

Bill as Introduced

HB 1321 - AS INTRODUCED

2010 SESSION

10-2163

08/04

HOUSE BILL **1321**

AN ACT relative to foreclosure consultants.

SPONSORS: Rep. Leishman, Hills 3

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill requires that foreclosure consultants be licensed either as a notary public or a justice of the peace.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to foreclosure consultants.

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

1 1 New Section; Foreclosure Consultants. Amend RSA 479-B by inserting after section 1 the
2 following new section:

3 479-B:1-a Foreclosure Consultants. No person shall hold himself or herself out as a foreclosure
4 consultant unless he or she is a licensed notary public under RSA 455 or a licensed justice of the
5 peace under RSA 455-A.

6 2 Effective Date. This act shall take effect 60 days after its passage.

- original of H

Speakers

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1321

BILL TITLE: relative to foreclosure consultants.
DATE: 1-28-10
LOB ROOM: 302 **Time Public Hearing Called to Order:** 1134
Time Adjourned: 1148

(please circle if present)

Committee Members: Reps. Butler, DeStefano, Kopka, McEachern, Hammond, Nord, Winters, Meader, Gidge, Schlachman, Keans, D. Eaton, Hunt, Quandt, Belanger, D. Flanders, R. Holden, Dowling, Headd, Nevins and Palfrey.

Bill Sponsors: Rep. Leishman

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Peter Leishman, sponsor – Introduced bill. Real intent is in getting a background check on the individual proving he/she is not a criminal. Agrees that full licensing of individual but this does give a check on the individual.

Q: Rep. Paul McEachern – The statute requires the notary or Justice of the Peace; must also be resident of the state.

A: Correct.

Q: Rep. John Hunt – There are several exclusions: banks, trusts, real estate agents, brokers, sales reps; all are exempt. Rep. Hunt read excluded persons from the statute.

Respectfully Submitted:


James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1321

BILL TITLE: relative to foreclosure consultants.

DATE: 1-28-10

LOB ROOM: 302

Time Public Hearing Called to Order: 1134

Time Adjourned: 1146

(please circle if present)

Committee Members: Reps. Butler, DeStefano, Kopka, McEachern, Hammond, Nord, Winters, Meader, Gidge, Schlachman, D. Eaton, Hunt, Quandt, Belanger, D. Flanders, R. Holden, Dowling, Headd, Nevins and Palfrey.

Bill Sponsors: Rep. Leishman

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep - Peter Leishman - introduced Bill
Real intent is in getting a background
check on the individual ~~from~~ ~~the~~ ~~state~~ is not
a criminal. —

Agrees that full license of individual
but she does give a check on the individual.

Q Mr. Kchen. ~~of~~ ~~the~~ ~~statute~~
Requires the Notary or JP must also be
Resident of the State

A - correct —

Hunt - there are several exclusions:

(2) NB 1321

Banks - Trusts - Real Estate
Agents - Brokers - Sales Reps
do can exempt - by Total Trust
Real excluded persons from the
statute.

Sub-Committee Actions

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 1321

BILL TITLE: relative to foreclosure consultants.

DATE: 2-2-10

Subcommittee Members: Reps. Headd, Nord, Hunt

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. Nord

Seconded by Rep. Hunt

Vote: 3-0

Respectfully submitted,

Rep. James F. Headd
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION ON HB 1321

BILL TITLE: relative to foreclosure consultants.

DATE: 2-2-10

Subcommittee Members: Reps. *Headd, Nord, Hunt*

Comments and Recommendations:

Amendments:

Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:
Sponsor: Rep.	OLS Document #:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Retained (Please circle one.)

Moved by Rep. *Wood*

Seconded by Rep. *Hunt*

Vote: 3-0

Respectfully submitted,

Rep. ~~{Type NAME}~~ *Headd*
Subcommittee Chairman/Clerk

Testimony



Garden State Consumer Credit Counseling

December 29, 2009

VIA EMAIL

House Commerce and Consumer Affairs Committee
New Hampshire State House
107 North Main Street
Concord, NH 03458-1900

Re: HB 1321

Dear Committee Members:

I am writing on behalf of Garden State Consumer Credit Counseling, Inc. d/b/a Novadebt ("Novadebt"). We are a 501(c)(3) nonprofit consumer credit and housing counseling agency headquartered in Freehold, NJ and one of the founding member agencies of the Association of Independent Consumer Credit Counseling Agencies ("AICCCA"). We hold New Hampshire Debt Adjuster License # 11111-DA. Our organization has been providing credit counseling, housing counseling and financial education to consumers nationwide since our formation on June 17, 1991. With over 250 employees, we provide an extensive amount of community services dedicated to improving the financial literacy of consumers nationwide. As a result of our efforts within the housing and consumer credit counseling industry, President George W. Bush held a meeting and a televised press conference at our offices in Freehold in March, 2008.

