

1 H.437

2 Introduced by House Committee on Ways and Means

3 Referred to Committee on

4 Date:

5 Subject: Taxation; property transfer tax; sales and use tax; exemption;

6 manufacturing machinery and equipment; income tax; affordable

7 housing tax credit; manufactured homes

8 Statement of purpose of bill as introduced: This bill proposes to create a
9 property transfer tax surcharge on the value of property transferred over
10 \$1,000,000.00 and to allocate the surcharge revenue to the General Fund. This
11 bill would also increase the annual amount available for the affordable housing
12 tax credit, which would be dedicated to purchasing and restoring manufactured
13 homes. The sales and use tax exemption for manufacturing machinery and
14 equipment would also be expanded under this bill to exempt equipment that is
15 part of an integrated production process.

16 An act relating to changes that affect the revenue of the State

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

2 * * * Property Transfer Tax Surcharge * * *

3 Sec. 1. 32 V.S.A. § 9602 is amended to read:

4 § 9602. TAX ON TRANSFER OF TITLE TO PROPERTY

5 A tax is hereby imposed upon the transfer by deed of title to property
6 located in this State, or a transfer or acquisition of a controlling interest in any
7 person with title to property in this State. The amount of the tax equals one
8 and one-quarter percent of the value of the property transferred; or \$1.00,
9 whichever is greater, except as follows:

10 * * *

11 (4) With respect to all transfers by deed of title to property located in
12 this State, a surcharge shall be imposed at the rate of one half of a percent of
13 the value of the property transferred in excess of \$1,000,000.00.

14 (5) The Commissioner shall annually estimate the amount of revenue
15 raised by the surcharge imposed pursuant to subdivision (4) of this section and
16 transfer that same amount to the General Fund established under section 435 of
17 this title.

18 * * * Allocation of Property Transfer Tax Surcharge Revenue * * *

19 Sec. 2. 32 V.S.A. § 435(b) is amended to read:

20 (b) The General Fund shall be composed of revenues from the following
21 sources:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

* * *

(10)(A) 33 percent of the revenue from the property transfer taxes levied pursuant to chapter 231 of this title and the revenue from the gains taxes levied each year pursuant to chapter 236 of this title; and

(B) notwithstanding subdivision (A) of this subdivision (b)(10), the revenue raised by the surcharge imposed pursuant to subdivision 9602(4) of this title;

* * *

Sec. 3. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF
RETURNS

* * *

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and subdivision 435(b)(10) of this title, two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance

1 Agency to pay the principal of and interest due on the bonds, notes, and other
2 obligations authorized to be issued by the Agency pursuant to 10 V.S.A. §
3 621(22), the proceeds of which the Vermont Housing and Conservation Board
4 shall use to create affordable housing pursuant to 10 V.S.A. § 314.

5 * * *

6 (e) Notwithstanding subsections (c) and (d) of this section and any other
7 provision of law to the contrary, the Commissioner of Taxes shall annually
8 estimate the revenue raised by the surcharge imposed pursuant to subdivision
9 9602(4) of this chapter and transfer that same amount to the General Fund
10 established under section 435 of this title.

11 * * * Sales Tax; Exemption; Manufacturing Machinery
12 and Equipment * * *

13 Sec. 4. 32 V.S.A. § 9741(14) is amended to read:

14 (14)(A) Tangible personal property which that becomes an ingredient or
15 component part of, or is consumed or destroyed or loses its identity in the
16 manufacture of tangible personal property for sale;

17 (B) ~~machinery~~ Machinery and equipment ~~for use or consumption~~
18 ~~directly and exclusively, except for isolated or occasional uses,~~ used in or
19 consumed as an integral or essential part of an integrated production operation
20 by a manufacturing or processing plant or facility engaged in the manufacture
21 of tangible personal property for sale, or in the manufacture of other machinery

