
Committee Report

CONSENT CALENDAR

March 21, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Commerce and Consumer Affairs to
which was referred HB 602,**

**AN ACT relative to rescission of a mortgage-related
transaction. Having considered the same, report the
same with the following resolution: RESOLVED, that it
is INEXPEDIENT TO LEGISLATE.**

Rep. John Plumer

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Commerce and Consumer Affairs
Bill Number:	HB 602
Title:	relative to rescission of a mortgage-related transaction.
Date:	March 21, 2019
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill provides that if a mortgage-related transaction has been validly rescinded, any foreclosure based on the transaction shall be void and unenforceable. This bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and therefore the prime sponsor supported the recommendation of Inexpedient to Legislate.

Vote 20-0.

Rep. John Plumer
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Commerce and Consumer Affairs

HB 602, relative to rescission of a mortgage-related transaction. **INEXPEDIENT TO LEGISLATE.**

Rep. John Plumer for Commerce and Consumer Affairs. This bill provides that if a mortgage-related transaction has been validly rescinded, any foreclosure based on the transaction shall be void and unenforceable. This bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and therefore the prime sponsor supported the recommendation of Inexpedient to Legislate. **Vote 20-0.**

Stapler, Carol

From: Ed Butler <edofthenotch@gmail.com>
Sent: Wednesday, March 13, 2019 2:00 PM
To: Stapler, Carol
Subject: From Ed -- RE: COMMERCE REPORT

Agreed & 602 is OK to go!

Ed

Representative Ed Butler

Carroll County District 7 - includes the towns of Hart's Location, Bartlett, Jackson, Chatham, Conway, Eaton, Albany, Tamworth, Madison, Freedom and the unincorporated Hale's Location
Commerce Committee, Chair
986-4387 (cell)
374-6131 (home and inn)
he/him/his

From: Stapler, Carol <Carol.Stapler@leg.state.nh.us>
Sent: Wednesday, March 13, 2019 1:56 PM
To: Butler, Ed <edofthenotch@gmail.com>
Subject: FW: COMMERCE REPORT

He's not doing 585 as we discussed, Kermit is...

From: John Plumer <johnrplumer@yahoo.com>
Sent: Tuesday, March 12, 2019 6:24 PM
To: Stapler, Carol <Carol.Stapler@leg.state.nh.us>; Butler, Edward <Edward.Butler@leg.state.nh.us>
Cc: John Plumer <johnrplumer@yahoo.com>
Subject: Re: COMMERCE REPORT

HB602, ""Provides that if a mortgage-related transaction had been validly rescinded any foreclosure based on the transaction shall be void and unenforceable", this bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and moved for ITL by the prime sponsor.

HB585, "Relative to the procedure for mortgage foreclosure"; this bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and moved for ITL by the prime sponsor.

John Plumer

On Tuesday, March 12, 2019, 5:46:16 PM EDT, Plumer, John <John.Plumer@leg.state.nh.us> wrote:

----- Forwarded message -----

From: john.plumer@leg.state.nh.us
Date: Mar 12, 2019 17:38
Subject: Fwd: Re: COMMERCE REPORT

Stapler, Carol

From: John Plumer <johnrplumer@yahoo.com>
Sent: Tuesday, March 12, 2019 6:24 PM
To: Stapler, Carol; Butler, Edward
Cc: John Plumer
Subject: Re: COMMERCE REPORT

HB602, ""Provides that if a mortgage-related transaction had been validly rescinded any foreclosure based on the transaction shall be void and unenforceable", this bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and moved for ITL by the prime sponsor.

~~HB585, "Relative to the procedure for mortgage foreclosure"; this bill was determined to be inadequate to address outstanding issues relevant to mortgage foreclosure and moved for ITL by the prime sponsor.~~

John Plumer

On Tuesday, March 12, 2019, 5:46:16 PM EDT, Plumer, John <John.Plumer@leg.state.nh.us> wrote:

----- Forwarded message -----

From: john.plumer@leg.state.nh.us
Date: Mar 12, 2019 17:38
Subject: Fwd: Re: COMMERCE REPORT
To: johnrplume@yahoo.com
Cc:

----- Forwarded message -----

From: "Plumer, John" <John.Plumer@leg.state.nh.us>
Date: Mar 12, 2019 17:04
Subject: Re: COMMERCE REPORT
To: "Stapler, Carol" <Carol.Stapler@leg.state.nh.us>
Cc:

Ok

I didn't connect that I owed a report for a move to ITL.
I believe one would be also due for 584
Correct?

