

# Committee Report

**REGULAR CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Majority of the Committee on Commerce and Consumer Affairs to which was referred HB 358,**

**AN ACT relative to the installation of solar energy systems in condominiums. Having considered the same,**

**report the same with the following resolution:**

**RESOLVED, that it is INEXPEDIENT TO LEGISLATE.**

**Rep. Paul Terry**

**FOR THE MAJORITY OF THE COMMITTEE**

**MAJORITY  
COMMITTEE REPORT**

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>HB 358</b>
Title:	<b>relative to the installation of solar energy systems in condominiums.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

**STATEMENT OF INTENT**

This bill represents an unwarranted intrusion into the affairs of a voluntary association of condominium owners for which there is no compelling government interest. This bill's intent is to effectively make the government a stakeholder in an association in which it has no membership. It does so by requiring a specific mandatory minimum by which a particular policy must be determined. The issue here is not solar energy systems. Rather, the issue is by whose authority shall a condominium association govern itself and by what rules? Government has no legal basis to impose itself in what is strictly an internal matter that is reserved to those who choose to enter such housing arrangements.

Vote 12-6.

Rep. Paul Terry  
FOR THE MAJORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Commerce and Consumer Affairs

**HB 358**, relative to the installation of solar energy systems in condominiums. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Paul Terry for the **Majority** of Commerce and Consumer Affairs. This bill represents an unwarranted intrusion into the affairs of a voluntary association of condominium owners for which there is no compelling government interest. This bill's intent is to effectively make the government a stakeholder in an association in which it has no membership. It does so by requiring a specific mandatory minimum by which a particular policy must be determined. The issue here is not solar energy systems. Rather, the issue is by whose authority shall a condominium association govern itself and by what rules? Government has no legal basis to impose itself in what is strictly an internal matter that is reserved to those who choose to enter such housing arrangements. **Vote 12-6.**

Original: House Clerk

Cc: Committee Bill File

**REGULAR CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Minority of the Committee on Commerce and Consumer Affairs to which was referred HB 358,**

**AN ACT relative to the installation of solar energy systems in condominiums. Having considered the same, and being unable to agree with the Majority, report with the recommendation that the bill OUGHT TO PASS.**

**Rep. Constance Van Houten**

**FOR THE MINORITY OF THE COMMITTEE**

## **MINORITY COMMITTEE REPORT**

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>HB 358</b>
Title:	<b>relative to the installation of solar energy systems in condominiums.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>OUGHT TO PASS</b>

### **STATEMENT OF INTENT**

This bill applies only to condominium instruments and bylaws that are adopted or revised after its effective date. It prohibits new or revised condominium instruments and bylaws from requiring more than a simple majority vote to consent to the installation and use of solar photovoltaic energy systems. The bill enables new associations and associations that change their documents or bylaws, often by a two-thirds majority, to allow condominium unit owners access to solar and its benefits and cost savings with a majority vote.

Rep. Constance Van Houten  
FOR THE MINORITY

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Commerce and Consumer Affairs

**HB 358**, relative to the installation of solar energy systems in condominiums. **OUGHT TO PASS.** Rep. Constance Van Houten for the **Minority** of Commerce and Consumer Affairs. This bill applies only to condominium instruments and bylaws that are adopted or revised after its effective date. It prohibits new or revised condominium instruments and bylaws from requiring more than a simple majority vote to consent to the installation and use of solar photovoltaic energy systems. The bill enables new associations and associations that change their documents or bylaws, often by a two-thirds majority, to allow condominium unit owners access to solar and its benefits and cost savings with a majority vote.

Original: House Clerk  
Cc: Committee Bill File

NH House Commerce and Consumer Affairs Committee

Recommendation to ITL / [Majority Report re: **NH HB 358**]

Following is the report of **committee's majority** in recommending this bill as: **ITL**

From the Bill: "This bill prospectively prohibits condominium instruments and bylaws from requiring greater than a simple majority vote to consent to the installation and use of a solar photovoltaic energy system."

**Comments and rationale for recommending ITL:**

This bill represents an unwarranted intrusion into the affairs of a voluntary association of condominium owners for which there is no compelling government interest. This bill's intent is to effectively make the government a stakeholder in an association in which it has no membership. It does so by requiring a specific mandatory minimum by which a particular policy must be determined. The issue here is not solar. It is by whose authority shall a condominium association govern itself and by what rules. Government has no legal basis to impose itself in what is strictly an internal matter that is reserved to those who choose to enter such housing arrangements.

