authority for the balance of the unexpired term. A member may be reappointed.

(d) Annually, the Board shall elect from among its public members a chair and vice chair. The Board may elect officers as it may determine. Meetings shall be held at the call of the Chair or at the request of three members. A majority of the sitting members shall constitute a quorum and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting.

(e) Members other than ex officio members shall be entitled to per diem authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties and each member shall be reimbursed from the Fund for his or her reasonable expenses incurred in carrying out his or her duties under this chapter.

(f) The Board shall employ the Executive Director to administer, manage and direct the affairs and business of the Board, subject to the policies, control, and direction of the members. The Board may employ technical experts and other officers, agents, and employees as are necessary to effect the purposes of this chapter, and may fix their qualifications, duties, and compensation. The Board shall use the Office of the Attorney General for legal services.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1987, No. 203 (Adj. Sess.), § 18, eff. May 27, 1988; 1995, No. 190 (Adj. Sess.), § 1(b); 2003, No. 42, § 2, eff. May 27, 2003; 2009, No. 1 (Sp. Sess.), § E.813; 2009, No. 156 (Adj. Sess.), §§ E.810.1, E.810.2; 2011, No. 142 (Adj. Sess.), § 3, eff. May 15, 2012.

§ 312. Creation of Vermont Housing and Conservation Trust Fund

There is created a special fund in the State Treasury to be known as the "Vermont Housing and Conservation Trust Fund." The Fund shall be administered by the Board and expenditures therefrom

shall only be made to implement and effectuate the policies and purposes of this chapter. The Fund shall be comprised of 50 percent of the revenue from the property transfer tax under 32 V.S.A. chapter 231 and any monies from time to time appropriated to the Fund by the General Assembly or received from any other source, private or public, approved by the Board. Unexpended balances and any earnings shall remain in the Fund for use in accord with the purposes of this chapter.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1997, No. 156 (Adj. Sess.), § 40; 1999, No. 49, § 79.

§ 313. Expenditure of bond proceeds

Any proceeds of State bonds issued in support of activities under this chapter shall be used exclusively for the funding of long-term, tangible capital investments and those capital expenses allowed under federal laws governing the use of State bond proceeds as determined with the guidance of the State of Vermont's bond counsel. No bond proceeds shall be used to fund the operational expenses of the Board. For purposes of this section, "operational expenses" shall include costs related to persons directly employed or under contract to provide administrative, clerical, financial, lobbying, policy analysis, or research services.

History: Added 1991, No. 256 (Adj. Sess.), § 21a, eff. June 9, 1992.

§ 314. Affordable housing bond; investment

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

- (1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;
- (2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and
- (3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

History: Added 2017, No. 85, § 1.2; amended 2017, No. 85, § 1.11(a). [Section 314 repealed on July 1, 2039.]

Subchapter 3: Powers and Duties

§ 321. General powers and duties

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and including the power to:

- (1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;
- (2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; and

(4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter.

(b) (1) The Board shall seek out and fund nonprofit organizations and municipalities that can assist any region of the State that has high housing prices, high unemployment, and low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

(2) The Board shall administer the "HOME" affordable housing program which was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The State of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the Board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and results that the Board will annually report on to the Vermont Department of Housing and Community Development.

(c) On behalf of the State of Vermont, the Board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund which was enacted under HR 3221, Division A, Title 1, Subtitle B, Section 1131 of the Housing and Economic Reform Act of 2008 (P.L. 110-289) to increase perpetually affordable rental housing and home ownership for low and very low income families. The Board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

(d) On behalf of the State of Vermont, the Board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the Board shall seek to maximize State participation in the federal Wetlands Reserve Program and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

(e) The Board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and State bonding act of the following: "The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act." An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1991, No. 93, § 16a, eff. June 26, 1991; 1995, No. 46, § 27; 1991, No. 62, § 54, eff. April 26, 1995; 2005, No. 71, § 219a; 2009, No. 1 (Sp. Sess.), § E.813.1; 2009, No. 110 (Adj. Sess.), § 12, eff. May 18, 2010; 2009, No. 156 (Adj. Sess.), § E.810, eff. June 3, 2010; 2011, No. 142 (Adj. Sess.), § 3, eff. May 15, 2012; 2015, No. 11, § 7.

