

Committee Report

CONSENT CALENDAR

February 28, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Municipal and County Government to
which was referred HB 241-LOCAL,**

**AN ACT relative to the homestead exemption. Having
considered the same, report the same with the following
resolution: RESOLVED, that it is INEXPEDIENT TO
LEGISLATE.**

Rep. Timothy Josephson

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|---|
| Committee: | Municipal and County Government |
| Bill Number: | HB 241-LOCAL |
| Title: | relative to the homestead exemption. |
| Date: | February 28, 2019 |
| Consent Calendar: | CONSENT |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

There are 85 RSA's that deal with the Homestead Exemption. Since 1991 there have been 14 bills to change the Homestead statute and only 2 have passed. These two, in 1992 and 2015 changed values to make up for inflation over time. This bill would penalize a community by doubling the exemption amount if some procedures were not followed. Although violating standard procedures may need some form or reprimand, penalizing the entire community by reducing the amount of tax dollars collected from one homestead owner is not the way to do it. If the procedures not followed are spelled out in state statute, there exist ways to deal with that currently and this bill is not necessary.

Vote 17-1.

Rep. Timothy Josephson
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Municipal and County Government

HB 241-LOCAL, relative to the homestead exemption. **INEXPEDIENT TO LEGISLATE.**

Rep. Timothy Josephson for Municipal and County Government. There are 85 RSA's that deal with the Homestead Exemption. Since 1991 there have been 14 bills to change the Homestead statute and only 2 have passed. These two, in 1992 and 2015 changed values to make up for inflation over time. This bill would penalize a community by doubling the exemption amount if some procedures were not followed. Although violating standard procedures may need some form or reprimand, penalizing the entire community by reducing the amount of tax dollars collected from one homestead owner is not the way to do it. If the procedures not followed are spelled out in state statute, there exist ways to deal with that currently and this bill is not necessary. **Vote 17-1.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE: Muni + County Govt

BILL NUMBER: 241

TITLE: relative to the homestead exemption

DATE: 2/26/19 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:

HB 241 ITL: There are 85 RSAs that deal with the Homestead Exemption. Since 1991 there have been 14 bills to change the Homestead statute and only 2 have passed. These two, in 1992 and 2015 changed values to make up for inflation over time. This bill would penalize a community by doubling the exemption amount if some procedures were not followed. Although violating standard procedures may need some form or reprimand, penalizing the entire community by reducing the amount of tax dollars collected from one homestead owner is not the way to do it. If the procedures not followed are spelled out in state statute, there exist ways to deal with that currently and this bill is not necessary.

COMMITTEE VOTE: 17-1

RESPECTFULLY SUBMITTED

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

Rep. [Signature]
For the Committee

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 241-LOCAL

BILL TITLE: relative to the homestead exemption.

DATE: February 26, 2019

LOB ROOM: 301

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Josephson

Seconded by Rep. Porter

Vote: 17-1

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep Timothy Josephson, Clerk



2019 SESSION

Municipal and County Government

Bill #: 241 Motion: ITL AM #: _____ Exec Session Date: 2/26/19

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|--|-------------|-------------|-----------|
| Carson, Clyde J. Chairman <i>not present</i> | | | X |
| Tatro, Bruce L. Vice Chairman | 1 | | |
| Porter, Marjorie A. | 2 | | |
| Treleven, Susan GS | 3 | | |
| Gilman, Julie D. | 4 | | |
| Josephson, Timothy Clerk | 5 | | |
| Meader, David R. | 6 | | |
| Dargie, Paul P. | 7 | | |
| Maggiore, Jim V. | 8 | | |
| Mombourquette, Donna M. | 9 | | |
| Stavis, Laurel | 10 | | |
| Belanger, James P. | 11 | | |
| Migliore, Vincent Paul | 12 | | |
| Abramson, Max | | 1 | |
| Dolan, Tom | 13 | | |
| Kittredge, Derek MacMillen | 14 | | |
| MacDonald, John T. | 15 | | |
| Perreault, Mona <i>not present</i> | | | X |
| Piemonte, Tony | 16 | | |
| Pratt, Kevin M. | 17 | | |
| TOTAL VOTE: <i>17 - 1</i> | | | |

Hearing Minutes

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 241-LOCAL

BILL TITLE: relative to the homestead exemption.