Report prepared by Rep. Paul A. Terry and submitted on March 3, 2021.



**Archived:** Thursday, April 22, 2021 1:56:05 PM  
**From:** JOHN HUNT  
**Sent:** Monday, March 8, 2021 3:15:41 PM  
**To:** Carrie Morris  
**Cc:** Pam Smarling  
**Subject:** Fwd: HB 358 minority report  
**Importance:** Normal

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OK,  
JBH

Begin forwarded message:

**From:** Constance Van Houten <[Constance.VanHouten@leg.state.nh.us](mailto:Constance.VanHouten@leg.state.nh.us)>  
**Subject:** HB 358 minority report  
**Date:** March 3, 2021 at 8:39:35 PM EST  
**To:** John Hunt <[jbhunt@prodigy.net](mailto:jbhunt@prodigy.net)>

**HB 358**, relative to the installation of solar energy systems in condominiums. **MAJORITY: INEXPEDIENT TO LEGISLATE. MINORITY: OUGHT TO PASS.**

Rep. Constance Van Houten for the **Minority** of Commerce and Consumer Affairs. This bill applies only to condominium instruments and bylaws that are adopted or revised after its effective date. HB 358 prohibits new or revised condominium instruments and bylaws from requiring more than a simple majority vote to consent to the installation and use of solar photovoltaic energy systems. The bill enables new associations and associations that change their documents or bylaws, often by a two-thirds majority, to allow condominium unit owners access to solar and its benefits and cost savings with a majority vote.

Representative Connie Van Houten  
Hillsborough District 45  
Manchester wards 10, 11, 12  
603.622.9701

# Voting Sheets

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on HB 358**

**BILL TITLE:** relative to the installation of solar energy systems in condominiums.

**DATE:** March 2, 2021

**LOB ROOM:** Zoom

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Terry

Seconded by Rep. Potucek

Vote: 12-6

**CONSENT CALENDAR: NO**

**Statement of Intent: Refer to Committee Report**

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB 358

**BILL TITLE:** relative to the installation of solar energy systems in condominiums;

**DATE:** 3/2/2021

**LOB ROOM:** Zoom

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**MOTION: (Please check one box)**

OTP       ITL       Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. Terry    Seconded by Rep. Potucek      Vote: 12-6

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_    Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_    Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

**MOTION: (Please check one box)**

OTP     OTP/A     ITL     Retain (1<sup>st</sup> year)       Adoption of  
Amendment # \_\_\_\_\_  
 Interim Study (2<sup>nd</sup> year)      (if offered)

Moved by Rep. \_\_\_\_\_    Seconded by Rep. \_\_\_\_\_      Vote: \_\_\_\_\_

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**CONSENT CALENDAR?**      \_\_\_\_\_ Yes    X No

**Minority Report?**    X Yes    \_\_\_\_\_ No    If yes, author, Rep.: \_\_\_\_\_ Van Houten      Motion: OTP

Respectfully submitted, Rep. Ammon, Clerk

STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK



1/22/2021 9:55:55 AM  
Roll Call Committee Registers  
Report

2021 SESSION

Commerce and Consumer Affairs

Bill #: HB358 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 3/2/2021

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Hunt, John B. Chairman	12		
Potucek, John M. Vice Chairman	1		
Osborne, Jason M.	2		
Ammon, Keith M. Clerk	3		
Abramson, Max	4		
Ham, Bonnie D.	5		
Depalma IV, Joseph	6		
Greeson, Jeffrey	7		
Johnson, Dawn M.	8		
Terry, Paul A.	9		
Bartlett, Christy D.		1	
Abel, Richard M.		2	
Herbert, Christopher J.	10		
Van Houten, Constance		3	
Fargo, Kristina M.	11		
Weston, Joyce		4	
Beaulieu, Jane E.		5	
Burroughs, Anita D.		6	
McAleer, Chris R.			
<b>TOTAL VOTE:</b>	12	6	

# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 358

**BILL TITLE:** relative to the installation of solar energy systems in condominiums.

**DATE:** February 3, 2021

**LOB ROOM:** Hybrid                      **Time Public Hearing Called to Order:** 10:30 a.m.

**Time Adjourned:** 11:02 a.m.

**Committee Members:** Reps. Hunt, Potucek, Ammon, Abramson, Ham, Depalma IV, Greeson, Johnson, Terry, Bartlett, Abel, Herbert, Van Houten, Fargo, Weston, Beaulieu, Burroughs and McAleer

