

HB 570-FN - AS INTRODUCED

2015 SESSION

15-0683
05/01

HOUSE BILL ***570-FN***

AN ACT establishing a condominium dispute resolution board.

SPONSORS: Rep. Williams, Hills 4; Rep. Almy, Graf 13; Rep. LeBrun, Hills 32; Sen. Cataldo,
Dist 6

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes a condominium dispute resolution board.

The bill is a request of the committee to study laws relating to condominium and homeowners' associations, established in RSA 356-B:70.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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1 member to the board within 60 days from the receipt of the written notification.

2 VII. The board shall hold meetings every 90 days and may meet more frequently as deemed
3 necessary by the board.

4 356-B:72 Quorum, Disqualification of Members; Compensation.

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

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

13 III. The legislative members of the board shall receive legislative mileage. The remaining
14 members shall receive mileage at the state employee rate.

15 356-B:73 Jurisdiction; Procedure.

16 I. The board shall hear and determine matters involving condominium association actions
17 and condominium unit owner complaints related to: failure to follow association declaration and
18 bylaws; failure to follow proper voting procedures as defined in RSA 356-B:39; any other actions not
19 in compliance with condominium instruments or the laws of the state of New Hampshire. Any
20 matters relating to time share interests shall not be under the jurisdiction of the board.

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

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

30 (b) The board shall serve notice, in writing, of the time and place of the hearing upon all
31 appropriate parties at least 20 days prior to the date of the hearing. Both parties to the complaint
32 may be represented by counsel.

33 (c) All hearings held by the board shall be held pursuant to RSA 541-A:31 through
34 RSA 541-A:36 unless such proceedings are specifically inconsistent with the provisions of this
35 subdivision. All hearings of the board shall be subject to the provisions of RSA 91-A. The board shall
36 not be bound by common law or statutory rules of evidence but may admit all testimony having a
37 reasonable probative value. It may exclude evidence which, in the opinion of the board, is

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1 immaterial, irrelevant, or unduly repetitious.

2 356-B:74 Decisions; Judicial Review and Enforcement.

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

7 II. A decision of the board may be appealed, by either party, by requesting a rehearing and
8 appeal pursuant to RSA 541.

9 III. If no timely appeal is taken pursuant to paragraph II, the decision of the board shall
10 become final.

11 356-B:75 Meetings and Records. The board shall hold meetings in Concord, New Hampshire or
12 in any other location deemed appropriate by the board. The records of the board shall be maintained
13 at the office of the joint board of licensure and certification.

14 356-B:76 Administrative and Business Processing Functions. All administrative, clerical, and
15 business processing functions of the board shall be provided by the joint board of licensure and
16 certification, established in RSA 310-A:1.

17 356-B:77 Legal Assistance Provided by the Department of Justice. The civil bureau of the
18 department of justice shall act as counsel for the board, and assist in judicial filings and actions as
19 necessary.

20 356-B:78 Notification and Cooperation Required. The board shall notify the consumer protection
21 and antitrust bureau, department of justice, that the board may accept and act on written
22 complaints properly forwarded to it by such bureau relative to condominium association actions and
23 condominium unit owner complaints.

24 356-B:79 Rulemaking. The board, under the direction of the bureau chief of the consumer
25 protection and antitrust bureau, shall adopt rules under RSA 541-A relative to the administration of
26 this subdivision.

27 356-B:80 Annual Report. The board shall submit to the governor, not later than March 31 of
28 each year, a report of its activities during the preceding calendar year. The report shall include, but
29 not be limited to, the number of complaints received, by category according to RSA 356-B:73, and the
30 number and percent of complaints accepted and rejected. The report may also include
31 recommendations for improvements, including rule or statutory changes.

32 2 Effective Date. This act shall take effect 60 days after its passage.

HB 570-FN - FISCAL NOTE

AN ACT establishing a condominium dispute resolution board.

FISCAL IMPACT:

The Joint Board of Licensure and Certification and the Judicial Branch state this bill, **as introduced**, may increase state revenue and expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no impact on county and local revenue and expenditures.

METHODOLOGY:

The Joint Board of Licensure and Certification states this bill creates a condominium dispute resolution board located within the Joint Board. The Joint Board reports there are several thousand condominium associations in the State which could result in a large number of complaints filed. Individuals filing a complaint will have to pay \$250 to defray the costs of the Board. This could result in an indeterminable increase in state revenue. The Board estimates this bill will increase administrative costs by an unknown amount, and necessitate the hiring of a program specialist I position which would carry the following costs:

	FY 2016	FY 2017	FY 2018	FY 2019
Salary (LG 19, step 1)	\$37,011	\$38,513	\$40,170	\$41,808
Benefits	\$24,165	\$25,536	\$27,011	\$28,554
Current Expenses	\$250	\$250	\$250	\$250
Equipment	\$1,500	\$0	\$0	\$0
Office Space	\$1,500	\$1,500	\$1,750	\$1,750
Total	\$64,426	\$65,799	\$69,181	\$72,362

This bill does not contain an appropriation or authorization for the new position.

The Judicial Branch states it is unable to estimate how many Joint Board decisions will be appealed to the Supreme Court and how many such cases would be accepted for full appellate review. The Branch states one appeal accepted for full appellate consideration could result in a fiscal impact to the Branch in excess of \$10,000.

The Department of Justice states the additional work resulting from this bill can be absorbed by existing resources and there will be no fiscal impact.

