

# 2021 New State Laws

## NHAR Public Policy Committee

Chris Norwood, Chair

### **Allowing for remote notarization**

#### **[Senate Bill 134 – Chapter Law 206](#)**

The legislation allows for notarial acts to be conducted electronically, with “electronic signature” defined as an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

During the 2020 COVID pandemic, the Governor’s Emergency Order allowed for remote notarizations to occur, but that authority ceased when the Emergency Order expired.

SB 134 creates a framework for remote notarization to become permanent. The state had requested six months to implement the new law, so it will not become effective until February 2022.

### **Minimizing environmental impacts on the habitats of endangered or threatened species**

#### **[Senate Bill 129 – Chapter Law 203](#)**

This legislation is intended to deal with a bureaucratic bottleneck in approving Alteration of Terrain (AoT) permits, resulting from a NH Supreme Court case that reinterpreted the role of Fish and Game Department in the Department of Environmental Services (DES) land use permitting process. The decision by the court changed the way DES evaluated permits for the last 100 years, and required Fish and Game be part of evaluating all permit requests, even those without any known impact to endangered non-game species and habitats.

The bill amended RSA 212-A:9, III to say that permits would only need to go through a Fish and Game review if the development “*appreciably*” jeopardizes the continued existence of a species or results in the destruction or modification of habitat.

NH DES will have to go through a rulemaking process to better define what “appreciably” means when granting a permit.

### **Community Revitalization Tax Incentives for certain single and multi-family rehabilitation**

#### **[Senate Bill 102 – Chapter Law 200](#)**

The new law changes criteria in [RSA 79-E](#), The Community Revitalization Tax Relief Incentive Program, to define a qualifying structure eligible for tax relief to include one or two-family homes or an attached multi-family home with not more than four units and which is at least 40 years old. The rehab project would need to significantly improve the quality, condition, and/or use of the existing residential structure in a designated residential property revitalization zone.

The town legislative body must establish the residential property revitalization zone.

The tax relief may be granted for a period of up to five years, beginning with the completion of the substantial rehabilitation.

The bill will go into effect in April 2022.

### **Broadband Omnibus Bill**

#### **[Senate Bill 88 - Chapter Law 196](#)**

The new law expands [RSA 33:3-G](#) to allow a county or communications district, as defined in [RSA 53-G](#), to issue bonds for the purpose of financing the development, construction, reconstruction, renovation, improvement, and acquisition of broadband infrastructure in any location unserved by broadband. Previously only a municipality could issue such bonds.

Current law requires the municipality, county, or communications district to issue a request for information, at a minimum, to all providers serving the issuing community.

### **Seasonal docks on rivers removed from new seasonal dock registration program**

#### **[House Bill 344 - Chapter Law 25](#)**

The legislation alters existing statute which allowed certain seasonal docks to be exempt from permitting requirements, as long as the dock was registered at DES. While voluntary registration for seasonal docks

remains for docks on lakes and ponds, they are no longer allowed on rivers.

The legislation was a minor alteration to 2020's [House Bill 1245 – Chapter Law 37](#), which allowed an owner to voluntarily register an existing temporary docking structure, including those on rivers, with the Department of Environmental Services by submitting an application and a nonrefundable fee of \$200.

An owner is now able to repair or replace a legally existing dock in non-tidal waters and be exempt from the permitting requirements.

You can learn more about the new voluntary Non-Tidal Docking Structures Registration Process [here](#).

### **Notice of execution of tax lien to mortgagees.**

#### **[House Bill 126 – Chapter Law 33](#)**

This bill would extend the time for the notice of the execution of a municipal or state tax lien to be given to a mortgagee from 45 days to 60 days.

The bill was at the request of the NH Municipal Association.

The law is now in effect.

### **Deadlines for consideration of developments of regional impact by planning boards.**

#### **[House Bill 332 – Chapter Law 69](#)**

The new law amends [RSA 36:57](#), which requires local land use boards to identify developments of regional impact and provide notice to those impacted municipalities. The bill grants planning boards 30 additional days by clarifying the date upon which planning boards begin formal consideration of plans relating to developments of regional impact.

### **Relative to eligibility for the low- and moderate-income homeowners property tax relief.**

#### **[House Bill 486 – Chapter Law 95](#)**

The Low and Moderate Income Homeowners Property Tax Relief program allows for property tax relief to eligible low- to moderate-income claimants.

The bill amends [RSA 198:57](#) to increase the household income eligibility, property assessment and tax relief percentage amounts. When originated in 2002, 10 percent of NH homeowners were eligible for the property tax relief. In 2020 only 1.5 percent were eligible for the relief because the relative value of the income criteria had diminished. The bill increases the income and assessed value amounts and makes it possible for low-income homeowners to once again qualify for the statewide education property tax relief.

The effective date is August 30, 2021.

