

Bill as
Introduced

HB 438 - AS INTRODUCED

2013 SESSION

13-0632

10/01

HOUSE BILL **438**

AN ACT relative to the appraisal of residences in an industrial or commercial zone.

SPONSORS: Rep. Weyler, Rock 13; Rep. Sedensky, Rock 13

COMMITTEE: Municipal and County Government

ANALYSIS

This bill provides that buildings and structures in an industrial or commercial zone whose major use is for residential purposes shall be appraised as part of the owner's residence.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to the appraisal of residences in an industrial or commercial zone.

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

1 1 Property Taxation; Appraisal of Residences in Industrial or Commercial Zone. Amend
2 RSA 75:10, II to read as follows:

3 II. "Residence" means the real estate which a person owns and occupies as the person's
4 principal place of abode, [~~and for no other purpose,~~] together with any land or buildings appurtenant
5 thereto ***whose major use is for residential purposes***, including manufactured housing if used for
6 such purpose.

7 2 Effective Date. This act shall take effect April 1, 2012.

Amendments



Amendment to HB 438

1 Amend the bill by replacing all after the enacting clause with the following:

2 1 Property Taxation; Appraisal of Residences in Industrial or Commercial Zone. Amend
3 RSA 75:10, II to read as follows:

4 II. "Residence" means the real estate which a person owns and occupies as the person's
5 principal place of abode, ~~[and for no other purpose,]~~ together with any land or buildings appurtenant
6 thereto, including manufactured housing if used for such purpose.

7 2 New Section; Mixed Use Property. Amend RSA 75 by inserting after section 10 the following
8 new section:

9 75:10-a Mixed Use Property; Local Authority. The governing body may authorize the assessing
10 officials to include in the "residence" as defined under this subdivision the determination by the
11 assessing officials of the portion of mixed use land or buildings appurtenant to the person's principal
12 place of abode which is used as the person's residence. In such case the assessing official shall
13 determine a combined assessment for such mixed use property.

14 3 Effective Date. This act shall take effect July 1, 2013.

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB438

BILL TITLE: relative to the appraisal of residences in an industrial or commercial zone.

DATE: January 31, 2013

LOB ROOM: 301 **Time Public Hearing Called to Order:** 11:00 am

Time Adjourned: 11:20 am

(please circle if present)

Committee Members: Reps. Porter, Tatro, Hooper, Roberts, Malloy, Carson, Lavender,
Enman, S. White, Verschueren, Vail, Stroud, Shackett, Danielson, Coffey, J. Belanger,
Lockwood, Bickford, Copeland and Bishop.

Bill Sponsors: Rep. Weyler, Rock 13; Rep. Sedensky, Rock 13

TESTIMONY

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

* **Rep Ken Weyler, Rock 13, Sponsor:** In mixed use situations, property should be assessed at their use and not have the entire property assessed at the highest value. After discussion with committee, Rep Weyler will get an amendment filed and into the committee before Exec Session.

Respectfully Submitted

Representative James Bélanger
Committee Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB438

BILL TITLE: relative to the appraisal of residences in an industrial or commercial zone.

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Time Adjourned:

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Committee Members: Reps. Porter, Tatro, Hooper, Roberts, Malloy, Carson, Lavender, Enman, S. White, Verschueren, Vail, Stroud, Shackett, Danielson, Coffey, J. Belanger, Lockwood, Bickford, Copeland and Bishop.

Bill Sponsors: Rep. Weyler, Rock 13; Rep. Sedensky, Rock 13

TESTIMONY

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

① Rep Ken WEYLER

House Committee on Municipal & County Government
Public Hearing on Bill HB 438

relative to the appraisal of residences in an industrial or commercial zone

Porter, Marjorie	X	Tatro, Bruce	X	Bélanger, Jim	X
Bickford, David	X	Bishop, Franklin		Carson, Clyde	X
Coffey, James	X	Copeland, Timothy	X	Danielson, David	X
Enman, Larry		Hooper, Dorothea	X	Lavender, Tom	X
Lockwood, Priscilla	X	Malloy, Dennis	X	Roberts, Kris	X
Shackett, Jeff	X	Stroud, Kathleen	X	Vail, Suzanne	
Verschueren, James	X	White, Syndi			

LOB Room 301
Hearing called to order: 11 AM

Date: 31 January 2013
Hearing Adjourned: 11:20 AM

Testimony

* indicates written testimony or amendment submitted.

1. **Rep Ken Weyler, Rock 13, Sponsor:** In mixed use situations, property should be assessed at their use and not have the entire property assessed at the highest value. After discussion with committee, Rep Weyler will get an amendment filed and into the committee before Exec Session.

Respectfully Submitted



Representative James Bélanger
Committee Clerk

Testimony

Testimony of Rep. Ken Weyler

Municipal and County Government Comm.

