

# Committee Report

**CONSENT CALENDAR**

**February 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred HB  
395-FN,**

**AN ACT relative to consideration of home-share income  
and exempting rentals of shared facilities from  
requirements under the real estate practice act. Having  
considered the same, report the same with the following  
resolution: RESOLVED, that it is INEXPEDIENT TO  
LEGISLATE.**

**Rep. Kimberly Rice**

**FOR THE COMMITTEE**

## **COMMITTEE REPORT**

Committee:	<b>Judiciary</b>
Bill Number:	<b>HB 395-FN</b>
Title:	<b>relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.</b>
Date:	<b>February 2, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### **STATEMENT OF INTENT**

The committee thought the subject matter in this bill was important and deserves more investigation, but several issues were raised at the hearing that were too important to rush. Because the committee believes that the bill has a lot of merit and is valuable, the committee encourages the sponsors to address the suggestions which were made by committee members and submit another bill in the future.

Vote 17-3.

Rep. Kimberly Rice  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

### Judiciary

**HB 395-FN**, relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act. **INEXPEDIENT TO LEGISLATE.**

Rep. Kimberly Rice for Judiciary. The committee thought the subject matter in this bill was important and deserves more investigation, but several issues were raised at the hearing that were too important to rush. Because the committee believes that the bill has a lot of merit and is valuable, the committee encourages the sponsors to address the suggestions which were made by committee members and submit another bill in the future. **Vote 17-3.**

# Voting Sheets

HOUSE COMMITTEE ON JUDICIARY

EXECUTIVE SESSION on HB395

**BILL TITLE:** relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.

**DATE:** 2/2/2021

**LOB ROOM:** Remote

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

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

Moved by Rep. Rep Rice      Seconded by Rep. Silber      Vote: 17-3

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

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

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

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**CONSENT CALENDAR:** XX YES      NO

**Minority Report?**      Yes      No      If yes, author, Rep: \_\_\_\_\_      Motion \_\_\_\_\_

Respectfully submitted: \_\_\_\_\_  
Rep Kurt Wuelper, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/22/2021 10:07:24 AM  
Roll Call Committee Registers  
Report



2021 SESSION

Judiciary

Bill #: HB 248 Motion: Y111 AM #: \_\_\_\_\_ Exec Session Date: \_\_\_\_\_

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	17		
McLean, Mark Vice Chairman	1		
Sylvia, Michael J.	2		
Wuelper, Kurt F. Clerk	3		
Alexander, Joe H.		1	
Rice, Kimberly A.	4		
Silber, Norman J.	5		
Greene, Bob J.	6		
Kelley, Diane E.	7		
Tausch, Lindsay	8		
Trottier, Douglas R.	9		
Smith, Marjorie K.	10		
Berch, Paul S.	11		
Horrigan, Timothy O.		2	
DiLorenzo, Charlotte I.	12		
Chase, Wendy	13		
Kenney, Cam E.	14		
Langley, Diane M.	15		
McBeath, Rebecca Susan			NV
Paige, Mark	16		
Simpson, Alexis		3	



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/22/2021 10:07:24 AM  
Roll Call Committee Registers  
Report



2021 SESSION

Judiciary

Bill #: HB 248 Motion: Y111 AM #: \_\_\_\_\_ Exec Session Date: \_\_\_\_\_

<b>TOTAL VOTE:</b>			17		3	
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# Public Hearing

## HOUSE COMMITTEE ON JUDICIARY

### PUBLIC HEARING ON HB 395 FN

**BILL TITLE:** relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.

**DATE:**2/2/2021

**LOB ROOM:**Remote

**Time Public Hearing Called to Order:** 11:15 AM  
12:03 PM

**Committee Members:** Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Rice, Silber, Greene, D. Kelley, Tausch, Trottier, M. Smith, Berch, Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson

**Bill Sponsors:**

Rep. Burroughs,

### TESTIMONY

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

**Rep. Smith** Introduced the bill on behalf of Rep Burroughs.

\*Rep Burroughs- Home share really began in the Mt Washington valley. We have a lot of people with big homes who might want assistance with upkeep, etc.. WE have a lot of people coming to the Valley and this will help them find housing. This bill exempts income from home sharing arrangements and from licensure. Ethe Home Share progfam does a lot of the things that used to be done by Realtors. A No. We think the phrase is self-explanatory. The program in he Washington Valley says OK as it is

Q Sylvia- the term 'Home Share' isn't defined here is it elsewhere?

Q Berch-How would this apply to someone who wanted to open their house for short term rental? A Home Share program would not be applicable to that type of thing. It is targeted at long term sharing. Q Is ghee anything in the bill addressing that A No, but it could be

Q Alexander-Will the lack of definition give us trouble? A that's for the committee to discern. I

'm open to adding a definition of Home Share.

