2023 SESSION

23-0055
05/10

HOUSE BILL ***340-FN***

AN ACT relative to the transfer of residential property.

SPONSORS: Rep. Adjutant, Graf. 16; Rep. Petrigno, Hills. 43; Rep. Caplan, Merr. 8; Rep. M. Perez, Hills. 43; Rep. Newell, Ches. 4; Rep. Read, Rock. 10

COMMITTEE: Judiciary

ANALYSIS

This bill restricts the acquisition of single-family housing by certain persons with certain exceptions. The bill requires a natural person who acquires single-family housing to use the property for specified exceptions or register and file reports with the secretary of state.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0055
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the transfer of residential property.

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

1 New Subdivision; Planning and Zoning; Transfer of Single and Multi-family Housing. Amending RSA 674:
inserting after section 74 the following new subdivision:

Transfer of Single and Multi-family Housing

674:75 Definitions. In this subdivision:

I. "Accessory dwelling unit" has the same meaning as in RSA 674:71.

II. "Multi-family housing" has the same meaning as in RSA 674:58, II.

III. "Single-family housing" means a building that contains one dwelling unit designed for occupancy by an individual household.

674:76 Transfer of Single and Multi-Family Housing. Real estate single-family housing, multi-family housing, including family housing with one or more accessory dwelling units in the same parcel of land, parcel of land, or multi-family housing located may only be acquired, in whole or in part, by natural persons, subject to the following exceptions:

I. Development of land acquired for conversion purposes. Real estate single-family housing, single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located which is acquired for the purpose of developing the land for conversion to another use within 5 years after the acquisition of the interest in the real property.

II. Development of land acquired for housing purposes. Real estate acquired by a nonnatural person for the purpose of developing single-family or multi-family housing may be held by a nonnatural person for a period not to exceed 2 years after issuance of an occupancy permit, unless the nonnatural person can show by a prepondence of the evidence that it has been attempting to convey the property to a natural person. For the purposes of this paragraph, a showing that the nonnatural person engaged a person or firm licensed pursuant to RSA 331-A for the purpose of selling the property for the entire 12-month period preceding the expiration of the 2-year term is sufficient to satisfy the burden.

III. Grandfathering. This subdivision shall not require divestment of real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located if such real estate was acquired by any nonnatural person prior to January 1, 2024, subject to the provision that the successor in interest may not also be another nonnatural person, unless provided for by another exception in this subdivision.

674:77 Registration. After January 1, 2024, any nonnatural person which acquires real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located shall register the ownership with the secretary of state. The registration shall be made within 60 days of the acquisition of the interest in the real estate. The registration shall be in the form and manner prescribed by the secretary of state and shall, at a minimum, contain the information required to be captured pursuant to RSA 31:95-a.

674:78 Reports. Any nonnatural person who is required to register the ownership of their property shall file a report with the secretary of state before March 31 of each year of registration. The report shall be in the form and manner prescribed by the secretary of state and shall contain sufficient information to identify the initial registration report and the status of the real estate's development.

674:79 Enforcement.

I. If the secretary of state finds that a nonnatural person has acquired or holds an interest in real estate in violation of this subdivision or has failed to timely register as required pursuant to RSA 674:77 or has failed to timely report as required pursuant to RSA 674:78, he or she shall report the violation to the attorney general.

II. Investigation of violations of this subdivision shall be conducted by the attorney general. In conducting an investigation or enforcement action, the attorney general may enlist the aid of the county attorneys, municipal prosecutors appointed pursuant to RSA 41:10-a, or any other public officer.

674:80 Penalty.

I. If the court finds that the real estate in question has been acquired in violation of this subdivision or that the land has not been converted to a purpose other than single-family or multi-family housing within 5 years as provided by this subdivision, the court shall declare the land escheated to the municipality or, if in an unincorporated portion of the state, the county in which it is located. When the escheat is decreed by the court, the clerk of court shall notify the governing body of the municipality or county that the title to the real estate is vested in that subdivision of the state and authorize the subdivision of the state to follow the procedures in RSA 80, excluding the provisions requiring prior notice or right of redemption by the prior owner. Any proceeds recovered from the sale of the property shall first be used to satisfy any back taxes owed and court costs related to the escheat. Any excess proceeds shall be paid to the nonnatural person divested of the property, but only in an amount not exceeding the actual cost paid by that nonnatural person for the property. Proceeds remaining shall be deposited into the subdivision of the state in which the real estate is located's unassigned fund balance.

