Senate Commerce Committee

Aaron Jones 271-2609

HB 1336-FN, relative to regulated conditional deposits.

Hearing Date: March 31, 2026

Time Opened: 9:30 a.m. **Time Closed**: 10:12 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 allows for the use of regulated conditional deposits by landlords and tenants and clarifies that advance rental payments need not be held in escrow, a trust, or a reserve account.

Sponsors:

Rep. Alexander Jr.	Rep. A. Murray	Rep. Osborne
Rep. Miles	Rep. S. Minor	Rep. Reinfurt

Who supports the bill: Representative Joe Alexander, Nick Norman (AANH & NHRPOA) Cory Stone, Curtis Howland, Pamela Harders

Who opposes the bill: Nick Taylor (Housing Action NH), Todd Marsh (NH Local Welfare Admin Association), Bernadette Theriault (NH Local Welfare Admin Association), Jennifer Chisholm (NH Coalition to End Homelessness), Amy Erickson, Linda Burnap, Thomas Kolling, Eileen Brady, Sharon Parker, Cindy Deal, Nathaniel Blair, Natalie McDonough, Jeanette Hutchins, Lisa Beaudoin (NH Council of Churches), Maggie Ringey, Melissa Hatfield, Viola Katusiime (Granite State Organizing Project), Bianca Gentil (Waypoint), Judith Jones (New Futures & NH Alliance for Healthy Aging)

Who is neutral on the bill: Elliott Berry

Summary of testimony presented in support:

Representative Joe Alexander

- This bill would create an alternative approval pathway for prospective renters who would be denied housing because they are unable to meet standard screening criteria.
- A special class of security deposit, also known as a regulated conditional deposit (RCD), would be created.

- An RCD would be an incremental deposit of up to one month's rent that a tenant may offer to offset risks associated with qualification shortfalls, such as poor credit, a previous eviction, or an income that is slightly too low.
- Representative Alexander said the statutory conditions were designed to ensure reasonableness while avoiding outcomes where supplying an RCD would stretch a household's finances beyond reasonable limits.
- Many single-family rentals and owner-occupied properties are already exempt from deposit caps; however, this bill would extend it to additional types of housing to reduce denials while also preserving existing limits for qualified applicants.
- This bill would expand the philanthropic capacity of security deposit assistance organizations by legalizing circular funds.
- Some organizations were concerned that tenants who secure conditional approval using an RCD might request higher levels of financial assistance, which could strain program resources.
- Currently, it is illegal for landlords to refund a security deposit to anyone other than a tenant, even if the deposit came from a third-party, such as a family member or a charity. Consequently, security deposit assistance is a one-way flow of cash. This bill would legalize deposit refunds to third-party payers provided the arrangement has been agreed to upfront.
- If this bill were passed, every security deposit assistance organization would have the option to manage charitable funds like a revolving loan fund. If a landlord and a tenant are informed at the time assistance has been given that a refund should be returned to the charity, a landlord should issue it accordingly.
- **Senator Reardon** said on Page 2, Lines 6 through 7, one of the criteria where an RCD would be required is when an individual is unable to verify their most recent or present landlord reference. She asked if this would cover a lot of individuals who do not fit the criteria within the rest of the bill.
    - **Representative Alexander** said it could.
- **Senator Reardon** said she asked because on Lines 16 through 19, it means an otherwise eligible tenant. She asked if it was possible for a landlord to generate more fees from a tenant if they are lax about trying to find references.
    - **Representative Alexander** believed there were protections in place for cases of rescreening. Most landlords will not charge for rescreening if an individual has already paid one application fee for a unit. Last year, they passed a change where if an application fee is required, anything other than the actual cost of the fee, including a background check and other administrative costs, must be returned.
- **Senator Reardon** said this bill allowed a landlord to require an additional security deposit from a marginal tenant. She asked if there were any guarantees for the tenant if they offered the landlord a second security deposit upfront.
    - **Representative Alexander** deferred the question to Legal Assistance and members of the landlord community.

- **Senator Fenton** asked if requiring more money upfront from an individual might hurt their chances of getting housing.
    - **Representative Alexander** said charitable organizations would be able to step in to provide the additional RCD. He believed after a certain period of a tenant paying rent, an RCD would go away, and a landlord must give the money back.