Q Rice I think we need a definition of Home Share

Q Chase-What exacgly is ethe criteria for 'long term'? A That depends on the two parties. Often ghe parties start with a trial period. Q What about people who just want a seasonal place? A they would have to go through the screening process. It's a lot of work for them to do that. Back aground checks are just one part.

Q DiLorenzo-how is this different from a Rooming House? A Its not a rooming house because of the screenings . Q Human habietability-is Home shae exempt frsrom regulations likethat? A I will Defer to another.

Q Rice-Is ghere some softt of certificate that goes along with thi? Whaat sgtops one f rom having 10 people in gtheir home? A You need a signed agreement between [people. If ten people were there tghagt would violagte the agreement. Q Say my neighbor is in Home Sharfe and has 5 rooms rented out. How do we prevwent abuse? A The home Shafe agency woudn't tolefate such a situation.

Q Godrdon-Does he bill fequie this be done through an agency? A No

Will Stewart E dir Stay Work Play NH Supports Retgaining more uyoung people is critical to NH's future. We need all the young people we can get. We conducted a survey on why young people leave and the primary reason is the cost of housing. Young people typiocally8 make little money and many have student loan debt, making housing unaffordable. The bill aims to encourage more home sharing in a way that can be implemented immediately and really no cost to anyone.

\*Harrison Kanzler Self Supports I cosponsored bills like this last term. There is some definition in statute as "Shared residence" in RSA 540 B in my opinion. Each occupant must have their own sleeping place, unlike Air BnB. This program evaluages homeowners and pogtential tenants and arranges for compatible parties to geet together. They do have sampl documents that

may be used but do not require their use. AARP study found 72% of elderly want to remain in their current residence and community. This program facilitates that. See Written

Q Chase this sounds like going through an agency but Rep Burroughs said that's not necessary. How would that be regulated? A I can rent a space in my home without regulation. This program provides a service of investigating/evaluating the prospective tenant and the owner. That will make the elderly owner more comfortable. Q Rice-Is the program already in the works? A here is a start. The plan is to get this legislation done and make the program really work. Q Please explain the taxation part. A If one goes through the Home Share program, the program can validate a claim for exemption from taxation. Many elderly are on fixed incomes and this aims to not hinder them from opening their homes to get the help they need.

Q Alexander-Is this program defined in Stateute? A Correct. Q Could you qualify for tax abatement if you rent out your spare room? A The onus would be on the applicant to prove they were home sharing. Without being part of the program that could be difficult.

Q Horrigan-The intent is to exclude from net income cash rent as well as the things specified in the bill? A Yes. I think a definition of 'Home Share' might help.

Rep Burroughs-

Ji Michaud Chief Assessor Hampton No Position Sections 1,2,3 intend to shield rental income from bedrooms. If that is correct, it is misplaced. The income is not an asset. It could be added to other exemptions: Life Insurance, Business proceeds, RSA 72 has a statutory process for exemptions and credits adoption by municipalities. If this bill becomes law in the right place it wouldn't apply in any locality until it gets adopted by each one. DRA should regain rulemaking ability over the program/exemption. Definition of Home Share arrangement would be very helpful for municipalities. Q Smith Would Mr. Michaud provide written info to the committee with specific RSA references. A I will be glad to do that.

# House Remote Testify

## Judiciary Committee Testify List for Bill HB395 on 2021-02-02

Support: 24 Oppose: 0 Neutral: 2 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>
Michaud, Jim	jmichaud@hudsonnh.gov	A Member of the Public	Assessment administration	Neutral	Yes (5m)	No	2/2/2021 9:15 AM
Jackson, Marianne	mjaxnmd@gmail.com	A Member of the Public	Myself	Support	Yes (3m)	No	2/1/2021 5:48 PM
Stewart, Will	will@stayworkplay.org	A Lobbyist	Stay Work Play NH	Support	Yes (2m)	No	2/1/2021 11:40 AM
Kanzler, Harrison	Kanzler.harrison@gmail.com	A Member of the Public	Myself	Support	Yes (0m)	No	1/29/2021 10:55 AM
Burroughs, Anita	anitadburr@gmail.com	An Elected Official	Myself	Support	Yes (0m)	No	1/30/2021 5:29 PM
Umberger, Karen	karenumberger@gmail.com	An Elected Official	Myself	Support	No	No	1/31/2021 4:30 PM
Tetu, Emile	etetu@comcast.net	A Member of the Public	Myself	Support	No	No	1/31/2021 6:45 PM
Rathbun, Eric	ericrathbun@gmail.com	A Member of the Public	Myself	Support	No	No	2/1/2021 11:13 PM
Cotton, Bev	bevcott@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:01 AM
Perrotta, Delores	dperrotta15@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 9:06 AM
UlmerDorsch, Karen	karenbobd@gmail.com	A Member of the Public	AARP	Support	No	No	2/2/2021 9:17 AM
LaFleur, Martha	mflafleur45@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:19 AM
Kaluzynski, Kathie	kathiekal@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:38 AM
Lacroix, Marc	malacroix@aol.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:40 AM
Ulmer Dorsch, Karen	karenbobd@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 9:46 AM
Monroe, Sharon	monroenh@aol.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:35 AM
Garber, Marcia	mag1022rn@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 10:37 AM
Arnault, Catherine	peri82@comcast.net	A Member of the Public	AARP	Support	No	No	2/2/2021 10:39 AM
Fortier, Merry	myblackdog@aol.com	A Member of the Public	Myself	Support	No	No	2/2/2021 10:51 AM