§ 322. Allocation system

(a) In determining the allocation of funds available for the purposes of this chapter, the Board shall give priority to projects that combine the dual goals of creating affordable housing and conserving and protecting Vermont's agricultural land, historic properties, important natural areas or recreation lands and also shall consider, but not be limited to, the following factors:

- (1) the need to maintain balance between the dual goals in allocating resources;
- (2) the need for a timely response to unpredictable circumstances or special opportunities to serve the purposes of this chapter;
- (3) the level of funding or other participation by private or public sources in the activity being considered for funding by the Board;
- (4) what resources will be required in the future to sustain the project;
- (5) the need to pursue the goals of this chapter without displacing lower income Vermonters;
- (6) the long-term effect of a proposed activity and, with respect to affordable housing, the likelihood that the activity will prevent the loss of subsidized housing units and will be of perpetual duration;
- (7) geographic distribution of funds.

(b) The Board's allocation system shall include a method, defined by rule, that evaluates the need for, impact, and quality of activities proposed by applicants.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1997, No. 156 (Adj. Sess.), § 45, eff. April 29, 1998.

§ 323. Annual report

Prior to January 31 of each year, the Board shall submit a report concerning its activities to the Governor and to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Energy and Technology, on Natural Resources, Fish, and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include the following:

- (1) a list and description of activities funded by the Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;
- (2) a list of contributions received by the Board, whatever their form or nature, and the source thereof, unless anonymity is a condition of a particular contribution;
- (3) a full financial report of the Board's activities, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;
- (4) if more than 70 percent of the funds allocated by the Board during the previous year were allocated to either one of the dual goals of this chapter, as established in subsection 302(a) of this title, the Board shall set forth its reasons for not allocating funds more equally between the two.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 1991, No. 93, § 16, eff. June 26, 1991; 2017, No. 85, § 1.3; 2017, No. 113 (Adj. Sess.), § 44.

§ 324. Stewardship

If an activity funded by the Board involves acquisition by the State of an interest in real property for the purpose of conserving and protecting agricultural land or forestland, important natural areas, or

recreation lands, the Board, in its discretion, may make a one-time grant to the appropriate State agency or municipality. The grant shall not exceed ten percent of the current appraised value of that property interest and shall be used to support its proper management or maintenance, or both.

History: Added 1987, No. 88, § 1, eff. June 11, 1987; amended 2011, No. 142 (Adj. Sess.), § 3, eff. May 15, 2012.

§ 325. Condemnation prohibited

The Board shall not have the authority or power to acquire property for the purposes of this chapter through condemnation or through the exercise of the power of eminent domain.

History: Added 1987, No. 88, § 1, eff. June 11, 1987.

§ 325a. Conservation easement review appraisals

The Vermont Housing and Conservation Board shall ensure on a periodic basis that review appraisals are conducted of conservation easements proposed to be acquired pursuant to this chapter.

History: Added 1995, No. 185 (Adj. Sess.), § 14a, eff. May 22, 1996.

§ 325b. State of Vermont executory interest in easements

(a) As used in this section:

(1) "Qualified organization" shall have the same meaning as in section 6301a of this title; and

(2) "State agency" shall have the same meaning as in section 6301a of this title.

(b) The Agency of Agriculture, Food and Markets may hold an executory interest in agricultural conservation easements acquired by the Board under chapter 155 of this title when the acquisition of an interest in the agricultural conservation easement was financed by monies expended, in whole or in part, from the Housing and Conservation Trust Fund.

(c) An agricultural conservation easement acquired by the Board under chapter 155 of this title with monies expended, in whole or in part, from the Fund shall be subject to a memorandum of understanding between the Board, the Agency of Agriculture, Food and Markets, and any other co-holder of the agricultural conservation easement regarding oversight, performance, and enforcement of the agricultural conservation easement.

(d) The Agency of Agriculture, Food and Markets may exercise its executory interest in an agricultural conservation easement interest acquired under chapter 155 of this title if:

(1) the Board ceases to exist and its interest in the agricultural conservation easement is not otherwise released and conveyed in accordance with law;

(2) the Board releases and conveys its agricultural conservation easement interests, in whole or in part, to a State agency, municipality, qualified holder, or qualified organization in accordance with the laws of the State of Vermont; or

(3) a significant violation of the terms and conditions of an agricultural conservation easement is not resolved in accordance with the memorandum of understanding required under subsection (c) of this section for the agricultural conservation easement.