On Mar 12, 2019 16:00, "Stapler, Carol" <Carol.Stapler@leg.state.nh.us> wrote:

John, don't forget you owe me a report on HB 602. Please send to Ed Butler as well as me.

Thanks!

Carol

Carol Stapler

Commerce & Consumer Affairs Committee

Science, Technology & Energy Committee

271-3369

Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: March 8, 2019

LOB ROOM: 302

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Plumer

Seconded by Rep. Williams

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep Constance Van Houten, Acting Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: ~~3-8-19~~ 3-8-19

LOB ROOM: 302

MOTION: (Please check one box)

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

Moved by Rep. Plumer Seconded by Rep. Williams Vote: 20-0

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: Constancia Van Houtte
Rep. Rebecca McBeath, Clerk



2019 SESSION

Commerce and Consumer Affairs

Bill #: 602 Motion: ITL AM #: _____ Exec Session Date: 2/8/2019

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Butler, Edward A. Chairman	X		
Williams, Kermit R. Vice Chairman	X		
Gidge, Kenneth N. <i>Schutz</i>	X		
Abel, Richard M.	X		
McBeath, Rebecca Susan Clerk <i>Rung</i>	X		
Bartlett, Christy D.	X		
Herbert, Christopher J.	X		
Van Houten, Constance	X		
Fargo, Kristina M. <i>McConnell</i>	X		
Indruk, Greg L.	X		
Muscatel, Garrett D.	X		
Weston, Joyce	X		
Hunt, John B.	X		
Saarnorn, Laurie J. <i>BURNS</i>	X		
Osborne, Jason M.	X		
Costable, Michael	X		
Plumer, John R.	X		
Barnes, Arthur E.	X		
Potucek, John M.	X		
Warden, Mark <i>Spillane</i>	X		
TOTAL VOTE: <u>20-0</u>			

Sub-Committee Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: February 21, 2019

Subcommittee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Comments and Recommendations: Bill is confusing and access to courts should be available to resolve such conflicts.

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rep. Warden

Seconded by Rep. Rep. Costable

Vote: 7-0

Respectfully submitted,

Rep. Edward Butler
Subcommittee Chairman

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: 2-21-19 / 2-26-19

Subcommittee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Comments and Recommendations:

bill is confusing & access to courts should be available to resolve such conflicts

MOTIONS: OTP, OTP/A, (ITL) Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Warden Seconded by Rep. Costable AM Vote: 2-0

Adoption of Amendment #

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr) (Please circle one)

Moved by Rep. Seconded by Rep. AM Vote:

Adoption of Amendment #

Moved by Rep. Seconded by Rep. Vote:

Amendment Adopted Amendment Failed

Respectfully submitted,

Rep. [Signature] Subcommittee Chairman/Clerk

Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: February 20, 2019

LOB ROOM: 302

Time Public Hearing Called to Order: 2:13 pm

Time Adjourned: 2:37 pm

Committee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Bill Sponsors:

Rep. Plumer

Rep. Viens

TESTIMONY

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

Rep. John Plummer, prime sponsor - Bill to protect consumers in the foreclosure process
Passes out a Amendment to HB 602.

The Honorable Valerie Frazier - Supports .

Janice McGee Sanders, Self Real Estate professional - Supports. No change of law. Clarify statutes.
Protection of Consumer rights. 1968 Truth in Lending Act became enacted. (TLA)
"Deals Off"

In NH three ways a recession it can happen.

1. At law
2. In equity
3. ?

Q: Rep. Christopher Herbert - Please give an example of a recession that would invalidate or go ahead of a first mortgage?

