

# Committee Report

**CONSENT CALENDAR**

**March 2, 2021**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Commerce and Consumer Affairs to  
which was referred HB 466,**

**AN ACT relative to contract powers of condominium  
unit owners' associations. Having considered the same,  
report the same with the following resolution:**

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

**Rep. Dawn Johnson**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Commerce and Consumer Affairs</b>
Bill Number:	<b>HB 466</b>
Title:	<b>relative to contract powers of condominium unit owners' associations.</b>
Date:	<b>March 2, 2021</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

This bill requires a condominium unit owner who contracts for property management, maintenance, or improvements business with the condominium association to recuse himself or herself from any participation in or vote on the awarding of the contract. It also requires any such relationship to be disclosed by the unit owners' association. Members of a condominium association are aware of the fact that many of the association members do the maintenance and repairs on the association properties. This helps support local businesses and their neighbors. It also helps keep costs low as the condominium members also benefit from these agreements to maintain the buildings and grounds thus maintain the value of their property. Restricting participation in these decisions would harm these relations and put undo government regulations on a private, members-only association.

Vote 17-1.

Rep. Dawn Johnson  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Commerce and Consumer Affairs

**HB 466**, relative to contract powers of condominium unit owners' associations. **INEXPEDIENT TO LEGISLATE.**

Rep. Dawn Johnson for Commerce and Consumer Affairs. This bill requires a condominium unit owner who contracts for property management, maintenance, or improvements business with the condominium association to recuse himself or herself from any participation in or vote on the awarding of the contract. It also requires any such relationship to be disclosed by the unit owners' association. Members of a condominium association are aware of the fact that many of the association members do the maintenance and repairs on the association properties. This helps support local businesses and their neighbors. It also helps keep costs low as the condominium members also benefit from these agreements to maintain the buildings and grounds thus maintain the value of their property. Restricting participation in these decisions would harm these relations and put undo government regulations on a private, members-only association. **Vote 17-1.**

Original: House Clerk

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# Voting Sheets

**HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS**

**EXECUTIVE SESSION on HB 466**

**BILL TITLE:** relative to contract powers of condominium unit owners' associations.

**DATE:** March 2, 2021

**LOB ROOM:** Zoom

**MOTIONS:** **INEXPEDIENT TO LEGISLATE**

Moved by Rep. Johnson

Seconded by Rep. Potucek

Vote: 17-1

**CONSENT CALENDAR: YES**

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

Respectfully submitted,

Rep Keith Ammon, Clerk

HOUSE COMMITTEE ON COMMERCE

EXECUTIVE SESSION ON HB HB466

**BILL TITLE:** relative to contract powers of condominium unit owners' associations;

**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. Johnson      Seconded by Rep. Potucek      Vote: 17-1

**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?**        X   Yes      \_\_\_\_\_ No

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

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 #: HB466 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	17		
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.	10		
Abel, Richard M.		1	
Herbert, Christopher J.	11		
Van Houten, Constance	12		
Fargo, Kristina M.	13		
Weston, Joyce	14		
Beaulieu, Jane E.	15		
Burroughs, Anita D.	16		
McAleer, Chris R.			
<b>TOTAL VOTE:</b>	17	1	



# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 466

**BILL TITLE:** relative to contract powers of condominium unit owners' associations.

**DATE:** February 3, 2021

**LOB ROOM:** Hybrid                      **Time Public Hearing Called to Order:** 9:56 a.m.

**Time Adjourned:** 10:26 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. Read**

**Sen. Sherman**

**TESTIMONY**

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

**Rep Ellen Read**

This bill is a reintroduction of a bill which past OTP/A. Casualty in the senate because of COVID-19. This bill says a unit owner who can vote on contracts, if the unit owner has business that the board can contract to, the unit owner has to recuse themselves from voting. New Hampshire law doesn't have this requirement. In Newmarket, there's a condo complex where person who owns the majority of the units also owns the property management company. They've been awarded what tenants see as non important work. Tenants units are being neglected. This person does it in 12 other complexes. It's become a business model because of this loophole that we have. The only concern was the potential for someone with a few units, such as plow, why shouldn't they be allowed to do superior work for less. I would like to see a max dollar amount added to the bill. Please pass some sort of measure to deal with conflict of interest.

**Rep Bartlett**

Q: If I recall last year, the concern we had was very small condo associations, correct?

A: I don't know the difference between small and large condos. Newmarket has 100 units.

Q: The amendment was concerned with just a four unit condo. Unrealistic in a small association.

A: I was happy that the committee moved forward with the bill. Could just be a dollar limit.

Q: Would you believe the committee is hesitant to put dollar amounts into law?

A: I do believe.

**Rep Borroughs**

Q: How widespread is this problem?

A: I don't have any information on that. This is specific to a constituent.

Q: Would it make sense for this to be dealt with in bylaws instead of legislation.

A: Once a person has power how do you amend the bylaws.

**Rep Ammon**

Q: What analysis was done for other states having similar provisions?

A: I'm not aware of any.