(e) The Board annually shall monitor or cause to be monitored a conserved property subject to an agricultural conservation easement for compliance with the terms and conditions of the agricultural conservation easement. The Board shall report a significant violation of the terms and conditions of an agricultural conservation easement to the Secretary of Agriculture, Food and Markets. The Secretary of

Agriculture, Food and Markets may recommend to the Board or the Attorney General a course of action to be taken to address a violation of the terms and conditions of an agricultural conservation easement in accordance with the memorandum of understanding required under subsection (c) of this section.

History: Added 2015, No. 172 (Adj. Sess.), § E.811.

<https://legislature.vermont.gov/statutes/chapter/10/015>

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; 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; and to encourage the use of conservation and preservation tools to support farm, forest, and related enterprises, thereby strengthening Vermont's economy to improve the quality of life for Vermonters, and to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

History: Added 1969, No. 229 (Adj. Sess.), § 2; amended 2011, No. 118 (Adj. Sess.), § 2.

§ 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 Internal Revenue 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.

History: Added 1987, No. 200 (Adj. Sess.), § 42; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 2003, No. 42, § 2, eff. May 27, 2003.

§ 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 1 V.S.A. § 132.

(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.

History: Added 1969, No. 229 (Adj. Sess.), § 3; amended 1983, No. 71, § 1; 1983, No. 158 (Adj. Sess.), eff. April 13, 1984; 1987, No. 76, § 18; 1987, No. 200 (Adj. Sess.), § 43.

§ 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 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) Preemptive rights and options to purchase. The acquisition of preemptive rights such as a right of first refusal or 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.

History: Added 1969, No. 229 (Adj. Sess.), § 4; amended 1987, No. 200 (Adj. Sess.), § 44; 2011, No. 118 (Adj. Sess.), § 7.

§ 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 or her 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 subsection 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.

History: Added 1969, No. 229 (Adj. Sess.), § 5.

§ 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.

History: Added 1969, No. 229 (Adj. Sess.), § 6.

§ 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) (1) The Commissioner 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 written agreements with the Department of Taxes, deeds, covenants or other conveyances. Property which is so certified:

(A) 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 32 V.S.A. chapter 124; or

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

(2) 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.

(3) A certification granted to a qualified agency shall first affect the April 1 grand list following the date that all information deemed necessary by the Commissioner has been provided by the qualified organization.

(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 32 V.S.A. chapter 123, only upon the value of those remaining rights or interests to which he or she 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.

History: Added 1969, No. 229 (Adj. Sess.), § 7; amended 1987, No. 200 (Adj. Sess.), § 45; 1997, No. 60, § 68c; 2013, No. 73, § 26, eff. July 1, 2005, eff. June 5, 2013.

§ 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's fees in the event of a violation of the rights of the municipality, State agency, or qualified organization thereunder.

(c) Conservation rights. The holder of conservation rights and interests may seek injunctive relief and damages against any person who damages the holder's rights and interests, irrespective of whether the owner of the land is a party to the proceeding. This subsection shall not affect any right of the owner of the land to join or intervene in any proceeding.

History: Added 1969, No. 229 (Adj. Sess.), § 8; amended 1987, No. 200 (Adj. Sess.), § 46; 2011, No. 118 (Adj. Sess.), § 3.

§ 6308. Rights in perpetuity unless limited

(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) The conveyance of rights or interests in real property less than fee simple made under the authority of this chapter shall be perpetual, except if the conveyance is limited by its terms to a specific period.

History: Added 1969, No. 229 (Adj. Sess.), § 9; amended 1975, No. 186 (Adj. Sess.); 1987, No. 200 (Adj. Sess.), § 47; 2011, No. 118 (Adj. Sess.), § 4.

§ 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 32 V.S.A. chapter 124 of the property by the municipality in which it is located.

History: Added 1983, No. 71, § 2; amended 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 2003, No. 42, § 2, eff. May 27, 2003.

§ 6310. Conservation easement holder; nonmerger

If a holder of a conservation easement is or becomes the owner in fee simple of property subject to the easement, the easement shall continue in effect and shall not be extinguished.

History: Added 2015, No. 51, § F.8.

§ 6311. Conservation rights and interests; tax liens

A tax lien shall not affect conservation rights and interests if the tax lien attaches to the subject property under 32 V.S.A. § 5061 subsequent to the recording of the conservation rights and interests in the municipal land records.

History: Added 2015, No. 84 (Adj. Sess.), § 1.

<https://legislature.vermont.gov/statutes/chapter/10/155>