January 31, 20013; Room 301; 11:00

1. This bill did not come out quite the way I envisioned it. I will describe the situation that prompted me to file.
2. A constituent had a large home with a big barn on a couple of acres on the main road. He had a small building, about 10 by 15 feet, located in the front of the property. The building was rented to a Jeweler who ran his business from it.
3. This resulted in the property being assessed as commercial, including the house, the barn, and all the acres. The owner did not see any fairness in this assessment, and asked the selectmen to give him commercial assessment only for the small building.
4. The selectmen told him that the law did not allow such divided assessments. So he asked me to file a bill to allow for relief in such circumstances.
5. The language I suggested would have read that if a minor use on residential property was non-residential, then the portion that was non-residential could be taxed at the appropriate rate, but the majority of the property would be taxed at its residential use.
6. I appreciate any thing that you can do to fix this dilemma.
7. Thank You

HB 438

TITLE V TAXATION

CHAPTER 75 APPRAISAL OF TAXABLE PROPERTY

Residences in Industrial or Commercial Zone

Section 75:10

75:10 Definitions. – In this subdivision:

I. "Industrial or commercial zone" means any district designated by a local legislative body in a zoning ordinance in which business or industry are permitted uses of property.

II. "Residence" means the real estate which a person owns and occupies as the person's principal place of abode, and for no other purpose, together with any land or buildings appurtenant thereto, including manufactured housing if used for such purpose.

Source. 1977, 538:2. 1995, 291:3, eff. Aug. 20, 1995.



Assessing Office
City of Lebanon
51 North Park St.
Lebanon, NH 03766
Phone (603) 448-1499
Email: assessor@lebcity.com

To: House Municipal & County Government Committee

Re: HB 438 (relative to the appraisal of residences in an industrial or commercial zone.)

Thank you for the opportunity to express my concerns with HB 438. I believe I understand the purpose and reasoning behind this bill. However, amending RSA 75:11 II, to include the proposed language, defies what many believe is the intent of the original language.

The current law, RSA 75:11, requires, after application to the municipality, a special appraisal of owner-occupied, single-family residential use only, homes in neighborhoods that are zoned for commercial or industrial use. Typically, commercial and industrial land has a higher market value than residential land. The intent of the RSA is to prevent property tax increases on owner-occupied, single-family residential use only homes, in instances whereby the municipality has adjusted the zoning for the property to commercial/industrial. This zoning change typically leads to an increased market value of the land where the home is located. The homeowner in this rezoning instance could be expensed out of their home as the market value of their property may have just increased dramatically due to the zoning change. Once the property ceases being used solely for single-family residential use by the property owner, the special appraisal requirement is null and the land becomes appraised at its highest and best use value, now taking into account the actual allowed for uses under the commercial/industrial zoning categories.

Under the proposed language, properties that are enjoying the benefits of the commercial/industrial zoning, but also include a residential use, would still be allowed the special, low, appraisal value. Additionally, the language of the bill is vague, stating "whose major use is for residential purposes". This language is wide open for interpretation; will most likely lead to differing opinions of "major use"; this vagary invites increased legal costs for both property owners as well as municipalities as it would surely become an appealable aspect of the application. An example of a site with mixed uses could be a small retail store with an owner-occupied apartment above the store. If the apartment has square footage that is larger than the retail store, does that make the residential use the "major use"? Under this bill's proposed language one would come away with that legislative assumption and this retail store site will receive a special single-family residence use only assessment, just like a single-family ranch sitting next door to it that has NO commercial use.

Further, most computerized assessing systems are not designed to break out residential uses and values from commercial uses and values on one parcel. Using the above example, the ability to break out the value of the residential apartment from the retail store is not possible in many assessing systems.

This bill's proposed language is also a problem from an industry-accepted appraisal methodology perspective. There are many properties throughout the state of New Hampshire that have a residential structure and a commercial/industrial structure on the same lot. In many instances the property owner lives on the property and runs a business from an attached structure or detached structure. Examples are automotive repair shops, trucking terminals, and small retail establishments. In many cases the "major use" is difficult to determine because, for one example, the square footage of the structures may be very similar. Determining the "major use" for the land is even more difficult because the municipality would need to establish which

structure occupies and uses the majority of the lot. Does the driveway and parking area belong to the commercial use or the residence? Which use does the yard get assigned to? Again, this is open to interpretation and will most likely lead to an increased number of tax abatement applications and subsequent appeals to the state appellate level. This will lead to increased costs for the municipalities, property owners, as well as the State of NH judicial system.

I would urge the committee to recommend this bill as "Inexpedient To Legislate".

Thank you for your time,

Respectfully,

Richard A. Vincent, CNHA
Real Estate Appraiser II
City of Lebanon
51 North Park St.
Lebanon, N.H. 03766
603-448-1499
Rick.vincent@lebcity.com

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB438

BILL TITLE: relative to the appraisal of residences in an industrial or commercial zone.

DATE: February 12, 2013

LOB ROOM: 301

Amendments:

Sponsor: Rep. OLS Document #: 2013 0153

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

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

Moved by Rep. Coffey

Seconded by Rep. Stroud

Vote: 15-0 (Please attach record of roll call vote.)

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

Moved by Rep. Coffey

Seconded by Rep. Danielson

Vote: 16-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE. YES NO (Please circle one)

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James P. Belanger, Clerk

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB438

BILL TITLE: relative to the appraisal of residences in an industrial or commercial zone.