**Dean Lennon**

Unit owners are not voting on contracts. That's up to the condo board. The proposal is happening at one condo. I don't think the whole state should have to abide by a law that affects one condo. Owning a majority interest is like owning stock in a company. Should a majority interest be required to abide by a minority interest?

**Rep Abel**

Q: What protections for conflict of interest for condo associations?

A: Disclosure is the key. The board members should be aware of what they're voting on. It's up to the board to inform the electorate.

**Rep Herbert**

Q: Would you believe that business model should be illegal in my opinion? When they're majority owner in the properties. Disclosure is a good idea. If there's a monopoly situation exists and a lucrative conflict of interest. As an attorney how would you protect the other owners of the condos.

A: Power of the vote, you can vote in board members. If you acquire a majority interest shouldn't they have a say? If you own a lot of something you have the right to control it.

**Rep Ammon**

Q: Aren't I incentivized as a majority owner to protect my investment, and the value of all units in property?

A: I agree.

**Rep Abramson**

Q: Would you believe, the plow guy has an incentive to do good work?

A: If you're doing the work for your own building, you have an incentive to do good work. You can't legislate away every situation.

**Gary Daddario**

I've seen this issue addressed in condo documents. For each unit that you own you're responsible for paying the condo fee. Which means their money is being spent by the majority owner. It's not profit in a vacuum they're paying the condo fee in each unit that they own.

**Lou Gargiulo**

I've been unit owner, property manager, general court. Condos are governed by an elected board of directors. Associate members are those who own units in that association. I oppose this bill for a number a reason. Strips away one owner and one vote. Bill is unconstitutional and deprives unit owners their property rights. Why not anyone else who provides services to the association. This bill was introduced by one representative who has a vendetta against me.

**Rep Abramson**

Q: You own properties and provide services for those properties?

A: We manage 350 associations across New England. I own large number of units in 4 associations.

HOUSE COMMITTEE ON COMMERCE & CONSUMER AFFAIRS

PUBLIC HEARING on Bill # HB466

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## House Remote Testify

### Commerce and Consumer Affairs Committee Testify List for Bill HB466 on 2021-02-03

<b><u>Name</u></b>	<b><u>Email Address</u></b>	<b><u>Phone</u></b>	<b><u>Title</u></b>	<b><u>Representing</u></b>	<b><u>Position</u></b>	<b><u>Testifying</u></b>	<b><u>Signed Up</u></b>
Gargiulo, Lou	loughn@gmail.com	603.661.3500	A Member of the Public	Myself	Oppose	Yes (3m)	2/2/2021 6:12 PM
Read, Ellen	Ellen4nh@gmail.com	352.978.7692	An Elected Official	Myself	Support	Yes (3m)	2/3/2021 6:55 AM
Daddario, Gary	gdaddario@meeb.com	603.420.9475	A Member of the Public	Community Associations Institute	Oppose	Yes (2m)	2/2/2021 5:19 PM
Lennon, Dean	Dlennon@meeb.com	617.888.4060	A Member of the Public	CAI-NE	Oppose	Yes (1m)	2/2/2021 6:34 PM
Sherman, Senator Tom	jennifer.horgan@leg.state.nh.us	2717875	An Elected Official	SD 24	Support	No	2/1/2021 8:40 AM
Lord, Kit	kitlord@yahoo.com	603.942.5374	A Member of the Public	Myself	Support	No	2/1/2021 4:07 PM
Rathbun, Eric	ericrathbun@gmail.com	860.912.3751	A Member of the Public	Myself	Support	No	2/3/2021 11:21 AM

# Testimony



Bill as  
Introduced

HB 466 - AS INTRODUCED

2021 SESSION

21-0593

10/05

HOUSE BILL           **466**

AN ACT               relative to contract powers of condominium unit owners' associations.

SPONSORS:         Rep. Read, Rock. 17; Sen. Sherman, Dist 24

COMMITTEE:       Commerce and Consumer Affairs

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ANALYSIS

This bill requires a condominium unit owner who contracts for property management, maintenance, or improvements business with the condominium recuse himself or herself from any participation in or vote on the awarding of the contract. Any such relationship shall be disclosed by the unit owners' association.

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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 contract powers of condominium unit owners' associations.

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

1           1 New Paragraph; Condominiums; Powers of Unit Owners' Association. Amend RSA 356-B:42  
2 by inserting after paragraph III the following new paragraph:

3           IV. If any unit owner or business where a unit owner is the owner or director of a business  
4 or has a pecuniary interest in a business, bids or contracts for property management, maintenance,  
5 or improvements with their unit owners' association, the unit owner shall recuse himself or herself  
6 from any participation in or vote on the awarding of the contract. The unit owners' association shall  
7 disclose to its unit owners the relationship of any unit owner or business where a unit owner is the  
8 owner or director of a business or has a pecuniary interest in a business with the contract for  
9 property management, maintenance, or improvements. This paragraph shall not apply to a unit  
10 owners' association in which owners own time sharing interests.

11          2 Effective Date. This act shall take effect 60 days after its passage.