Bill as Introduced

SB 345 - AS INTRODUCED

2000 SESSION

00-2663
08/09

SENATE BILL ***345***

AN ACT relative to real estate transfers.

SPONSORS: Sen. Gordon, Dist 2

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill:

I. Exempts transfers involving $4,000 or less from the requirement to file an inventory of property transfers.

II. Provides that any reconveyance of tax-deeded property by a municipality to a former owner is subject to reattachment of any former liens and recognition of the interest of any former co-owners.

III. Requires any application for subdivision or merger approval to include written consent from all mortgagees.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

00-2663
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT relative to real estate transfers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Real Property; Inventory of Property Transfers; No Filing Required for Certain Transfers. Amend RSA 74:18 by inserting after paragraph II the following new paragraph:

II-a. No filing shall be required under this section for any transfer of real estate or interest in real estate made for no consideration or for consideration of $4,000 or less.

2 Transfer of Tax Lien; Sale of Property Taken in Default of Redemption. Amend RSA 80:42, V to read as follows:

V. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the selectmen or mayor to convey the property to a former owner[~~, or to a third party for benefit of a former owner,~~] upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the registry of deeds. This paragraph shall not be construed to obligate any municipality to make any such conveyance or agreement. ***Any such reconveyance to a former owner shall be subject to the provisions of RSA 80:88, I and RSA 80:89, III, IV, and VI.***

3 Real Estate; Transfer of Tax Lien. Amend RSA 80:80, VI to read as follows:

VI. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the selectmen or mayor to convey the property to a former owner[~~, or to a third party for benefit of a former owner,~~] upon such reasonable terms as may be agreed to in writing, including the authority of the municipality to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the registry of deeds. This paragraph shall not be construed to obligate any municipality to make any such conveyance or agreement. ***Any such reconveyance to a former owner shall be subject to the provisions of RSA 80:88, I and RSA 80:89, III, IV, and VI.***

4 Local Land Use Planning; Subdivision of Land; Voluntary Merger. Amend RSA 674:39-a to read as follows:

674:39-a Voluntary Merger. Any owner of 2 or more contiguous preexisting approved or subdivided lots or parcels who wishes to merge them for municipal regulation and taxation purposes may do so by applying to the planning board or its designee. ***The application shall include a certification by the owner as to the names of all mortgagees of all or any part of the***

property, and written consents to the proposed merger signed by each such mortgagee. Except where such merger would create a violation of then-current ordinances or regulations, all such requests shall be approved, and no public hearing or notice shall be required. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by the planning board or its designee, shall be filed for recording in the registry of deeds, and a copy mailed to the municipality's assessing officials. No such merged parcel shall thereafter be separately transferred without subdivision approval.

5 Planning Boards; Procedures on Plats. Amend RSA 676:4, I(b) to read as follows:

(b) The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board, with notice as provided in subparagraph (d). The applicant shall file the application with the board or its agent at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 477:45, and all abutters as indicated in the town records for incorporated towns or county records for unincorporated towns or unorganized places not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board. ***The application shall further include a certification by the applicant or agent as to the names of all mortgagees of all or any part of the property, and written consents to the proposed subdivision signed by each such mortgagee.***

6 Effective Date. This act shall take effect January 1, 2001.

Amendments

Senate Executive Departments and Administration
February 8, 2000
2000-3366s
08/09

Amendment to SB 345

Amend the bill by deleting sections 4 and 5 and renumbering the original section 6 to read as 4.

2000-3366s

AMENDED ANALYSIS

This bill:

I. Exempts transfers involving $4,000 or less from the requirement to file an inventory of property transfers.

II. Provides that any reconveyance of tax-deeded property by a municipality to a former owner is subject to reattachment of any former liens and recognition of the interest of any former co-owners.

Committee Minutes

Date: January 11, 2000
Time: 2:30pm
Room: 101 LOB

The Senate Committee on Executive Departments Administration held a hearing on the following:

SB 345 relative to real estate transfers.

Members of Committee present:

Senator Cohen
Senator Francoeur
Senator Brown
Senator Larsen
Senator Roberge
Senator Trombly

The Chair, Senator Burt Cohen, opened the hearing.