Lynch, Molly	Molly.Lynch@dhhs.nh.gov	State Agency Staff	NH Department Health and Human Services	Neutral	No	No	2/2/2021 11:00 AM
Isaak, Jim	hb@jimisaak.com	A Member of the Public	Myself	Support	No	No	2/2/2021 11:00 AM
HOEY, KATHLEEN	kmhoe@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 11:11 AM
DESROSIERS, Roger	rdesros@comcast.net	A Member of the Public	Myself	Support	No	No	2/2/2021 11:22 AM
Cole, Gary	boo-f@comcastnet	A Member of the Public	Myself	Support	No	No	2/2/2021 11:58 AM
Martin, Jill	jillwmar@gmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 2:49 PM
Roberge, Mary	maks19@hotmail.com	A Member of the Public	Myself	Support	No	No	2/2/2021 4:02 PM

# Testimony

To the Members of the House Judiciary Committee,

During the previous legislative session myself and Rep. Burroughs worked with Dr. Marianne Jackson to create two bills which would help a fledgling HomeShare program in the Mount Washington Valley. These two bills passed their respective committees by unanimous consent and were, unfortunately, subsequently lost due to the truncated session that resulted from the COVID-19 pandemic.

While I did not seek reelection, Rep. Burroughs and I worked with many of our local colleagues to ensure that these bills got another hearing and ultimately determined to bring them together as one bill to save time during what is, I am sure, a very busy session. Rep. Burroughs was the lead sponsor on the fiscal portion of the bill, and so I will defer to her as to the merits of that portion of the bill. However as a practicing realtor, at the time, I was the lead sponsor on the Real Estate exemption portion of this bill and wanted to give you all some background as to why this legislation was created.

During the creation of the Mount Washington Valley HomeShare program several members of our local board of Realtors were consulted. All of them support the program, however a concern was raised that someone could misconstrue the work of the program as Real Estate brokerage and they encouraged us to seek a workaround as they felt this program was an important investment for our community. I spoke with the New Hampshire Association of Realtors to discuss the language of this portion of the bill last year. After hearing the practices of the program they ultimately decided that they agreed that this should be exempt from Real Estate Practice Law.

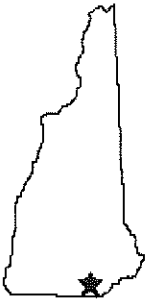
As a realtor who worked with many landlords to secure tenants for long term rentals, my job consisted of: fiduciary duties to my client, the advertisement and promotion of their property, regular showings of their property to potential tenants, accepting potential tenant application, running credit and background (if applicable) checks on potential tenants, reviewing lease agreement options with the landlord, convening a lease signing with all parties and bearing witness, and performing a property "walkthrough" to catalog any damages in the property to be subsequently signed by all parties and witnessed by myself. As a result I would be paid a commission by the landlord for my work as their agent.

The MWV HomeShare program operates as a 'non-profit' organization. It uses personality profile tests, interviews with homeowners and homesharees, and home visits, to determine if there is a social compatibility between a homeowner and a potential homesharee. Once connected with a homsharee, MWV HomeShare had sample leases and agreements for homeowners to consider, however any compensation for the lodging offered was ultimately determined between the homeowner and homesharee without the guidance or presence of MWV HomeShare. MWV HomeShare would not be considered an agent of the homeowner, nor of the homesharee. However in order to keep the program running MWV HomeShare did have a recommended donation per matching in order to keep the program running. As such the service offered by MWV HomeShare was not on par with that of Real Estate practice, nor was the recommended donation deemed to be commensurate to a payment of commission for services rendered.