We recently became aware of the pre-filing of HB 1321 which we understand will be introduced before the Committee on 1/6/2010 and wanted to take this time to request the bill be revised to include certain exemptions for clarification. Under the current statute, §479-B-1 defines a foreclosure consultant as:

"...any person, or any person acting in concert with such person or any agent or employee of such person who provides a foreclosure consulting service".

The statute goes on to define the numerous services which comprise foreclosure consulting service including *"any effort undertaken on behalf of or for the benefit of the homeowner to delay or prevent the loss of a home"*. §479-B:2 sets forth the required parameters for the foreclosure consulting contract, including but not limited to, all contracts between the servicer

225 Willowbrook Road
Freehold, NJ 07728

800-77-BILLS
732-409-6281 Fax 732-
863-1032

www.gardenstateccc.org
www.novadebt.org



The Agency You Can
Trust!





Garden State Consumer Credit Counseling

and the consumer are to be witnessed and acknowledged in the presence of a notary public or justice of the peace, as appointed and commissioned by the state of New Hampshire.

Under the current statute, nonprofit organizations which offer counseling or advice to homeowners which are not related to or do not contract with for-profit third parties are exempt from these requirements pursuant to §479-B:11(g). Specifically, the exemption under §479-B:11(g) is:

“A nonprofit organization or government entity that offers counseling or advice to homeowners in foreclosure or loan default, if the organization is not directly or indirectly related to and does not contract for services with for-profit lenders, foreclosure consultants, or pre-foreclosure purchasers.....”

We believe this is a critical point that should be restated in HB 1321 as it will preserve the ability for nonprofit organizations to continue to assist consumers in need. The Committee may also want to consider including an exemption for those agencies who are approved housing counselors through the U.S. Department of Housing and Urban Development.

Novadebt provides “level 1” housing counseling. A consumer who seeks our assistance is put in contact with a certified counselor. The counselor will have a discussion with the homeowner and determine the reason for the delinquency. The counselor will discuss the consumer’s income and expenses in an attempt to develop a monthly budget as well as determine the cause of the problem. Many of the callers our counselors speak with merely need assistance in budgeting, suggestions for improvement or alternative resources (such as food pantries, emergency utility assistance, workforce development or even suicide prevention counselors).

At this time, the counselor may also develop a budget for the consumer to follow in reaching their financial goals. Based on the information learned during the course of the session, the counselor will review the homeowner’s options and offer suggestions, possible solutions or recommendations for financial improvement. If a mortgage modification will help a homeowner remain in their home (and it is financially viable), the counselor will connect the homeowner to their lender or mortgage servicer by telephone. At this point, Novadebt’s role is complete.

Novadebt provides its services to consumers free of charge. As we are a 501(c)(3) nonprofit organization, much of our funding is through grants for which we apply for. We believe the intent of HB 1321 is to require foreclosure consultants, not otherwise exempt under §479-B:11, to be a licensed notary public or licensed justice of the peace. We do not necessarily support or oppose this position but do deem it necessary to preserve the exemption for nonprofit organizations to include HUD-approved housing counseling agencies. If the exemption is not

225 Willowbrook Road
Freehold, NJ 07728

800-77-BILLS
732-409-6281 Fax 732-
863-1032

www.gardenstateccc.org
www.novadebt.org



**The Agency You Can
Trust!**





Garden State Consumer Credit Counseling

contained within HB 1321 we are concerned our organization will no longer be able to provide our free services to New Hampshire consumers. This will force them to seek other avenues, including going to servicers who will charge them.

Should the Committee have any questions or seek clarification of our position, please do not hesitate to contact me directly. I may be reached by email at: sniemiec@novadebt.org or by phone at: 800-772-4557 ext. 80158.

I thank you for your time and consideration.

Respectfully,

Susan Niemiec
Compliance Manager

cc: Representative Peter R. Leishman

225 Willowbrook Road
Freehold, NJ 07728

800-77-BILLS
732-409-6281 Fax 732-
863-1032

www.gardenstateccc.org
www.novadebt.org



**The Agency You Can
Trust!**



Subj: **97 Mcgettigan Rd status revised**
Date: 11/4/2009 10:09:38 A.M. Eastern Standard Time
From: jim@easyroadmaplive.com
Reply-to: r.15987.50231277@easyroadmaplive.com
To: prleishman@aol.com
Dear Peter:

Could you use lower payments on your home at 97 Mcgettigan Rd?

We can help you get current, save your house from possible (or current) foreclosure, and get you a payment you can easily afford. No out of pocket costs. All credit and income OK. (We also get your loan balance reduced.)

