

HB 1611-FN - AS INTRODUCED

2026 SESSION

26-2538

06/05

HOUSE BILL ***1611-FN***

AN ACT relative to the taking of private property.

SPONSORS: Rep. Potucek, Rock. 13; Rep. Terry, Belk. 7

COMMITTEE: Judiciary

ANALYSIS

This bill modifies the state's authority to seize privately owned property during a declared emergency by limiting applicable circumstances, specifying procedural requirements, mandating documentation, and revising compensation provisions.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the taking of private property.

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

1 1 Taking of Private Property; Compensation and Use. Amend RSA 4:46, I-b through V to read
2 as follows:

3 I-b. This section shall not apply to personal property, ***real estate, or real estate***
4 ***improvements*** owned by or intended for use by individuals or families.

5 II. Takings under this section shall be strictly limited to the necessities of the situation ***and***
6 ***when there is a documented inability to obtain alternative resources***. The person proposing
7 to take possession of any such property in the name of the state shall present to the owner or person
8 in possession or control of the property a copy of the warrant under which the person purports to act
9 certified by the commissioner of safety. Upon taking possession or control of such property the
10 person shall present a receipt specifically listing the property so taken and specifically referring to
11 the warrant authorizing the taking.

12 III. Whenever possession of any real estate or title to any personal property is taken under
13 this section, its owner or possessor, hereinafter referred to as the claimant, shall be entitled to
14 [~~damages~~] ***replacement costs, compensation for loss of use, and attorney and administrative***
15 ***fees needed in filing the claim*** on account of such taking. Upon the taking of any such property,
16 the chief justice of the superior court is authorized to appoint a commission of 3 suitable persons to
17 assess fair and just ***replacement costs, compensation for loss of use, and attorney and***
18 ***administrative fees needed in filing the claim*** [a] in cases in which the amount cannot be
19 determined by agreement. The chief justice shall fix the per diem compensation of the members of
20 the commission and fill any vacancies which may occur. The commission shall determine what sum
21 shall justly compensate the claimant for the property so taken, ***for loss of use of the property so***
22 ***taken, and for attorney and administrative fees needed in filling the claim***, and may in the
23 performance of its duties hire, and the state shall pay for the services of, such skilled and
24 disinterested appraisers as the commission shall deem necessary to assist it in the performance of its
25 duty.

26 IV. Any claimant aggrieved by the award made by the commission may appeal to the
27 superior court from the decision within 60 days from the granting of the award. All final awards of
28 judgments entered against the state in such proceedings and the fees and expenses of the
29 commission shall be promptly paid by the state treasurer, on warrant of the governor and council,
30 from any money in the general fund of the treasury not otherwise appropriated.

1 V. The property taken under this section shall be used in such manner as the governor, with
2 the advice and consent of the executive council, shall deem in the best interests of the state, its
3 inhabitants or the United States, which manner may include the sale at the prevailing market price
4 or the gratuitous distribution of the articles enumerated in subparagraphs I(c)(3), (4) and (5), ***except***
5 ***that the original owner of the property taken shall have the right of first refusal to***
6 ***purchase it back at the prevailing market prices, which is to be determined independently***
7 ***from any award granted pursuant to paragraph III.*** All moneys derived from the sale of any
8 such property shall be paid over to the state treasurer and deposited in the general fund of the state.

9 2 Effective Date. This act shall take effect January 1, 2027.

**HB 1611-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the taking of private property.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable Increase		
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	Open Warrant		
<i>Funding Source(s)</i>	General Fund			

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

The Office of Legislative Budget Assistant is unable to provide a complete fiscal note for this bill, as introduced, as it is awaiting information from the Governor's Office. The Office was originally contacted on 10/21/25 and most recently contacted on 11/12/25 for a fiscal note worksheet. When completed, the fiscal note will be forwarded to the House Clerk's Office.

METHODOLOGY:

This bill makes changes to the state's authority to seize private property during a declared emergency and expands compensation to the property owner to include replacement costs, loss of use, and attorney/administrative fees.

The Department of Safety indicates that this bill could lead to a significant, though indeterminable, increase in state expenditures. By expanding the state's authority to seize private property, the bill would require the state to compensate property owners, potentially at substantial cost. Since each property is unique, the financial impact would vary case by case, depending on the assessed value and associated compensation requirements.

The Judicial Branch can absorb any impact this may have in it's existing budget.

AGENCIES CONTACTED:

Department of Safety, Judicial Branch, and Governor's Office