

Senate Commerce Committee

Aaron Jones 271-2609

SB 164-FN, relative to homeowners and prohibiting certain types of service agreements.

Hearing Date: February 11, 2025

Time Opened: 10:58 a.m.

Time Closed: 11:22 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill prohibits unfair service agreements in residential real estate transactions, making such agreements unenforceable, preventing their recording, and providing remedies for affected individuals.

Sponsors:

Sen. Ricciardi

Sen. Pearl

Who supports the bill: 61 individuals were in support. Full sign in sheets are available upon request by contacting the Legislative Aide, Aaron Jones (aaron.jones@gc.nh.gov).

Who opposes the bill: Karen Tollick

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Denise Ricciardi

- Nationally, homeowners have fallen victim to a deceptive real estate practice known as non-title recorded agreements for personal services. These add cost, complexity and barriers to transferring or financing property.
- Out-of-state companies offer a nominal upfront payment in exchange for a 40-year agreement for future real estate brokerage and other personal home services. Subsequently, the document is recorded with the county recorder's office, which clouds the title.
- This bill would void these agreements thereby preventing Granite Staters from being preyed on.

- Senator Ricciardi said they received feedback on this bill from the New Hampshire Association of Realtors, the New Hampshire Banking Association, and the Consumer Protection Bureau.
- The Bureau confirmed there would be no fiscal impact because civil penalties could be pursued through RSA 358-A:2.
- 30 states, including Maine and Connecticut, have passed similar legislation to prohibit this practice.

Mike Padmore, Director of Advocacy, and Pat McDermott, Volunteer State President, AARP New Hampshire

- These agreements are also known as unfair service agreements.
- A few years ago, AARP partnered with the American Land Title Association to develop model legislation to address this issue.
- These agreements offer upfront cash payments, and the agreements are tied to the homeowner and the property itself. If a homeowner transfers or sells their property, the new owner is bound to the same agreement. Mr. Padmore stated this was a predatory practice.
- By making these agreements unlawful, they would be unenforceable. It would take away the financial incentive for out-of-state companies to engage in this practice.
- Mr. McDermott said these are unscrupulous real estate practices that prey on vulnerable seniors who are not savvy with real estate transactions, or they are coerced into signing up because they might need extra money.
- This bill would provide protections to prevent the most important asset an individual could have from being jeopardized.
- In conversations with Bob Quinn, Mr. Padmore recommended Page 1, Line 15 be changed to 2 years, which would make the bill consistent with what has been done in Maine.
- **Senator McGough** asked what interest rate was too high, or when does it become predatory.
 - **Mr. Padmore** said they worked with entities in this space to determine these were not legitimate business practices. While it was hard to determine the specific threshold, the stakeholders felt it was worthwhile to protect individuals from these practices.
- **Senator McGough** asked if people are willfully and knowingly entering into a written agreement to encumber their assets in exchange for money to perhaps pay a medical bill or help their children. He asked at what dollar amount did it become predatory.
 - **Mr. Padmore** replied that Roman II described the characteristics of an unfair service agreement. After an agreement has been signed, and it is recognized to be an unfair service agreement, the registrar's office would not record that agreement. In addition, the Attorney General's Office would intervene if an agreement were unfair. While it was hard to say the

threshold, they developed the model language in partnership with organizations that work in this space to eliminate these specific predatory agreements.

- **Senator Fenton** said on Page 2, Line 13, the registrar of deeds would be allowed to refuse to record unfair service agreements. He asked if they only verify the formatting of documents, not the legality.
 - **Mr. Padmore** stated he would follow up with the Committee. When this legislation was crafted, they tried to marry the model legislation with existing statute.
- **Senator Reardon** asked if they had a copy of a service agreement.
 - **Mr. Padmore** replied he did not, but he would be happy to follow up with the Committee.
- **Senator Reardon** agreed that a 40-year service contract to sell real estate was predatory. This could go beyond a service agreement, and it could include shared driveway plowing agreements. She believed additional work was needed to address the problem.
 - **Mr. Padmore** said he appreciated that.

Bryan Townsend, Senior Assistant Attorney General, New Hampshire Attorney General's Office

- This bill would protect vulnerable adults, including those who are 60 years or older.
- The Elder Abuse and Financial Exploitation Unit within the Consumer Protection Bureau has received about 1,500 complaints from older adults.
 - Most of these complaints are related to financial exploitation or scammers.
 - Often, there is nothing that can be done because individuals are located outside of the country. When individuals or businesses are in the country, however, it is something they can address.
- This bill would make residential personal service agreements invalid from the beginning. It also would provide the Consumer Protection Bureau with the necessary tools to go after businesses who are offering these predatory agreements.
- By classifying these agreements as unfair and deceptive acts under RSA 358-A:2, the Bureau can seek injunctive relief, penalties, and criminal prosecutions against any person or business who has engaged in these types of services.
- While they have not received any complaints in New Hampshire, Attorney Townsend said this would serve as a deterrent.
- Attorney Townsend said they would be equipped to handle these cases, and he did not believe there would be a huge influx of complaints that would require more resources.

- **Senator McGough** said he was glad to hear there were zero complaints on this matter. He asked how many of the complaints had been criminally prosecuted or led to convictions.
 - **Attorney Townsend** said the Bureau deals with unfair and deceptive practices under RSA 358-A. He is focused on elder abuse cases. Currently, they have multiple ongoing investigations. They have prosecuted many cases involving individuals who have taken advantage of individuals in the real estate market or construction. In his practice, their cases are focused on the financial exploitation of the elderly by fiduciaries, such as guardians, powers of attorney, or trustees. This year, they have already had several convictions. They have about 15 open investigations between the two prosecutors, one investigator, and one investigative paralegal. They have prosecuted traditional scammers as well as individuals who are picking up cash from vulnerable adults through tech support or romance scams. In terms of convictions, he said he would provide the Committee with the exact numbers. With these specific cases, however, they have not received any complaints.

Chris Norwood, 2025 Vice Chair of the Public Policy Committee, New Hampshire Association of Realtors

- If it were changed to 2 years on Page 1, Line 15, it would complement what has been done in Maine.
- MV Realty began using these unfair practices by having 40-year agreements. Even if a spouse died, and the title were transferred to the surviving heir, the heir would be required to sign a new contract. If they did not, they would be penalized with a 3 percent fee equal to the home's value.
- Mr. Norwood said they have not seen these issues in New Hampshire's real estate market.
- Mr. Norwood said they had two questions.
 - First, there was a definition of residential real estate on Page 1, Line 1. There are already multiple definitions in statute.
 - Second, on Page 1, Lines 19 to 20, it states "The service agreement allows for assignment of the right to provide service without notice to...". He asked if it would be deceptive if an individual had a practice, yet they sold or moved brokerage firms.

Summary of testimony presented in opposition: None

Neutral Information Presented: None