

Committee Report

CONSENT CALENDAR

March 15, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Municipal and County Government
to which was referred HB 284,**

**AN ACT relative to the restoration of involuntarily
merged lots. Having considered the same, report the
same with the following amendment, and the
recommendation that the bill OUGHT TO PASS WITH
AMENDMENT.**

Rep. Ivy Vann

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Municipal and County Government
Bill Number:	HB 284
Title:	relative to the restoration of involuntarily merged lots.
Date:	March 15, 2021
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS WITH AMENDMENT 2021-0569h

STATEMENT OF INTENT

The Municipal and County voted to eliminate the sunset clause from the statutory language as the committee saw no reason why involuntarily merged lots should not be separated at any point after their merger.

Vote 19-0.

Rep. Ivy Vann
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Municipal and County Government

HB 284, relative to the restoration of involuntarily merged lots. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Ivy Vann for Municipal and County Government. The Municipal and County voted to eliminate the sunset clause from the statutory language as the committee saw no reason why involuntarily merged lots should not be separated at any point after their merger. **Vote 19-0.**

Rep. Vann, Hills. 24
March 2, 2021
2021-0569h
11/04

Amendment to HB 284

1 Amend the bill by replacing section 1 with the following:

2

3 1 Repeal. RSA 674:39-aa, II(a), relative to the deadline to submit requests to restore
4 involuntarily merged lots, is repealed.

Amendment to HB 284
- Page 2 -

2021-0569h

AMENDED ANALYSIS

This bill repeals the deadline for requests for restoration of lots that were involuntarily merged.

Voting Sheets

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

EXECUTIVE SESSION on HB 284

BILL TITLE: relative to the restoration of involuntarily merged lots.

DATE: March 3, 2021

LOB ROOM: Hybrid

MOTIONS: OUGHT TO PASS WITH AMENDMENT

Moved by Rep. Vann Seconded by Rep. Mangipudi AM Vote: 19-0

Amendment # 2021-0569h

Moved by Rep. Vann Seconded by Rep. Stavits Vote: 19-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep John MacDonald, Clerk



1/22/2021 10:08:26 AM
Roll Call Committee Registers
Report

2021 SESSION

Municipal and County Government

Bill #: H18284 Motion: Adopt Amendment ^{0569H} AM #: 2021-0569H Exec Session Date: 3/3/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dolan, Tom Chairman	19		
Piemonte, Tony Vice Chairman	1		
MacDonald, John T. Clerk	2		
Tripp, Richard P.	3		
Guthrie, Joseph A.	4		
Lascelles, Richard W.	5		
McBride, Everett P.	6		
Melvin, Charles R.	7		
Ayer, Paul F.	8		
Pauer, Diane	9		
Porter, Marjorie A.	10		
Treleaven, Susan GS	11		
Gilman, Julie D.	12		
Maggiore, Jim V.	13		
Stavis, Laurel	14		
Mangipudi, Latha D.	15		
Vann, Ivy C.	16		
Klee, Patricia S.	17		
Gallager, Eric B.	18		
TOTAL VOTE:	19	0	



1/22/2021 10:08:26 AM
Roll Call Committee Registers
Report

2021 SESSION

Municipal and County Government

Bill #: HB284 Motion: OTP AM #: 2021-05694 Exec Session Date: 3/3/21

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Dolan, Tom Chairman	19		
Piemonte, Tony Vice Chairman	1		
MacDonald, John T. Clerk	2		
Tripp, Richard P.	3		
Guthrie, Joseph A.	4		
Lascelles, Richard W.	5		
McBride, Everett P.	6		
Melvin, Charles R.	7		
Ayer, Paul F.	8		
Pauer, Diane	9		
Porter, Marjorie A.	10		
Treleaven, Susan GS	11		
Gilman, Julie D.	12		
Maggiore, Jim V.	13		
Stavis, Laurel	14		
Mangipudi, Latha D.	15		
Vann, Ivy C.	16		
Klee, Patricia S.	17		
Gallager, Eric B.	18		
TOTAL VOTE:	19	0	

Public Hearing

HOUSE COMMITTEE ON MUNICIPAL AND COUNTY GOVERNMENT

PUBLIC HEARING ON HB 284

BILL TITLE: relative to the restoration of involuntarily merged lots.

DATE: February 18, 2021

LOB ROOM: Hybrid **Time Public Hearing Called to Order:** 10:50 a.m.

Time Adjourned: 11:08 a.m.