Senator Burton J. Cohen, D. 24: Open hearing on SB 345. Recognize the prime sponsor, in fact the entire sponsorship Senator Gordon.

Senator Edward M. Gordon, D. 2: Mister Chairman, members of the committee. For the record my name is Ned Gordon. I represent senate district 2, which consists, as you know by now, of 32 town in Grafton and Belmont counties. I appear here today as the primary sponsor of this bill.

Although I am sponsoring this bill on behave of our real estate practitioners in the state. One of whom is Jim Barney who is an attorney here in Concord. Jim and the real estate practitioners come forward with a number of small suggestions as to changes that can be made in real estate law which would make the practice a lot easier, but would also be a benefit to those people who are engaged in real estate transactions.

Rather than put them into five separate bills I suggested that he put them into one bill so that could be handled expeditiously through the process. In that regard what I thought I would do is, unless you had some objection

Mister Chairman, is to allow Attorney Barney just to go through and basically explain to you what each part of this bill does.

Senator Burton J. Cohen, D. 24: Okay. Sounds like a good idea.

Attorney James Barney: Thanks Senator Gordon, Mister Chairman and senators. My name is Jim Barney I am a lawyer with the firm of Sulloway and Hollis here in Concord. I am not here on behalf of any client. As Senator Gordon said I am a member of the Legislation Committee of the New Hampshire Bar Section on Real Property Probate Trust Law and as such I look at bills that may affect the practice of real estate and probate and trust law. Sometimes as in this case make some suggestion or recommendations to Senator Gordon and he was good enough to bring this forward as a bill.

My practice personally is mostly in the area of real estate and these 3 bills are all related to real estate transfers, which is the title they are grouped under. The are 3 different sort of subsections within the bill and I can describe them section by section. You may want to ask questions after the presentation of the first section so that you don't get them mixed up.

The first subpart is just section one of the bill which deals with so called inventory of property transfers. The statute that this deals with is an existing statute, which requires that for every transfer of real estate whether it is full fee interest, large, small, easement or whatever. Every transfer real estate technically the buyer after the transfer has to file with the Department of Revenue Administration and the municipality this form called the Inventory of Property Transfers. It used to be called the Real Estate Transfer Questionnaire and it was in a different chapter of the RSA's and recently it was moved and renamed, but it is basically the same form. It is a form where a lot of questions have to be answered about the property of the transfer and it has a page of instructions on the back to help you do it.

This is a separate form from another form that used to be filed, which is called the Declaration of Consideration. Somebody may be familiar with that. That form only states the amount of the price involved in the transfer. That is filed separately with the department. This has a lot of other questions and its purpose is to help DRA and municipalities that get a copy of it in their keeping up to date on their assessments of property.

There are no statutory exceptions to filing of this form. Right now the law says that it has to be filed for every transfer and some other practitioners and myself have felt that it really shouldn't be required in cases where it is not going to serve its intended purpose, which is to help in the assessment of property. So the bill that is before you just proposes to add a small exception

or exemption to the statute. Which is said out in section one of the bill, which would say no filing shall be required for any transfer of real estate, which is made for no consideration or for consideration of $4,000 or less.

My feeling and the others who deal with this was that if you have a gift or are transferring easement or something that is worth less than 4,000 there really can't be any interest on the part of the state or the towns. Having a lot of questions answered about this is just not going to help them in overall assessment of property market value. So it is part of a meaningless requirement to fill this out and file it if it is not going to serve any purpose for the small transactions.

Senator Burton J. Cohen, D. 24: Take a question from Senator Roberge?

Attorney James Barney: Sure.

Senator Sheila Roberge, D. 9: If it was for instance it was an easement maybe the abutters might what to know about it. Is there anyway you could just file it not charge anybody?

Attorney James Barney: Well...

Senator Sheila Roberge, D. 9: They get notified anyway.

Senator Gary R. Francoeur, D. 14: They get notified by a planning board...

Senator Sheila Roberge, D. 9: I just wondering if there is any other purpose for filing that other than getting this fee.

Attorney James Barney: Well as far I know the only purpose is to aid in the assessment process and abutters are not going to find out unless the take the trouble to go to the municipality or DRA and ask if there have been any forms filed.

