

Senate Commerce Committee

Aaron Jones 271-2609

HB 477, to prohibit municipal inspections of owner-occupied units of multi-unit housing.

Hearing Date: March 21, 2023

Time Opened: 10:38 a.m.

Time Closed: 10:52 a.m.

Members of the Committee Present: Senators Ricciardi, Innis, Soucy and Chandley

Members of the Committee Absent : Senator Gannon

Bill Analysis: This bill prohibits municipal inspections of owner-occupied units within residential structures of 4 units or less.

Sponsors:

Rep. Berry

Rep. McLean

Who supports the bill: Representative Ross Berry, Aubrey Freedman, Curtis Howland, Bill Alleman, Sharon Eaton

Who opposes the bill: Sean Toomey (Fire Marshal's Office), Natch Greyes (NH Municipal Association), Tom DeRosa (NH Planners Association), Lyn Marshall, Ruth Perencevich, Andrew Jones, Gary Devore, Deborah Klein Walker, Susan Wessels, Joanne Casino, Lianne Moccia, Hannah Bissex, A. Thomas, Patricia Martin, Jane Hershey, Maura Willing, Richard DeMark, Harriet DeMark, Louise Spencer, Susan Richman, Maureen Ellermann, Brigid McNamee, Michelle Feller-Kopman, Kathy Sue Spielman, Lorna Austin, Laurie Koch, Mary Wilke, Helmut Koch, Lynn Merlone, Donna Reardon, Sally Hatch, Ann Rettew, Melissa Hinebauch, Martha Clark, Sandra Blanchard, Nancy Brennan, David Holt, Regan Lamphier, Robert Kiefner, Elizabeth-Anne Platt

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Dan Innis, on behalf of Representative Ross Berry

- This bill would prohibit municipal inspections of owner-occupied units in residential structures of four units or less.

Aubrey Freedman

- Mr. Freedman said this legislation was about a right to privacy.
- Part I, Article 2-b of the New Hampshire Constitution states, “[a]n individual's right to live free from governmental intrusion in private or personal information is natural, essential, and inherent.”
- Mr. Freedman said inspectors should not go onto an individual’s property without their permission. Currently, for example, tax assessors cannot go onto someone’s property without permission.
- If there were a legitimate problem, Mr. Freedman said an administrative warrant could be obtained.

Summary of testimony presented in opposition:

Sean Toomey, State Fire Marshal, State Fire Marshal’s Office

- The State Fire Marshal’s Office, the Building Code Review Board and the Building Officials Association are opposed to this legislation from a life safety perspective.
- While there are concerns about privacy, consent is obtained like any other inspection.
- While the bill intended to prohibit routine inspections as part of a compliance program, it could potentially prohibit inspections of any new work on units that have up to four families.
- In Committee, the bill had been voted Inexpedient to Legislate; however, that motion was reversed by the House.
- Fire Marshal Toomey said they were concerned about mechanical, electrical, and fire protection systems if no inspections were conducted on multi-unit buildings.
- If this bill were amended, Fire Marshal Toomey felt one consideration could be to align the legislation with other code classifications. Currently, there are exemptions in statute for one- and two-family dwellings.
- There has been a lot of fire history in the state, especially in multi-family dwellings, which has led to property and life loss; thus, it would be concerning if there were zero inspections allowed.
- Fire Marshal Toomey believed there could be room for adjustment on this legislation, and they were willing to work with the prime sponsor.
- They understood this issue came from a situation where an owner lived in a duplex, and he did not want someone else coming into his space.
- **Senator Innis** asked if buildings were inspected when they were significantly renovated or newly built, and if inspections were needed in other circumstances.
 - **Fire Marshal Toomey** said many communities have a single occupancy program where inspections are completed after new work has been done. Many communities, however, rely on contractors to follow state fire and

building codes. This legislation aimed to address an issue in Manchester, which has a stiff compliance program that requires rental properties to be inspected every three years. While this bill had been intended to prohibit inspectors from entering an owner's unit, it had been written to prohibit all inspections. If a new gas or electrical unit were installed, which impacted an entire building, then an inspection would be prohibited. Fire Marshal Toomey reiterated that they were concerned this legislation would eliminate inspections on all work going forward.

- **Senator Innis** asked if language could be added or changed to improve the legislation, while still accomplishing its underlying intent.
 - **Fire Marshal Toomey** wanted to work with the stakeholders, and he believed they could meet the intent of the legislation.

Natch Greyes, NH Municipal Association

- The Association said they were willing to work with the stakeholders to see if an agreement could be reached.
- Manchester has its own housing code, which is based on RSA 48-A and RSA 48-A:14. Currently, an inspection is required every three years for rental units or those that could be rented. There are no exemptions for those that have an owner-occupied side.

Jessica Margeson, Tenant Organizer, Granite State Organizing Project

- Without the Manchester Building Department, Ms. Margeson said multiple issues in her apartment would not have been fixed.
- As a member of the Manchester Housing Commission, Ms. Margeson has tried to fix loopholes; however, this bill would create another one.
- The Department has the authority to uphold violations as well as make residents safer. Her landlord, for example, became compliant after six inspections.
- Ms. Margeson said inviting another person to rent or occupy their space is different than entering someone's private home.

Neutral Information Presented: None