### **Relative to landlord-tenant issues as well as discrimination in housing.**

#### **[Senate Bill 126 – Chapter Law 152](#)**

The first section of SB 126 deals with evictions of tenants. Any possessory action based solely on nonpayment of rent will be dismissed if both of the following occur:

(a) The tenant, at any time prior to the hearing, pays to the landlord all rent due and plus other lawful charges contained in the lease, \$15 liquidated damages, and any filing fee and service charges incurred by the landlord in connection with the possessory action; and

(b) The landlord also submits prior to the hearing date a receipt of such payment to court and states in writing that a copy of the receipt has also been forwarded to the tenant prior to the time and date of the hearing. If the landlord fails to file a receipt and if the tenant

proves that payment has been made in accordance with subparagraph (a), the case must be dismissed.

A written promise to pay on behalf of the tenant by the state, a county or a municipality, or a payment by any organization which disburses federal or state funds, constitutes payment by the tenant.

This law is in effect.

Senate Bill 126 also included changes to [RSA 354-A:8-15](#), the state statute dealing with discrimination in real estate transactions. The intent of the change was to align New Hampshire statute with the federal Fair Housing Act, which is administered by US Housing and Urban Development Administration (HUD). The NH Human Rights Commission will now have greater authority to hear cases.

As with existing NH statute, the law makes it clear that it is unlawful to use age, sex, gender identity, race, religion, color, marital status, familial status, physical or mental disability, or national origin to:

- I. Refuse to engage in a real estate transaction with a person or to discriminate in making available such a transaction.
- II. Alter the terms, conditions or privileges of a real estate transaction or in the furnishing of facilities or services in connection therewith.
- III. Refuse to receive or to fail to transmit a bona fide offer to engage in a real estate transaction from a person.
- IV. Refuse to negotiate for a real estate transaction with a person.
- V. Represent to a person that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or to fail to bring a property listing to his or her attention, or to refuse to permit him or her to inspect real property.

Among the other changes to the current statute:

1. The law further clarifies the responsibility of landlords when offering rental property to anyone with a disability, including making reasonable modifications for the existing property. The law contains details of what might constitute reasonable modifications;
2. Prohibits “blockbusting,” which means to solicit, distribute or intentional create harm in the sale, lease, listing or purchase any residential real estate, on the grounds of loss of value due to the present or prospective entry into the vicinity of the property involved of any person

of any particular race, color, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, marital status, familial status or disability.

3. Prohibits eviction of a tenant solely on the grounds that the person has acquired immune deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency syndrome.

NHAR encourages members to review [RSA 354-A:8 through RSA 354-A:15](#).

This law is now in effect.

### **New requirement for “tax facilitators” to remit meals and rooms tax**

#### **[House Bill 15 – Chapter Law 160](#)**

The intent of the bill is to require internet facilitators of rentals, such as Airbnb and VRBO, to collect and remit the meals and rooms tax.

If the occupancy is offered, reserved, booked, arranged for, or otherwise facilitated in whole or in part by a room facilitator, the room facilitator must demand and collect the tax from the occupant. The room facilitator must remit the tax to the state.

“Room facilitator” means any person having any right, access, ability, or authority to offer, reserve, book, arrange for, remarket, distribute, broker, resell, coordinate, or otherwise facilitate occupancy to an occupant, whether directly or indirectly, through an Internet transaction or any other means whatsoever.

The law is effective October 1, 2021

### **Community Revitalization Tax Relief Incentives; Housing Opportunity Zone.**

#### **[House Bill 154 – Chapter Law 81](#)**

This bill amends RSA 79-E and enables municipalities to offer community revitalization tax incentives for the construction of additional housing in designated areas.

A city or town may adopt the provisions of this new section by vote of its legislative body to establish a Housing Opportunity Zone. To be eligible for tax relief under this section, the qualifying structure and property need to be located within the Housing Opportunity Zone established by the municipality.

No less than one-third of the housing units constructed must be designated for households with an income of 80 percent or less of the area median or the housing units in a qualifying structure shall be designated for households with incomes as provided in [RSA 204-C:57, IV](#). The bill adjusted the income requirements for projects to be eligible to receive incentives and assistance from the Affordable Housing Fund.

A qualifying structure under this section is eligible for tax assessment relief for a period of up to 10 years, beginning upon issuance of the certification of occupancy.

The law will go into effect April 1, 2022.

### **Third party inspections conducted pursuant to a planning board approval**

#### **[Senate Bill 86 – Chapter Law 224](#)**

The new law requires that a planning board that requires third-party inspection during the construction process must, as part of the inspection process, develop a scope for the project inspection in consultation with the applicant.

Alternatively, as established by SB 86, a planning board approval of a subdivision plan, site plan, or other land use application may ask the applicant to provide a signed certification from the site plan designer in lieu of the third-party inspection, stating the project was built in accordance with the plans approved by the planning board.

Should the planning board select this option, the site plan designer will be a New Hampshire licensed professional engineer and the planning board may require that the certification be based on inspections at specified stages during the construction process.

The bill goes into effect on Oct. 23, 2021.

### **Establishing the coastal program administered by the Department of Environmental Services**

#### **[Senate Bill 146 – Chapter Law 208](#)**

Senate Bill 146 established within the NH Department of Environmental Services the New Hampshire coastal program to implement the U.S. Coastal Zone Management Act while creating a Coastal Fund.

The fund is to encourage and support the sustainable use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development.

No appropriation was made into the fund, but it may rely on donations, federal or private grants.