



# NH ASSOCIATION OF REALTORS

## 2014 New State Laws

### **NHAR GOVERNMENTAL AFFAIRS**

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### **Real Estate Commission Bill Increases CE Requirements; Expands Definition of What is an Acceptable Elective Course**

#### **[HB 421 \(Chapter Law 153\)](#)**

HB 421 was introduced at the request of the N.H. Real Estate Commission. The new law increases the continuing education requirements for active and inactive license renewal from 12 to 15 hours – the three-hour mandated core course plus 12 elective hours (previously only 9 elective hours were required).

Licenses renewing after September 26, 2014 will need to have completed 12 hours of elective continuing education.

At the request of NHAR, the bill also expanded the definition of what is an acceptable CE elective course. The new language states that the elective courses need to be designed to assist the licensee in keeping abreast of changing laws, rules and, most importantly, “practices” which affect the interest of the licensee’s clients or customers. Previously, the Commission had determined the course should be in the “public interest.” The new language also states that the Commission must assess the

content with the primary purpose of assuring that real estate licensees possess the knowledge, skills, and competence necessary to perform the licensee’s duties in the real estate business.

The bill also provides the Real Estate Commission new powers to upon making an affirmative finding to take action in any one or more of the following ways:

1) The imposition of a fine not to exceed the amount of any gain or economic benefit that the person derived from the violation or \$10,000 for each offense, whichever amount is greater.

2) The commission is authorized to issue a cease and desist order against any person or entity engaged in unlawful practice. The cease and desist order shall be enforceable in superior court.

3). The N.H. Attorney General, the Real Estate Commission, or any county or municipality where the unlawful practice takes place may maintain an action to enjoin any person or entity from continuing to do acts of unlawful practice.

The bill is effective September 26, 2014.

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### **New Law Requires Expanded Municipal Notice Requirements to Property Owners When Considering Changes to Zoning Districts**

#### **[HB 1210 \(Chapter Law 161\)](#)**

NHAR had introduced proactive legislation this session to expand notification requirements to property owners when zoning amendments are being considered. The language in that bill, SB 228, was

substantially amended and eventually tacked onto HB 1210.

Currently, towns notify the public of a hearing to discuss amendments to zoning by publishing that notice in a paper of general circulation as well as posting it in at least two public places.

The new law expands that notification requirement in three ways:

- 1) It allows for any person owning property in the municipality to request notice of all public hearings on proposed amendments to the zoning ordinance. The municipality must provide that notice, at no cost to the person, electronically or by first class mail.
- 2) If a proposed amendment to a zoning ordinance would change a boundary of a zoning district and the change would affect 100 or fewer properties, notice of a public hearing on the amendment must be sent by first class mail to the owners of each affected property.
- 3) If a proposed amendment to a zoning ordinance would change the minimum lot sizes or the permitted uses in a zoning district that includes 100 or fewer properties, notice of a public hearing will be sent by first class mail to the owner of each property in the district.

Petitioned amendments as authorized in RSA 675:4 are not subject to any of the notification by mail requirements

The bill is effective immediately.

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## **Landlord Permitted to Require the Payment of Rent on a Quarterly Basis**

### **[HB 1274 \(Chapter Law 56\)](#)**

This bill permits a landlord to require the payment of rent on a quarterly or less frequent basis, provided that the security deposit may not exceed the equivalent of one month's rent.

The previous law permitted a landlord to demand only one month rent as well as a security deposit no greater than one month's rent. NHAR supported this legislation.

The law becomes effective July 26, 2014.

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## **Modification to the Landlord Agent Registration Requirements**

### **[SB 347 \(Chapter Law 77\)](#)**

The bill allows the governing body of a municipality to establish a fine not to exceed \$100 for failing to file a statement designating a landlord agent for service of process with the local municipality. Any fine will be collected in the same manner as a fine for violation of a municipal ordinance, and will be for the use of the municipality.

The bill also clarified that owners of manufactured housing parks are exempt from the landlord agent filing requirements.