Committee Members: Reps. Dolan, Piemonte, J. MacDonald, Tripp, Guthrie, Lascelles, McBride, Melvin, Ayer, Pauer, Porter, Treleaven, Gilman, Maggiore, Mangipudi, Vann, Klee and Gallagher

Bill Sponsors:
Rep. McBeath

TESTIMONY

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

Introduced by Rep. Porter. - Prime sponsor not in attendance.

***Cordell Johnston, NH Municipal Association** - Submitted testimony to committee. It is a very complicated subject. We (NH MA), we do oppose the bill. The New Hampshire Municipal Association does not think this should be extended. It has been extended once.

Chairman Dolan: We will exec. on March 1st., 2021.

Rep. Pimental: Involuntary merged what is it? ANS: It was in my letter to the committee.

Rep. Pauer: Municipality may merge lots for taxation, billing. If this bill was ITL, what recourse does the landowner have? ANS: It prohibited a law in 2010 not to allow the involuntary merger of law. Property owners have had a period of time to unmerge their property. How do people know if their property was merged? ANS: Town had to place a notice of people's right to have their property unmerged.

Chairman Dolan: The bill only changes the date? ANS: That is correct. It only changes the deadline which allows the lots to be unmerged.

Rep. Pimental: Wouldn't I know that my property was merged by? ANS: I would think so.

Respectfully submitted,

Rep. John MacDonald
Clerk

House Remote Testify

Municipal and County Government Committee Testify List for Bill HB284 on 2021

Support: 3 Oppose: 1 Neutral: 0 Total to Testify: 1

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Sig</u>
Johnston, Cordell	cjohnston@nhmunicipal.org	A Lobbyist	NH Municipal Association	Oppose	Yes (2m)	2/1

Testimony

High Ridge Tree Farm

1999 New Hampshire Outstanding Tree Farmers

Tom & Ginny Chrisenton PO Box 121, Lyndeborough, NH 03082 (603) 554-7554

February 22, 2021

Representative Tom Dolan, Chair
N.H. House of Representatives Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

Dear Representative Tom Dolan, Chair, and Committee members

Re: HB 284

First, we would like to express our gratitude to the committee for looking at **not** “sunsetting” this protection of property rights of NH’s citizens.

We are writing to you in support of HB 284 before your committee. We believe it should not be limited to two years but should have no time limit. This is because there are still many 100s if not 1000s of lots that are still involuntarily merged. Also, many of the landowners have no idea that it was done by the towns.

I will give 5 examples that pertain to our Tree Farm with the most recent first. All of these examples required having a costly survey. These lots were involuntarily merged on the Tax Maps of the town because at the time they were owned by one entity and it was simpler to issue one tax bill instead of multiple tax bills.

Examples of our lots, which go back to before 1900, involuntarily merged:

A 7.7 acre lot was surveyed this year in 2021 that did not have separate tax map numbers. 2 lots identified.

A 30.1 acre Tax Map lot that was surveyed in 2007 as being 2 lots.

A 88.4 acre Tax Map lot which was surveyed as being actually 2 lots, in 2006.

A 40.5 acre Tax Map lot which was surveyed as being 2 lots in 2005.

A 227.6 acre Tax Map lot which the survey discovered was actually 4 lots in 2005.

Our town has a “saving” clause in their zoning, that any lot of record, which predated zoning, can be built on, provided they can get approval from DES for a septic system. Many towns have similar language that provides this Constitutional protection for landowners.

This is why this committee voted in favor of the 2005 amendment to RSA 674:41 adding paragraph, II-a., which says:

“Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

- (a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or
- (b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.“

This was, and is, good legislation which provides that the value of lots, which have recorded deeds at the registry, be preserved, not destroyed just because it was simpler for someone at the town level to combine them.

Both of these laws are important, so that the landowners are protected from unnecessary and costly “regulatory creep” and loss of property value. The current law enhances the tax base of the community.

We would also like to mention that many towns failed to do any or all of the notice requirements from 2011-2016. For example, in the case of Lyndeborough we could find no notice requirements of RSA 674:39-aa in the 2011-2016 Town Reports. We also looked at the abutting town of Mont Vernon which had the same result of **nothing**.

Thank you,

Tom and Ginny Chrisenton

Archived: Tuesday, April 20, 2021 10:10:42 AM
From: [Dennis McKenney](#)
Sent: Wednesday, February 17, 2021 1:14:16 PM
To: [~House Municipal and County Govt](#)
Subject: HOUSE BILL 284 AN ACT relative to the restoration of involuntarily merged lots.
Importance: Normal

To: all members of the legislative committee on Municipal and County Government.