Nick Norman, Apartment Association of New Hampshire and New Hampshire Rental Property Owners Association

- Mr. Norman said they worked with New Hampshire Legal Assistance to reach a good compromise.
- This bill would provide tenants who are marginally qualified with another mechanism to reduce risk to a landlord.
- This bill ensured an RCD would be applicable in certain defined situations to prevent standardization within the market of two-month security deposits.
- Since situations are tightly delineated, Mr. Norman said the use of RCDs would be significantly reduced.
- This bill contains a standardized form that can be used for an RCD. In the form, the statute and parameters are included to reduce misunderstandings. There is an incentive to use the form because an individual would be complying with notice requirements. Any misuse would result in penalties.
- By allowing third-party payers to get their money back, Mr. Norman believed more agencies would provide security deposits.
- This bill would not implement additional duties for a landlord who would like to continue to operate their business as they have been.
- Currently, tenants are not allowed to prepay rent, which would be fixed by this bill.
- For a landlord to use this new feature, Mr. Norman said they must be very tight with their approval criteria. If they deviate, they are likely to set themselves up for a discrimination lawsuit.
- Mr. Norman said the provisions on Page 2, Lines 6 through 7, were good for first-time renters or homeowners who have no landlord references.
- Mr. Norman said many of the provisions within this bill were supportive of tenants.
- **Senator Reardon** said in the past, there was a prohibition on taking advanced rental payments. She asked if a landlord could require a tenant who has a 6-month lease to pay their entire rent upfront.
    - **Mr. Norman** said yes and no. Several years ago, there was a bill that came through that was targeted towards college students. Often, they receive many months' worth of rent at a time through financial aid packages. A landlord could not require 6 months of rent to be paid; however, a lease could be written where that is the payment plan.

- **Senator Reardon** asked how having a payment plan of 3 or 6 months of rent at a time and requiring 6 months' rent upfront were different.
    - **Mr. Norman** said if an individual had a yearly lease that was paid monthly, a landlord could not require 6 months' rent in advance. A lease, however, could be set up so an individual would pay 6 months at a time.
- **Senator Fenton** said on Page 1, Line 14, it states, "The applicant's combined verifiable household gross income from lawful sources, for any size household exceeds 350 percent of the federal poverty guidelines for a household size of 2 as reported…". He asked why the benchmark was 350 percent of the federal poverty guidelines regardless of the size of a family.
    - **Mr. Norman** said they spent the most amount of time trying to define the provisions in Subparagraph B. Under the existing federal poverty guidelines, this was equal to $75,000. It was chosen not based on family size, but as an amount. From the tenant advocacy side, they did not want RCDs to be allowed for low-income tenants because they would not have the financial means to pay it thereby shutting them out of housing.
- **Senator Fenton** asked what the benchmark for a family of four was in this bill.
    - **Mr. Norman** said there was no benchmark for a family of four. The point of this bill was not to have a certain level of income for households; instead, they were trying to get a number that was found in a federal document that could be looked up each year.

Summary of testimony presented in opposition:

Nick Taylor, Director, Housing Action NH

- Mr. Taylor said they should build more housing and give individuals more options, not place their fingers on the scale to make one group more desirable and less risky to rent to.
- While this bill was well intentioned, Mr. Taylor said they needed to be careful about non-supply side solutions that are not aimed at the neediest and lowest income individuals.
- Mr. Taylor said this bill would create another class of individuals. If an individual had limited income, they would become less desirable because they would not have money to put upfront.
- To stay competitive, an individual might need to prepay if they do not have an RCD.
- According to the New Hampshire Fiscal Policy Institute, only about 1-in-4 households in New Hampshire have $2,000 in savings.
- Since the median rent is $2,000, an individual would need at least $6,000 upfront if they need first month's rent, a deposit, and a conditional deposit. For members of the workforce, Mr. Taylor said this was not feasible.

- While they appreciated the work done around nonprofits, Mr. Taylor said they were creating a higher threshold of money that must be put down. If an organization has $4,000, they might only be able to help one person instead of two, even if they are reimbursed.
- Granite United Way's Key Connect Program is already helping landlords to make investments in their properties, getting them up to code, screening tenants, and providing supportive services.
- **Senator Reardon** asked if the vacancy rate has changed, and if landlords are having a hard time getting applicants for their apartments.
    - **Mr. Taylor** said they have heard there is an incredible demand for apartment vacancies, especially if they are affordable.