**Bill Sponsors:**

Rep. McWilliams

Rep. McGhee

**TESTIMONY**

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

**Rep Rebecca McWilliams, Merrimack 27**

Revised from HB562 in 2019 with input from members of this committee. The bill is one paragraph. The goal is to set a date and remove barriers to solar installations on condos in New Hampshire. If a new condo is built after the enacting date of the legislation, they would need a simple majority to allow solar on that condo. If the bylaws are changed after the date of this legislation, then a simple majority would be needed to install solar on that condominium. There's a hodgepodge of bylaws rules across the state.

**Rep Van Houten**

Q: Clarity of the language. I am a condo owner. Does this say that if I wanted to put up a solar system I would need 50%+1 vote for my installation and my neighbor would have to do the same thing? Each owner needs to get a vote before installing?

A: It does appear it would require a vote, but large projects would be incentivized.

Q: a vote for each project, tennis court, club house.

A: Yes.

Q: So this has nothing to do with individual units?

A: Scale projects.

**Rep Herbert**

Q: One vote for all three buildings to get a solar installation. No one is going to allow one unit to put in solar installation, is that correct?

A: There's no way that an installation would only benefit one unit. The goal here is to benefit all owners.

**Rep Kat McGhee**

I partook in the hearings last time around and lot of the questions focused on how condo associations deal with condo. I've been dealing with constituents asking why condos can't install solar panels. It's really about adaptation and transition. Right now it's hard to get a project over a 2/3 or 3/4 vote. It's

about fairness and choice and allowing people the option. We're trying to lower the burden to make it majority rule.

### **Rep Gary Daddario**

Once again we're looking at an issue that should be governed on an association basis. For many, this already exists in the documents. Existing law, amending the documents requires a 2/3 vote. Terminating an association requires an 80% vote. Requires more than a simple majority because it's important to have people living together agreeing to it. This is similar to ham radio bill. It gives some owners advantages over other owners. What happens with holes being drilled in the roof or walls. I had solar on a house, the snow would crash off the panels and crash to the ground. I would ask the board to consider all of that. In an association, an individual unit owner doesn't own that roof. People choose to live in a condo association. They're not forced to live there. I have suggestions if the bill goes forward. Makes more sense to deal with an association project on an association scale. Present wording allows an individual unit owner to put solar on the roof for their own benefit. It needs to be made clear what the simple majority is of. I'm against simple majority. It's important to define the association as a whole. Snowbirds may not be around for a meeting. If only ten people appear at a meeting and six people vote, then a major project moves forward. I'm concerned with last part of the bill, that applies to associations amending their documents, that makes this a bill of general applicability.

### **Rep Abramson**

Q: Are there condo associations so large where there are sub-associations governing different parts of the condo?

A: There are. Master and sub set up. Makes applications of this bill more difficult. Sometimes each building has its own sub-association.

Q: Should we break it up based on sub-associations?

A: Best would be to make it apply to the broadest sense. There should be consistency with the association. If one building applies solar and another doesn't it could lead to resentment. It's most appropriate for the decision to be made at the highest level.

### **Rep Burroughs**

Q: Is a small majority a concern?

A: I don't think this type of measure should be passed by a small majority. This would have a financial impact on everyone. Associations should be able to govern themselves and owners choose where they want to live.

### **Dean Lennon**

CAI-NE. Gary did a good job and I have nothing to add.

### **Rep McWilliams**

Rebut statements by Mr. Daddario. Case by case basis. You need a two-third vote to change the bylaws to allow a simple majority vote. Unwieldy. There's no unfair advantage with solar. The advantage is a decreased electricity costs for the community. There seems to be concern with holes in the roof. Could be installed in a field or installed with sandbags. This is about everyone voting whether solar would happen as a construction project. I would be open to amending to make sure the benefits apply to the whole condo association.

### **Rep Beaulieu**

Q: If a member owns several units, and has a conflict by owning other

### **Rep Herbert**

Q: Only members who own their condos are involved in this vote, correct? Renters

**Rep Hunt.** Just unit owners are voting.



**Rep Abramson**

Q: What happens if the property gets subdivided later? Or two condo associations merge?