Senator Sheila Roberge, D. 9: I was just wondering if they might have reasons. If there was question of a sign or something?

Attorney James Barney: I don't really think there is any other purpose and anybody who wants to find out about transfers can always, the easiest thing is to just to go to the Registry of Deeds and look under the name of your neighbor, whoever and right away you get anything that has been filed and transferred.

Senator Sheila Roberge, D. 9: But you would get something like this. It would be there?

Attorney James Barney: Any transfer would show up at the registry and you wouldn't need to go hunting for this form in other places.

Senator Sheila Roberge, D. 9: Okay.

Attorney James Barney: This just gets filed separately with the state and the town and you still have your report of easement or deed or whatever at the registry, which is accessible by anybody that wants to find it. So it is just an effort to save us some paper work for buyers or grantees on these very small transactions where, there is really no purpose served by filing.

Senator Sylvia B. Larsen, D. 15: Since we are on this section can I ask one question. How did you pick 4,000? Why not 5,000 on this...?

Attorney James Barney: Well the $4,000 is the amount that the other form I was talking about the Declaration of Consideration. The transfer tax is imposed on at a rate per thousand above $4,000 and so that was just a figure that is used in the transfer tax...to separate minimum transfers from transfers that are consider more than minimum. So that was the only. We just picked a figure arbitrarily at that level.

Senator Burton J. Cohen, D. 24: Senator Trombly.

Senator Rick A. Trombly, D. 7: Thank you. I distinctly heard you say save questions to the end. Do all the transfers still go back to the city clerks?

Attorney James Barney: Not necessarily the clerk, but I think the Registrar of Deeds, I am not sure what form it takes, but I think the Registrar of Deeds send copies of transfers to the municipalities and so those give notes to the assessors or the selectmen, whoever is doing that function that transfers have taken place. This form for transactions that are substantial will give them a little bit more information on those transfers where all you can't tell us from just what is in the deed.

Senator Rick A. Trombly, D. 7: Just to follow in terms of Senator Roberge. I think that the Registrar of Deeds sends back to the town monthly all real estate transactions. I know because people call me up and say I did know that so in so got divorced as the read...gave the property to the spouse in the divorce. But I think in terms of your question about easements and correct me if I am wrong, I think the Registrar of Deeds sends all those type of things to the town at the end of a month. I know the Concord Monitor prints them.

Senator Burton J. Cohen, D. 24: Shall we proceed with the next section?

Senator Edward M. Gordon, D. 2: If I can just interject. This is particularly important with state...attorney because very frequently you will transfer property to a trust, your own trust and right now even though there is no consideration you are just putting it in your trust you are required to file one of these forms. Serves absolutely no purpose, but if you don't file it you will soon get a letter from the Department of Revenue Administration indicating that if it isn't filed in a timely manner you will be fined.

Attorney James Barney: The second subpart of the bill is sections 2 and 3 of the bill and if you just look at those 2 sections you will see that the wording is basically identical in those two sections, the wording of the existing statutes and the proposed wording for the amendment. This deals with the situation where property is taken by municipality for taxes. The taxes become delinquent after 3 years of the municipality normally give a tax deed to its self and that gives title to the municipality free and clear of all the their interest or encumbrances.

Often after that actual tax, well before the tax deeding is done during that 3 years the owner can redeem the property by paying all the back taxes and then there is no tax deed. But often after the tax deed the owners will come back to the municipality and want to get their property back. There are some statutes on the books and these are partly, which say that under certain circumstances a municipality can sell the property back to the former owner. The 2 statutes, existing statutes that are on the books that are set out here. The reason there are 2 of them is that one of them deals with property that is taken up by tax deed after a tax sale and the other one deals with property that is taken with tax deed after a tax lien.

There are just 2 separate procedures that towns use of collecting taxes that lead up to a tax deed. Most towns now use what is called the tax lien procedure. All towns used to use the tax sale and I think that there are maybe a couple that still use it. It is just 2 different ways, 2 separate sections of statutes which are almost identical the towns go under in terms of the 3 year period leading up to the tax deed.

