

Senate Election Law and Municipal Affairs Committee
Tricia Melillo 271-3077

HB 284, relative to the restoration of involuntarily merged lots.

Hearing Date: April 12, 2021

Members of the Committee Present: Senators Gray, Birdsell, Ward and Perkins Kwoka

Members of the Committee Absent : Senator Soucy

Bill Analysis: This bill repeals the deadline for requests for restoration of lots that were involuntarily merged.

Sponsors:
Rep. McBeath

Who supports the bill: Representative Diane Pauer, Jasen Stock, Dennis McKenney, Tom Chrisenton, Tom Thomson, Eric Pauer, Gerald Miller, Mark Stevens

Who opposes the bill: None

Who is neutral on the bill: Natch Greyes

Summary of testimony presented in support:

Senator Regina Birdsell introduced HB 284 for the Prime Sponsor, Representative McBeath

Jasen Stock – NH Timberland Association

- Many times, when lots are involuntarily merged landowners will not realize that until there is an event.
- Such an event could be transfer of land to a child or the sale of a piece of land.
- In the process of legalizing the gift or sale, the landowner realizes that the lot they thought existed was merged into a bigger lot by the town and now it has to be resurveyed.
- The landowner has to bear the cost of having the land divided again.
- They believe that HB 284 is a reasonable approach to resolving this issue.
- The obligation is still on the landowner to prove that the lot was involuntarily merged.
- Originally there was a deadline for which a landowner could file such a petition with the town, but they support the removing of the deadline altogether.
- Senator Birdsell asked what involuntarily merged means.
 - Mr. Stock replied that what they learned in the House hearing was that either through zoning ordinances or for tax purposes the municipality may combine the lots of one landowner into one parcel. He explained that you may own 100 acres in five 20 acre lots and the municipality may decide it is easier to merge them and send you one tax bill for one 100 acre lot. Or there may be times when the town changes the minimum lot size and has to merge an owners lots to conform to the towns zoning laws This happens without the landowners knowing anything about it.
- Senator Birdsell asked if this meant that the town was merging for tax purposes.
 - Mr. Stock replied that it could be for tax or zoning purposes and the key is that the landowners are unaware that the merge has occurred. He continued that there are some public notice requirements but that happens inconsistently. This bill states that the landowner can petition the municipality to have their lots unmerged.

- Senator Birdsell commented that the municipality should be giving notice to the landowners not just a public notice and asked if that was required.
 - Mr. Stock replied that he does not believe that there are requirements in the law that each landowner get a personal notice, only that there is a public notice.
- Senator Ward commented that a few years back there was an effort to combine nonconforming lots and asked if this would affect those.
 - Mr. Stock replied that those can remain merged. This legislation just provides the landowner an opportunity to petition the town to unmerge the involuntarily merged lots.
- Senator Ward asked if this would happen only if unmerging the lot will not go against the town zoning laws.
 - Mr. Stock replied that he is not sure but the NHMA could probably answer that question.

Tom Chrisenton

- He and his wife have a 900 acre tree farm.
- There were many lots on their property that were involuntarily merged.
- The most recent was a 7.7 acre lot was found to be two lots when surveyed.
- The town did not even recognize them. One had a date of 1808 and the other was 1804.
- They were merged initially to make it easier for the town to keep track of for tax purposes.
- He listed 4 other examples of his land being merged for the convenience of the tax collector.
- They do not believe petitioning the town needs a time limit.
- The landowner may not know that their lots have been merged until a surveyor is looking and that could be fifty years later.

