

SB 341 – AS INTRODUCED

2014 SESSION

14-2709  
05/04

SENATE BILL        **341**

AN ACT            relative to eviction procedures on foreclosed properties.

SPONSORS:        Sen. Fuller Clark, Dist 21

COMMITTEE:      Commerce

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ANALYSIS

This bill establishes a separate, abbreviated eviction process for foreclosed properties.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Fourteen*

AN ACT relative to eviction procedures on foreclosed properties.

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

1 1 New Subparagraph; Exemption from the Definition of Tenancy; Foreclosed Property. Amend  
2 RSA 540:1-a, IV by inserting after subparagraph (f) the following new subparagraph:

3 (g) A mortgagor who remains in the property after a foreclosure sale has been completed  
4 in accordance with RSA 479 and for which the foreclosure deed has been recorded in the registry of  
5 deeds.

6 2 Actions Against Tenants; Possessory Action. Amend RSA 540:12 to read as follows:

7 540:12 Possessory Action.

8 **I.** The owner[;] **or** lessor [~~or purchaser at a mortgage foreclosure sale~~] of any tenement or  
9 real estate may recover possession thereof from a lessee, occupant, [~~mortgagor,~~] or other person in  
10 possession, holding it without right, after notice in writing to quit the same as herein prescribed.

11 **II. Notwithstanding paragraph I, a purchaser at a mortgage foreclosure sale as**  
12 **evidenced by a recorded deed pursuant to RSA 479:26 or other owner shall not be required**  
13 **to evict a mortgagor by means of RSA 540.**

14 3 New Chapter; Procedure to Remove Mortgagor After Foreclosure. Amend RSA by inserting  
15 after chapter 540-C the following new chapter:

16 CHAPTER 540-D

17 PROCEDURE TO REMOVE MORTGAGOR AFTER FORECLOSURE

18 540-D:1 Definition; Post-foreclosure Property.

19 I. "Post-foreclosure property" means real property for which a foreclosure deed has been  
20 recorded at the registry of deeds pursuant to RSA 479.

21 II. "Prior mortgagor" means the person who is both:

22 (a) Named as mortgagor or borrower on a mortgage that was subject to a foreclosure sale  
23 pursuant to RSA 479; and

24 (b) Identified in the notice of sale provided pursuant to RSA 479:25.

25 540-D:2 Termination of Occupancy; Notice of Termination. The owner or agent of the owner of  
26 post-foreclosure property may terminate any occupancy without stating any reason. A written 30-  
27 day notice of termination shall be required and shall be served pursuant to RSA 540-D:3 within 30  
28 days of recording the foreclosure deed under RSA 479.

29 540-D:3 Service of Notice.

30 I. The owner or agent of the owner of post-foreclosure property shall give the notice of  
31 termination personally to the occupant or attach the notice to the primary entrance to the property.

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1           540-D:4 Possessory Rights. The occupant shall have no possessory rights to any portion of the  
2 property. The owner or agent of the owner may request law enforcement intervention for any  
3 behavior if such action is deemed necessary.

4           540-D:5 Possession. The owner or agent of the owner of post-foreclosure property may take  
5 possession of the property at the end of the notice period specified in RSA 540-D:2. The owner or  
6 agent of the owner may request law enforcement intervention as necessary.

7           540-D:6 Personal Property. The owner or agent of the owner of post-foreclosure property shall  
8 retain and exercise reasonable care in the storage of the personal property of the occupant who has  
9 vacated the premises for a period of 3 days after the date on which such occupant has vacated. After  
10 the 3-day period, the owner or agent of the owner may dispose of such property without notice to the  
11 occupant.

12           4 Effective Date. This act shall take effect January 1, 2015.