LINK: [MILFORD Affordability Home Lending Customized for 97 Mcgettigan Rd](#)

Sincerely,

Jimmy Clayton
MILFORD Loan Assistance Program
NH

This homeownership notice is a privileged message intended for Peter, Leishman, at 97 Mcgettigan Rd. If you wish to discontinue this permissions based service at any time, please see the steps below. Thanks.

You can send inquiries to the address below

[Or follow this link to if you'd rather not receive email from me](#)

1080 East Pecos Road, Suite 156
Chandler, AZ 85225

Wednesday, November 04, 2009 AOL: PRLeishman

Can't Pay Your Mortgage? Already Behind?

You have options! Fill out the form below to connect with foreclosure prevention professionals who can help you save your home!

Homeowner Information

First Name <input type="text"/>	Last Name <input type="text"/>
Primary phone 1- <input type="text"/>	Alternate phone (not required) 1- <input type="text"/>
E-mail Address <input type="text"/>	Preferred Contact Time <input type="text"/>
Your credit rating is <input type="text"/>	Annual Income <input type="text"/>

Property Information

Address <input type="text"/>	City <input type="text"/>
State <input type="text"/>	Zip <input type="text"/>
Property Type <input type="text"/>	Approximate Home Value <input type="text"/>

Current Loan Information

First Mortgage Balance	<input type="text"/>
<small>Total Mortgage Balance must be at least \$100,000 to qualify.</small>	
First Mortgage Interest Rate	<input type="text"/> %
2nd Mortgage Balance	<input type="text"/>

Comments

GET HELP NOW

By submitting this form you understand that you may receive offers by email and or phone from up to 4 of our refinance or loan modification partners and agree to the [Privacy Policy](#) and [Terms of Use](#).

Privacy Policy

The information and notices contained on this website are intended as general research and information and are expressly not intended, and should not be regarded, as financial or legal advice. We attempt to ensure that the material contained on the web-site is accurate and complete at the date first published, however you should recognize that information contained on this web-site may become out of date over time. Readers who have particular questions real estate financing or foreclosure, or who believe they require legal counsel, should seek the advice of an attorney.

**DON'T LET YOUR
BANK FORECLOSE!**

we can help you to:

Modify your loan
Avoid Bankruptcy
Stay in your home!

Over 2 million families will
lose their homes this year.
Don't become a statistic.
FIGHT BACK!



479-A:12 CONVEYANCES & MORTGAGES OF REALTY

HISTORY

Source. 1965, 155:1. 1971, 413:1. following "size" and substituted 1975, 37:1, eff. May 16, 1975. 2005, "478:1-a" for "478:13-a in those 31:2, eff. July 9, 2005. counties which have adopted the provisions of RSA 478:13-a" in the third sentence, and inserted a comma following "unit designations" in two places in the fourth sentence.

Amendments—2005. Inserted a comma following "unit numbers" in the first sentence, inserted a comma

479-A:26 Actions.

LIBRARY REFERENCES

AmJur Trials

Condominium construction litigation: Representing the community association. 93 Am. Jur. Trials 405.

CHAPTER 479-B

FORECLOSURE CONSULTANTS AND PRE-FORECLOSURE CONVEYANCES

Section

- 479-B:1 Definitions.
- 479-B:2 Foreclosure Consulting Contracts.
- 479-B:3 Pre-Foreclosure Conveyances.
- 479-B:4 Right of Cancellation.
- 479-B:5 Unlawful Practices.
- 479-B:6 Waiver of Rights Prohibited.
- 479-B:7 Maintenance of Rights Against Transferee.
- 479-B:8 Violation of the Consumer Protection Act.
- 479-B:9 Criminal Penalties.
- 479-B:10 Contracts and Notices.
- 479-B:11 Exemptions.

479-B:1 Definitions. In this chapter:

I. "Foreclosure consultant" means any person, or any person acting in concert with such person, or any agent or employee of such person who provides a foreclosure consulting service.

II. "Foreclosure consulting contract" means a written, oral, or constructive agreement between a foreclosure consultant and a homeowner for the provision of any foreclosure consulting service or pre-foreclosure conveyance.

III. "Foreclosure consulting service" means:

(a) An effort undertaken on behalf of or for the benefit of a homeowner to delay or prevent the loss of a home because of a

FORECLOSURE CONSULTANTS

mortgage default, delinquent tax deed.

(b) Receiving money for creditors in payment or payment secured by a lien on a residence

(c) Contacting mortgagee homeowner's primary residence

(d) Arranging or attempting the period within which a homeowner's default and reinstatement

(e) Arranging or attempting postponement of the sale of a

(f) Arranging or facilitating legal or equitable title or homeowner's residence within 30

(1) The publication or letter or

(2) The letter notice of a tax deed.