A: ? Clerk unsure of answer or if witness is responsive

Chairman Kermit Williams - You're giving us too much detail about issues that this committee cannot apply. You are using a lot of the Committee's time to talk about federal law. Witness refers to US Supreme court decision and begins reading...

Chair Williams - Please do not read me Supreme Court decisions.

A: Rescission at law is generally a cost of credit issue.

Say a HUD 1 it is not disclosed a 10k broker commission, and they hide it by hiking the interest of the loan over a 30-year period. The TLA gives you the automatic right to rescind based on the earlier fraud.

Comment Williams: -But that is an issue that is made by the NH Courts- We are not deciding that a US supreme court takes supremacy over NH Law. I would plead with you to give us testimony as to why this bill is important to NH law. Otherwise the Committee is going to get tired of listening and leave.

A: I would answer by saying that any citizen in NH - recession is not a claim - it is an event - if people sit on their rights - they lose them. It seems too easy but it's done.

That's why the bill says; 1. Within the time period set 2. begins legal action 3. 30 days

The rescission is affected by being a notice to the party.

Why should someone who has availed themselves to the relief, be challenged by a person that didn't act within the time frame- if the time frame is missed the deal is done – the deal is off.

We are saying if nothing is done within the time fame set forth in this bill – then it's done.

Chairman Williams - I believe we have heard enough. You cannot dominate our conversation; we are here to discuss a bill by Rep Plummer. This unofficial amendment presented today must go through official drafters at OLS and then be considered by the committee.

We are finished. Thank you.

I will call on Mr. Fahey.

Tom Fahey, NH Bankers Assn. - Opposed. Our attorney's reviewed the bill and feels it is unnecessary. It complicates things. Foreclosure is a simple chain of priority creditors

Chair Williams - I would ask you to do the same thing that Chair Butler asked you to do regarding the amendments to the last bill we heard. Have your attorney's look at it and get back to the subcommittee.

A: I will gladly do this for the Committee. Should tell him to ignore the last line?

Comment Chair Williams – I don't know for sure what that means...I believe that the last line is just a different section "V" (numbering issue?).

Nothing on blue sheet.

Blue Sheet: No sign ups

Respectfully Submitted;



Rebecca McBeath, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 602

BILL TITLE: relative to rescission of a mortgage-related transaction.

DATE: 2-20-15

ROOM: 302

Time Public Hearing Called to Order: 2:13 pm

Time Adjourned: 2:37 pm

(please circle if present)

Committee Members: Reps. Butler, Williams, McBeath, Gidge, Abel, Bartlett, Herbert, Van Houten, Fargo, Indruk, Muscatel, Weston, Hunt, Sanborn, J. Osborne, Costable, Plumer, Barnes, Potucek and Warden

Bill Sponsors:

Rep. Plumer

Rep. Viens

TESTIMONY

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

- * #1 Rep. Plumer, Prime Sponsor (unofficial audit)
- #2 Hon Valerie Frazier, Self
- #3 Janet McGee Sanders, Self Real Estate Prof

Chair Williams opens the hearing on HB 602 at 2:13 pm

1 Rep Plumer, Prime Sponsor

Supports the bill - to protect the consumers in the foreclosure process

Passes out a Amendment to HB 602

#2 Valerie Frazier, former State Rep.

Supports the bill

#3 Janice McGee Sanders, Self Real Estate professional

Supports the bill

No change of law. Clarify statues. Protection of Consumer rights.

1968 Truth in Lending Act became enacted. (TLA)

"Deals Off"

In NH three ways a recession it can happen.

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Q: Herbert: Please give an example of a recession that would invalidate or go ahead of a first mortgage?

A: ? Clerk unsure of answer or if witness is responsive

Comment: Chair Williams - you're giving us too much detail about issues that this committee cannot apply. You are using a lot of the Committee's time to talk about federal law.

Witness refers to US Supreme court decision and begins reading...

Comment Chair Williams: Please do not read me Supreme Court decisions.

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Say a HUD 1 it is not disclosed a 10k broker commission, and they hide it by hiking the interest of the loan over a 30-year period. The TLA gives you the automatic right to rescind based on the earlier fraud.

