HB 340-FN - AS INTRODUCED

2023 SESSION

23-0055
05/10

HOUSE BILL ***340-FN***

AN ACT relative to the transfer of residential property.

SPONSORS: Rep. Adjutant, Graf. 16; Rep. Petrigno, Hills. 43; Rep. Caplan, Merr. 8; Rep. M. Perez, Hills. 43; Rep. Newell, Ches. 4; Rep. Read, Rock. 10

COMMITTEE: Judiciary

ANALYSIS

This bill restricts the acquisition of single-family and multi-family housing to natural persons with certain exceptions. The bill requires a nonnatural person that acquires single or multi family housing within one of the specified exceptions to register and file reports with the secretary of state.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0055
05/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to the transfer of residential property.

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

1 New Subdivision; Planning and Zoning; Transfer of Single and Multi-family Housing. Amend RSA 674 by inserting after section 74 the following new subdivision:

Transfer of Single and Multi-family Housing

674:75 Definitions. In this subdivision:

I. "Accessory-dwelling unit" has the same meaning as in RSA 674:71.

II. "Multi-family housing" has the same meaning as in RSA 674:58, II.

III. "Single-family housing" means a building or structure containing one dwelling unit designed for occupancy by an individual household.

674:76 Transfer of Single and Multi-Family Housing. Real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located may only be acquired, in whole or in part, by natural persons, subject to the following exceptions:

I. Development of land acquired for nonhousing purposes. Real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located which is acquired for the purpose of nonhousing development shall be converted to another use within 5 years after the acquisition of the interest in the real property.

II. Development of land acquired for housing purposes. Real estate acquired by a nonnatural person for the purpose of developing single-family or multi-family housing may be held by a nonnatural person for a period not to exceed 2 years after issuance of an occupancy permit, unless the nonnatural person can show by a prepondence of the evidence that it has been attempting to convey the property to a natural person. For the purposes of this paragraph, a showing that the nonnatural person engaged a person or firm licensed pursuant to RSA 331-A for the purpose of selling the property for the entire 12-month period preceding the expiration of the 2-year term is sufficient to satisfy the burden.

III. Grandfathering. This subdivision shall not require divestment of real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located if such real estate was acquired by any nonnatural person prior to January 1, 2024, subject to the provision that the successor in interest may not also be another nonnatural person, unless provided for by another exception in this subdivision.

674:77 Registration. After January 1, 2024, any nonnatural person which acquires real estate on which single-family housing, including single-family housing with one or more accessory dwelling units on the same parcel of land, or multi-family housing is located shall register the ownership with the secretary of state. The registration shall be made within 60 days of the acquisition of the interest in the real estate. The registration shall be in the form and manner prescribed by the secretary of state and shall, at a minimum, contain the information required to be captured pursuant to RSA 31:95-a.

674:78 Reports. Any nonnatural person who is required to register the ownership of their property shall file a report with the secretary of state before March 31 of each year of registration. The report shall be in the form and manner prescribed by the secretary of state and shall contain sufficient information to identify the initial registration report and the status of the real estate's development.

674:79 Enforcement.

I. If the secretary of state finds that a nonnatural person has acquired or holds an interest in real estate in violation of this subdivision or has failed to timely register as required pursuant to RSA 674:77 or has failed to timely report as required pursuant to RSA 674:78, he or she shall report the violation to the attorney general.

II. Investigation of violations of this subdivision shall be conducted by the attorney general. In conducting an investigation or enforcement action, the attorney general may enlist the aid of the county attorneys, municipal prosecutors appointed pursuant to RSA 41:10-a, or any other public officer.

674:80 Penalty.

I. If the court finds that the real estate in question has been acquired in violation of this subdivision or that the land has not been converted to a purpose other than single-family or multi-family housing within 5 years as provided by this subdivision, the court shall declare the land escheated to the municipality or, if in an unincorporated portion of the state, the county in which it is located. When the escheat is decreed by the court, the clerk of court shall notify the governing body of the municipality or county that the title to the real estate is vested in that subdivision of the state and authorize the subdivision of the state to follow the procedures in RSA 80, excluding the provisions requiring prior notice or right of redemption by the prior owner. Any proceeds recovered from the sale of the property shall first be used to satisfy any back taxes owed and court costs related to the escheat. Any excess proceeds shall be paid to the nonnatural person divested of the property, but only in an amount not exceeding the actual cost paid by that nonnatural person for the property. Proceeds remaining shall be deposited into the subdivision of the state in which the real estate is located's unassigned fund balance.

II. A civil penalty of not more than $5,000 shall be imposed, for each offense, upon a nonnatural citizen who fails to timely file the registration or report required by this subdivision.

674:81 Applicability.

I. Nothing in this subdivision shall be construed to alter existing law regarding mortgages or other lending processes utilized for the purchase of real estate where the title of the property is turned over to the natural person borrower upon payment of the loan.

II. Nothing in this subdivision shall be construed to prevent a natural person from placing their property in a grantor/revocable trust or other legal instrument which allows the individual to retain equitable title or a beneficial interest for life in the subject property.

2 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0055
Revised 1/9/23

HB 340-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the transfer of residential property.

FISCAL IMPACT: [X] State [X] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

COUNTY:

Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable	Indeterminable

LOCAL:

Revenue	$0	$0	Indeterminable	Indeterminable
Expenditures	$0	$0	Indeterminable	Indeterminable

The Department of Justice was originally contacted on 11/02/22 and most recently contacted on 1/03/23 for a fiscal note worksheet.

METHODOLOGY:

This bill restricts the acquisition of single-family and multi-family housing to natural persons with certain exceptions. The bill requires a nonnatural person that acquires single or multi family housing within one of the specified exceptions to register and file reports with the Secretary of State. The Secretary of State shall report violations or untimely reports or registrations to the Attorney General.

The Department of State indicates this bill would have an indeterminable impact on State expenditures starting in FY 2025. This bill would create new functions within the Department of State, which would require the hiring of a Program Specialist I. The cost for a Program Specialist I, with salary and benefits, is $74,000 per a year plus equipment. This position, starting after January 1, 2024, would collect and process registrations as well as create reports and send any violations or untimely reports and registrations to the Attorney General. The

Department also states there are indeterminable expenses needed for a public education campaign and to purchase new software to collect and track all information.

This bill will have an indeterminable impact on county and local revenue and expenditures to the extent they benefit from any escheatments and the associated costs related to upkeep and sale of the escheated property that are not included as recoverable costs. This bill may also have an indeterminable impact on State revenues as a new civil penalty of $5,000 for each offense has been established.

This bill does not establish or provide an appropriation for new positions.

The Judicial Branch states there may be an indeterminable increase to State expenditures to the extent the provisions of this bill result in more lawsuits filed under the new subdivision. The Branch states the civil enforcement of the new subdivision would be handled by the Attorney General and the Branch is unable to determine the impact.

AGENCIES CONTACTED:

Department of State, Judicial Branch and Department of Justice