



New State Laws Impacting Real Estate



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2022 NHAR Public Policy Committee*

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For more information about any bill, contact NHAR CEO Bob Quinn (bob@nhar.com or 225-5549), or visit www.gencourt.state.nh.us

Financial investments and incentives for affordable housing development

[House Bill 1661 – Chpt Law 272](#)

This legislation was an omnibus bill which contained a variety of changes to NH statutes in order to encourage more housing development.

1. When a local land use board issues a final written decision to approve or disapprove an application for a permit, they now must include specific written findings of fact that support the decision. Failure of the board to make specific written findings of fact supporting a disapproval will be grounds for automatic reversal and remand by the superior court upon appeal unless the court determines that there are other factors warranting the disapproval.
2. Beginning July 1, 2023, any municipal incentives established for housing for older persons must be deemed applicable to any workforce housing development in that municipality.
3. Any fee which a city or town imposes on an applicant must be published in a location accessible to the public during normal business hours. Any fee not published in accordance with this paragraph at the time an applicant submits an application shall be considered waived for purposes of that application. A city or town may comply with the requirements of this section by publicly posting a list of fees at the city or town hall or by publishing a list of fees on the city or town's Internet website.
4. Upon receipt of any application, the zoning board of adjustment must begin formal consideration and approve or disapprove within 90 days of the date of receipt, provided that the applicant may waive this requirement and consent to an extension. If a ZBA determines that it lacks sufficient information to make a final decision on an application and the applicant does not consent to an extension, the board may, at its discretion, deny the application, in which case the applicant may submit a new application for the same or substantially similar request for relief.
5. Whenever an appeal to the superior court is initiated on a land use case, the court may at its

discretion require the person or persons appealing to file a bond with sufficient surety for such a sum as fixed by the court to indemnify and save harmless the person in whose favor the decision was rendered from damages and costs which they may sustain in case the decision being appealed is affirmed. The court may also award attorney's fees and costs to the prevailing party.

6. Alters the Tax Increment Financing (TIF) district statute to allow towns the ability to acquire real property to construct housing units which meet the definition of workforce housing whether or not the construction results from private development.
7. Any member of a zoning board of adjustment or planning board may complete training offered by the NH Office of Planning and Development on the processes, procedures, regulations, and statutes related to the board on which the member serves. The office of planning and development will develop standard self-training materials and corresponding tests for zoning boards of adjustment and planning boards which will be provided to members free of charge.

The new law is effective August 23, 2022

Recognition of real estate license from another jurisdiction

[House Bill 1354 – Chpt Law 39](#)

If an applicant holds an active real estate license in good standing, issued by passing the national and state examinations in accordance with the laws of another state, that applicant may now apply for a New Hampshire license with the same equivalent status as currently licensed in the qualifying state by first passing the New Hampshire portion of the licensing examination, provided that other requirements of the commission have been met.

If an applicant holds an active real estate license in good standing issued by passing only the state examination in accordance with the laws of another jurisdiction, that applicant may apply for a New Hampshire license with the same equivalent status by first passing the New Hampshire and national portions of the licensing examination, provided that other requirements of the commission have been met.

This section only applies to salesperson and broker applicants when applicants are applying for a New Hampshire license with same equivalent status as currently licensed in the qualifying jurisdiction.

Effective August 1, 2022

Compensation when on inactive status

[House Bill 1354 – Chpt Law 39](#)

The bill makes it clear that while on inactive status, the licensee may be compensated by his or her previous responsible broker for brokerage activities or referrals for which the licensee participated while the licensee was active, pursuant to [RSA 331-A:26, XXIV](#).

Effective August 1, 2022

Funding for private wells impacted by PFAS contamination

[House Bill 1547 - Chpt Law 326](#)

Currently, the NH Department of Environmental Services provides loans and grants for certain projects needed to meet a PFAS drinking water standard if the applicant demonstrates, and the department agrees, that the project is the most cost-effective way to meet PFAS drinking water standards.

