

Senate Commerce Committee

Aaron Jones 271-2609

SB 415, relative to a certain exemption in interest in condominium units.

Hearing Date: January 20, 2026

Time Opened: 9:45 a.m.

Time Closed: 10:11 a.m.

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

Members of the Committee Absent : Senator Murphy

Bill Analysis: This bill changes a certain exemption in interest in condominium units.

Sponsors:

Sen. Perkins Kwoka
Sen. Altschiller

Sen. Watters

Sen. Long

Who supports the bill: Senator Rebecca Perkins Kwoka, Nick Taylor (Housing Action NH), Nancy Bishop, Sara Persechino, Robert Tourigny

Who opposes the bill: Matt Mayberry (NH Home Builders Association)

Who is neutral on the bill: Brandon Garod (NH Attorney General's Office), Gary Daddario (Community Associations Institute), Kara-Ann Kuffel (Community Associations Institute), Paul Okonak (Community Associations Institute)

Summary of testimony presented in support:

Jennifer Gallagher, on behalf of Senator Rebecca Perkins Kwoka

- According to the New Hampshire Fiscal Policy Institute, New Hampshire faces a deficit of over 20,000 housing units, which is expected to rise to 90,000 by 2040.
- A variety of policy responses are needed to address the housing crisis, and this legislation would be one tool to allow progress to be made.
- The Condominium Act governs the construction, registration, sale, maintenance, and governance of condominiums.
- Certain provisions of the Act, such as rules around registering with the Attorney General, special rules for selling condominium units, and rules around Attorney General oversight, exempt small condominiums with fewer than 10 units. This exemption balances the need to oversee large condominium developments with

the fact that such regulations can impose large burdens on small developers. Since the Act is overly burdensome, this bill would raise the exemption threshold to 50 units.

- By raising the threshold, it would create a level playing field for smaller developers and it would increase housing supply.
- According to the Urban Institute, small developers are “vital to increasing housing supply,” but they “face disproportionate financial, operational, and regulatory barriers.” This bill would allow small developers to pursue larger projects and compete against larger, more established companies.
- The Urban Institute also reported that condominium construction is near an all-time low. Often, these types of units are more affordable than single-family homes and they help to provide a pathway to ownership, especially for younger individuals.
- By reducing barriers, this bill would help to revitalize condominium construction within the state.
- This bill would not create an unregulated market for small or medium-sized condominiums. Consumer protection, anti-fraud, and housing safety statutes would still be applicable. In addition, most of the provisions within the Condominium Act, including regulations on construction, declarations, land use, easements, HOAs, contracts, and other consumer protection provisions, would remain unchanged.

Nick Taylor, Director, Housing Action NH

- Being a homeowner is one of the biggest tools for wealth building, so it is important that housing is more affordable for individuals who work in the state.
- The median single-family home price is \$525,000, and it is \$420,000 for a condominium.
- When developers were asked about condominium development, Mr. Taylor said they talked about the current process being burdensome.
- Mr. Taylor said they believed the Attorney General’s Office was operating in good faith, but the law has not been updated since the late 1970s.
- When going through the process to develop a condominium, the Department must review all promotional materials and conduct financial reference checks for any investor, board member, or trustee. Currently, developments up to 10 units are exempt from the review process.
- Mr. Taylor submitted a letter to the Committee from NeighborWorks Southern NH. They received approval to construct a 12-unit workforce townhome project. The advice from their lawyers and engineers, however, was to reduce it to 10 units because the process for the extra 2 units would drag out the timeline.
- Mr. Taylor said it was within the purview of the Committee to determine if raising the threshold to 50 was appropriate. The typical development in New Hampshire is between 24 to 48 units.

- In addition to the review process, there are other safeguards in place. If a developer has made fraudulent representations of what they can deliver, criminal statutes are applicable. If they are financing, the private market lending process includes vetting to ensure projects are built. Since the Act was first implemented, there have been significant changes made locally to the building code as well as the planning and zoning review process.
- Other states, such as Maine and Massachusetts, do not have as stringent of a process as New Hampshire has.
- **Senator Innis** asked what the average size of a condominium project was in New Hampshire.
 - **Mr. Taylor** said he did not have an answer.
- **Senator Innis** said if it was 12 units, then it could go from 50 to 20.
 - **Mr. Taylor** said it would be fair for the Committee to have that discussion. Based on the feedback they received from individuals who are trying to do these projects, they are concerned about the current process.
- **Senator Reardon** asked how much time and expenses are added to projects while they are waiting for approval from the Department.
 - **Mr. Taylor** said it could be up to 6 months. The Department does a good job of ensuring their processes work, but if there is feedback and editing with 60-day timelines for each, it can drag out a project. In this case, time is money.