From: Dennis D. McKenney, Licensed Land Surveyor and landowner whose property has been subject to involuntary merger by municipal action.

Date: 2.17.2021

Re: House Bill 284

First, my thanks to you for your service to the citizens of the state.

Second, I urge you in the strongest possible terms to pass House Bill 284. In fact, I would suggest that it be amended to remove the sunset date of December 31, 2023 as I see no reason why this law should be subject to sunset.

In my professional capacity as a land surveyor, I routinely make use of the law's provisions to restore involuntarily merged lots to their pre-merger status. This landowner friendly statute is an efficient manner to do so and, more importantly, eliminates the need of a landowner to formally subdivide existing, clearly described tracts of adjoining land, often at great cost.

Again, please vote yes and pass HB 284 and consider removing the sunset date from the act as now proposed. Thank you!!!

Dennis D. McKenney, LPF #61/LLS #691
ACF Consulting Forester and Land Surveyor

ISA Certified Arborist NE 7287A

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New England Forestry Consultants, Inc.
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Bennington, NH 03442-4505
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www.cforesters.com like us on Facebook

Archived: Tuesday, April 20, 2021 10:10:42 AM
From: [Tom Thomson](#)
Sent: Tuesday, February 23, 2021 4:36:16 PM
To: [~House Municipal and County Govt](#)
Cc: [Tom Thomson](#)
Subject: Fw: Landowners Support for HB - 284
Importance: Normal

Representative Tom Dolan, Chairman

N.H. House of Representatives Municipal and County Government Committee

New Hampshire Legislative Office Building, Room 301

Concord, NH 03301

Dear Chairman Dolan and Committee Members,

My name is Tom Thomson and with my wife Sheila we manage the Thomson Family Tree Farm in Orford, and we own 2400 acres of forest land in NH and support HB - 284 which would extend the time period a landowner can request that a town restore lots that were merged involuntarily. In fact, I believe this law should not have any time limit. If a municipality involuntarily merged a lot and a landowner is able to prove today, or 10 years from now, the lot was involuntarily merged the landowner should be able to restore the original lot.

My family, like many NH forest landowners, own larger tracts that were previously owned by large Paper Companies which held the land for many years, some dating back into the 1800's. In our small town International Paper Company at one time owned nearly half the town and our town, like many in NH, originally laid the tracts of land out in 100 acre lots except along the Connecticut River where the lots sizes were smaller as this is where the first settlers cleared land and built their homes.

Over the years many of the lots within the large tracts were merged by the towns because it simplified book work for the town. At the time woodlots were selling for .50 cents to \$2.00 per acre. Fast forward 100 plus years and I think we all can agree that times have changed where the value of raw land in our area may be worth thousands of dollars per acre and in the southern parts of NH you may be talking tens of thousands per acre and that was before the current Covid-19 Pandemic, which has driven real estate prices even higher. Because of the increase in land values now even small lots are valuable.

I have reviewed some of the testimony from the hearing and wanted to add my thoughts on this important Bill. I am sure there are hundred's if not thousand's of NH landowners who own land where the lots have been merged but they have no idea this has happened. Unfortunately, this lot merger will not be discovered

until the landowner wants to do something with the property (i.e. build on it) or transfer it (i.e. sell or give it to a child). Because the involuntary merger will be discovered sometime in the future, if the time limit on this law is not extended the landowner will be stuck with having to hire a land surveyor and seek a subdivision after December 31, 2021. Therefore what harm would it do to give landowners the ability to work with their towns to resolve this issue. To me if the town merged the lots without the landowners knowledge and now they can't build on it or subdivide it that's a taking and reduces the value of ones property.

In the testimony of the NH Municipal Association (NHMA), Attorney (Lobbyist) they list many reasons why you should not extend the Restoration of Involuntarily Merged Lot's and his main reason was that since "2011, Municipalities were required to publish a notice of the right of restoration continuously in a public place and in the annual reports" therefore landowners have had enough time. I have looked through a number of town reports, starting with 2011 and have found no notice as noted by NHMA nor did I every see a notice at the town office or on the bulletin board at the local Post Office. If they really wanted to notify the taxpayers a simply notice on your tax bill at the time would have worked, but they didn't do it.