DATE: 12 FEB 2013

LOB ROOM: 301

Amendments:

Sponsor: Rep.

OLS Document #: 2013-0153 h

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

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

Moved by Rep. Coffey

OTP on amendment
15-0

Seconded by Rep. STROUD

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

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

Moved by Rep. Coffey

16-0

Seconded by Rep. DANIELSON

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

CONSENT CALENDAR VOTE: YES NO (Please circle one)

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

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. James P. Belanger, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/7/2013 3:58:12 PM
Roll Call Committee Registers
Report

2013 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 438 Title: RE APPRAISAL OF RESIDENCES

PH Date: 31 Jan 2013 Exec Session Date: 12 FEB 2013

Motion: OTP Amendment #: 2013-01534

MEMBER	YEAS	NAYS
Porter, Marjorie A, Chairman	✓	
Tatro, Bruce L, V Chairman	✓	
Roberts, Kris E	✓	
Hooper, Dorothea D	✓	
Carson, Clyde J	✓	
Enman, Larry S		
Lavender, Tom	✓	
Malloy, Dennis J	✓	
Vail, Suzanne M	✓	
Verschueren, James	✓	
White, Syndi G		
Stroud, Kathleen M	✓	
Lockwood, Priscilla P		
Belanger, James P, Clerk	✓	
Coffey, James E	✓	
Copeland, Timothy D		
Shackett, Jeffrey S	✓	
Bishop, Franklin C		
Bickford, David A	✓	
Danielson, David J	✓	
TOTAL VOTE:		

25

0



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/7/2013 3:58:12 PM
Roll Call Committee Registers
Report

2013 SESSION

MUNICIPAL AND COUNTY GOVERNMENT

Bill #: HB 438 Title: _____

PH Date: 1 / 1 Exec Session Date: 12 Feb 2013

Motion: ~~OTPA~~ ITC Amendment #: _____

MEMBER	YEAS	NAYS
Porter, Marjorie A, Chairman	✓	
Tatro, Bruce L, V Chairman	✓	
Roberts, Kris E	✓	
Hooper, Dorothea D	✓	
Carson, Clyde J	✓	
Enman, Larry S		
Lavender, Tom	✓	
Malloy, Dennis J	✓	
Vail, Suzanne M	✓	
Verschueren, James	✓	
White, Syndi G		
Stroud, Kathleen M	✓	
Lockwood, Priscilla P		
Belanger, James P, Clerk	✓	
Coffey, James E	✓	
Copeland, Timothy D	✓	
Shackett, Jeffrey S	✓	
Bishop, Franklin C		
Bickford, David A	✓	
Danielson, David J	✓	
TOTAL VOTE:		

16 0

Committee Report

CONSENT CALENDAR

February 13, 2013

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on MUNICIPAL AND COUNTY GOVERNMENT to which was referred HB438,

AN ACT relative to the appraisal of residences in an industrial or commercial zone. Having considered the same, report the same with the following Resolution:
RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. James E Coffey

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	MUNICIPAL AND COUNTY GOVERNMENT
Bill Number:	HB438
Title:	relative to the appraisal of residences in an industrial or commercial zone.
Date:	February 13, 2013
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill extends the practice of using residential assessment values in a commercial district for properties that are occupied by the owner as the person's principal place of abode to properties that are of a mixed residential and commercial, use. The bill fails to create a workable state-wide standard and makes the proposed changes optional of a case by case basis. After considerable discussion, including an amendment, the committee unanimously voted to ITL the bill.

Vote 16-0.

Rep. James E Coffey
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

MUNICIPAL AND COUNTY GOVERNMENT

HB438, relative to the appraisal of residences in an industrial or commercial zone. **INEXPEDIENT TO LEGISLATE.**

Rep. James E Coffey for MUNICIPAL AND COUNTY GOVERNMENT. This bill extends the practice of using residential assessment values in a commercial district for properties that are occupied by the owner as the person's principal place of abode to properties that are of a mixed residential and commercial, use. The bill fails to create a workable state-wide standard and makes the proposed changes optional of a case by case basis. After considerable discussion, including an amendment, the committee unanimously voted to ITL the bill. **Vote 16-0.**

COMMITTEE REPORT

COMMITTEE: MUNICIPAL & COUNTY GOVERNMENT

BILL NUMBER: HB 438

TITLE: RE TO APPRAISAL OF RESIDENCES IN AN INDUSTRIAL OR COMMERCIAL ZONE

DATE: 2-12-13 CONSENT CALENDAR: YES [X] 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:

This bill extends the practice of using residential assessment values in a commercial district for properties that are occupied by the owner as the person's principal place of abode to properties that are of a mixed ~~use~~ residential and commercial use. The bill fails to create a workable state-wide standard and makes the proposed changes optional of a case by case basis. After considerable discussion, including an amendment, the committee unanimously voted to ~~kill~~ the bill.

COMMITTEE VOTE: 16-0

RESPECTFULLY SUBMITTED,

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

Rep. James Coffey
For the Committee

[Signature]