If you have any questions or concerns please do not hesitate to ask during the hearing, or outside of the hearing: [kanzler.harrison@gmail.com](mailto:kanzler.harrison@gmail.com)

Thank you,  
Harrison Kanzler





# TOWN OF HUDSON

Office of the Assessor

Jim Michaud  
Chief Assessor, CAE  
email: [jmichaud@hudsonnh.gov](mailto:jmichaud@hudsonnh.gov)

[www.hudsonnh.gov](http://www.hudsonnh.gov)



12 School Street · Hudson, New Hampshire 03051 · Tel: 603-886-6009 · Fax: 603-598-6481

House – Judiciary Committee  
Representative Edward Gordon, Chairman

February 2, 2021

RE: HB 395

Dear Honorable Committee Members,

Thank you for the opportunity to provide verbal testimony today on HB 395, as well as accepting this written testimony thereafter. I am Jim Michaud, I am testifying in my capacity as Chief Assessor for the Town of Hudson NH, as a practitioner in NH assessment administration, neither currently in favor nor against the bill proposal. I am also Chair of the New Hampshire Association of Assessing Officials (NHAAO) Legislative Committee. I wish to note my testimony is not intended to imply any position on the bill in regards to my employer, the Town of Hudson, nor to NHAAO.

The comments I have are only in regards to Sections 1, 2 & 3 of the bill proposal. I believe that the bill's intent is to exempt income, in a home-share arrangement situation, to exempt that residential apartment/bedroom rental income from being considered for purposes of the elderly/disabled/deaf property tax exemptions. If that is the case, the change in law is misplaced, it seeks to bar that income from being considered as an asset, however, municipal assessing officials are not, and would not, be counting that income as an asset in the 1<sup>st</sup> place, as income is not an asset, its, well, it's income. I have verified this particular aspect with other assessors on NHAAO's listserve, and I would encourage members to seek DRA's Municipal and Property Appraisal Division opinion on this as needed.

The applicable RSA's to modify to accomplish the above would be to insert applicable modification language into;

- RSA 72: 39-a, Section I, (b) for elderly –  
<http://www.gencourt.state.nh.us/rsa/html/V/72/72-39-a.htm>
- RSA 72:37-b III (a) for disabled –  
<http://www.gencourt.state.nh.us/rsa/html/V/72/72-37-b.htm>
- RSA 72:38-b III (b) for deaf or severely hearing impaired -  
<http://www.gencourt.state.nh.us/rsa/html/V/72/72-38-b.htm>

Next, there are currently three (3) exclusions in law from income being counted for purposes of the elderly/disabled/deaf exemptions, and this would add a 4<sup>th</sup> exemption from income being countable for these purposes. I cite the three (3) current qualifying income exclusions below for edification;

- **72:39-a Conditions for Elderly Exemption. –**  
(b) ..... The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:
  - (1) Life insurance paid on the death of an insured;
  - (2) Expenses and costs incurred in the course of conducting a business enterprise;
  - (3) Proceeds from the sale of assets.
  
- **72:37-b Exemption for the Disabled. –**  
III (a) .... The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:
  - (1) Life insurance paid on the death of an insured.
  - (2) Expenses and costs incurred in the course of conducting a business enterprise.
  - (3) Proceeds from the sale of assets.
  
- **72:38-b Exemption for Deaf or Severely Hearing Impaired Persons –**  
III.(b) ....The net income shall be determined by deducting from all moneys received, from any source including social security or pension payments, the amount of any of the following or the sum thereof:
  - (1) Life insurance paid on the death of an insured.
  - (2) Expenses and costs incurred in the course of conducting a business enterprise.
  - (3) Proceeds from the sale of assets.

Further, we also need to ensure we are mindful of RSA 72:27-a (Procedure for Adoption, Modification, or Rescission), Section IV, as there is limiting language in this particular RSA that, even if the income exemption is added to law, it would only take effect if a municipality were to re-adopt their elderly/disabled/deaf exemptions. ;

**IV. An amendment to a statutory provision listed in paragraph I related to an exemption or credit amount or to the eligibility or application of an exemption or credit, shall apply in a municipality which previously adopted the provision only after the municipality complies with the procedure in this section, unless otherwise expressly required by law. (emphasis added)**

<http://www.gencourt.state.nh.us/rsa/html/V/72/72-27-a.htm>

So, the way I read the bill, in the context of the referenced modification adoption RSA, a municipality would need to vote to readopt the applicable exemptions before it takes effect in any NH community.

