

Floor Amendment to HB 2-FN-A-LOCAL

1 Amend the bill by deleting sections 306 and 307, relative to dissolution of the board of tax and land
2 appeals.

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4 Amend the bill by replacing section 290 with the following:

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6 290 RSA 491:7-a is repealed and reenacted to read as follows:

7

491:7-a Commercial Court Docket.

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I. Without limiting the jurisdiction vested in any court in the state, the supreme court may
9 establish by court order not inconsistent with this section, a commercial court docket in the superior
10 court which shall have jurisdiction to hear and determine disputes identified in paragraph II.

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II. The court shall have jurisdiction to hear:

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(a) Commercial disputes when:

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(1) The parties have consented to the jurisdiction of the commercial court docket by
14 agreement or stipulation;

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(2) At least one party is a "business entity," which means a corporation, a statutory
16 trust, a business trust or association, a real estate investment trust, a common law trust, any other
17 unincorporated business, including a partnership, whether a general or a limited liability
18 partnership, or limited partnership, including a limited liability limited partnership, a limited
19 liability company, a professional association, or a joint venture;

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(3) No party is a consumer, which means an individual who purchases or leases
21 merchandise primarily for personal, family, or household purposes;

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(4) If money damages are sought, the amount in controversy exceeds \$50,000 or such
23 other greater amount as the supreme court determines by rule; and

24

(5) The principal claim or claims arise from or involve one or more of the following:

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(A) Claims arising from breach of contract or fiduciary duties, fraud,
26 misrepresentation, business tort, or statutory violations arising out of business dealings or
27 transactions.

28

(B) Claims arising from transactions under the Uniform Commercial Code.

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(C) Claims arising from the purchase, sale, and lease of commercial real or
30 personal property or security interests therein.

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- 1 (D) Claims related to surety bonds.
- 2 (E) Franchisee/franchisor relationships and liabilities.
- 3 (F) Malpractice claims of non-medical professionals in connection with rendering
- 4 services to a business enterprise.
- 5 (G) Real estate title petitions.
- 6 (H) Shareholder derivative actions.
- 7 (I) Commercial class actions.
- 8 (J) Commercial bank transactions.
- 9 (K) Actions relating to the internal affairs or governance; dissolution or
- 10 liquidation rights obligations between and among owners, including shareholders, partners, or
- 11 members; or liability or indemnity of managers, including officers, directors, managers, trustees, or
- 12 members or partners functioning as managers, of corporations, partnerships, limited partnerships,
- 13 limited liability companies or partnerships, professional associations, business trusts, joint ventures,
- 14 or other business enterprises.
- 15 (L) Business insolvencies and receiverships.
- 16 (M) Other complex disputes of a business or commercial nature.

17 (b) Appeals from decisions of local land use boards, including, but not limited to
18 decisions of municipal planning boards, zoning boards, historic district commissions, and
19 conservation commissions. All appeals to superior court filed pursuant to RSA 677 and all
20 proceedings for such appeals, shall be assigned to the commercial court docket. The jurisdiction of
21 this docket shall not include appeals of decisions by state agencies.

22 III. The court shall have the jurisdiction to hear all proceedings of any case for which it has
23 jurisdiction, including motion practice, discovery, injunctive relief, alternative dispute resolution,
24 and hearing on the merits with or without a jury.

25 IV. For any case heard pursuant to subparagraph II(b), the court shall hold a structuring
26 conference within 30 days of its receipt of the notice of appeal. At the structuring conference the
27 court shall set a deadline for the filing with the court of the certified record and shall schedule a
28 hearing on the merits to be held within 60 days of receipt of the certified record. The court shall
29 issue a decision on the merits within 60 days of the hearing. The court may extend any of the
30 deadlines established in this paragraph upon agreement of the parties or for other good cause
31 shown, but if the extension is based upon good cause, the court shall articulate in its order granting
32 the extension the specific facts and circumstances that warrant the extension.

33 V. The presiding justice of the former business and commercial dispute docket and the
34 presiding justice of the former land use review docket shall continue their respective appointments
35 as justices of the commercial court docket. The chief justice of the superior court may designate such
36 additional justices to preside over commercial court docket cases, as necessary, based upon caseload,
37 disqualification of the presiding justice, or efficient allocation of judicial resources.

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1 VI. The justices of the commercial court docket shall be associate justices of the superior
2 court and shall be entitled to the compensation and benefits provided to all such justices under
3 applicable law, including, but not limited to, RSA 491-A:1 and RSA 100-C.

4 VII. The workload of the justices of the commercial court docket shall be the matters before
5 that docket. The justices may be assigned to any other matter within the jurisdiction of the superior
6 court or sit by designation on any other court in the same manner as any other associate justice of
7 the superior court, as determined to be necessary by the chief justices of the superior and supreme
8 court.

9
10 Amend the bill by replacing section 291 with the following:

11
12 291 Superior Court; Justices. Amend RSA 491:1 to read as follows:

13 491:1 Justices. The superior court shall consist of a chief justice, appointed by the governor and
14 council to a 5-year term, and ~~[22]~~ **24** associate justices. Said justices shall be appointed and
15 commissioned as prescribed by the constitution and shall exercise the powers of the court unless
16 otherwise provided. The chief justice shall be appointed from among the associate justices. In the
17 event that the chief justice resigns as chief justice or is not reappointed at the expiration of the 5-
18 year term, he or she may return to the position of associate justice, whether or not an associate
19 justice vacancy then exists.

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AMENDED ANALYSIS

Delete:

126. Abolishes the board of land and tax appeals and assigns cases formerly under their jurisdiction to the commercial court docket.