So these 2 sections that are in sections 2 and 3 of the bill. One of them is under the tax lien part of this chapter and the other one is under the tax sale part of the chapter, but they operate exactly the same and so the purposed amendment is the same. But the existing statutes that are set out here were past in 1997 as an attempt by the legislature to give the towns an express authority to sell property back to former owners under flexible terms. Whatever terms the town and the owner could agree on.

There was a debate up to that point as to whether towns once they took a tax deed could only sell property of its full value even if it was back to its former owner other wise it would be a waste of public property. Some people thought that was the case, some people thought it wasn't and towns were doing different things.

So in 1997 the legislature passed these 2 identical statutes which if you look at them say the selectman or the mayor may convey property back to a former owner upon such reasonable terms as maybe agreed to and then it gives some examples of terms that can be included.

Those are both very flexible authorizations and don't really give any limits as to what terms maybe agreed to between the town and the former owner. That was in 1997 statute.

In 1998, the legislature pasted a new set of sections, which dealt with the same subject, municipalities selling tax deed property. It was a bit broader because the 1998 bill, which was House Bill 676 dealt with selling property third parties, tax deed of property third parties and also selling property back to the owner. Under that bill which is contained in some different sections RSA 80 the town is limited in how much it can get from a sale of tax deed of properties. Limited to the amount of back taxes that we are owing plus interest plus cost plus a so called penalty which is set at 15 percent of the of the assess value of the property.

So under that 1998 bill when a town when a town is selling property to either a third party or to a former owner it has got a limit to how much it can keep of the proceeds. Which is basically all of its taxes and interest that it is owned plus 15 percent of the value. Any thing that it collects over that amount has to go back to the former owners or the former lien holders.

There are provisions in there that say that if the town sells the property back to a former owner it cannot just deed the property back. If there are more than one former owner it can't just deed the property back to one owner it has to deed it back to all the co-owners of the property. If there are more than one and also if there were any liens that were attached to the property mortgage liens or others at the time of the tax deed that were wiped out by the tax deed. If the property goes back to the former owner then whatever mortgages that were in effect and any other deeds reattach.

So the intent of the legislature in the 1998 bill seems to have been to first of all give them a municipality of clear limit on what they can keep in terms of proceeds and second to make sure there are no wind falls to former owners who tax deeds wiped out other owners and wiped out liens. You can't have a

former owner coming back and getting the property for basically what the taxes were they were owing plus the 15 percent and taking it back still free and clear of all the former, the interest of other former owners and the interest of former mortgagees. Those all reattach under the 1998 bill. What should of happened in 1998, but because of the complexity and the way this went through the process I guess that 1998 bill should have been coordinated with the 1997 bill that is in here so that they were consistent.

You had the same restriction applying. If there were going to be restrictions on the price and interest of former owners, lien holders, reattaching then they should apply to any sale to a former owner. But there wasn't a clear sort of cross-reference and that is what this bill would do is to take the 1997 statute and the sentences in bold at the end of each of these sections. Is a cross reference, which says that the main restrictions under the 1998 law in the sale to a former owner will also apply to any sale to a former owner under these sections. Just to make it clear again you can't say you are going under this section, which was in existence before. Doesn't have any restrictions in it and you can't do that in avoid what seems to be the legislative policy in 1998. Which is to have these restrictions apply.

So if the restrictions are going to be there then they really should apply across the board and that is the purpose of this bill.

Senator Sheila Roberge, D. 9: A quick question for Senator Gordon. Shouldn't this basically have been a part of what the drafters did when the changed the law in 98?

Senator Edward M. Gordon, D. 2: Yes.

Senator Sheila Roberge, D. 9: That it should have been cross referenced to cross all sections of the statutes that were related to transfer of property tax...?

Senator Edward M. Gordon, D. 2: Somebody should have picked it up in 1998 unfortunately no one did. So you appear to have 2 conflicting statutory provisions and the issue is that someone may look at this provision and say that it is separate in part and they are proceeding under this section as opposed to the object of the 2 where intended to dove tail. I have my committee meeting in executive at 2:45, which I have to be excused for so I will leave you in Mister Barney's hands.

