

Committee Report

CONSENT CALENDAR

February 27, 2018

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Judiciary to which was referred HB
1490,**

**AN ACT relative to limits on money judgments in
landlord-tenant cases. Having considered the same,
report the same with the following resolution:**

RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Linda Kenison

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Judiciary
Bill Number:	HB 1490
Title:	relative to limits on money judgments in landlord-tenant cases.
Date:	February 27, 2018
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill increases the maximum amount which may be awarded as a money judgment in a landlord/tenant proceeding from the current \$1,500 to \$3,000. The committee believes that raising the jurisdictional amount will result in landlord/tenant cases being brought in superior court, rather than circuit court, where they are currently heard. The committee does not believe that this is a good policy.

Vote 15-0.

Rep. Linda Kenison
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Judiciary

HB 1490, relative to limits on money judgments in landlord-tenant cases. **INEXPEDIENT TO LEGISLATE.**

Rep. Linda Kenison for Judiciary. This bill increases the maximum amount which may be awarded as a money judgment in a landlord/tenant proceeding from the current \$1,500 to \$3,000. The committee believes that raising the jurisdictional amount will result in landlord/tenant cases being brought in superior court, rather than circuit court, where they are currently heard. The committee does not believe that this is a good policy. **Vote 15-0.**

Original: House Clerk

Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB 1490

BILL TITLE: relative to limits on money judgments in landlord-tenant cases.

DATE: February 19, 2018

LOB ROOM: 208

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Kenison

Seconded by Rep. Hopper

Vote: 15-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Sandra Keans, Clerk

HOUSE COMMITTEE ON JUDICIARY

cc

EXECUTIVE SESSION on HB 1490

BILL TITLE: relative to limits on money judgments in landlord-tenant cases.

DATE: 2/19/18

LOB ROOM: 208

MOTION: (Please check one box)

- OTP
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. KENISON Seconded by Rep. HOPPER Vote: 150

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

- OTP
- OTP/A
- ITL
- Retain (1st year)
- Adoption of Amendment # _____ (if offered)
- Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes No If yes, author, Rep: _____ Motion: _____

Respectfully submitted: Sandra Keans
Rep Sandra Keans, Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

1/5/2018 10:30:16 AM
Roll Call Committee Registers
Report

2018 SESSION

*Relative to limits on money judgments
in landlord-tenant cases.*

JUDICIARY

Bill #: 1490

Title: _____

PH Date: 01/24/2018

Exec Session Date: 2/19/18

Motion: ITL

Amendment #: _____

MEMBER

YEAS

NAYS

Hagan, Joseph M. Chariman	✓	
Rouillard, Claire A. Vice Chairman	✓	
Hopper, Gary S.	✓	
Sylvia, Michael J.	ob	
Hull, Robert <i>ober</i>	✓	
Wuelper, Kurt F.	✓	
Graham, Robert V.	✓	
Hynes, Dan	✓	
Janvrin, Jason A.	✓	
Leavitt, John A.	ob	
Wall, Janet G.	✓	
Horrigan, Timothy O.	✓	
Berch, Paul S.	✓	
Kenison, Linda B.	✓	
Keans, Sandra B. Clerk	✓	
DiLorenzo, Charlotte I.	✓	
Altschiller, Debra	ob	
Sullivan, Brian M. <i>SMITH</i>	✓	
TOTAL VOTE:		

15-0

Hearing Minutes

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1490

BILL TITLE: relative to limits on money judgments in landlord-tenant cases.

DATE: January 24, 2018

LOB ROOM: 208 **Time Public Hearing Called to Order:** 2:40 p.m.

Time Adjourned: 2:57 p.m.

Committee Members: Reps. Hagan, Rouillard, Keans, Hopper, Sylvia, Wuelper, R. Graham, Hynes, Janvrin, Berch, Kenison, DiLorenzo and Altschiller

Bill Sponsors:

Rep. Twombly
Rep. Emerick
Rep. LeBrun

Rep. Baldasaro
Rep. Hinch
Rep. Seidel

Rep. M. MacKay
Rep. Ohm
Sen. Avard

TESTIMONY

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

Rep. Hynes introduced the bill to the committee. No sponsors were present.

Nick Norman, New Hampshire AA -NH - neutral

Not a new subject; seems like a good idea BUT -box at bottom of form - for eviction process \$1,5000 allowed but allows client to file counter claims and another process which tenant may win. If more than \$1,5000 could provide for trial in Superior Court. What is really needed is a CACR to change amount.

Q. Rep. Sylvia: Can we eliminate last line of bill? **Ans.** No constitution.

Eliot Berry, New Hampshire Legal Assistance Association - oppose

Wondering why 2016 bill can be taken up again? RSA 540:13 I only authorization to bring action is to a jury trial. Mr. Norman's concerns may be

Respectfully submitted,



Rep. Sandra B. Keans, Clerk

HOUSE COMMITTEE ON JUDICIARY

PUBLIC HEARING ON HB 1490

BILL TITLE: relative to limits on money judgments in landlord-tenant cases.