What's also interesting to me and I think to other taxpayers who may be impacted by this bill should know, that the NHMA Attorney is a (Lobbyist) who is testifying against landowners, who would like to have two more years to resolve this issue. That's not uncommon, many Large companies will hire Lobbyist's to push a Bill through that will benefit their company but they will pay for that Lobbyist. In this case the NHMA is made up of NH towns who pay dues to be a member. What does seem a little unfair is that those of us who may want a different out come on HB 284 are paying as "Taxpayers" for the NHMA Lobbyist who is asking you the Municipal and County Government Committee to find HB - 284 Inexpedient to Legislate.

.

For the many NH Landowners this will impact, I ask that you extend the time period to resolve this with our towns. If you choose to extend the time period for two years I request you require the towns for the next two years to add a notice of this issue with our tax bills.

Thank you for your time and consideration.

Sincerely yours,

Tom Thomson

Sheila Thomson

Archived: Tuesday, April 20, 2021 10:10:42 AM
From: [gerald miller](#)
Sent: Wednesday, February 24, 2021 9:51:10 AM
To: [~House Municipal and County Govt](#)
Subject: HB 284
Importance: Normal

Chairman Tom Dolan and Members of the Municipal and County Government Committee,

I would like to go on record in support of HB 284 and ask that you vote OTP.

I do have one concern and that is the recommended date of conclusion only 2 more years out from 2021 to 2023. It seems to me that this means this issue will ultimately come back for your review again in the next biennium. Wouldn't it make more sense to push the date out at least a decade or two? Or, better yet, eliminate the end date altogether and amend RSA 674:39aa, II(a) to read as follows:

(a) The request is submitted to the governing body.

Respectfully submitted,

Gerald H. Miller, LLS retired
31 Ashbrook Drive
Hampton, NH 03842-1002

603-494-8506
ghmiller2010@gmail.com

Archived: Tuesday, April 20, 2021 10:10:42 AM
From: Susan Bryant-Kimball
Sent: Thursday, February 25, 2021 3:33:41 PM
To: ~House Municipal and County Govt
Subject: In SUPPORT of HB 284
Importance: Normal

Representative Tom Dolan, Chairman
NH House of Representatives
Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

Dear Chairman Dolan and Committee members:

I urge you to SUPPORT HB 284 allowing restoration of involuntarily merged lots.

Six of our forest woodlots had been involuntarily merged into one approximately 300 acre parcel during the ownership of our predecessor in title. They were all taxed as one parcel, apparently as a convenience for the town, since there was no record of the prior owner requesting a merger. Since the deed into us showed them as separate parcels coming from different chains of title (one was an original Town "100 acre" lot), and with the cooperation of the Town, we were able to unmerge the lots. As these lots have different access and are in different drainages, it is easier for us to manage them as separate lots.

Being able to unmerge our lots has been very helpful to us in managing our forest. It will also be helpful should we decide to sell a lot, since no expensive subdivision survey will be required.

This option should be open to all landowners.

Please vote to support HB 284.

Thank you,

Susan Bryant-Kimball
172 Taterboro Rd.
Sandwich, NH 03227

Archived: Tuesday, April 20, 2021 10:10:43 AM
From: glp@nhland.com
Sent: Friday, February 26, 2021 12:05:50 PM
To: ~House Municipal and County Govt
Subject: HB 284
Importance: Normal

February 25, 2021

Representative Tom Dolan, Chairman
NH House of Representatives Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

HB 284 – An Act relative to the restoration of involuntarily merged lots.

Dear Representative Dolan:

Recently it has been brought to my attention that HB 284 is being considered to extend the sunset date for the law allowing landowners to petition to restore lots that were involuntarily merged.

Before having this brought to my attention, I was totally unaware that Towns were merging lots involuntarily. Since there are other landowners unaware of this practice and that their opportunity to request the town restore these lots is about to sunset, my feeling is that the sunset date for this law be removed entirely, not just extended for 2 years.

My personal experience after having been told recently, that towns were combining separately deeded lots was a total surprise. As a result, this will impact my estate planning. I have two children that were to receive five separately deeded lots. Because the Town involuntarily merged these lots into three, it will become a financial hardship for my estate to restore these lots. To undo this, either I petition the town under the current law or go through a subdivision approval process which will be costly and complicated, because the lots that were combined have land locked two of the original five lots.

Please remove the sunset date in this law entirely. Pass HB 284 without any sunset date so landowners like me that discover their lots were merged next year or five years from now can restore them without having to go through a costly subdivision process.

Thank you for your consideration.

