

H.540  
AN ACT RELATING TO THE AGRICULTURAL AND FOREST LAND USE VALUE PROGRAM

This is the final version of the bill, which we were very pleased with in the end. Just a few reminders about protocol for reading bills. Any text that is NOT underlined is already current law. Underlined text is what will be added to the statute, and text with strikethrough marks (~~like this~~) will be deleted from current law. If you see \*\*\* anywhere, it means that there is more current law text, but they didn't feel like retyping it all out. You can go to the current statute and find the rest of the law here: <http://www.leg.state.vt.us/statutes/sections.cfm?Title=32&Chapter=124>. This is the current use section of the Tax Code. You can look at the bill text below, and find out what section you're in (weird squiggly symbol means section), and click on that section...so, for instance, the first section right below here is 3752).

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

Sec. 1. 32 V.S.A. § 3752(7) is amended to read:

(7) “Farmer” means a person:

(A) who earns at least one-half of ~~his~~ 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;

Section (B) above was added to include cheesemakers and other farmers who process their products, into the current use program. This change was needed because originally, the farmer had to sell their products as crops (this is the “business of farming”), so cheesemakers were not considered farmers because they weren't selling commodity milk. This was a problem because this meant their land and barns could not be in current use because they weren't considered “farmers” by the tax people. This change was the very minimum necessary so that the cheesemakers wouldn't get kicked out of current use.

(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).

Section (C) was added because the tax people said they might not be able to determine who is a farmer and who isn't, so they wanted the Agency of Ag to help with the determination. It also is supposed to ensure that, for instance, Cabot, doesn't get into current use by accident.

Sec. 2. 32 V.S.A. § 3752(14) is amended to read:

(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; ~~but "farm,~~ "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.

The language added to Section (14) above means that cheesemakers can enroll their cheesehouses in current use as well as their land and barn, up to \$100,000 of worth on the cheesehouse. We had given up on this language, as there was so much opposition to it in the House Ways and Means Committee, and we really wanted to at least get the definition above changed to keep these folks in the program, but in the end, the House Leadership decided to include the cheesehouses, and this language was put in during the conference committee. The language that says "minimum of 75% of which are produced on the farm" was hotly debated by the House Ag Committee. The intent is to make sure the farmer is using his own product, but to recognize that he has to add stuff he can't grow (like cheese culture or salt), and also they didn't want to preclude a cheesemaker from buying milk from the neighbor next door if they could use it.

Sec. 3. 32 V.S.A. § 3752(1)(C)(iii) is amended to read:

(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 ~~subdivision~~ 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.

[The two reporting sections below are self-explanatory.](#)

Sec. 4. REPORT

The agency of agriculture, food and markets with the assistance of the departments of economic development and of forests, parks and recreation and in consultation with the division

H. 540 Definition of a Farmer for Current Use – Conference Committee Final Bill as passed by House and Senate – Rural Vermont comments in [Blue](#)

of property valuation and review shall conduct a review of existing Vermont programs and examine programs in other states. The report shall recommend initiatives that promote the economic development of small farms and agriculture in Vermont. The report shall be submitted to the house committee on agriculture and the senate committee on agriculture on or before December 1, 2005 with specific options for action by the general assembly targeted to value-added on-site farm and natural resources based enterprises.

#### Sec. 5. REPORT

The division of property valuation and review and the agency of agriculture, food and markets shall report on or before January 15, 2006 to the House Committee on Ways and Means and the Senate Committee on Finance and the House and Senate Committees on Agriculture on farm processing facilities enrolled in the use value appraisal program.