Senator Burton J. Cohen, D. 24: Thank you.

Senator Edward M. Gordon, D. 2: Thanks. I appreciate it.

Senator Burton J. Cohen, D. 24: More questions on that section before we proceed? Thanks move on.

Attorney James Barney: That was probably the toughest of the three. The last on deals with sections 4 and 5 of the new bill which are not identical but the relate to each other as I will explain. They both deal with applications to a planning board for either merger of joint lots or subdivision of a lot into 2 or more separate lots. So they both basically deal with changes in lot boundaries.

What both of these proposed amendments do, one in a case of a merger and the other in the case of a subdivision is when somebody goes to the applies to change the boundaries of a lot that has a mortgage on it or maybe there is more than one mortgage and if there more than one lot involved. When they go to the Planning Board this bill would require that they have mortgagee of written consent when they file their application at the Planning Board to whatever they want to do. It is either a merger or subdivision, but basically a change in the boundaries of the lot that is covered by the mortgage.

This comes out of some real problems that I had and some other practitioners have had in representing banks in the case of loans, which were commercial loans basically. They go into default. The bank says okay, we have to foreclose. We run title on the property and we find that low and behold the lot that the bank had the mortgage on is no longer a lot of record because the developer at some point went to the town and had the boundaries changed either by merger or subdivision.

So we now have a lot of record only part of it is covered by the mortgage and the former lot that is covered by the mortgage is no longer the lot of record. Without the mortgagees having any notice at all the boundaries have been changed by approval of the Planning Board. So the bank runs into the problem when it tries to do a foreclosure because if it tries to sell what it has a mortgage on. The town may object saying that is not lot of record you can't sell it and transfer of the lot that is not a record and there are going to be title problems. Anybody that buys a foreclosure is going to buy a lot that is not a lot of record ant that is going raise problems with marketable title and getting approvals from the town from that point on.

So it seems like a fairly, a pretty reasonable proposition that since the mortgagee can be, has a mortgage on the lot that they should have a say in any change in boundaries of the lot. That is all the sections 4 and 5 of this bill do. Section 4 deals with the merger of lots. Says that any application to the planning board to merge lots must have a list of all the mortgagees, any

mortgagees that affected and written consent of those mortgagees when the application is filed.

Section 5 of the bill says the same thing as in terms of application for subdivision. If you are taking a lot that is covered by a mortgage and you want to subdivide it in any way then you have to state who the mortgagees are, have their written consent. This should not normally be a problem because the types of transactions that these situations apply to are going to be commercial loans so you are going to have a borrower who has a commercial lender who is right here in state, they are working with them in close relationship.

So it should not be a problem in terms of communication for the developer to go to the loan officer and say this is what I want to do, do you agree it is okay and give me a written consent and go file that with the planning board. So if this situation came up in residential lots there might be more of a problem in terms of dealing with some...deed. Their situations are to going to arise in case of residential property it is probably going to be a commercial situation.

Senator Burton J. Cohen, D. 24: Senator Francoeur.

Senator Gary R. Francoeur, D. 14: I can see what you are trying to day on this last section but I think it involves a lot more than what you just picking in commercial. Residential also does subdivisions. Whether it is a lot line, relocation because a guy has his deck to close and everybody is yelling at mortgage over a whole country now runs into problem of locating them, getting permission from them, telling that what they are doing before you can even go to the Planning Board which then changes it and then sends you back ... maybe a couple of months later or something totally different. How do you explain that to a lender day one?

I have been in this circumstance and I understand what you are saying. You don't want to a quire piece of land that has a lien on it, but nobody is going to buy it with lien on it. Isn't your documents that your mortgage company or whoever you represent contain in them that you will get permission in the documents if that is the choice of the company that is giving the loan more abruptly?

Attorney James Barney: Well commercial loan documents will normally have requirement that you get permission for anything like that. Some may not. Most of the cases where this happens are going to be commercial, but in the case of a bank that has a mortgage on a residential lot they are going to have the same problem in terms of, if at some point the goes into default and what they have a mortgage on is no longer a lot of record they have got a big

problem. It is not going to happen very often but in the occasional case where you need to do this with residential property it make sense to contact the mortgagee and get there permission because it is really directly effecting the mortgagees interest.

