

HB 336 - AS INTRODUCED

2021 SESSION

21-0292

10/05

HOUSE BILL **336**

AN ACT establishing a condominium dispute resolution board.

SPONSORS: Rep. Gordon, Graf. 9; Rep. Almy, Graf. 13

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes a condominium dispute resolution board to resolve matters involving condominium associations and unit owners.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing a condominium dispute resolution board.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Condominium Dispute Resolution Board. Amend RSA 356-B by inserting
2 after section 70 the following new subdivision:

3 Condominium Dispute Resolution Board

4 356-B:71 Board Established; Members; Terms; Chairperson.

5 I. There is hereby created a condominium dispute resolution board consisting of the
6 following members:

7 (a) Two members of the house of representatives, appointed by the speaker of the house
8 of representatives.

9 (b) Three members, appointed by the governor, who are resident owners of
10 condominiums in New Hampshire and from 3 different executive council districts. Members
11 appointed under this subparagraph shall not be members of their respective condominium board.

12 (c) Two members, appointed by the governor, who are members of a condominium
13 association board in New Hampshire, and from 2 different executive council districts, from a list of 3
14 persons nominated by the New England chapter of the Community Associations Institute.

15 (d) One member, appointed by the governor, who represents a condominium association
16 management company, from a list of 3 persons nominated by the New England chapter of the
17 Community Associations Institute.

18 (e) One member of the New Hampshire Bar Association, appointed by the president of
19 the association.

20 II. No more than 3 members of the board shall be involved professionally or employed in the
21 condominium industry.

22 III. Non-legislative members of the board shall serve 3-year terms and until a successor is
23 appointed, except that the initial appointments shall be staggered: 2 members shall be appointed to
24 one-year terms, 2 members shall be appointed to 2-year terms, and 3 members shall be appointed to
25 3-year terms. Legislative members shall serve a term coterminous with their term in office.

26 IV. The chairperson for the board shall be chosen from among the members at the initial
27 organizational meeting and shall serve at the pleasure of the members of the board.

28 V. If there is a vacancy on the board, the provisions of RSA 21:33-a and 21:34 shall apply to
29 all members.

1 VI. If any member of the board is absent for 3 consecutive meetings, without cause, the
2 board shall inform the appointing authority in writing and the appointing authority shall appoint a
3 new member to the board within 60 days from the receipt of the written notification.

4 VII. The board shall hold meetings at least every 90 days and may meet more frequently as
5 deemed necessary by the board.

6 356-B:72 Quorum, Disqualification of Members; Compensation.

7 I. A majority of the board shall constitute a quorum to conduct hearings, and a vote of at
8 least 4 members present and voting in favor shall be required to adopt and approve any matter
9 under consideration.

10 II. As a board member, one may disqualify oneself relative to any matter before the board, or
11 if the board votes that any member has or may have a conflict of interest in any matter before the
12 board, that member shall be disqualified to sit as a board member on the particular matter. The
13 board may hear the matter if it has a quorum. If the board does not have a quorum, the governor
14 shall appoint an additional public member to hear the particular matter pending before the board.

15 III. The legislative members of the board shall receive legislative mileage for meetings of the
16 board. The remaining members shall receive mileage at the state employee rate for meetings of the
17 board.

18 356-B:73 Jurisdiction; Procedure.

19 I. The board shall hear and determine matters involving condominium unit owner
20 complaints related to: failure by the condominium association to follow its declaration and bylaws;
21 failure to follow proper voting procedures as defined in RSA 356-B:39; other actions not in
22 compliance with condominium instruments or the condominium act, RSA 356-B. Any matters
23 relating to time share interests shall not be under the jurisdiction of the board.

24 II. Nothing in this subdivision shall preclude the right of the board to use the services of a
25 mediator to resolve a dispute.

26 III.(a) Any condominium unit owner may petition the board by filing a complaint with the
27 board and paying a \$250 filing fee which shall be used to defray the costs of the board. Prior to filing
28 a complaint, the petitioner shall provide 10 days notice to the opposite party of intent to file. After
29 review of the claim and a decision by the board that the matter has merit and is not frivolous, the
30 board shall schedule a hearing. If the board finds the claim to be frivolous or without merit, it shall
31 dismiss the complaint and explain in writing to the petitioner its reasons for dismissing the
32 complaint.

33 (b) The board shall serve notice, in writing, of the time and place of the hearing upon all
34 appropriate parties at least 20 days prior to the date of the hearing. The notice shall inform both
35 parties to the complaint that they may choose to be represented by counsel.

36 (c) All hearings held by the board shall be held pursuant to RSA 541-A:31 through RSA
37 541-A:36 unless such proceedings are specifically inconsistent with the provisions of this subdivision.

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1 All hearings of the board shall be subject to the provisions of RSA 91-A. The board shall not be
2 bound by common law or statutory rules of evidence but may admit all testimony having a
3 reasonable probative value. It may exclude evidence which, in the opinion of the board, is
4 immaterial, irrelevant, or unduly repetitious.

5 356-B:74 Decisions; Judicial Review and Enforcement.

6 I. When the board makes its decision, an order shall be made in writing and shall include
7 findings of facts. The findings of facts shall be accompanied by a concise and explicit statement of
8 the underlying facts supporting the findings. The parties shall be notified by mail of any decision or
9 order.

10 II. A decision of the board may be appealed, by either party following a request for
11 rehearing, by applying for an appeal to the superior court for the county in which either party
12 resides in accordance with the procedures set forth in RSA 677:2-14, inclusive.

13 III. If no timely appeal is taken pursuant to paragraph II, the decision of the board shall
14 become final. The board shall file a certified abstract of any final decision with the clerk of the
15 superior court in the county of residence of the complainant. The clerk of such court shall enter
16 judgment thereon, and such judgment may be enforced as with any final judgment of the superior
17 court.

18 356-B:75 Meetings and Records. The board shall hold meetings in Concord, New Hampshire or
19 in any other location deemed appropriate by the board. The records of the board shall be maintained
20 at the office of professional licensure and certification.

21 356-B:76 Legal Assistance Provided by the Department of Justice. The civil bureau of the
22 department of justice shall act as counsel for the board, and assist in judicial filings and actions as
23 necessary.

24 356-B:77 Notification and Cooperation Required. The board shall notify the consumer
25 protection and antitrust bureau, department of justice, that the board may accept and act on written
26 complaints properly forwarded to it by such bureau relative to condominium association actions and
27 condominium unit owner complaints.

28 356-B:78 Rulemaking. The board, under the direction of the bureau chief of the consumer
29 protection and antitrust bureau, shall adopt rules under RSA 541-A relative to the administration of
30 this subdivision.

31 356-B:79 Annual Report. The board shall submit to the governor, the speaker of the house of
32 representatives, and the senate president, not later than March 31 of each year, a report of its
33 activities during the preceding calendar year. The report shall include, but not be limited to, the
34 number of complaints received, by category according to RSA 356-B:73, and the number and percent
35 of complaints accepted and rejected. The report may also include recommendations for
36 improvements, including rule or statutory changes.

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1 2 New Subparagraph; Office of Professional Licensure and Certification; Administration of
2 Condominium Dispute Resolution Board. Amend RSA 310-A:1-a, I by inserting after subparagraph
3 (r) the following new subparagraph:

4 (s) Condominium dispute resolution board under RSA 356-B:71.

5 3 Effective Date. This act shall take effect 60 days after its passage.