Harold Cook
Landowner/Forester # 43

Harold Cook, CF
MA, ME, NH, VT

Greenleaf Products, Inc.
PO Box 228
West Ossipee NH 03890-0228



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Archived: Tuesday, April 20, 2021 10:10:43 AM
From: [Dennis McKenney](#)
Sent: Monday, March 1, 2021 5:05:05 PM
To: [~House Municipal and County Govt](#)
Subject: Amended House Bill 284
Importance: Normal

My thanks to the Municipal and County Government committee for amending HB 284 to entirely remove the sunset provision in the current version of the law.

I trust the amended bill will continue to get this committee's full support on your planned vote for Wednesday, March 3.

Again, my gratitude; this bill is very important to NH landowners like myself!!

Dennis D. McKenney, LPF #61/LLS #691
ACF Consulting Forester and Land Surveyor

ISA Certified Arborist NE 7287A

USDA Technical Service Provider: TSP-19-22806
New England Forestry Consultants, Inc.
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Bennington, NH 03442-4505
603-588-2638 v/f 603-533-0283 cell
www.cforesters.com like us on Facebook

Archived: Tuesday, April 20, 2021 10:10:43 AM
From: [Gerald Miller](#)
Sent: Monday, March 1, 2021 9:01:41 PM
To: ~House Municipal and County Govt
Subject: HB 284
Importance: Normal

Chairman and Members of the Municipal and County Government Committee,

I support the amendment to HB 284 to remove the sunset provision. Please approve the amendment and then vote OTP for HB 284.

Respectfully submitted,

Gerald H. Miller, LLS retired
31 Ashbrook Drive
Hampton, NH 03842-1002

603-494-8506
ghmiller2010@gmail.com

Archived: Tuesday, April 20, 2021 10:10:43 AM
From: glp@nhland.com
Sent: Tuesday, March 2, 2021 7:59:20 AM
To: ~House Municipal and County Govt
Subject: HB 284
Importance: Normal

THANKYOU!!, for amending HB284 removing the sunset provision.

Harold Cook, CF
MA, ME, NH, VT

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PO Box 228
West Ossipee NH 03890-0228



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Archived: Tuesday, April 20, 2021 10:10:43 AM
From: [Tom & Ginny C](#)
Sent: Tuesday, March 2, 2021 10:21:06 AM
To: [~House Municipal and County Govt](#)
Subject: HB 284
Importance: Normal

Representative Tom Dolan, Chairman
N.H. House of Representatives Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

Dear Representative Tom Dolan, Chair and Committee members,

We would like to thank all of you for removing the sunset clause from HB284 before your vote tomorrow.

This bill goes a long way in protecting the long held property rights of the citizens of NH.

Thank you again,

Tom & Virginia Chrisenton
Lyndeborough, NH

Archived: Tuesday, April 20, 2021 10:10:43 AM
From: [Tom Thomson](#)
Sent: Tuesday, March 2, 2021 9:38:33 PM
To: [~House Municipal and County Govt](#)
Cc: [Tom Thomson](#)
Subject: Fw: HB 284 Involuntarily Merged Lots
Importance: Normal

March 2, 2021

Representative Tom Dolan, Chairman
N.H. House of Representatives Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

Dear Chairman Dolan and Committee Members,


Thank you for amending HB 284 to completely remove the sunset provision in the law. We understand you plan to vote on this amended bill tomorrow when you meet.

As Landowners who have been impacted by the involuntary merged lots we thank you for agreeing to remove the sunset provision in this law, you have done the right thing by putting New Hampshire Landowners first before Lobbyist of the NH Municipal Association.

Sincerely yours,

Tom Thomson

Sheila Thomson

Archived: Tuesday, April 20, 2021 10:10:43 AM
From: [Cordell Johnston](#)
Sent: Wednesday, February 17, 2021 5:31:23 PM
To: [~House Municipal and County Govt](#)
Subject: HB 284, relative to restoration of involuntarily merged lots
Importance: Normal
Attachments:
[LTR-HB-284-MCG.pdf](#) 

Dear committee members:

Please see the attached letter in opposition to HB 284, which the committee is scheduled to hear on Thursday.

Thank you.

