

Summary of H.485, Current Use Changes
As Approved by the Vermont House on January 27, 2010
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This is a summary of H.485, which would make several major changes to Vermont's Current Use law. It was approved by the House on January 27 and goes on to the Senate.

- (Background) When land enrolled in Current Use is developed, the owner must pay a Land Use Change Tax (LUCT). Under the present method of calculation, the value of the developed portion is pro-rated from the value of the entire parcel. The landowner pays 20% of the pro-rated value, if the land has been enrolled in Current Use for less than 10 years, or 10% if enrolled for longer than 10 years. In addition, if the landowner simply withdraws the land from enrollment, the LUCT remains fixed, and must be paid only when the owner actually develops the land.
- Under H.485, 90 days after enactment, the LUCT will be 10% of fair market value of the land actually being developed. In addition, the valuation will be determined as of the date of development or, if the landowner chooses, the date the LUCT is paid. During this 90-day window, landowners will be able to withdraw all or part of their land from Current Use, and calculate the LUCT under the old pro-rated method.
- If land is withdrawn during the 90-day period, it will be assessed at its fair market (development) value in tax year 2010-11. The remaining land will continue to be assessed at "use" value, assuming it still meets the eligibility requirements.
- Under the new legislation, the town will determine the amount of the LUCT and collect the payment. The town will keep 50% of the payment, and send the other 50% to the State. If the landowner disputes the valuation of the developed property or the fact that a LUCT is owed, an appeal may be filed with the Commissioner of Taxes.
- H.485 also increases the Property Transfer Tax (PTT) for the sale of enrolled land from 0.5% to 1.25% of the land's value. The 1.25% rate applies to most sales and transfers of real property in Vermont.
- Using the enhanced PTT revenue, H.485 appropriates \$300,000 in FY2011 to a special fund to convert Current Use from paper files and maps to an electronic format. H.485 expresses the intent that similar appropriations be made in FY2012 and FY2013.
- H.485 also places a one-year moratorium on new enrollments in tax year 2010-11 (FY2011). Landowners who filed applications by September 1, 2009, will be allowed to enroll in tax year 2011-12, even if the Legislature extends the moratorium another year.
- H.485 meets the Legislature's target for increasing revenues or reducing Current Use expenditures by \$1.6 million in FY2011. The Joint Fiscal Office estimates that the moratorium will increase education property taxes by \$1.15 million, and withdrawals made during the 90-day window will produce an additional \$550,000 in State revenue.

An Example of how H.485, if it becomes law, may affect a Landowner's choice to withdraw a development site during or after the 90-day window

Assumed Facts:

- The landowner has enrolled his entire parcel of 100 acres of forestland in Current Use.
- The landowner intends to build a house sometime in the future, and must decide whether to withdraw a 2-acre dwelling exclusion during the 90-day window, or wait until later.
- The fair market value of the property is \$200,000. The fair market value of a 2-acre building lot of comparable quality in that community is \$60,000.
- The Town's assessment is \$160,000. The Tax Department has determined that the Town's Common Level of Appraisal (CLA) is 80%.
- The Town's Current Use value for forest land is \$97 per acre (80% of \$122, the rate established for enrolled forestland in tax year 2010-11).

Option 1 – Landowner Withdraws 2-Acre Exclusion during the 90-Day Window

- The pro-rated value of the 2 acres is \$4,000. This is determined by using the Town's assessed value (\$160,000), adjusting it by the CLA (\$200,000), and then pro-rating that value over the entire acreage of the parcel (\$2,000 per acre).
- If the land has been enrolled in Current Use for less than 10 years, the LUCT is \$800 (20% of \$4,000). If it has been enrolled for more than 10 years, the LUCT is \$400. The landowner pays that amount only when and if he/she actually builds the house. The lien will be discharged at the time of payment.
- In tax year 2010, the 2-acre dwelling exclusion will have an assessed value of \$48,000 (80% of \$60,000) for state and municipal property tax purposes. Assuming a \$2.00 tax rate, the resulting increase in tax burden due to the withdrawal will be \$960. The remaining 98 acres will continue to be assessed at "use" value, adjusted by the CLA, assuming the land remains eligible.

Option 2 – Landowner Waits to Withdraw 2 Acres after the 90-Day Window Closes

- Assuming the land continues to meet the eligibility requirements, the entire 100-acre parcel will continue to be assessed at its "use" value until the landowner actually builds the home on the 2 acres.
- At the time of development, the Town will determine the value of the 2-acre housesite. If the value is still \$60,000, the landowner will pay a LUCT of \$6,000 (10%). If the value of the housesite has increased to \$80,000 in the interim, the LUCT will be \$8,000. The lien will be discharged upon payment of the tax.

Conclusion. Landowners will have to balance the expected tax savings by continued enrollment of the future home site in Current Use against paying a higher LUCT when withdrawing the site later on. In general, if the owner expects to build within the next 1-7 years, early withdrawal may be the more financially prudent course of action. Individual results will vary.