This bill expands the NHDES ability to establish a rebate program to assist impacted private well users with water treatment or connection to public water systems.

The bill also appropriated \$25,000,000 to the PFAS Remediation Loan Fund.

NHDES has announced it will provide a one-time rebate of up to \$5,000 per residential unit to assist eligible private residential well users in the purchase and installation of a treatment system (point-of-use or point-of-entry) designed to remove PFAS or up to \$10,000 per residential unit to connect to an existing public water system.

Owners of single or multiple-unit residential properties serviced by private wells as well as tenants of residential property serviced by private well(s) may apply.

Applicants must be able to provide documentation of a PFAS exceedance with no offer of an alternate water source from a third party.

For more information contact:
pfasrebateprogram@des.nh.gov

Relative to the state building code and the state fire code.

[House Bill 1681 – Chpt Law 311](#)

The bill updates various building codes to the 2018 version. This includes the building code, fire code, plumbing code, mechanical code, energy conservation code, swimming pool and spa code and residential code.

New Hampshire, as is traditional, is one-cycle behind on these codes

The bill also states that the state building code in effect at the time that the application for the building permit is received by the governing authority will remain in effect for the duration of the work covered by that permit.

Statewide amendments to the state building code must be reviewed and approved by the board, then submitted annually to the legislature for ratification by the adoption of appropriate legislation before they become effective.

The bill is effective July 1, 2022

Municipal authority regarding the state building code

[Senate Bill 443 – Chpt Law 242](#)

Existing law requires all local enforcement agencies and selectmen to provide the individual information on the local and state appeals process when issuing a building permit or notice of violation. SB 443 prohibits a town from charging a fee to appeal a notice of violation or other decision of a code official.

Under this new law, municipalities now must submit proposed amendments to the state building code to the board for review and confirmation prior to adoption.

Cities must submit any final proposed building code amendment no later than 90 days before final adoption. Towns shall submit the final proposed building code amendment no later than 10 days after the conclusion of the final public hearing.

The State Building Code Review Board will act to review and confirm proposed municipal amendments within 90 days of submission for cities, and 45 days for towns.

The board's review is limited to a confirmation that the local amendment does not establish requirements conflicting with, or less stringent than, the requirements of the state building code, and to verify with the state fire marshal that there is no conflict with the fire code.

Any such ordinance enacted or adopted under paragraph I by a local legislative body cannot be enforced unless confirmed by the building code review board. The procedural history of local adoption relating to published notice, public hearing, and vote of approval must be submitted to the board within 30 days of enactment or adoption and prior to enforcement.
(continued)

Local amendments to the state fire code must be submitted to the state fire marshal for review prior to enforcement. The state fire marshal shall confirm local amendments to the state fire code are not in conflict or less restrictive than the state fire code and are based on sound engineering practices. The state fire marshal shall confirm that the local amendments are enacted and adopted by the local legislative body. The state fire marshal shall publish local amendments to the state fire code.

Similarly, local amendments to the state fire code must be submitted to the state fire marshal for review prior to enforcement. The state fire marshal shall confirm local amendments to the state fire code are not in conflict or less restrictive than the state fire code and are based on sound engineering practices. The state fire marshal will confirm that the local amendments are enacted and adopted by the local legislative body.

The new law will go into effect January 1, 2023

Relative to the sale of manufactured housing parks.

[Senate Bill 210 – Chpt Law 124](#)

The bill is an attempt to clarify the procedures by which the NH Community Loan Fund can assist owners to purchase a manufactured housing park.

Under the new law, CLF must now send each tenant a certified letter or a verified hand-delivered letter detailing the agreed upon terms of any final proposal to purchase a manufactured housing park.

Terms shall include mortgage terms, land rent per homeowner, and other costs or fees. The letter needs to include a form to request an absentee vote for or against the purchase of the park.