The current law, which was enacted in 2010, requires that owners of [restricted property](#) file a statement with the town in which the property is located that provides the name, address, and telephone number of a person within the state who is authorized to accept service of process for any legal

proceeding brought against the owner relating to the restricted property. The owner of the restricted property may be the owner of the premises.

This bill becomes effective January 1, 2015.

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## **Allowing Landlords to Represent LLC in Eviction Proceedings.**

### **[HB 590 \(Chapter Law 164\)](#)**

This bill allows a person who is not authorized to practice law but who is a member, trustee or employee of a limited liability company, corporation, or partnership, which has five or fewer members, to represent the entity on matters in the circuit court of New Hampshire on landlord tenant issues

The bill was a result of some District Courts disallowing landlords to represent their LLC in certain situations. NHAR testified in favor of the bill.

The law becomes effective Sept. 9, 2014.

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## **Clarifying the Term “Valid Claim” for Purposes of Nonrenewal of Property Insurance.**

### **[HB 1111 \(Chapter Law 83\)](#)**

The bill clarifies that inquiries about a homeowner’s property coverage on a policy does not constitute a valid claim. The prior law prohibited nonrenewal if the insurance company based the decision solely on the insured having filed a single valid claim

within any one previous or current policy term.

A few companies had claimed a homeowner’s inquiry about their coverage constituted a valid claim. This bill prohibits them from doing so in the future. NHAR supported the bill.

Effective August 10, 2014.

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## **Requiring Insurance Policies to Notify Homeowner if it Does Not Include Flood Coverage**

### **[HB 1193 \(Chapter Law 52\)](#)**

Every insurer issuing a homeowner, condominium unit owner, residential tenant, and residential fire insurance policy that does not cover damage caused by flood shall notify the policyholder that the policy does not cover damage caused by flood. The notice may be included with other materials sent to the policyholder, as a separate document or included on the declarations page of the policy. The notice needs to be provided by the insurance company:

- (a) At the time the policy is issued; and
- (b) At the time the policy is renewed.

The following language must be included:

*“This policy does not cover damage to your property caused by flooding. The federal government offers flood insurance through the National Flood Insurance Program to residents of communities that participate in its program. You can learn more about the National Flood Insurance Program at [www.floodsmart.gov](http://www.floodsmart.gov) or by calling (888) 379-9531.”*

If the insurance company fails to provide the statement it does not invalidate a flood exclusion, or any other exclusion, in an insurance policy subject to this section.

The bill becomes effective January 2015.

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## **Excluding Condo Assessments from Homestead Rights**

### **[HB 1115 \(Chapter Law 169\)](#)**

The bill adds an exemption to the homestead right for liens filed by homeowner associations or by condominium associations for unpaid assessments, including collection costs.

Effective January 1, 2015.

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## **Selectman's Authority to Abate Taxes Clarified.**

### **[HB 1196 \(Chapter Law 175\)](#)**

The bill is an attempt to reverse a 2013 Board of Tax and Land Appeals decision which ruled that an application by the taxpayer is a prerequisite for an abatement. Previously, general practice was that selectman could abate for "for good cause shown" with or without an application by the taxpayer.

This bill clarifies the authority of selectmen or assessors to abate property taxes or grant an abatement by application of the taxpayer. The bill also allows for the abatement by the selectmen or assessors of property taxes assessed in years prior to the current year.

Effective September 9, 2014.

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## **Relative to Fill and Dredge Permitting Applications**

### **[HB 1258 \(Chapter Law 124\)](#)**

The bill modifies the process for submitting wetlands fill and dredge applications. Applicants will be allowed to file directly with the Department of Environmental Services after filing the application with the town and securing from the municipality acknowledgement of receipt to the application and four copies of that application.

Developers have expressed concerns that towns too often would needlessly delay sending the application to DES. Now the developer can start the process with DES.

The bill also states that any permit issued that is associated with the excavation or mining of construction aggregate materials and quarry stone does not expire for the life of the project, provided that the permit holder submits revised project plans and a written update of the project's status every five years.

This bill is effective immediately.