1 or equipment, parts, or supplies for use in the manufacturing process; ~~and~~
2 ~~devices used to monitor manufacturing machinery and equipment or the~~
3 ~~product during the manufacturing process. Machinery and equipment used in~~
4 ~~administrative, managerial, sales, or other nonproduction activities, or used~~
5 ~~prior to the first production operation or subsequent to the initial packaging of~~
6 ~~a product, shall not be exempt from tax, unless such uses are merely isolated or~~
7 ~~occasional or unless the machinery used for initial packaging is also used for~~
8 ~~secondary packaging as part of an integrated process. Machinery and~~
9 ~~equipment shall not include buildings and structural components thereof. As~~
10 ~~used in this subdivision, it shall be rebuttably presumed that uses are not~~
11 ~~isolated or occasional if they total more than four percent of the time the~~
12 ~~machinery or equipment is operated. For the purposes of this subsection~~
13 subdivision (14), “manufacture” includes extraction of mineral deposits, the
14 entire printing and bookmaking process, and the entire publication process.

15 (C) As used in this subdivision (14):

16 (i) “Integrated production operation” means an integrated series of
17 operations at a manufacturing or processing plant or facility to process,
18 transform, or convert tangible personal property by physical, chemical, or other
19 means into a different form, composition, or character from that in which it
20 originally existed. Integrated production operations begin when raw material
21 is first changed physically, chemically, or otherwise in form, composition, or

1 character, including being removed from storage or introduced for this
2 manipulation, and end when the product is placed in initial packaging and shall
3 include production line operations, including initial packaging operations, and
4 waste, pollution, and environmental control operations.

5 (ii) “Manufacturing or processing business” means a business that
6 utilizes an integrated production operation to manufacture, process, fabricate,
7 or finish items for wholesale and retail distribution as part of what is
8 commonly regarded by the general public as an industrial manufacturing or
9 processing operation or an agricultural commodity processing operation.

10 “Manufacturing or processing business” does not include nonindustrial
11 businesses whose operations are primarily retail and that produce or process
12 tangible personal property as an incidental part of conducting the retail
13 business, such as retailers who bake, cook, or prepare food products in the
14 regular course of their retail trade; the assembling of product by retailers for
15 sale; grocery stores, meat lockers, and meat markets that butcher or dress
16 livestock or poultry in the regular course of their retail trade; contractors who
17 alter, service, repair, or improve real property; and retail businesses that clean,
18 service, or refurbish and repair tangible personal property for its owner. The
19 examples provided in this subdivision (ii) shall not be construed as exclusive.

20 (iii) “Manufacturing or processing plant or facility” means a
21 single, fixed location owned or controlled by a manufacturing or processing

1 business that consists of one or more structures or buildings in a contiguous
2 area where integrated production operations are conducted to manufacture or
3 process tangible personal property to be ultimately sold at retail. A business
4 may operate one or more manufacturing or processing plants or facilities at
5 different locations to manufacture or process a single product of tangible
6 personal property to be ultimately sold at retail.

7 (iv) “Primary” or “primarily” means more than 50 percent of the
8 time.

9 (v) “Production line” means the assemblage of machinery and
10 equipment at a manufacturing or processing plant or facility where the actual
11 transformation or processing of tangible personal property occurs.

12 (D) For the purposes of this subdivision (14), machinery and
13 equipment shall be deemed to be used as an integral or essential part of an
14 integrated production operation when used during the integrated production
15 operation:

16 (i) to transport, convey, handle, or store the property undergoing
17 manufacturing or processing at any point from the beginning of the production
18 line until it is placed into initial packaging;

19 (ii) to act upon, effect, promote, or otherwise facilitate a physical
20 change to the property undergoing manufacturing or processing;

1 (iii) to guide, control, or direct the movement of property
2 undergoing manufacturing or processing;

3 (iv) to test or measure materials, the property undergoing
4 manufacturing or processing, or the finished product during the manufacturer's
5 integrated production operations;

6 (v) to plan, manage, control, or record the receipt and flow of
7 property while undergoing manufacturing or processing;

8 (vi) to lubricate, control the operating of, or otherwise enable the
9 functioning of other production machinery and equipment and the continuation
10 of production operations;

11 (vii) to transmit or transport electricity, gas, water, steam, or
12 similar substances used in production operations from the point of generation,
13 if produced by the manufacturer or processor at the plant site, to that
14 manufacturer's production operation; or, if purchased or delivered from off-
15 site, from the point where the substance enters the site of the plant or facility to
16 that manufacturer's production operations;

