

Senate Commerce Committee

Aaron Jones 271-2609

HB 633-FN, creating a legislative study committee to investigate the implementation of housing investment trusts in New Hampshire.

Hearing Date: April 29, 2025

Time Opened: 10:00 a.m.

Time Closed: 10:29 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 creates a legislative study committee to investigate the implementation of housing investment trusts in New Hampshire.

Sponsors:

Rep. Daniels

Rep. Sweeney

Sen. Perkins Kwoka

Who supports the bill: Representative Gary Daniels, Jack Ruderman (NH Housing), Michael DellOrfano

Who opposes the bill: Representative Linda Gould, Representative Timothy Horrigan, Cindy Kudlik, Jane Aitken (CNHT), Daniel Richardson, Rick Hiland, Katie McLaughlin, Jill Bouchillon, David Bouchillon

Who is neutral on the bill: No one

Summary of testimony presented in support:

Michael DellOrfano

- While Mr. DellOrfano did not oppose a study committee, he urged the Committee to pass the original language. If it were not passed, it would postpone critical action for over a year.
- An independent Revolving Loan Fund would be established, and it would deal with institutions, such as Fidelity, Wellington Management, and Pax World.
- Self-directed investment would allow employers, parents, and impact investors to see how their money supports housing for employees, seniors, or specific communities.

- The Housing Investment Trust would pay the Fund a coupon based on the funds it borrows, and the Fund would pay the investors a yield based on the competitive market activity.
- The Housing Investment Trust would be a charitable trust that would enable philanthropic donations and access to grants.
- Mr. DellOrfano said he would hold one board seat to help guide implementation. There would be three trustees. He has been in conversation with the Housing Finance Authority to be the administrative trustee, and NeighborWorks of Southern New Hampshire to be the operational trustee. The master trustee role remained open, but he would like the Attorney General's Office to assume that role.
- Under RSA 293-B, subsidiary trusts are listed as serious trusts.
 - A master trust can have as many serious trusts as they need.
 - Each subsidiary trust would own one piece of property.
 - Importantly, it would help to isolate liability and allow them to target financing towards individual families without cross collateralization.
 - Uniform governance, or a single trust agreement, would standardize rules for subsidiary trusts. This would make management easier, and any amendment to an operating agreement would need to be signed by the AG's Office.
- Mr. DellOrfano hoped the Housing Finance Authority would consider underwriting and servicing the loans whereas NeighborWorks would educate and provide counsel to borrowers throughout the life of the loan to ensure successful homeownership and workforce stability.
- The House Judiciary Committee stated they were concerned about the families. Mr. DellOrfano shared their concern; therefore, the trust structure was designed to protect the rights of families and their welfare. The board of trustees would have a fiduciary duty, and the governor's appointees would be legally bound to put the interests of families first.
- The organizational structure, investments, and operational decisions are subject to multiple layers of review by the board, trustees, and the AG's Office if there are further changes.
- If the Committee restored the original language, Mr. DellOrfano said they would meet with Representative Lynn to get his concurrence.
- This bill would help stabilize growth. In addition, trust homes would be a powerful tool to attract and retain employees.
- This bill would leverage private capital that would help to multiply private dollars, which cannot be done by traditional programs.
- This bill would help to protect the inventory of starter homes. Through private capital and statutory safeguards, families could find homes within their financial reach. This would allow them to grow their roots and wealth without using state tax dollars.

- Mr. DellOrfano supported a study committee in addition to the original bill because there was a lot of work that needed to be done. The definition, however, was necessary to set up a charter, get nonprofit status, get legal work completed, and the funds to pay for legal work.
- **Senator Murphy** asked if he had any reason to believe that the House would not non-concur if this bill were amended.
 - **Mr. DellOrfano** said Representative Daniels spoke to Representative Lynn, and his only concern was for the welfare and economic safety of individuals occupying trust homes. An investment trust under RSA 293-B would be similar to a corporation. The operating agreement would specify the terms and conditions of occupancy. He spoke with Elliott Berry about documentation to ensure it properly reflected safety standards for consumers. Mr. DellOrfano believed there were enough safeguards that they would concur.
- **Senator Reardon** said Elliott Berry helped create the New Hampshire Community Loan Fund. It is a revolving fund that has made thousands of mortgages and business loans with low default rates by taking in investments from commercial entities and individuals. They also pay a return. This did not take legislation; instead, it was a private entity that partnered with the Housing Finance Authority. She asked why they needed to create an entity in government when it could be done privately.
 - **Mr. DellOrfano** said as a CDFA, they are limited to low-income and low moderate-income participation. The challenge has been individuals who are earning nearly 200 percent of the median income who are anxious to buy a \$500,000 house. This would not fit under federal or treasury supervision. It would allow them to creatively finance the occupancy of a home, so it would be a cross between renting and owning. There would be no tax benefit, subsidy, or downpayment assistance. Individuals would pay the trust in a way that their principal and interest payments would be made twice as fast as a traditional commercial loan. This is done because the trust owns the property, and they cannot share in its appreciation upon resale, so the only true benefit is a rapid reduction in debt. Since they do not own the home, they could give the trust 30 days and buy their own home. There are features in this system that are not in the marketplace or under any government program that they could apply to. The closest would be shared equity trusts, which are mostly driven by Real Estate Investment Trust that buy land to own and occupy. Under the 1940s Investment Trust Act, however, REITs must give 90 percent of their profits to investors. If there is any profit in the trust, they would like to reinvest it into starter homes.
- **Senator Reardon** said it is an installment sale, but they do not share in the appreciation, so they get only the equity they are putting in.

- **Mr. DellOrfano** said correct. They would not have mortgage insurance or title searches, so operating costs would be cut. They would be buying equitable interest in the trust. They are buying into the agreement, which would reduce their upfront costs by about a third. Since there would be no mortgage insurance, it would be part capital and debt investor. In addition to principal and interest, over \$1,000 a month would go directly to the principal. Essentially, it would be a security deposit for the property. If the property is damaged, it would come out of the growth equity. It also would be their nest egg. When they leave, they would get a check. Finally, they are unlikely to give over the keys if there is a lot of equity on the table. There is no foreclosure or risk of credit damage. They have built in forbearance wherein \$1,000 could be reduced off their monthly check, and they would not be in default on the loan. There would be a lot of safeguards to ensure success and opportunities for families to grow their roots.

Representative Gary Daniels

- **Senator Innis** asked if this bill created a study committee.
 - **Representative Daniels** said the amendment passed by the House created a study committee.
- Representative Daniels said he talked to Representative Lynn who stated his main concern was for the rights of the householder. Through discussions with Bill Arding and Elliott Berry, he believed they could satisfy these concerns if the original language were put back in.
- This bill has been presented to the Banking Department, the Bureau of Securities Regulation, the Department of Business and Economic Affairs, and the Governor's Office.
- This was a unique private sector solution that could be added to the toolbox.
- Given the housing issue, and that 10 percent of houses in the state are uninhabitable, Representative Daniels said it was worthwhile pursuing this private sector solution.
- This would be a multi-year process to get everything in place. Originally, the bill put a definition of Housing Investment Trust into statute to designate them as a 501(c)(3).
- While they seek the designation as well as address legal matters, the study committee could study the what ifs.
- **Senator Murphy** asked how he would feel about the original language plus the study committee.
 - **Representative Daniels** said both together. If the original language were passed, they would have to set up private meetings to come up with solutions. It would be effective to have a legislative committee that would have recommendations by November 1st.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

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Date Hearing Report completed: May 5, 2025