Summary of testimony presented in opposition:

Matt Mayberry, CEO, New Hampshire Home Builders Association

- Condominiums are a form of ownership, and it is how an individual takes possession of their property.
- At an average cost of \$415,000 for a condominium, Mr. Mayberry said he could wait 6 months for \$800,000.
- The current process does not stop a consumer from reserving a condominium that is in development. A non-binding reservation allows a consumer to reserve a specific spot, pick colors, and more, pending the Department's review.
- Mr. Mayberry said not all builders and contractors in New Hampshire are perfect. He asked what if a developer put in a "poison pill" that was buried within the documents. At the closing, it is possible an individual could waive their equity to a builder because the Department did not review it.
- The review process is in place to help the developer, builder, and consumer.
- Mr. Mayberry said he has seen fees increase because they were underestimated when the reserve was set up.
- Mr. Mayberry said 50 units was too large whereas 15 or 20 units was fine. He said he has done hundreds of condominiums, and he has never lost a sale waiting for the Department to review documents.

- **Senator Reardon** asked what would happen in 10 units and under if there are insufficient reserves or a poison pill in the documents.
 - **Mr. Mayberry** replied it was buyer beware.

Neutral Information Presented:

Brandon Garod, Senior Assistant Attorney General and Chief of the Consumer Protection Bureau, Attorney General's Office

- Attorney Garod expressed significant concerns about increasing the exemption threshold from 10 to 50. Essentially, this would repeal their review for all condominium projects except for a few large projects.
- Between July 1, 2023, and April 30, 2025, the Bureau issued 79 certificates of approval for 2,127 units. Under this bill, almost all of those units would have been exempted. Only 9 certificates would have been issued, and only 50 units would have been subject to any level of review.
- Attorney Garod reiterated that an overwhelming majority of condominium projects that they review would be exempted if this bill were passed in its current form.
- The Legislature decided it was important for the Department to ensure there are consumer protections in place for certain condominium projects. This has ensured that developers who are offering new condominiums for sale have the infrastructure and financial resources to deliver on the representations they have made to individuals who are thinking of purchasing.
- If a review takes up to 6 months, Attorney Garod said the initial information that has been presented is woefully insufficient. They are required to review and respond within 60 days. If everything is provided, that is the end of the review and a certificate is issued. If a delay has occurred, it is because things need to be fixed to comply with the law.
- Routinely, the Department has heard the process is overly burdensome. In response, they have asked what specific requirements are burdensome. If there are ways to amend the Act, Attorney Garod said they are open to that conversation. However, as of today, they did not know what was overly burdensome.
- **Senator Reardon** asked what the average size of a condominium in New Hampshire was.
 - **Attorney Garod** said he did not have that information, but if it was helpful, he could provide it to the Committee. He had only looked at 50 units and above, but he could provide information, including a list of projects and their size.
- **Senator Reardon** asked what their resources were in the Consumer Protection Bureau for condominiums.
 - **Attorney Garod** replied that they have a paralegal and an attorney that do the reviews.

Gary Daddario, on behalf of Community Associations Institute

- Individuals in their organization had several different interpretations of this bill; therefore, Mr. Daddario said it needed to be more specific.
- Since 2016, there have been provisions changed and added to the Condominium Act. Mr. Daddario said there has been a trend to have more detail required when it comes to the governance of condominiums.
- This bill does not sufficiently identify what provisions developers would be exempted from.
- There is risk involved when exemptions are increased.
- New developments need to go through the review process to ensure a developer is doing the job right, that documents properly govern the association, and finances are in place to properly set up an association.
- Since Mr. Daddario represents associations, he has seen the aftermath of errors that have been made. If finances are not right, budget and fees can change fast and significantly.
- Mr. Daddario believed the oversight that has been in place for a long time has been working.
- Mr. Daddario said the increase from 10 units to 50 units was significant. Even if it was changed to 20 units, it would double the existing exemption. 50 units would be a good sized neighborhood and there would be a lot of individuals involved; therefore, oversight provided by the Department would be important.

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Date Hearing Report completed: January 26, 2026