The last closing points as follows:

- I agree with prior comments on the necessity for a definition of what a “home-share arrangement” is, I believe that is necessary so municipalities can efficiently implement this in a fair, equitable and consistent manner.
- We would also want to ensure that DRA has rule-making ability on this as well, this is useful and common for most laws relating to assessment administration.
- The bills effective date, for the cited provisions, reads as April 1, 2021, the reality is that even if this bill matures thru the legislative process expeditiously and becomes law, it likely will not become law until after April 1, 2021. Further, the application deadline for property tax credits and exemptions is April 15<sup>th</sup>, AND municipalities would need to readopt their exemptions so the income exemption would be applicable. Given all of the above, I would offer that April 1, 2022 is a more, effective, effective date.

I hope that this information proves useful to the committee members, if I can answer any questions or concerns of the committee relative to this, either during this hearing or after, please advise, and thank you for your consideration.



Jim Michaud, CNHA  
Chief Assessor  
Town of Hudson, NH

## HB 395 Testimony, Anita Burroughs

The purpose of this bill is to provide homeowners the opportunity to share their homes with others to address the critical housing shortage in many areas of NH for mutual benefit without penalizing owners either financially or with an increased regulatory burden

Specifically, this bill:

I. Exempts income from a home-share arrangement from the determination of net assets for purposes of determining eligibility for certain property tax exemptions and public assistance eligibility determinations and...

II. Exempts the rental of shared facilities from licensure and regulation by the New Hampshire real estate commission.

The aim of the bill is twofold. The first is to exempt the rental of shared facilities to an occupant by an owner or agent of the owner from licensure and regulation by the New Hampshire real estate commission. The bill had no opposition from the state or from the NH Association of Realtors or from the NH Real Estate Commission.

The second aim of the bill is to exempt income from a home-share arrangement from the determination of net assets for purposes of determining eligibility for certain property tax exemptions. The bill also exempts such income from public assistance eligibility determinations. The bill specifically applies to disabled individuals, hearing impaired, and the elderly.

New Hampshire has many ample sized homes, some of which are owned by seniors who may need additional income, or simply want to live with other people. There may be arrangements to reduce the rental income by virtue of doing chores such as grocery shopping, snow plowing or food preparation. The program was based upon a successful program in Vermont and other similar programs throughout the U.S.

The executive director of the HomeShare Vermont, Kirby Dunn, acknowledged that Vermont has property tax exemptions similar to what we have in New Hampshire. A number of years ago, in order to encourage home sharing in Vermont, the legislature amended the statutory definition of household to exempt the income of a home sharer. I have attached a copy of Vermont Statutes Title 32, Taxation and Finance, Chapter 154, Homestead Property Tax Income Sensitivity Adjustment, Section 6061, Definitions (3) Household and (7) Allocable Rent.

No one program is equipped to solve the affordable housing crisis in the state of New Hampshire. However, this bill will serve to ensure that we can make a difference in the lives of people who need and want to share their homes in a way that will provide housing to individuals and families.

This bill, which has combined HB 1305 and HB 1324 from 2020, was written in response to the affordable housing crisis. HB 1305 went through the Municipal and County Government Committee hearing with a vote of 17-0 to put forth for future legislation. HB 1324 was put before the Municipal and Administration Committee, and the vote was 19-0 Ought to Pass. Neither bill was voted on in the 2020 session.

West's Vermont Statutes Annotated

Title Thirty-Two. Taxation and Finance

Subtitle 2. Taxation

Part 3. Income and Franchise Taxes

Chapter 154. Homestead Property Tax Credit (Refs & Annos)

32 V.S.A. § 6061

§ 6061. Definitions

Effective: July 1, 2019

[Currentness](#)

The following definitions shall apply throughout this chapter unless the context requires otherwise:

(1) "Property tax credit" means a credit of the prior tax year's statewide or local share property tax liability or a homestead owner or renter credit, as authorized under [section 6066](#) of this title, as the context requires.

(2) Repealed.

(3) "Household" means, for any individual and for any taxable year, the individual and such other persons as resided with the individual in the principal dwelling at any time during the taxable year. A person who is not related to any member of the household and who is residing in the household under a written homesharing agreement pursuant to a nonprofit homesharing program or a person residing in a household who is hired as a bona fide employee to provide personal care to a member of the household and who is not related to the person for whom the care is provided shall not be considered to be a member of the household.

<Text of subsec. (4) effective July 1, 2019, and applies to grand lists lodged after that date.>

(4)(A) "Household income" means modified adjusted gross income, but not less than zero, received in a calendar year by:

(i) all persons of a household while members of that household; and

(ii) the spouse of the claimant who is not a member of that household and who is not legally separated from the claimant in the taxable year as defined in subdivision (9) of this section, unless the spouse is at least 62 years of age

and has moved to a nursing home or other care facility with no reasonable prospect of returning to the homestead.