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## **Relative to Compliance with the Condominium Act**

### **[HB 1606 \(Chapter Law 224\)](#)**

The bill clarifies that the condo board of directors must comply with all provisions of the Condominium Act as well as all provisions of the condominium instruments.

Previously the statute only stated that the declarant, every unit owner, and all those entitled to occupy a unit needed to comply.

The bill also states that prevailing party shall be entitled to all costs and attorneys' fees. Previously, only the unit owners' association was entitled to attorney fees.

The bill is effective Jan. 1, 2015

### **Authorizing Municipalities to Enter into Contracts for the Private Funding and Repayment of Construction of Sewer Systems**

#### **[SB 223 \(Chapter Law 4\)](#)**

The bill is designed to encourage private developers and municipalities to work cooperatively in the expansion of sewer systems. A town may adopt ordinances permitting it to enter into an agreement with a private developer for the design, construction, maintenance of the sewer provided that sewer rentals, fees, and other charges received from persons benefitting from the sewer project may be used for the repayment of costs of design and construction funded by the private nongovernmental entity.

This bill is effective immediately.

### **Extending the Effective Date for Integrated Land Development Permits.**

#### **[SB 267 \(Chapter Law 26\)](#)**

The bill delays effective date of the new Integrated Land Development permit process which was passed by the legislature in 2012. The original effective date was January 1, 2015 but the DES asked the

legislature to delay the start date due to lack of staffing and funds.

The new effective date for the Integrated Land Development Permits is Jan. 1, 2017.

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### **Changes to the Land Sales Full Disclosure Act**

#### **[SB 387 \(Chapter Law 291\)](#)**

The bill provides for broader exemptions for developers under RSA 356-A. Under the new law, a subdivider of lands of no more than 50 lots (current limit is no more than 15 lots) may apply to the attorney general for an exemption from the registration and annual reporting requirements of Land Sales Full Disclosure Act.

Within 60 days of receipt of an application for exemption, the attorney general must issue a written notice to the subdivider stating that the exemption has either been granted, denied, or state the deficiencies in the application

In addition, if the subdivision is located in a town or city that has a population of at least 5,000, it is exempted if it has a planning board, a building inspection process and adopted zoning and subdivision ordinances.

The subdivider must provide, by certified mail, a copy of the request for exemption to the governing body of each city or town in which lots are located. Postal receipts verifying that the governing body has been notified must be submitted to the attorney general with the application for exemption.

Effective September 26, 2014.

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## **Requiring the Certification of Airborne Radon Mitigation Designers and Installers**

### **[SB 405 \(Chapter Law 325\)](#)**

Any person engaged in the design or installation of airborne radon mitigation devices in New Hampshire will now need to hold a current certification from either the National Radon Proficiency Program offered by the American Association of Radon Scientists and Technologists, Inc., or the National Radon Safety Board.

The designer or installer will not need to be licensed by the state nor will they have to register with the state. However, anyone who falsely claims to be certified under this section through advertising, signage, or other written or oral representation will be guilty of up to a class B misdemeanor.

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## **New Law Restricts Use of Cell Phones While Driving.**

### **[HB 1360 \(Chapter Law 256\)](#)**

The bill bans the use of hand-held cell phones while driving. That includes talking, using the internet or inputting information into a GPS or navigation system.

Drivers are permitted to use a Bluetooth enabled or other hands-free electronic device.

The law becomes effective July 15, 2015.

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## **New Commercial Limits on Municipal Energy Efficiency and Clean Energy Loans**

### **[HB 532 \(Chapter Law 294\)](#)**

The bill allows municipalities to create districts that can make energy-efficient loans to businesses in exchange for a lien on the property. This bill increases the project size cap for Property Assessed Clean Energy (PACE) projects from \$65k to \$1M or 35 percent of the property value, whichever is greater.

Each mortgagee or lienholder has the right to determine if it agrees to consent to such a loan. If all of the mortgagees or lienholders of record elect to consent, the consents shall be in writing and recorded with the municipal lien in the registry of deeds.

Effective September 30, 2014.