DATE: February 6, 2019

LOB ROOM: 301

Time Public Hearing Called to Order: 10:30 a.m.

Time Adjourned: 10:50 a.m.

Committee Members: Reps. Carson, Tatro, Josephson, Porter, Treleaven, Gilman, Meader, Dargie, Maggiore, Mombourquette, Stavis, Belanger, Migliore, Dolan, Kittredge, MacDonald, Perreault, Piemonte and Pratt

Bill Sponsors:

Rep. Marple

Sen. French

TESTIMONY

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

1. **Rep. Dick Marple - Merr 24 - PRIME SPONSOR**

- a. The bill is basically -- on line 6, it says the "collection of taxes...jury trial... etc"
- b. I took an oath to the NH Constitution and the existing statutes, you did the same
- c. We have a constitutional issue here
- d. If you read 480:4 it just says "taxes" it doesn't tell what taxes
- e. Taxes, what kind of taxes? Oh property taxes, it doesn't say that
- f. It is void for vagueness
- g. What we have here is a constitutional issue
- h. In article 20 the word "real estate" is there. Real estate and taxes
- i. Twelve months ago, there was a very important decision made by Justice McNamara in Merrimack District Court relative to the Board of Securities and Exchange -- an administrative agency. All municipalities are administrative agencies
- j. The administrative does not have judicial powers, when you have a municipality exercising judicial power they are in conflict with the constitution
- k. They cannot make a claim without a jury trial -- the jury has to say you have to pay the taxes
- l. I'm going to honor my oath and you can listen to your conscience
- m. Line 16 -- failure or omission of a municipality to tell of the homestead office -- which is mandated -- a tax deed is not a deed, it's a tool used by municipalities to effectuate -- the NH supreme court has made several decisions in regards to tax deeds
- n. What is going on now is something that should not be taking place
- o. Line 16 does -- it puts pressure on the municipalities to obligate them to do what RSA 29:20 says, everyone is entitled to \$120k if they throw you out of your house
- p. Burrows v City of Keene on taking
- q. You should all read it
- r. Government cannot take without paying you
- s. 5th amendment

- t. Government is a fiction
- u. We are board of directors on the state of New Hampshire corporate government which is fictional
- v. The NH Constitution was written by the finest minds ever
- w. Part 1 is rights, Part 2 is the corporation that runs
- x. We are guaranteed a republic form of government
- y. It is a CHARTER
- z. You can only do what's on the paper. If it's not there you can't do it
- aa. What exists now is extremely vague and should be found void for vagueness
- bb. References Ridlon case in Merrimack Court a year ago
- cc. Justice McNamara focused on Article 20, trial by jury

- dd. Q: Belanger: there are 85 NH RSAs that deal with homestead. Since 1991, 14 bills have been filed to change or tweak the homestead RSA. Out of 14, 2 passed because they changed the amount of the exemption. The rest failed. Would that send me a message that we have decided that the homestead act is fine? (Check the dates, because the Ridlon case is now the point of reference. That's why I have respect for Justice McNamara. All that was before this case, this is now the authority for Article 20. If it's over \$1500 you are guaranteed a trial by jury. All the stuff from before is negated. We are revising existing statute and annotating what we are doing here. All that is pre-Ridlon. They can overturn stuff from before. No administrative authority should have judicial power. Trial by jury over \$1500)