Senator Gary R. Francoeur, D. 14: Before you can convey an interest usually you have to get permission from a mortgagee and they usually require from the real estate agent or an appraiser that it is not effecting the value or it is increasing the value. If I am going to subdivide a piece off of my property and give it to somebody else or rights into it what are they getting it what are they getting if they don't have the release from those that have the interest in it. They have got nothing.

Attorney James Barney: If you go to sell it you mean?

Senator Gary R. Francoeur, D. 14: If I go to a Planning Board and subdivide 10 feet of my lot so that your deck now is in a conforming use and I never get permission from my mortgagee I still have the interest in it. I can't convey an interest in something until it is released.

Attorney James Barney: Yes in any voluntary situation you are going to have to get the mortgagee to sign off at the time of sale. The situations that brought this bill up for me and some other practitioners involve involuntary sale. It is where the loan goes into default and the mortgagee is trying to realize their interest in the property and their cost a lot of problems and expense if the boundaries have changed without their knowledge. That is the situation this is addressing.

Senator Gary R. Francoeur, D. 14: Another question. Isn't there also a problem that sometimes the mortgager goes into default which happened in the State of New Hampshire in 88 9. If we had this requirement at that time almost the majority of the real estate transactions in the state would have gone to a halt.

Attorney James Barney: You mean in the case of a bank failure?

Senator Gary R. Francoeur, D. 14: Sure. How would I get permission or a release from somebody that was a failure until they get through the whole process with the federal government and paying...

Attorney James Barney: Well in the case of a bank failure then you would be going to Barnum which was the agent for the major banks that failed in 91. As agent for the FDIC you would be getting consent from them.

Senator Gary R. Francoeur, D. 14: That process to years.

Attorney James Barney: I was involved in a number of Barnum transactions and they started out there was some rust in the gears, but they got to a point where it seemed to be operating pretty smoothly.

Tape Change.

Senator Gary R. Francoeur, D. 14: ...if he does...then fine, but if they come back with a change and they say well that wasn't the same one. What I am finding with the bank regulators is they are not only worried about paper work in their possession with the government looking over their back. Everything they do has to be documented and proven as they are going. Why they made that decision. They are now going to put that burden on the individual, which could be multiple times.

Attorney James Barney: Well the, you could have, I guess you could come at it from the other end that before a subdivision or merger goes to record you have a mortgagee sign off on the final plan. But in thinking about this and how to draft the bill to accomplish the object it seemed to us that it would be better to have the mortgagee look at this right away early on and give their consent. Because if they objected to the whole concept. Then you would go through the whole business with the Planning Board and so forth and then come to the mortgagee in the end and if they object then you spent all that time and money going through the Planning Board process and you don't have your consent.

So it seemed like it would make more sense to have the consent at the front end and in most cases there is not going to be a substantial change in the concept from what is provided in the initial application to what gets approved down the line. There will be some lines that will move a bit or some conditions that will be added. But it just seems like if you are going to chose between the 2 the first way would be better because the mortgagee has an objection in principle to the whole thing it is better to find out at the beginning before you start going through your Planning Board process. The feeling certainly honestly of the banks that we represented is that they should have a say at some point and not be presented way down the line with a ...and they don't have good title on their good title on their mortgage anymore.

Senator Burton J. Cohen, D. 24: Senator Brown.

Senator Mary E. Brown, D. 17: Yes I have a quick question. I think it is a question. If I am understanding you correctly this is from the view point of the mortgagee? That you are looking at this.

Attorney James Barney: That is right.

Senator Mary E. Brown, D. 17: I am wondering if instead of written consent if written notification to the mortgagee puts the burden back on the mortgagee to contact the folks that are doing this subdivision or whatever they are doing rather than the person who owns the property kind of going through trying to contact people and all this stuff. Wouldn't it make sense to just have them required to having to notify them in writings or by mail or some proof that they did...?

Attorney James Barney: That is certainly an alternative.

Senator Burton J. Cohen, D. 24: Any further questions. Say none. Thank you very much.

Attorney James Barney: Thank you.