Cordell Johnston
Government Affairs Counsel
New Hampshire Municipal Association
25 Triangle Park Drive
Concord, NH 03301
603-230-3323

Archived: Tuesday, April 20, 2021 10:10:43 AM

From: Tom & Ginny C

Sent: Tuesday, February 23, 2021 4:41:11 PM

To: ~House Municipal and County Govt

Subject: HB 284 supporting testimony

Importance: Normal

Attachments:

[HB 284 Chrisenton testimony.pdf](#) 

Representative Tom Dolan, Chair
N.H. House of Representatives Municipal and County Government Committee
New Hampshire Legislative Office Building, Room 301
Concord, NH 03301

Attached is our supporting testimony of HB 284.

Thank you for your consideration,
Tom & Ginny Chrisenton



February 17, 2021

Hon. Tom Dolan, Chairman
House Municipal & County Government Committee
Legislative Office Building
Concord, New Hampshire

Via Electronic Mail Only

Re: HB 284, relative to the restoration of involuntarily merged lots

Dear Chairman Dolan:

The New Hampshire Municipal Association **opposes** HB 284, which would extend by two years the deadline for a property owner to request the restoration of involuntarily merged lots under RSA 674:39-aa.

This is a complicated issue, which I will try to summarize as briefly as possible. When a municipality enacts a zoning ordinance, typically some existing lots are rendered non-conforming because they are smaller than the minimum lot size or have less than the minimum road frontage required under the ordinance. Those lots cannot be legally developed, absent a provision in the ordinance granting relief. To allay the hardship created for property owners who may have planned to develop their now-substandard lots, many (but not all) zoning ordinances contain a “grandfather clause” allowing for the development of substandard lots that were legally created prior to the adoption of the zoning ordinance. Those grandfather clauses, however, are not legally or constitutionally required.

When a person owns more than one contiguous non-conforming lot, he or she may be able to avoid the hardship of having those lots rendered non-developable by merging them to create a conforming lot. In that case, the owner has no need of a grandfather clause. For this reason, many zoning ordinances contain automatic merger clauses as an *exception* to the grandfather clause. An automatic merger clause typically provides that contiguous non-conforming lots in common ownership can not be developed separately, and instead will be considered a single lot for development purposes.

Under a merger clause, the municipality ordinarily does not take any affirmative action to merge the lots. Rather, any contiguous non-conforming lots in common ownership are deemed to be merged automatically for development purposes at the time the zoning provision is adopted, without any further action by the municipality.

N E W H A M P S H I R E M U N I C I P A L A S S O C I A T I O N

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NHMAinfo@nhmunicipal.org • governmentaffairs@nhmunicipal.org • legalinquiries@nhmunicipal.org

www.nhmunicipal.org

This situation existed in New Hampshire for decades with little controversy. Nevertheless, in 2010, based on a complaint from one property owner, the legislature enacted a law that prohibited any future involuntary mergers. That law is codified as the last sentence in paragraph I of [RSA 674:39-a](#): “No city, town, county, or village district may merge pre-existing subdivided lots or parcels except upon the consent of the owner.” However, this prevented only *future* involuntary mergers; it did not unwind those that had occurred previously when towns adopted their ordinances.

The next year, the legislature enacted [RSA 674:39-aa](#), which allows the owner of previously involuntarily merged lots to have those lots restored by making a request to the municipality’s governing body. The right to have the lots “un-merged” is subject to several conditions. One of those conditions, originally, was that the request be made not later than December 31, 2016. In 2016 the legislature extended that deadline to December 31, 2021. For five years beginning in 2011, municipalities were required to publish notice of the right of restoration continuously in a public place and in their annual reports.

Involuntary mergers have been prohibited since 2010. By the end of this year, property owners will have had over ten years to exercise their right to restore lots that were merged before 2010. We believe that is enough time, and the period does not need to be extended. Therefore, we ask you to find HB 284 inexpedient to legislate.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Cordell A. Johnston".

Cordell A. Johnston
Government Affairs Counsel

cc: Committee members

Bill as
Introduced

HB 284 - AS INTRODUCED

2021 SESSION

21-0526

11/10

HOUSE BILL **284**

AN ACT relative to the restoration of involuntarily merged lots.

SPONSORS: Rep. McBeath, Rock. 26

COMMITTEE: Municipal and County Government

ANALYSIS

This bill extends the deadline for requests for restoration of lots that were involuntarily merged.

.....

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 Twenty One

AN ACT relative to the restoration of involuntarily merged lots.

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

- 1 1 Restoration of Involuntarily Merged Lots. Amend RSA 674:39-aa, II(a) to read as follows:
- 2 (a) The request is submitted to the governing body prior to December 31, [~~2021~~] **2023**.
- 3 2 Effective Date. This act shall take effect 60 days after its passage.