II. A civil penalty of not more than $5,000 shall be imposed, for each offense, upon a nonnatural citizen who fails to timely file the registration or report required by this subdivision.

674:81 Applicability.

I. Nothing in this subdivision shall be construed to alter existing law regarding mortgages or other lending processes utilized for the purchase of real estate where the title of the property is turned over to the natural person borrower upon payment of the loan.

II. Nothing in this subdivision shall be construed to prevent a natural person from placing their property in a grantor/revocable trust or other legal instrument which allows the individual to retain equitable title or a beneficial

interest for life in the subject property.

2 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0055
Revised 1/9/23

HB 340-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the transfer of residential property.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

	Estimated Increase/(Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

COUNTY:

Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable	Indeterminable

LOCAL:

Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable	Indeterminable

The Department of Justice was originally contacted on 11/02/22 and 11/02/22 and by correspondence dated 1/03/23 from 1/03/23 f
fiscal note worksheet.

METHODOLOGY:

This bill restricts the acquisition of single-family and multi-family housing to natural person
exceptions. The bill requires a natural person that acquires such housing within one year
specified exceptions to register and file with the Secretary of State. The Secretary of State
violations or untimely reports or registrations to the Attorney General.

The Department of State states this bill would have indeterminable impacts on State expenditures on St
starting in FY 2025. This would create new functions within the Department of State, which wou
the hiring of a Program Specialist I for a Program I, Specialist I, with a salary and benefits
per year plus equipment. This position, starting January 1, 2024, would process registrations
as well as create reports and send delinquency notices to registrants and refer violations to the Attorney General.
The Department also states there are indeterminable expenses for public education campaign to
purchase new software to collect and track information.

This bill will have indeterminable impact on local and local expenditures to the
benefit from any escheatments and the associated costs related to upkeep and sale of the escheat

that are not included as recoverable costs. This bill may also have an indeterminable impact on State revenues as a new civil penalty of $5,000 for each offense has been established.

This bill does not establish or provide an appropriation for new positions.

The Judicial Branch states there may be an indeterminable increase in State expenditures to the extent the provisions of this bill result in lawsuits filed under the new subdivision. The Judicial Branch states the enforcement of the new subdivision would be handled by the Attorney General and the Judicial Branch determine the impact.

AGENCIES CONTACTED:

Department of State, Judicial Branch and Department of Justice

CONSENT CALENDAR

February 1, 2023

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Judiciary to which was referred HB 340-FN,

AN ACT relative to the transfer of residential property.

Having considered the same, report the same with the following resolution: RESOLVED, that it is

INEXPEDIENT TO LEGISLATE.

Rep. Scott Wallace

FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

Committee:	**Judiciary**
Bill Number:	**HB 340-FN**
Title:	**relative to the transfer of residential property.**
Date:	**February 1, 2023**
Consent Calendar:	**CONSENT**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

This bill seeks to add to RSA 674 the ability to restrict the acquisition of single-family and multi-family housing to natural persons with certain exceptions. The bill requires a nonnatural person that acquires single or multi-family housing within one of the specified exceptions to register and file reports with the Secretary of State. The Secretary of State shall report violations or untimely reports or registrations to the Attorney General. The proposed penalties for violations of this statute include fines of up to $5,000, and "the court shall declare the land escheated to the municipality." The committee was unanimous in it conclusion that the bill serves no valid purpose and likely would be unconstitutional.

Vote 20-0.

Rep. Scott Wallace
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Judiciary

HB 340-FN, relative to the transfer of residential property. **INEXPEDIENT TO LEGISLATE.** Rep. Scott Wallace for Judiciary. This bill seeks to add to RSA 674 the ability to restrict the acquisition of single-family and multi-family housing to natural persons with certain exceptions. The bill requires a nonnatural person that acquires single or multi-family housing within one of the specified exceptions to register and file reports with the Secretary of State. The Secretary of State shall report violations or untimely reports or registrations to the Attorney General. The proposed penalties for violations of this statute include fines of up to $5,000, and "the court shall declare the land escheated to the municipality." The committee was unanimous in it conclusion that the bill serves no valid purpose and likely would be unconstitutional. **Vote 20-0.**

Original: House Clerk
Cc: Committee Bill File

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill #: HB 340-FN Date: 1/25/23