(g) Arranging or facilitating homeowner will become a homeowner, or vested or homeowner's residence;

(h) Arranging or facilitating residence or transfer of legal title homeowner's residence, in alternative to foreclosure;

(i) Arranging for a home purchase the homeowner's residence

(j) Arranging for or facilitating the homeowner's residence

IV. "Pre-foreclosure purchase person acting in concert with possession of a deed or other sure as a result of a pre-foreclosure who participates in a joint venture pre-foreclosure conveyance.

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1321

BILL TITLE: relative to foreclosure consultants.

DATE: 2-4-10

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Headd

Seconded by Rep. Nord

Vote: 17-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1321

BILL TITLE: relative to foreclosure consultants.

DATE: 2-4-10

LOB ROOM: 302

Amendments:

Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:
Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: 17-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

17-0
ITL

COMMERCE AND CONSUMER AFFAIRS

Bill #: HD 1321 Title: _____

PH Date: _____ / _____ / _____ Exec Session Date: 24 110

Motion: JLT Amendment #: _____

MEMBER	YEAS	NAYS
Butler, Edward A, Chairman	✓	
Schlachman, Donna L, V Chairman		
DeStefano, Stephen T	✓	
Kopka, Angeline A	✓	
Meador, David R	✓	
McEachern, Paul	✓	
Hammond, Jill Shaffer	✓	
Nord, Susi	✓	
Winters, Joel F	✓	
Keans, Sandra B		
Gidge, Kenneth N	✓	
Hunt, John B	✓	
Quandt, Matt J	✓	
Belanger, Ronald J	✓	
Flanders, Donald H	✓	
Holden, Rip	✓	
Dowling, Patricia A	✓	
Headd, James F, Clerk	✓	
Nevins, Chris F		
Palfrey, David J	✓	
	17-0	

Committee Report

CONSENT CALENDAR

February 5, 2010

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on COMMERCE AND CONSUMER

AFFAIRS to which was referred HB1321,

AN ACT relative to foreclosure consultants. Having

considered the same, report the same with the following

Resolution: RESOLVED, That it is INEXPEDIENT TO

LEGISLATE.

Rep. James F Headd

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	COMMERCE AND CONSUMER AFFAIRS
Bill Number:	HB1321
Title:	relative to foreclosure consultants.
Date:	February 5, 2010
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The bill requires that foreclosure consultants be licensed either as a notary public or justice of the peace. The stated purpose of the bill is to have a background check run on these people through the JP or notary public process in the secretary of state office. The request would better be handled through the banking commission and, if desired, licensing procedures for New Hampshire could be developed.

Vote 17-0.

Rep. James F Headd
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

COMMERCE AND CONSUMER AFFAIRS

HB1321, relative to foreclosure consultants. **INEXPEDIENT TO LEGISLATE.**

Rep. James F Headd for **COMMERCE AND CONSUMER AFFAIRS**. The bill requires that foreclosure consultants be licensed either as a notary public or justice of the peace. The stated purpose of the bill is to have a background check run on these people through the JP or notary public process in the secretary of state office. The request would better be handled through the banking commission and, if desired, licensing procedures for New Hampshire could be developed.

Vote 17-0.

Original: House Clerk
Cc: Committee Bill File

Stapler, Carol

From: EdoftheNotch@aol.com
Sent: Friday, February 05, 2010 9:39 AM
To: Stapler, Carol
Cc: Headd, Jim
Subject: Re: Emailing: HB 1321 Headd.doc
Attachments: HB1321Headd - rev.doc

Carol,

please use the revised version.

Jim,

There are currently no licensing requirements for foreclosure consultants. Most foreclosures are done by banking and real estate professionals. If the banking commissioner or NH Housing Authority wants licensing of these folks they'll have to come to us with a proposal.

Ed

In a message dated 2/5/2010 9:17:46 A.M. Eastern Standard Time, carol.stapler@leg.state.nh.us writes:

HB 1321

Rep. James F. Headd

The bill requires that foreclosure consultants be licensed either as a notary public or justice of the peace. The stated purpose of the bill is to have a background check run on these people through the JP or notary public process in the secretary of state office. The request would better be handled through the banking commission and, if desired, licensing procedures for New Hampshire could be developed.

COMMITTEE REPORT

COMMITTEE: Commerce

BILL NUMBER: HB 1321

TITLE: Relative to Foreclosure Consultants

DATE: 2/4/10 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
 - OUGHT TO PASS W/ AMENDMENT
 - INEXPEDIENT TO LEGISLATE
 - INTERIM STUDY (Available only 2nd year of biennium)
- Amendment No.

STATEMENT OF INTENT:

The Bill requires that foreclosure consultants be licensed either as a Notary Public or Justice of the Peace. The stated purpose of the bill is to circumvent the licensing process and have a background check run on these people through the JP or Notary Public process in the secretary of state's office. The request would better be handled through the Banking Commission and proper licensing procedures for NJ should be followed.

COMMITTEE VOTE: 17-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. [Signature]
For the Committee