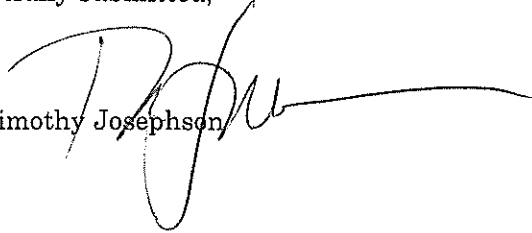
2. Joseph Haas - Gilmanton

- a. To address Rep Belanger, several times I have been involved with previous legislation
- b. taxes were put into that 1851 legislation
- c. In 1961, RSA 480:5a talking about deeds
- d. There is a determination to be a debt before there is a jury trial
- e. In Ashland this happened to me where a deed and title...someone took possession of my property and the government took it
- f. Government is force
- g. Lines 4, 6, 18, 19
- h. In line 4 it should be changed from liability to be encumbered or taken "in whole or in part for the payment of debts"
- i. In 1875 they put it on the books to eliminate debtor's prisons
- j. (He is all over the place here and it is difficult to find any train of thought)
- k. Taxes can be encumbered against the property but up to what amount? You don't pluck someone off their property, you parlay. Which equal half will the creditor take from the freeholder
- l. Line 6, the collection of "lawful" taxes. We are being taxed for local property taxes for schools which is unconstitutional. Once the adequacy has been determined no more local tax should be raised
- m. Also please add after "which have been found" -- "to be a debt" -- "after a jury trial"
- n. Taxes are not central to a debt
- o. Lines 18 and 19 - the word "real estate" RSA on taxes, a deed it says "herein described the land sold" -- they are not selling your house they are selling your land
- p. Line 18 -- shall double -- make a reference to the tree trespass

- q. Line 19 -- restitution statute, RSA 61:63 1984 court case, William Blackstone cites the Bible, it should be sevenfold in penalties
- r. --- no questions from the committee ---

Respectfully submitted,

Rep. Timothy Josephson
Clerk

A handwritten signature in black ink, appearing to read 'Timothy Josephson', with a long horizontal flourish extending to the right.

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 241-LOCAL

BILL TITLE: relative to the homestead exemption.

DATE: February 6, 2019

ROOM: 301

Time Public Hearing Called to Order: 10:30

Time Adjourned: 1050

(please circle if present)

Committee Members: Reps. Carson, Tatro, Josephson, Porter, Treleaven, Gilman, Meader, Dargie, Maggiore, Mombourquette, Stavis, Belanger, Migliore, Abramson, Dolan, Kittredge, MacDonald, Perreault, Piemonte and Pratt

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Rep. Marple

Sen. French

TESTIMONY

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see email

HB241-LOCAL - relative to the homestead exemption

Opened at 10:30am

1. Rep Marple - Merr 24 - PRIME SPONSOR

- a. The bill is basically -- on line 6, it says the "collection of taxes...jury trial... etc"
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- r. --- no questions from the committee ---

Adjourned at 10:51

Bill as Introduced

HB 241-LOCAL - AS INTRODUCED

2019 SESSION

19-0244

11/05

HOUSE BILL

241-LOCAL

AN ACT relative to the homestead exemption.

SPONSORS: Rep. Marple, Merr. 24; Sen. French, Dist 7

COMMITTEE: Municipal and County Government

ANALYSIS

This bill clarifies the tax collection exemption from attachment or liability that applies to the homestead right, and provides that a municipality's failure to send notice of the exemption in certain cases doubles the exemption amount.

.....

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 Nineteen

AN ACT relative to the homestead exemption.

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

1 The Homestead Right; Exemption. Amend RSA 480:4 to read as follows:
2 480:4 Exemption.

3 I. The homestead right is exempt from attachment during its continuance from levy or sale
4 on execution, and from liability to be encumbered or taken for the payment of debts, except in the
5 following cases:

6 ~~[I.]~~ (a) In the collection of taxes, *which have been found only after a jury trial and*
7 *deliberation held pursuant to Part I, Article 20 of the New Hampshire constitution;*

8 ~~[II.]~~ (b) In the enforcement of liens of mechanics and others for debts created in the
9 construction, repair or improvement of the homestead;

10 ~~[III.]~~ (c) In the enforcement of mortgages which are made a charge thereon according to
11 law;

12 ~~[IV.]~~ (d) In the enforcement of liens filed by homeowner associations or by condominium
13 associations under RSA 356-B, for unpaid assessments against the homestead, including collection
14 costs; and

15 ~~[V.]~~ (e) In the levy of executions as provided in this chapter.

16 II. *The failure or omission of the municipality to send notice of the homestead*
17 *exemption required by RSA 529:20-a, by certified mail to any person who resides or*
18 *appears to reside on real estate that is to be sold as the result of having been taken by*
19 *execution, shall double the exemption payable to that person before any taking is made by*
20 *the municipality. Further, the sheriff or auctioneer must have the reservation of such*
21 *additional amount shown in all promotions of such auction sale.*

22 2 Effective Date. This act shall take effect 60 days after its passage.