Committee: Judiciary

**** Please Print All Information ****

Name	Address	Phone	Representing	Pro	Con
Rep Linda Gould	Bedford		self		X
Kit Lord	Northwood		self		X
Carissa Blevins	5 Ash St. Manch,	603-661-0222	Self	✓	
Rep Kathy Staub	Hills 25			✓	
Jane Haugh	Manchester		Self	✓	
Carrie Pomarney	Derry		Self	✓	
Ken Eyring	Windham				X
Julie Smiley	Amherst / Nashua		Self	✓	
Ryan Hale			NH Bankers		X
Jack Ruderman, NH Housing	Bedford, NH		NH Housing		✓
Rep Ellen Read			Rak 10	X	

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 340-FN

BILL TITLE: **relative to the transfer of residential property.**

DATE: **January 25, 2023**

LOB ROOM: **206-208** **Time Public Hearing Called to Order:** **2:04 p.m.**

Time Adjourned: **2:34 p.m.**

Committee Members: Reps. Lynn, Wallace, Kuttab, Alexander Jr., Andrus, Testerman, Stapleton, Tripp, Greeson, K. Perez, M. Smith, Horrigan, Devine, Lanza, Manos, Turer and M. Paige

Bill Sponsors:

Rep. Adjutant	**Rep. Petrigno**	**Rep. Caplan**
Rep. M. Perez	**Rep. Newell**	**Rep. Read**

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

1. **Rep. Adjuent**, **Sponsor.**
- Dubbed "save our homes act".
- Bill mandates homes be transferred to real people and not commercial entities.
- Chair Lynn asked if Rep Adjuent has considered if it's Constitutional to not allow citizens who are owners of corporations to not be able to purchase property. Rep Adjuent stated given the Chairs experience, he would know best, but he believes it is.

2. **Brandon Lemay, Support**.
- Corporate landlords are pushing out ma and pop landlords, who actually have to look at tenants in the face.

3. **Rep. Alissandria Murray**, **Support**.
- Rent is so high that she wanted to purchase a home with her fiancé and kept getting outbid on homes by corporations.
- Discouraging for young people who are trying to stay in their home state and can't because there isn't housing for them, it's going to corporations.

4. **Chris Norwood, Oppose**, NH Realtors Association
- Prohibiting corporations from purchasing single and multifamily homes.
- Prohibiting the transfer of property will do more to damage the housing market. Larger complexes can often only be managed by a corporation, so it would take away housing.
*Submitted written testimony.

5. **Kate Horgan, Oppose**, NH Association of Counties
- Concerned it's unconstitutional.
- Register of Deeds office concerned about much delays this will cause.
*Submitted written testimony.

6. **Nick Norman, Oppose**, Apartment Association of NH
- Many have spent much financial resources setting up corporations to own properties and this would throw that all away.

. **David Cline, Oppose**.
- Believes this is the most anti-development bill he's seen this session.
- Individuals don't have $25 million to develop apartment buildings.
- Questions if Constitutional
- Can get around this anyway using a person as a straw man

-Respectfully Submitted,
Rep. Katelyn Kuttab, Clerk

House Remote Testify

Judiciary Committee Testify List for Bill HB340 on 2023-01-25

Support: 6 Oppose: 10 Neutral: 0 Total to Testify: 0

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Smith, Julie	Nashua, NH cantdog@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Fuentes, Sebastian	Thornton, NH sebastian@radnh.org	A Lobbyist	Rights & Democracy NH	Support	No	No	
Smith, Hayden	Hanover, NH hasmith1520@gmail.com	A Member of the Public	Myself	Support	No	No	
Gordon, Carolyn	Hanover, NH csgordon@dartmouth.edu	A Member of the Public	Myself	Support	No	No	
Feder, Marsha	Hollis, NH marshafeder@gmail.com	A Member of the Public	Myself	Support	No	No	
Creem, Jeffrey	Nashua, NH jeff@thecreems.com	A Member of the Public	Myself	Oppose	No	No	
Kelly, Jon	Penacook, NH jonmkelly@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Horgan, Kathryn	CONCORD, NH khorgan@dupontgroup.com	A Lobbyist	NH Association of Counties	Oppose	No	No	
Medeiros, Jesse	Plainfield, NH bgtrck458@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Karney, Stephen	Amherst, NH stephenakarney@gmail.com	A Member of the Public	Myself	Oppose	No	No	
Applewhite, Jordan	Sugar Hill, NH jordan.applewhite@gmail.com	A Member of the Public	Myself	Support	No	No	
Nicholson, Lisa	Newmarket, NH LisaRNicholson@yahoo.com	A Member of the Public	Myself	Oppose	No	No	
Andrews, Heather	Newmarket, NH heather@cheneyco.com	A Member of the Public	Myself	Oppose	No	No	
Termini, Marcella	Manchester, NH marcellatermini@gmail.com	A Member of the Public	Myself	Support	No	No	
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	
Peirce, William	Kittery, ME wf5@yahoo.com	A Member of the Public	Myself	Oppose	No	No	