Dennis McKenney

- He is a Consulting Forester, a Land Surveyor and Bennington Landowner whose land was merged involuntarily.
- One of his clients had a 40 acre parcel of land whose deed showed two separate lots.
- When she decided to sell, she discovered that the town of Hancock only recognized it as one parcel of land.
- This landowner had to spend in excess of \$7,000 to have both lots recognized so she could sell it.
- He believes that is unfair to landowners.
- Despite the public notice requirement for merging lots, it has been inconsistent, some towns comply, and others do not.
- As the law is written there are adequate municipal protections for zoning and building issues.
- The merging of property by a landowner requires their affirmative action and approval by the planning board.
- The involuntarily merging is imposed on the landowner and significantly affects their rights and property.
- He believes it is improper to place a time limit.
- Senator Gray asked, if instead of repealing that section would he approve of just removing the date prior to December. It would say that a request is submitted to the Governing body.
 - Mr. McKenney replied that he has no problem with the process that involves the governing body of the town. He has done it a number of times over the years. He continued that his real issue is having someone's rights to their property have a sunset date.

Tom Thomson

- He and his wife Sheila own and manage 2400 acres of forest land in NH.
- He gave examples of different parcels of their land that should be made up of multiple lots the town has merged into one for tax purposes.
- Large tracts of land were sold off when the International Paper Mill closed down.

- When looking at town maps they are made up of smaller lots.
- They would like to leave tracts of land to their grandchildren but does not want them to have the hassle of having to have it surveyed for the town to recognize it.
- They have opened their large tracts of land to the State of NH for hunting, fishing, hiking, snowmobiling and other recreation.
- This brings in millions of dollars to the state each year and landowners do not get or ask for anything from that.
- When it comes to this issue of wanting to provide for their families it is appropriate for the town to unmerge the lots if requested.
- The passage of this bill will protect the rights of private landowners in New Hampshire.
- Senator Gray asked if instead of removing the whole of subparagraph A, just removing the date would be okay with him.
 - Mr. Thomson replied that rights on the properties should not ever be taken away because the town did something without the landowner knowing.
- Senator Gray commented that he understands, and this would not take away any of the landowners rights.

Jasen Stock – NH Timberland Association

- He thinks that Senator Gray's suggestion would be an elegant solution to retaining the ability to still petition but allowing it in perpetuity.
- He will take a closer look and send an email to the Committee.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Natch Greyes – NH Municipal Association

- When this bill was in the House they opposed it but now they are proposing an amendment to this bill
- This amendment will eliminate the repealing of the deadline and replace that with a 20 year deadline ending July 21, 2041,
- A merged lot is multiple parcels of land, owned by the same person, which are next to each other and are merged for the purposes of municipal action of zoning, assessing or taxation.
- This only happens at the municipal level and does not affect your rights to your land as per your deed.
- An issue developed where there were a number of lots that were not buildable according to zoning laws and the Legislature allowed the involuntary merging of lots.
- When a zoning ordinance is adopted those lots merge automatically. They are involuntarily merged. The owners are not requesting it.
- After a period of time the Legislature decided that they did not want involuntary merging to occur any longer.
- RSA 674-39:aa, which this bill will modify, barred municipalities from involuntarily merging lots after September 18, 2010.
- In addition, the Legislature required a five year notice period.
- In 2016, the Legislature extended the ability for landowners to apply to municipalities to unmerge their lots. That time period just expired on December 31, 2020.
- Currently, landowners cannot petition the town to unmerge their lots.
- The bill as written will eliminate the requirement so a landowner could petition the town 40 years from now.
- The NHMA believes that there should be a time limit of 20 years to make the law consistent with other property rights laws.
- Senator Birdsell asked if currently towns are not able to involuntarily merge lots.

- Mr. Greyes stated that was correct.
- Senator Birdsell asked if his amendment is allowing landowners another 15 years to petition the town to have their lots unmerged.
 - Mr. Greyes replied yes, they would have 10 years from this July 24th to apply and be unmerged.
- Senator Birdsell asked if there was a problem with landowners voluntarily merging.
 - Mr. Greyes replied no, that is a separate statute. If a landowner wants to merge their lots they can apply and there is a process for that.
- Senator Gray commented that in the statute 674: 39-aa it states that the date is December 21, 2021 and not 2020 and asked if he was wrong.
 - Mr. Greyes stated that Senator Gray is correct it is 12/31/21.

TJM

Date Hearing Report completed: April 14, 2021