

Amendment to HB 410-FN

1 Amend the title of the bill by replacing it with the following:

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3 AN ACT limiting local authority to adopt restrictions on the building and development of  
4 residential properties.

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6 Amend the bill by replacing all after the enacting clause with the following:

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8 1 New Section; Extraordinary Restrictions of Residential Property. Amend RSA 674 by  
9 inserting after section 17 the following new section:

10 674:17-a Extraordinary Restrictions of Residential Property.

11 I. Notwithstanding any other provision of law, the local legislative body of a city, town, or  
12 county in which there are located unincorporated towns or unorganized places may adopt an  
13 extraordinary restriction of residential property only if the restriction is narrowly tailored to serve a  
14 compelling government interest in public health or safety.

15 II. Evidence such as written findings of fact, scientific studies, or other quantitative and  
16 empirical evidence, may be relevant to whether an extraordinary restriction of residential property  
17 is narrowly tailored to serve a compelling government interest in public health or safety, but are not  
18 necessarily dispositive.

19 III. For the purposes of this section, "extraordinary restriction of residential property"  
20 means any ordinance or regulation that contains any of the following:

21 (a) Any minimum square footage requirement for a dwelling or unit in excess of 200  
22 square feet or the square footage required to meet the state building code, whichever is greater.

23 (b) Any lot size requirement greater than 5 gross acres per primary dwelling unit, or  
24 greater than 0.5 gross acres per primary dwelling unit if the lot is served by off-site municipal water  
25 and sewer systems.

26 (c) Any road frontage requirement greater than 200 feet per primary dwelling unit, or  
27 greater than 50 feet if the lot is served by off-site water and sewer systems.

28 (d) Prohibition on residential use in areas zoned for commercial use.

29 (e) Restriction on in-home business use in areas zoned for residential use, provided such  
30 business use does not violate noise, pollution, garbage, or light ordinances.

31 (f) Restriction on whether any dwelling unit is constructed on or off-site.

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1                   (g) Local amendments to the state building code or state fire code regarding materials or  
2 methods of construction, which impact residential buildings of not more than 4 units.

3                   IV. Upon the effective date of this section, any extraordinary restriction of residential  
4 property shall not be enforced unless it meets the requirements of paragraph I.

5                   2 Effective Date. This act shall take effect 180 days after passage.

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AMENDED ANALYSIS

This bill prohibits the local adoption of extraordinary restrictions on residential property unless the restriction is narrowly tailored to serve a compelling government interest in public health or safety.