(B) “Household income” does not mean:

(i) the modified adjusted gross income of the spouse or former spouse of the claimant, for any period that the spouse or former spouse is not a member of the household, if the claimant is legally separated or divorced from the spouse in the taxable year as defined in subdivision (9) of this section;

(ii) the modified adjusted gross income of the spouse of the claimant, if the spouse is subject to a protection order as defined in 15 V.S.A. § 1101(5) that is in effect at the time the claimant reports household income to the Department of Taxes.

<Text of subdiv. (5), except for subdivs. (5)(C) and (E), shall apply to property tax adjustment and renter rebate claims made in 2011 and after. See subdivs. (5)(C) and (E), below.>

(5) “Modified adjusted gross income” means “federal adjusted gross income”:

(A) Before the deduction of any trade or business loss from a sole proprietorship, loss from a partnership, loss from a limited liability company or “subchapter S” corporation, loss from a rental property, or capital loss, except that in the case of a business which sells a business property with respect to which it is required, under the Internal Revenue Code, to report a capital gain, a business loss incurred in the same tax year with respect to the same business may be netted against such capital gain, and except that a business loss from a sole proprietorship may be netted against a business gain from a sole proprietorship, as long as the loss and the gain are incurred in the same tax year with respect to different business.

(B) With the addition of the following, to the extent not included in adjusted gross income: alimony, support money other than gifts, gifts received by the household in excess of a total of \$6,500.00 in cash or cash-equivalents, cash public assistance and relief (not including relief granted under this subchapter), cost of living allowances paid to federal employees, allowances received by dependents of servicemen and women, the portion of Roth IRA distributions representing investment earnings and not included in adjusted gross income, railroad retirement benefits, payments received under the federal Social Security Act,<sup>1</sup> all benefits under Veterans’ Acts, federal pension, and annuity benefits not included in adjusted gross income; nontaxable interest received from the state or federal government or any of its instrumentalities, workers’ compensation, the gross amount of “loss of time” insurance, and the amount of capital gains excluded from adjusted gross income, less the net employment and self-employment taxes withheld from or paid by the individual (exclusive of any amounts deducted to arrive at adjusted gross income or deducted on account of excess payment of employment taxes) on account of income included under this section, less any amounts paid as child support money if substantiated by receipts or other evidence that the Commissioner may require.

<Text of subdiv. (5)(C) shall apply to grand lists lodged after July 1, 2019.>

(C) Without the inclusion of: any gifts from nongovernmental sources other than those described in subdivision (B) of this subdivision (5); surplus food or other relief in kind supplied by a governmental agency; or the first \$6,500.00 of income earned by a full-time student who qualifies as a dependent of the claimant under the federal Internal Revenue Code; the first \$6,500.00 of income received by a person who qualifies as a dependent of the claimant under the Internal Revenue Code and who is the claimant's parent or adult child with a disability; any income attributable to cancellation of debt; or payments made by the State pursuant to 33 V.S.A. chapters 49 and 55 for foster care, or payments made by the State or an agency designated in 18 V.S.A. § 8907 for adult foster care or to a family for the support of a person who is eligible and who has a developmental disability. If the Commissioner determines, upon application by the claimant, that a person resides with a claimant who has a disability or was at least 62 years of age as of the end of the year preceding the claim, for the primary purpose of providing attendant care services (as defined in 33 V.S.A. § 6321) or homemaker or companionship services, with or without compensation, which allow the claimant to remain in his or her home or avoid institutionalization, the Commissioner shall exclude that person's modified adjusted gross income from the claimant's household income. The Commissioner may require that a certificate in a form satisfactory to him or her be submitted which supports the claim.

(D) Without the inclusion of adjustments to total income except certain business expenses of reservists, one-half of self-employment tax paid, alimony paid, deductions for tuition and fees, health insurance costs of self-employed individuals, and health savings account deductions.

<Text of subdiv. (5)(E) shall apply to property tax adjustments, renter rebate claims, and homestead declarations for 2013 and after.>

(E) With the addition of an asset adjustment of 1 x the sum of interest and dividend income included in household income above \$10,000.00 for claimants under age 65, regardless of whether that dividend or interest income is included in federal adjusted gross income.

(6) "Property tax" means the amount of ad valorem taxes, exclusive of special assessments, interest, penalties, and charges for service, assessed on real property in this State used as the claimant's housesite, or which would have been assessed if the homestead had been properly declared at the time of assessment.