Senator Burton J. Cohen, D. 24: Any one else wishing to speak. Senator Francoeur will take over from here I have another committee...

Linda Kennedy: My name is Linda Kennedy I am the Deputy Director for Property Appraisal Division. I am with the New Hampshire Department of Revenue and I think that I have met some of you in the past. Normally I like to be neutral, but this is one issue that I can say yes!

I am here to testify in support of section one of the bill. That is the only section that I am commenting on today. The inventory property transfer was originally developed several years ago. It took place of an old verification letter that we used as part of our equalization procedure. I am assuming after last year you have all heard the term equalization. It is an intricate part of our equalization process and the form is doing the job that we intended it to do. It is verifying the sales data and it is helping our staff to determine whether a sale is arm's length or not.

The form is currently required to be filed by the grantee of every real estate transfer in the state. As the prior speaker stated when the original law went into effect there were no exceptions allowed. We do not however use all the sales in our equalization survey for a great many reasons, utilities easements, family deeds, so on and so forth. So to exempt zero considerations

or minimum considerations which is what a $4,000 dollar sale is. We would be thrilled not to get these pieces of paper.

Last year there were 43,000 sales for more than 4,000. These particular sales that was zero and no consideration were at least 20 percent more. Thus we were processing 8 to 10 thousand pieces of paper that we didn't need to be processing. We were opening them, filing them, scanning them, sorting them, you know storing them.

We have received numerous requests from many parties not to have to file these. We concur with them. Just to give you some examples and these are very real forms. *Gift, transfer as a result of road widening by the town of Weare*, obviously we don't need that. *Pursuant to Belmont County Court*, Superior Court order. *Court to transfer, gift, town gifted conservation easement, gift to daughter, mother reserved life estate, easement only conveyed, transfer to joint tenants with no consideration, sale by local government, tax collectors deed.*

So for me I am very in support for not receiving these sales and I don't feel that my equalization process will be hindered in any way or that the quality will be let down in anyway from not getting these sales because we cannot use them by any national standard in our sales surveys.

Senator Gary R. Francoeur, D. 14: Thank you. Any questions. Thank you.

Linda Kennedy: Thank you very much.

Senator Gary R. Francoeur, D. 14: Anybody else wishing to speak on SB 345? Say no; we will close the hearing.

Respectfully Submitted,
Zita-Maria Wescott
Committee Secretary

1-11-00

SB 345 2:30

Conn -

Sen Gordon -

Jim Rooney

Conn -

Sen Rooney - Sullaway + Hollis.

Member of the Legislative Committee

Mostly in the area of Realestate

3 different sub-sections.

Deals with

has to file with

called the inventory

property of Manchester

Separate form.

DRA and municipalities.

No Statutory

Proposes to add a small

Kind of Meaningless that is

Sen. Roberge - file and not changed.

Barney - aid in assessment process

Roberge - Reason.

Barney - under the name of Neighbor.

Roberge - ....

Barney Just get fired

Larsen - How packed $4,000

Barneys - Rate per thousand
Separate minimum for
more than min.

Cohen -

Tramboly - all transfers still go
to City Clerk

Barneys - give notice to the Selectmen

Tramboly - Registra of deeds
sends to town.

Cohen:

Gordon - very frequently you
transfer to trust.

Barneys - Second sub part
deals w/ situation when
taken by taxes

Owner can redeem when paying back taxes

Deals
Tax deed tax Sale

Most towns use tax lean procedure

One under tax lean

One under tax sale

existing Statutes Set out here passed in '97'

Sell property back to former owner.

97' past these two identical Statutes.

98' passed a New Set of Sections which dealt w/ Same Subjects 113 etc

Buyer is limited on how much it can get.

15% of current value of property

Limit on how much it can keep

has to go back to former owner

Debt back to old owner of property

Keep of proceeds

Recovery under 97'

98' should not be conducted w/ 97'

Won't clear cross reference

main distinction of 1978' law.

Policy in 48'

Purpose of Bill

Robarge - Sec. Election.
[illegible] in drafted
in '46'

Election [illegible]
picked up in 98'

Cohen -

Barney - 4 + 5 of new bill

Boards dealt w/ application
of planning.

