

HB 410-FN - AS AMENDED BY THE HOUSE

26Mar2025... 0979h

2025 SESSION

25-0878

11/09

HOUSE BILL

410-FN

AN ACT

limiting local authority to adopt restrictions on the building and development of residential properties.

SPONSORS:

Rep. Read, Rock. 10

COMMITTEE:

Housing

AMENDED ANALYSIS

This bill prohibits the local adoption of extraordinary restrictions on residential property unless the restriction is narrowly tailored to serve a compelling government interest in public health or safety.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT limiting local authority to adopt restrictions on the building and development of residential properties.

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

1 1 New Section; Extraordinary Restrictions of Residential Property. Amend RSA 674 by
2 inserting after section 17 the following new section:

3 674:17-a Extraordinary Restrictions of Residential Property.

4 I. Notwithstanding any other provision of law, the local legislative body of a city, town, or
5 county in which there are located unincorporated towns or unorganized places may adopt an
6 extraordinary restriction of residential property only if the restriction is narrowly tailored to serve a
7 compelling government interest in public health or safety.

8 II. Evidence such as written findings of fact, scientific studies, or other quantitative and
9 empirical evidence, may be relevant to whether an extraordinary restriction of residential property
10 is narrowly tailored to serve a compelling government interest in public health or safety, but are not
11 necessarily dispositive.

12 III. For the purposes of this section, "extraordinary restriction of residential property"
13 means any ordinance or regulation that contains any of the following:

14 (a) Any minimum square footage requirement for a dwelling or unit in excess of 200
15 square feet or the square footage required to meet the state building code, whichever is greater.

16 (b) Any lot size requirement greater than 5 gross acres per primary dwelling unit, or
17 greater than 0.5 gross acres per primary dwelling unit if the lot is served by off-site municipal water
18 and sewer systems.

19 (c) Any road frontage requirement greater than 200 feet per primary dwelling unit, or
20 greater than 50 feet if the lot is served by off-site water and sewer systems.

21 (d) Prohibition on residential use in areas zoned for commercial use.

22 (e) Restriction on in-home business use in areas zoned for residential use, provided such
23 business use does not violate noise, pollution, garbage, or light ordinances.

24 (f) Restriction on whether any dwelling unit is constructed on or off-site.

25 (g) Local amendments to the state building code or state fire code regarding materials or
26 methods of construction, which impact residential buildings of not more than 4 units.

27 IV. Upon the effective date of this section, any extraordinary restriction of residential
28 property shall not be enforced unless it meets the requirements of paragraph I.

29 2 Effective Date. This act shall take effect 180 days after passage.

HB 410-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0979h)

AN ACT limiting local authority to adopt restrictions on the building and development of residential properties.

FISCAL IMPACT:

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	Indeterminable Decrease		
County Expenditures	\$0	Indeterminable Increase of more than \$10,000 to \$100,000 or less		
Local Revenue	\$0	Indeterminable Decrease		
Local Expenditures	\$0	Indeterminable Increase of more than \$10,000 to \$100,000 or less		

METHODOLOGY:

This bill limits the ability of local authorities to impose regulations on residential property construction and development. It requires that local legislative bodies may only enact extraordinary restrictions if they are narrowly crafted to address a compelling government interest related to public health or safety. Additionally, the bill states that such restrictions must be backed by empirical evidence.

There's a potential increase in municipal expenditures related to updating zoning ordinances possibly needing to hire staff or consultants to identify and review empirical evidence. However, if no additional staff are required, this increase might remain relatively minor and is estimated to be under \$10,000 per municipality. Additionally, municipalities may incur legal expenses stemming from disputes about whether a restriction fulfills a compelling government interest. These costs could vary significantly based on the municipality's size and the volume of disputes, potentially ranging from less than \$10,000 to over \$100,000. Furthermore, limiting fees for variance applications and building permits could reduce local revenue. The extent of this impact would depend on the volume of such applications and permits.

AGENCIES CONTACTED:

New Hampshire Municipal Association