<Text of subdiv. (7) shall apply to property tax adjustment and renter rebate claims made in 2011 and after.>

(7) "Allocable rent" means for any housesite and for any taxable year 21 percent of the gross rent. "Gross rent" means the rent actually paid during the taxable year by the individual or other members of the household solely for the right of occupancy of the housesite during the taxable year. "Allocable rent" shall not include payments made under a written homesharing agreement pursuant to a nonprofit homesharing program, or payments for a room in a nursing home in any month for which Medicaid payments have been made on behalf of the claimant to the nursing home for room charges.

(8) "Annual tax levy" means the property taxes levied on property taxable on April 1, and without regard to the year in which those taxes are due or paid.



(9) “Taxable year” means the calendar year preceding the year in which the claim is filed.

(10) Repealed.

(11) “Housesite” means that portion of a homestead, as defined under subdivision 5401(7) of this title but not under subdivision 5401(7)(G), which includes as much of the land owned by the claimant surrounding the dwelling as is reasonably necessary for use of the dwelling as a home, but in no event more than two acres per dwelling unit; and in the case of multiple dwelling units, no more than two acres per dwelling unit up to a maximum of 10 acres per parcel.

(12) “Claim year” means the year in which a claim is filed under this chapter.

(13) “Homestead” means a homestead as defined under subdivision 5401(7), but not under subdivision 5401(7)(G), of this title and declared on or before October 15 in accordance with [section 5410](#) of this title.

(14) “Statewide education tax rate” means the homestead education property tax rate multiplied by the municipality’s education spending adjustment under subdivision 5402(a)(2) of this title and used to calculate taxes assessed in the municipal fiscal year which began in the taxable year.

(15) “Adjusted property tax” means the amount of education and municipal property taxes on the homestead parcel after reduction for any property tax adjustment under [section 6066a](#) of this chapter.

(16) “Unadjusted property tax” means the amount of education and municipal property taxes on the homestead parcel before any reduction for a property tax adjustment under [section 6066a](#) of this chapter.

(17) “Equalized value of the housesite in the taxable year” means the value of the housesite on the grand list for April 1 of the taxable year, divided by the municipality’s common level of appraisal determined by equalization of the grand list for April 1 of the year preceding the taxable year.

### Credits

[1997, No. 60, § 51](#); [1997, Adj. Sess., No. 71, § 15](#); [1999, No. 49, §§ 9, 15](#); [2001, No. 63, § 163b](#); [2001, Adj. Sess., No. 144, § 15](#); [2003, No. 68, §§ 8, 9](#); [2003, No. 68, § 7](#); [2003, Adj. Sess., No. 76, §§ 4, 15, 16](#); [2005, No. 38, § 7](#); [2005, No. 38, § 12](#); [2005, No. 38, § 18](#); [2005, Adj. Sess., No. 94, § 7](#); [2005, Adj. Sess., No. 185, §§ 1, 7, 13](#); [2007, No. 33, § 9, eff. May 18, 2007](#); [2007, No. 37, § 3, eff. July 1, 2007](#); [2007, No. 65, § 292, eff. June 4, 2007](#); [2009, Adj. Sess., No. 160, §§ 23, 24, eff. June 4, 2010](#); [2011, No. 45, § 13, eff. Jan. 1, 2012](#); [2011, Adj. Sess., No. 143, §§ 10, 26, 31a, eff. Jan. 1, 2013](#); [2013, Adj. Sess., No. 96, § 197, eff. July 1, 2014](#); [2015, Adj. Sess., No. 134, § 16, eff. May 25, 2016](#); [2019, No. 51, §§ 23 and 30, eff. July 1, 2019](#).

Notes of Decisions (2)

Footnotes

1

42 U.S.C.A. § 301 et seq.

32 V.S.A. § 6061, VT ST T. 32 § 6061

The statutes are current through Acts of the Regular Session of the 2019-2020 Vermont General Assembly (2019). Statutes are subject to change as determined by the Vermont Legislative Council.

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Bill as  
Introduced

HB 395-FN - AS INTRODUCED

2021 SESSION

21-0456  
05/10

HOUSE BILL **395-FN**

AN ACT relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.

SPONSORS: Rep. Burroughs, Carr. 1; Rep. Umberger, Carr. 2; Rep. Woodcock, Carr. 2; Rep. Knirk, Carr. 3; Sen. Bradley, Dist 3

COMMITTEE: Judiciary

ANALYSIS

This bill:

I. Exempts income from a home-share arrangement from the determination of net assets for purposes of determining eligibility for certain property tax exemptions. The bill also exempts such income from public assistance eligibility determinations.

II. Exempts the rental of shared facilities from licensure and regulation by the New Hampshire real estate commission.

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.

21-0456  
05/

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty One*

AN ACT relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.