17 (viii) to package the property being manufactured or processed in
18 any container or wrapping in which such property is normally sold or
19 transported, even if the machinery operates after the point of initial packaging;

20 (ix) to cool, heat, filter, refine, or otherwise treat water, steam,
21 acid, oil, solvents, or other substances that are used in production operations;

1 (x) to provide and control an environment required to maintain
2 certain levels of air quality, humidity, or temperature in special and limited
3 areas of the plant or facility where such regulation of temperature or humidity
4 is part of and essential to the production process;

5 (xi) to treat, transport, or store waste or other byproducts of
6 production operations at the plant or facility and to clean manufacturing
7 machinery and equipment;

8 (xii) to control pollution at the plant or facility where the pollution
9 is produced by the manufacturing or processing operation; or

10 (xiii) to inspect or conduct quality control on the product, even if
11 the inspection or quality control machinery operates after the point of initial
12 packaging.

13 (E) “Machinery and equipment used as an integral or essential part of
14 an integrated production operation” does not mean:

15 (i) machinery and equipment used for nonproduction purposes,
16 including machinery and equipment used for plant security, fire prevention,
17 first aid, accounting, administration, record keeping, advertising, marketing,
18 sales or other related activities, plant cleaning, plant communications, and
19 employee work scheduling;

20 (ii) machinery, equipment, and tools used primarily in maintaining
21 and repairing any type of machinery and equipment or the building and plant;

1 (iii) transportation, transmission, and distribution equipment not
2 primarily used in a production, warehousing, or material handling operation at
3 the plant or facility, including the means of conveyance of natural gas,
4 electricity, oil, or water, and related equipment, located outside the plant or
5 facility;

6 (iv) office machines and equipment, including computers and
7 related peripheral equipment, not used directly and primarily to control or
8 measure the manufacturing process;

9 (v) furniture and other furnishings;

10 (vi) buildings, other than exempt machinery and equipment that is
11 permanently affixed to or becomes a physical part of the building, and any
12 other part of real estate that is not otherwise exempt;

13 (vii) building fixtures that are not integral to the manufacturing
14 operation, such as utility systems for heating, ventilation, air conditioning,
15 communications, plumbing, or electrical;

16 (viii) machinery and equipment used for general plant heating,
17 cooling, and lighting; or

18 (ix) motor vehicles that are registered for operation on public
19 highways.

20 (F) Subdivisions (D) and (E) of this subdivision (14) shall not be
21 construed as exclusive lists of the machinery and equipment that qualify or do

1 not qualify as an integral or essential part of an integrated production
2 operation. When machinery or equipment is used as an integral or essential
3 part of production operations part of the time and for nonproduction purposes
4 at other times, the primary use of the machinery or equipment shall determine
5 the qualification of the machinery or equipment for the exemption.

6 * * * Affordable Housing Tax Credit; Manufactured Homes * * *

7 Sec. 5. 32 V.S.A. § 5930u(g) is amended to read:

8 (g)(1) In any fiscal year, the allocating agency may award up to:

9 (A) \$400,000.00 in total first-year credit allocations to all applicants
10 for rental housing projects, for an aggregate limit of \$2,000,000.00 over any
11 given five-year period that credits are available under this subdivision (A);

12 (B) ~~\$425,000.00~~ \$675,000.00 in total first-year credit allocations for
13 loans or grants for owner-occupied unit financing or down payment loans as
14 provided in subdivision (b)(2) of this section consistent with the allocation
15 plan, including for new construction and manufactured housing, for an
16 aggregate limit of ~~\$2,125,000.00~~ \$3,375,000.00 over any given five-year
17 period that credits are available under this subdivision (B). Of the total first-
18 year credit allocations made under this subdivision (B), \$250,000.00 shall be
19 used each fiscal year for manufactured home purchase and replacement.

1 (2) If the full amount of first-year credits authorized by an award are not
2 allocated to a taxpayer, the Agency may reclaim the amount not allocated and
3 re-award such allocations to other applicants, and such re-awards shall not be
4 subject to the limits set forth in subdivision (1) of this subsection.

5 * * * Effective Date * * *

6 Sec. 6. EFFECTIVE DATE

7 This act shall take effect on July 1, 2021.