President
Wendy Piper
Grafton County Commissioner

Vice President
Cathy Stacey
Rockingham Register of Deeds

At Large Member
Toni Pappas
Hillsborough County Commissioner

At Large Member
Ross Cunningham
Merrimack County Administrator

Association of Counties

11 South Main Ste. 200
Concord, NH 03301

info@nhcouties.org

www.nhcounties.org

Immediate Past President
Chuck Weed
Cheshire County Commissioner

Treasurer
Charles Nickerson
Rockingham Finance Director

Bylaws Chair
Chris Coates
Cheshire County Administrator

January 20, 2023

The. Honorable Robert Lynn
Chairman House Judiciary Committee
NH House
Concord, NH 03301

RE: HB 340

Chairman Lynn and Members of the House Judiciary Committee,

The NH Association of Counties would like to express its opposition for HB 340, relative to the transfer of residential property and requests this committee vote it **Inexpedient to Legislate.**

This bill will hinder future development which is needed to meet the housing crisis in this State. No company will come into New Hampshire to build subsidized affordable/workforce housing using federal tax credits due to the requirement that only natural persons may hold property in the State. We need to encourage building, not discourage it.

This bill further restricts the sale of property in NH to natural persons, unless they meet one of the listed narrow exceptions. The noted exceptions place hurdles in the way of development of land throughout the State. Most notably is 674:76 II allows a two year period for a nonnatural person developer to relinquish the property unless they prove they have had the property for sale on the market for the proceeding twelve month period.

The NHAC is concerned that this will cause confusion and delays at the Register of Deeds Offices.

The committee should also note that 678:80 Penalty provision strips the nonnatural person/entity/developer/owner of its ownership right after five years if the property is not acquired by a natural person resulting in a court declaring the property escheated to the State/County/Municipality. This will not pass Constitutional muster under strict scrutiny resulting in the State defending considerable law suits.

The Association would urge the Committee to vote this bill **inexpedient to legislate**.

If you have any questions, please reach out to Kate Horgan at khorgan@dupontgroup.com.

Sincerely,



Wendy Piper
President
NHAC

William Peirce

Chairman Lynn and members of the Judiciary Committee,

I urge you NOT to pass HB340. It is unfunded and most likely unconstitutional. The corporate ownership of property is necessary and protected because a lot of investors have to get together to do big projects like apartment complexes.

HB 340-FN
(5)

President
Wendy Piper
Grafton County Commissioner

Vice President
Cathy Stacey
Rockingham Register of Deeds

At Large Member
Toni Pappas
Hillsborough County Commissioner

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Association of Counties

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January 20, 2023

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Chairman House Judiciary Committee
NH House
Concord, NH 03301

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If you have any questions, please reach out to Kate Horgan at khorgan@dupontgroup.com.

Sincerely,

Wendy Piper

Wendy Piper
President
NHAC

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 340-FN

BILL TITLE: relative to the transfer of residential property.

DATE: February 1, 2023

LOB ROOM: 206-208

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Wallace Seconded by Rep. Kuttab Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Katelyn Kuttab, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/10/2023 9:53:34 AM
Roll Call Committee Registers Report

2023 SESSION

Judiciary

Bill #: HB300-FN Motion: ITL AM #: — Exec Session Date: 1 Feb 23

Members	YEAS	Nays	NV
Lynn, Bob J. Chairman	✓		
Wallace, Scott Vice Chairman	✓		
Alexander, Joe H.	✓		
Andrus, Louise	✓		
Testerman, Dave	✓		
Stapleton, Walter A.	✓		
Tripp, Richard P.	✓		
Greeson, Jeffrey	✓		
Kuttab, Katelyn Clerk	✓		
Perez, Kristine	✓		
Smith, Marjorie K.	✓		
Horrigan, Timothy O.	✓		
DiLorenzo, Charlotte I.	✓		
~~Kenney, Cam E.~~ Eaton, Daniel	✓		
Paige, Mark	✓		
~~McBeath, Rebecca Susan~~ Brennan, Angela	✓		
Devine, Shelley	✓		
Lanza, Judi	✓		
Manos, Zoe R	✓		
Turer, Eric S	✓		
TOTAL VOTE:	20	0	