A: This is a construction improvement. We would address this similar to an associating a new clubhouse.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB358

BILL TITLE:

DATE: Feb 3, 2021

ROOM: Zoom

Time Public Hearing Called to Order: 10:30 AM

Time Adjourned: 11:02 AM

(please bold if present)

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# House Remote Testify

## Commerce and Consumer Affairs Committee Testify List for Bill HB358 on 2021-02-03

Support: 14 Oppose: 4 Neutral: 0 Total to Testify: 5

Export to Excel

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
McWilliams, Rebecca	rebecca.mcwilliams@leg.state.nh.us	An Elected Official	Merrimack 27	Support	Yes (6m)	No	1/31/2021 8:56 PM
Dodge, Kathleen	katie.dodge@usi.com	A Member of the Public	Myself	Oppose	Yes (5m)	No	2/3/2021 10:40 AM
Daddario, Gary	gdaddario@meeb.com	A Member of the Public	Community Associations Institute	Oppose	Yes (3m)	No	2/2/2021 5:21 PM
Lennon, Dean	Dlennon@meeb.com	State Agency Staff	CAI-NE	Oppose	Yes (2m)	No	2/2/2021 6:35 PM
McGhee, Kat	Kat.mcgee@leg.state.nh.us	An Elected Official	Hillsborough 27	Support	Yes (0m)	No	2/3/2021 8:21 AM
Pedersen, Michael	PedersenUSA@aim.com	An Elected Official	Hillsborough 32	Support	No	No	2/3/2021 9:56 AM
Meuse, David	david.meuse@leg.state.nh.us	An Elected Official	Rockingham 29	Support	No	No	2/3/2021 10:17 AM
Mineau, Madeleine	madeleine@cleanenergynh.org	A Lobbyist	Clean Energy NH	Support	No	No	2/3/2021 10:27 AM
Mangipudi, Latha	Latha.mangipudi@leg.state.nh.us	An Elected Official	Hills 35	Support	No	No	2/3/2021 7:15 AM
Rathbun, Eric	ericrathbun@gmail.com	A Member of the Public	Myself	Oppose	No	No	2/3/2021 11:23 AM
Lord, Kit	kitlord@yahoo.com	A Member of the Public	Myself	Support	No	No	2/1/2021 4:13 PM
DeHaven, Heather	hbdehaven@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 2:55 PM
Sharf, Joanna	josharf@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 5:04 PM
Smith-Lopez, Maria	mgs1.21@dartmouth.edu	A Member of the Public	Myself	Support	No	No	1/29/2021 12:12 PM
Glass, Jonathan	Jglass1063@gmail.com	A Member of the Public	Myself	Support	No	No	1/30/2021 4:55 PM
Smith, Jennifer	jaycmd7699@gmail.com	A Member of the Public	Myself	Support	No	No	1/30/2021 10:49 AM
Oxenham, Evan	evan.oxenham@gmail.com	A Member of the Public	Myself	Support	No	No	1/30/2021 4:07 PM
Greenough, Glen	gcgreenough91@gmail.com	A Member of the Public	Myself	Support	No	No	1/30/2021 5:24 PM

# Testimony

Bill as  
Introduced

HB 358 - AS INTRODUCED

2021 SESSION

21-0154

10/05

HOUSE BILL           **358**

AN ACT               relative to the installation of solar energy systems in condominiums.

SPONSORS:         Rep. McWilliams, Merr. 27; Rep. McGhee, Hills. 27

COMMITTEE:       Commerce and Consumer Affairs

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ANALYSIS

This bill prospectively prohibits condominium instruments and bylaws from requiring greater than a simple majority vote to consent to the installation and use of a solar photovoltaic energy system.

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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 installation of solar energy systems in condominiums.

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

1           1 New Section; Condominium Act. Amend RSA 356-B by inserting after section 19 the following  
2 new section:

3           356-B:19-a Installation of Solar Photovoltaic Energy Systems; Majority Vote. No condominium  
4 shall require a vote of the unit owners of greater than a simple majority to consent to the installation  
5 and operation of a solar photovoltaic energy system in or on a unit, a common area, convertible  
6 space, or roof. This shall apply to all condominium instruments and bylaws adopted or revised after  
7 the effective date of this section.

8           2 Effective Date. This act shall take effect 60 days after its passage.