Todd Marsh, President, New Hampshire Local Welfare Administrators Association

- The Association opposed this bill as currently written; however, they understood the intention behind encouraging more housing for residents who are bypassed due to credit or background issues.
- The Association recognized that the current amendment was a result of negotiations among diverse interests. With rents remaining at historic highs, however, they were concerned that RCDs would become the default rather than a targeted exception.
- For working families, it can already be difficult to come up with first month's rent and a security deposit. If an RCD were added, this would create an additional challenge.
- From a municipal perspective, Mr. Marsh said they anticipated that this would result in an increased demand in local welfare to help bridge this new financial gap.
- This bill would shift the cost of risk mitigation from the private sector to local property taxpayers.
- If the Committee sought to move forward with this bill, Mr. Marsh asked for certain taxpayer protections.
    - First, municipalities should be exempt from providing RCDs. Assistance should be capped at a one month's limit to help maintain consistency for local welfare and municipal budgets as well as to ensure taxpayers are not tasked with providing a double security deposit.
    - Second, there should be a clear and legally structured mechanism where any security deposits paid by a municipality are returned directly to them upon termination of a tenancy. While there was some language in place for third-party payers, Mr. Marsh believed further clarification could be helpful.
- **Senator Reardon** asked if it was their expectation to receive money back, or if the last group who took the risk should receive it back, if a tenant defaulted in their second month.

- **Mr. Marsh** said a municipality would receive the money back if it was a security deposit. Under RSA 165, individuals cannot receive cash assistance from a municipality. For security deposits, they would not receive direct cash from a municipality. While it is not impossible, it is challenging for municipalities to track security deposits and when tenants come and go. He said they need to rely on the good faith of landlords to inform them.

- **Senator Reardon** asked if they would track it to get it back, even if a tenant paid their rent and they got their security deposit back.
    - **Mr. Marsh** said if a tenant paid the conditional deposit, they should be entitled to it. If a municipality paid, they should receive it back.
- **Senator Reardon** said it was her understanding that they would be the first security deposit, not the conditional deposit. She asked if the one taking the greatest risk would not get it back.
    - **Mr. Marsh** said if they were paying the security deposit, the payment should be returned to the municipality. If a nonprofit was not involved, and the tenant paid, they should get the money back. While it is not impossible to track and verify everything, it would create challenges.
- **Senator Reardon** asked if a system would need to be set up.
    - **Mr. Marsh** said it would, which is why they were asking for more clarification. Before he could provide language to the Committee, he needed permission from his Board.

Bernadette Theriault, New Hampshire Welfare Administrators Association

- Ms. Theriault said 59.8 percent of individuals in her town were renters, and only 40.2 percent of properties were lived in and managed by taxpayers.
- In the past few years, large corporations have purchased 15 large apartment buildings. Ms. Theriault said it has been difficult to have regular conversations with these landlords.
- If municipalities paid for RCDs, Ms. Theriault said their budgets would be destroyed.
- Over the last 8 years, Ms. Theriault said access to funding from charities has dramatically diminished.
- **Senator Fenton** asked why an applicant should be penalized if a prior landlord did not respond.
    - **Ms. Theriault** said they should not be.

Jennifer Chisholm, Executive Director, New Hampshire Coalition to End Homelessness

- Ms. Chisholm provided testimony from a mom, who despite a great rental history, could not find an apartment that was less than 50 percent of her monthly income.

- Service providers already cannot keep up with the demand for security deposits. In December, the Fair Housing Advisory Council found that agencies were running out of funds several months after they were given them. One agency, for example, received funds in July; however, they put applications on pause in December because they had already spent or promised the money. To fund applications across the year, other agencies have limited the number of approved applications each month.
- In 2025, 2-1-1 received over 1,000 calls from residents who needed help with a one-month security deposit.
- Ms. Chisholm said doubling the security deposit would impact vulnerable families and put service providers in a bind. Also, she was concerned this bill would contribute to homelessness, especially if families cannot afford a second month's security deposit.

Neutral Information Presented: None

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Date Hearing Report completed: April 6, 2026