No household can be charged a tenants' association joining fee of more than \$5 to vote either by absentee or in person. A simple majority of members of the association or cooperative voting either absentee or in person shall constitute qualification to move forward with purchase of the manufactured housing park.

Additional money for lead paint remediation fund

[Senate Bill 371 – Chpt Law 172](#)

The bill appropriates an additional \$3,000,000 for the to the lead paint hazard remediation fund established in [RSA 204-C:89](#).

The NH Housing Finance Authority oversees the fund and is authorized to use the lead paint hazard

remediation fund to make loans to owners of properties for the costs of remediation of lead paint hazards.

Learn more at NHHFA.org

Reducing the interest rate for abatements of paid property taxes.

[Senate Bill 317 – Chpt Law 164](#)

Starting in April 2022, whenever, after taxes have been paid, the selectmen, the board of tax and land appeals, or the superior court, as the case may be, grant an abatement of taxes, they will award interest on the amount of taxes abated at the rate of 4 percent per annum from the date the taxes were paid to the date of refund. The current rate is 6%,

Subsurface Sewage or Waste Disposal Systems; Permit Requirements; Domicile Exemption

[House Bill 1293 – Chpt 302](#)

Previously, any person could submit plans for a sewage disposal system for their own domicile and would not be required to obtain a permit. This bill has eliminated that option.

The bill also requires the Department of Environmental Services to 15 days to approve or deny an application for a sewage disposal system, after notifying and receiving any additional required information not provided by the applicant on the application.

The bill is effective August 30, 2022

Powers of attorney in real estate transactions

[House Bill 1344 – Chpt Law 71](#)

Existing state statute (RSA 564-E) already prohibits a real estate licensee from signing on behalf of a client without a power of attorney. This bill places that same prohibition in RSA 331-A.

The bill states in RSA 331-A:25-g that any provision in any listing agreement or listing contract for the sale of real property in this state purporting to grant to the real estate broker or agent the power to execute contracts for the sale of the property shall be null and void and of no legal effect. Any contract for the sale of real property located in this state shall be executed by the owner of such property, or on behalf of an owner by an attorney-in-fact for the owner granted such authority in a written power of attorney duly executed by the owner of the property in accordance with the laws of this state governing powers of attorney.

Relative to cyanobacterial blooms in New Hampshire

[House Bill 1066 – Chpt Law 202](#)

The Commissioner of the Department of Environmental Services will prepare a plan to prevent the increase of, and eventually control, cyanobacterial blooms in New Hampshire's lakes and other waters. Such plan must be supported by scientific data and shall include measurable milestones.

The commissioner is required to appoint an advisory committee to review the causes and impacts of cyanobacteria, types of possible solutions and actions, budgetary and legislative recommendations, and ways to better communicate with the recreating public.

Expansion of broadband infrastructure

[Senate Bill 283 -Chpt Law 183](#)

SB 283 permits all towns to authorize broadband infrastructure bonds at a special meeting without first having to get court approval. Currently, if an emergency arises requiring an immediate expenditure of money, the selectmen need to petition the superior court for permission to hold a special town meeting. Under this bill, if the purpose is to expend money on broadband then the court's permission is not needed.

Any broadband provide or political subdivision is now eligible for a grant of up to 75% of the total eligible costs of a project. Previously towns were capped at 50% of total.

Invest NH Affordable Housing Fund

InvestNH is designed to make \$100 million available to accelerate the approval and construction of affordable workforce housing in New Hampshire. It is a new, one-time flexible resource to benefit small and large projects across the state plus the municipalities in which they will be located.

InvestNH is funded through the Governor's Office for Emergency Relief and Recovery using the state's allocation of federal recovery funds. The funds are for multifamily rental housing that is affordable to individuals and families at or below 80% of area median income (AMI). Other municipal programs under InvestNH will provide grants to communities that approve these projects, grants to update or review zoning, and dilapidated building demolition grants. For more information go to nheconomy.com/about-us/investnh