DATE: 1-24-18

ROOM: 208

Time Public Hearing Called to Order: 2:40

Time Adjourned: 2:57

(please circle if present)

Committee Members: Reps. Hagan, Rouillard, Hopper, Sylvia, Hull, Wuelper, R. Graham, Hynes, Janvri, Leavitt, Wall, Horrigan, Berch, Kenison, DiLorenzo, Mulligan, Altschiller and Keans

Bill Sponsors:

Rep. Twombly
Rep. Emerick
Rep. LeBrun

Rep. Baldasaro
Rep. Hinch
Rep. Seidel

Rep. M. MacKay
Rep. Ohm
Sen. Avard

TESTIMONY

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

REP HYNES INTRODUCE NO SPONSORS

① NICK NORMAN - ^{NEUTRAL} ~~HATED~~ NHAA - NOT A NEW SUBJECT

^{BOX AT BOTTOM OF FORM}
SEEMS LIKE A GOOD IDEA BUT - EVICTION PROCESS \$1500 ALLOWED
BUT ALLOWS CLIENT TO FILE COUNTER CLAIMS AND ANOTHER
PROCESS WHICH TENANT MAY WIN - IF MORE THAN \$1500 COULD
PROVIDE FOR TRIAL IN SUPERIOR COURT. WHAT IS REALLY IS NEEDED
IS CACR TO CHANGE AMT.

① SYLVIA - CAN WE ELIMINATE LAST LINE OF BILL - ^{ANS} NO CONSTITUTION

② ELIOT BERRY OPPOSED NH LEGAL ASSIST - [WONDERING WHY 2016 BILL CAN
BE TAKEN UP AGAIN] 540:13 I ONLY AUTHORIZATION TO
BRING ACTION IS - TO A JURY TRIAL - MR. NORMAN'S
CONCERNS MAY BE

Testimony

01/24/2018 at 02:00 PM LOB Room 208 HB1490, Money Judgement Increase

Nick Norman

Legislative Initiative Landlord Tenant Law

AANH Government Affairs Chair

NickNorman@yahoo.com

603-432-5549

My position is neutral on this bill and would like to highlight some concerns if you move forward on the bill.

2016 & 2017 saw very similar bills. 2016 HB1196, sought to allow landlords to ask for a judgment of up to \$5,000 in an eviction action. 2017, HB434, sought to increase the amount to \$3000. Although on first glance it may seem like a good idea we have large concerns.

If a landlord seeks damages in excess of \$1,500 and a tenant could request a jury trial. Also, the tenant could counter claim and could request a jury trial. The eviction action would then be moved to Superior Court, which always hears criminal cases first, and can languish there for months. Therefore, the eviction is severely delayed and more expensive to process. There is also no provision for the tenant to pay rent pending a jury trial. As well it could be the case that the Superior court would only hear the damages claim and then remand (send back) the possessory action to Circuit (District) Court causing even more delays.

When a damages issue is claimed by the landlord, a counter claim must be decided either before or simultaneously with the eviction action. If the award of the tenant's counterclaim is greater than the award of the landlord's claim, the eviction is denied and the landlord is ordered to pay the tenant and still have the tenant in his or her building.

All legal attorney presentations that we have attended all say, that for the above reasons, it is better to not seek damages in an eviction case. The non-legalese recommendation is to "not check the box" (on the LT-Writ) and file small claims as a separate case. This is because if the landlord does not ask for a monetary judgment, the tenant cannot file a counterclaim.

A major part of the issue is not with the RSAs but rather with the NH Constitution. Article 20 of the NH Constitution which provides that the parties have a right to a jury trial if the amount exceeds \$1500. A constitutional amendment is needed to raise the limit. Note that in 1960 the amount was raised from \$100 to \$500, in 1988 the amount was raised from \$500 to \$1,500.

While the intent is good, we feel this bill could be somewhat of a trap to unwary landlords because it would lead them to "check the box" and invite a large set of delays and expense on to the landlord.

It is a better practice to run a small claims action separate from the eviction action.

Bill as
Introduced

HB 1490 - AS INTRODUCED

2018 SESSION

18-2523

10/08

HOUSE BILL **1490**

AN ACT relative to limits on money judgments in landlord-tenant cases.

SPONSORS: Rep. Twombly, Hills. 34; Rep. Baldasaro, Rock. 5; Rep. M. MacKay, Hills. 30; Rep. Emerick, Rock. 21; Rep. Hinch, Hills. 21; Rep. Ohm, Hills. 36; Rep. LeBrun, Hills. 32; Rep. Seidel, Hills. 28; Sen. Avard, Dist 12

COMMITTEE: Judiciary

ANALYSIS

This bill increases the maximum amount which may be awarded as a money judgment in a landlord-tenant proceeding.

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 Eighteen

AN ACT relative to limits on money judgments in landlord-tenant cases.

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

- 1 1 Actions Against Tenants; Money Judgments. Amend RSA 540:13, III to read as follows:
2 III. The writ of summons and the notice provided in paragraph II shall be returnable 7 days
3 from the date of service of the writ by the sheriff. The writ of summons shall provide an
4 opportunity for the landlord, at the landlord's option, to make a claim for an award of unpaid rent.
5 If the landlord elects to make a claim for unpaid rent, the court shall consider any defense, claim, or
6 counterclaim by the tenant which offsets or reduces the amount owed to the plaintiff. If the court
7 finds that the landlord is entitled to possession on the ground of nonpayment of rent, it shall also
8 award the landlord a money judgment. If the court determines that the amount owed by the
9 landlord to the tenant, as a result of set-off or counterclaim exceeds or equals the amount of rent
10 and other lawful charges owed by the tenant to the landlord, judgment in the possessory action
11 shall be granted in favor of the tenant. If the court finds that the tenant's counterclaim exceeds the
12 amount of the nonpayment, a money judgment shall issue in favor of the tenant. Any decision
13 rendered by the court related to a money judgment, shall be limited to a maximum of [~~\$1,500~~
14 **\$3,000** and shall not preclude either party from making a subsequent claim in a court of competent
15 jurisdiction to recover any additional amounts not covered by the [~~\$1,500~~ **\$3,000** judgment.
16 2 Effective Date. This act shall take effect 60 days after its passage.