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

1 Persons and Property Liable to Taxation; Exemption for the Disabled; Exclusion of Home-share Income. Amend RSA 72:37-b, III(b) to read as follows:

(b) Owns net assets not in excess of the amount determined by the city or town for purposes of paragraph I, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000 or, if married, combined net assets in such greater amount as may be determined by the town or city. "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances, **but shall not include any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent**. "Residence" means the housing unit, and related structures such as an unattached garage or

woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

2 Persons and Property Liable to Taxation; Exemption for Deaf or Severely Hearing Impaired Persons; Exclusion of Home-share Income. Amend RSA 72:38-b, III(c) to read as follows:

(c) Owns net assets not in excess of the amount determined by the city or town for purposes of paragraph I, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000 or, if married, combined net assets in such greater amount as may be determined by the town or city. "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances, **but shall not include any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent.** "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

3 Persons and Property Liable to Taxation; Conditions for Elderly Exemption; Exclusion of Home-share Income. Amend RSA 72:39-a, I(c) to read as follows:

(c) Owns net assets not in excess of the amount determined by the city or town for purposes of RSA 72:39-b, excluding the value of the person's actual residence and the land upon which it is located up to the greater of 2 acres or the minimum single family residential lot size specified in the local zoning ordinance. The amount determined by the city or town shall not be less than \$35,000. A city or town may set a combined net assets amount for married persons in such greater amount as the legislative body of the city or town may determine. "Net assets" means the value of all assets, tangible and intangible, minus the value of any good faith encumbrances, **but shall not include any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent.** "Residence" means the housing unit, and related structures such as an unattached garage or woodshed, which is the person's principal home, and which the person in good faith regards as home to the exclusion of any other places where the person may temporarily live. "Residence" shall exclude attached dwelling units and unattached structures used or intended for commercial or other nonresidential purposes.

4 New Paragraph; Eligibility for Assistance; Home-share Income. Amend RSA 167:4 by inserting after paragraph V the following new paragraph:

VI. Any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent shall be excluded from income for purposes of determining eligibility for public assistance, including medical assistance and food stamps; provided that, if eligibility for the assistance program is governed by federal regulation, such income shall be disregarded to the extent permitted by federal law.

5 New Paragraph; Real Estate Practice Act; Exemption Added. Amend RSA 331-A:4 by inserting after paragraph IX the following new paragraph:

X. Rentals of residential property by an owner or agent of the owner of a shared facility under RSA 540-B.

6 Effective Date.

I. Sections 1-3 of this act shall take effect April 1, 2021.

II. The remainder of this act shall take effect 60 days after its passage.

LBA  
21-0456  
1/5/21

**HB 395-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to consideration of home-share income and exempting rentals of shared facilities from requirements under the real estate practice act.

FISCAL IMPACT:     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill excludes income from home-share arrangements from the calculation of assets for property tax exemptions for disabled, deaf or severely hearing impaired and elderly individuals. Such calculation shall not include any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent. Any income from a home-share arrangement in which the applicant receives assistance with house work or other activities of daily living in exchange for reduced rent shall be excluded from income for purposes of determining eligibility for public assistance, and as allowable by federal law.

The Municipal Association states there may be a slight shift in tax burden from those who participate in home share arrangements to those who do not. There may be some indeterminable impact on local welfare expenditures depending on the fiscal impact on state and federal benefits provided to the applicant.

The Department of Health and Human Services states there would be an indeterminable increase in state expenditures and corresponding decrease in state revenue as a result of excluding income from home-sharing arrangements when determining eligibility for public assistance. There may be an indeterminable decrease in cost for certain long-term care services for homemaker services. However, the bill provides that "if eligibility for the assistance program is governed by federal regulation, such income shall be disregarded to the extent permitted by federal law." The Department states that home sharing income of this type is not currently excludable by federal definition pursuant to 7 C.F.R. Sec. 273.9(c). The fiscal impact is therefor indeterminable.

The Office of Professional Licensure indicates the portion of the bill which exempts the rental of shared facilities from licensure and regulation by the New Hampshire Real Estate Commission has no fiscal impact for OPLC or the Real Estate Commission. Owners or agents of such properties where live-in workers assist with daily chores in exchange for reduced rent do not typically seek a license in order to facilitate such rentals.

Sections 1-3 relative to the property tax exemptions are effective April 1, 2021 and it is assumed sections 4 and 5 relating to eligibility for public assistance and the rental of shared facilities exemption from licensure would be effective July 1, 2021.

**AGENCIES CONTACTED:**

New Hampshire Municipal Association, Department of Health and Human Services, and Office of Professional Licensure and Certification