Boundaries

what both of these.

mayage on it

require

I had

loan which

got into default

No longer in Federal

programs

If it were to start

now, what would

Seems like

Should have a way

7 days w/ notice of loan
written consent
5 says same thing
only [illegible] start

mortgagee

Should not be a problem.

Consent

Caveat -

Fear - involves debt matter.
Residential flats
Sub-divisions
explain to be a lender from day one.

Permission in the documents.

Borrower - Put in the case of Bank

Do need to do this is residential

Fear Before convey interest.

Barney:-

Fran- 10 feet off my lot.

Barney - Sign off @ time of Sale
Involuntary Sale

Fran: problem mortgage
goes into fault.

Barney -

Fran -

Barney - in case of Bank
failure

Fran: process took years.

Barney -

Fran: Barnum sold in
Blocks.

Barney - When they Sold them.
We can hope anyway

Fran - Sub divide

Barney - What how much
has changed.
Give planning board list
of Mortgagees.

Fran - Nothing that says they
have to.
MAI appraisals

Barney - could come from
other end
Better to have mortgagee
make mtg & Barge.

Sue Brown: Q - View of mortgagee?
Proper Notification - ?

Linda Kennedy: Supporting
Section I of bill —
Equalization — Required by grantee
to be filed — (inventory of transfer.)

Numerous

Cannot use them

Fran.

Close Hearing 3:10

Speakers

SENATE EXECUTIVE DEPTS. & ADMIN. COMMITTEE

Date 1-11-00 Time 2:30pm Public Hearing On SB 345

Appearing in FAVOR: *(Please print)* **Please check box at left to speak.**

Speaking?	Name	Address	Representing
☑	James Barnes, c/o Sulloway & Hollis	Concord, NH	Self
☑	Senator Red Gordon	District 2	
☑	Lynda C. Kennedy		DRA
☐			
☐			
☐			
☐			
☐			
☐			
☐			

Appearing in OPPOSITION: *(Please Print)* **Please check box at left to speak.**

☐			
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Voting Sheets

Senate Executive Depts. & Admin. Committee
EXECUTIVE SESSION

SB 345

Hearing date: 2-8-00 Room: 103 COB

Motion of: OTPIA

Made by Senator:		*Seconded by Senator:*	
	Cohen ☐		Cohen ☐
	Francoeur ☐		Francoeur ☐
	M. Brown ☐		M. Brown ☐
	D'Allesandro ☐		D'Allesandro ☐
	S. Larsen ☐		S. Larsen ☐
	S. Roberge ☐		S. Roberge ☐
	Trombly ☐		Trombly ☐

5-0

Committee Member	*Present*	*Vote*	*Reported out by*
Senator Burton J. Cohen, Chairman	☐	✓	
Senator Gary Francoeur, Vice-Chair	☐	✓	—
Senator Mary E. Brown	☐		
Senator Lou D. Allesandro	☐		
Senator Sylvia B. Larsen	☐	✓	
Senator Sheila Roberge	☐		
Senator Rick A. Trombly	☐	✓	

*Amendments:

NOTES: cle lete last section

Committee Report

Date: January 11, 2000 Time: 2:30 pm

The Senate Committee on Executive Departments Administration held its hearing in Room 101 LOB, Concord, New Hampshire.

BILL NO.: SB 345 TITLE: relative to real estate transfers.

Members of the Committee present:

Senator Cohen
Senator Francoeur
Senator Brown
Senator Larsen
Senator Roberge
Senator Trombly

Those appearing in favor:

Name and Address	Representing
See Attached.	

Those appearing in opposition:

Name and Address	Representing
See Attached.	

REPORT OF THE COMMITTEE:

- ☐ Ought to Pass
- ☒ Ought to Pass w/ Amendment
- ☐ Inexpedient to Legislate
- ☐ Rereferred
- ☐ Interim Study
- ☐ Continued Hearing
- ☐ Postponed Hearing

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date:

THE COMMITTEE ON Executive Departments Administration

to which was referred Senate Bill 345

AN ACT relative to real estate transfers.

VOTE: 5-0

2000-3366s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Gary R. Francoeur
For the Committee