Comment Williams: But that is an issue that is made by the NH Courts- We are not deciding that a US supreme court takes supremacy over NH Law. I would plead with you to give us testimony as to why this bill is important to NH law.

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I will call on Mr. Fahey.

#4 Tom Fahey, NH Bankers Assn.
Opposed to bill

Our attorney's reviewed the bill and feels it is unnecessary. It complicates things. Foreclosure is a simple chain of priority creditors

Comment Chair Williams: I would ask you to do the same thing that Chair Butler asked you to do regarding the amendments to the last bill we heard. Have your attorney's look at it and get back to the subcommittee.

A: I will gladly do this for the Committee. Should tell him to ignore the last line?

Comment Chair Williams - I don't know for sure what that means...I believe that the last line is just a different section "V" (numbering issue?).

Nothing on blue sheet.

Chair Williams closes the hearing at 2:37 pm

Testimony

* 1

Bill 602

Sponsor: John Plumer

Committee: Commerce

Amends existing RSA 479:25

s/b included with any repeal and reenactment of said RSA

The text of the bill as first amended is to be amended to read in full:

V. If rescission of a mortgage-related transaction is claimed to have been unilaterally effected under either statute, "at law", or both, and the rescission has been duly recorded in the registry of deeds for the county in which the subject property sits, said rescission shall be deemed to be valid by operation of law. If no legal challenge of the rescission was entered by any party, including but not limited to any party claiming to be lender, a) within the time period set for compliance under the operative statute, b) by the time the rescinding party brings legal action relative to the rescinded transaction, or c) within thirty (30) days of the recorded rescission, whichever occurs soonest, no party, including a party claiming to be lender, shall have recourse under this section to initiate a judicial or non-judicial foreclosure sale of the property that is the subject of the rescinded transaction. In such cases, any statutory power of sale and/or foreclosure under this section shall be void and unenforceable.

Bill 585

Sponsor: John Plumer

Committee: Commerce

Amends the existing RSA 479:26

I. (line five) change “and ...” to “**or** a duly certified copy of the record thereof,

(line seven) ... provided, **however,**

II. OK

III. Should be further amended to read – in its entirety:

Title to the foreclosed premises shall not pass to a purchaser until the time of the recording of the deed and affidavit. Upon such recording title to the premises shall pass to the purchaser free and clear of all interests and encumbrances which do not have priority over such mortgage **and/or were not intervening between the time of the sale and the recording of the deed and affidavit. The effect of such first priority and/or intervening interests and encumbrances shall be to render any foreclosure sale or foreclosure deed void by operation of law. If details specific to** an existing interest or encumbrance reveal that the legal remedy of subrogation was required in order for a mortgagee to be entitled to foreclose, such relief must have been sought prior to any attempts to enforce **a lien** through foreclosure. **If there was a failure to seek subrogation where required, any statutory power of sale or foreclosure sale shall be rendered void by operation of law.** In the event that the purchaser shall not pay the balance of the purchase price according to the terms of the sale, and at the option of the mortgagee, the down payment, if any, shall be forfeited and the foreclosure sale shall be void.

Bill as Introduced

HB 602 - AS INTRODUCED

2019 SESSION

19-0649
05/03

HOUSE BILL **602**

AN ACT relative to rescission of a mortgage-related transaction.

SPONSORS: Rep. Plumer, Belk. 6; Rep. Viens, Belk. 1

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill provides that if a mortgage-related transaction has been validly rescinded, any foreclosure based on the transaction shall be void and unenforceable.

.....

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 rescission of a mortgage-related transaction.

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

1 1 New Paragraph; Mortgages of Realty; Foreclosure Sale; Void Following Valid Rescission.
2 Amend RSA 479:25 by inserting after paragraph VI the following new paragraph:

3 V. If a mortgage-related transaction has been validly rescinded in accordance with state
4 and federal law, including the Truth in Lending Act, 15 U.S.C. section 1635(a), and the rescission
5 has been duly recorded in the registry of deeds, the lender shall have no recourse under this section
6 to initiate a foreclosure sale of the property. In such cases, any foreclosure under this section shall
7 be void and unenforceable.

8 2 Effective Date. This act shall take effect January 1, 2020.