

LEGISLATIVE COMMITTEE MINUTES

SB66

Bill as
Introduced

SB 66 - AS INTRODUCED

2023 SESSION

23-0946
05/04

SENATE BILL

66

AN ACT

relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

SPONSORS:

Sen. Gannon, Dist 23; Sen. Soucy, Dist 18; Rep. Hunt, Ches. 14; Rep. Sweeney, Rock. 25

COMMITTEE:

Commerce

ANALYSIS

This bill provides that in financial transactions involving the liquidation or rehabilitation of an insurer, a person shall not be prohibited from enforcing any right or cause of action under any agreement to which a Federal Home Loan Bank is a party.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

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

1 1 New Paragraph; Insurers Rehabilitation and Liquidation; Injunctions and Orders; Federal
2 Home Loan Bank. Amend RSA 402-C:5 by inserting after paragraph II the following new
3 paragraph:

4 III. Exception. Notwithstanding paragraphs I and II, RSA 402-C:18, I, or any other
5 provision of this chapter, no person shall be restrained, stayed, enjoined, or prohibited from
6 exercising or enforcing any right or cause of action under any pledge, security, credit, collateral, loan,
7 advances, reimbursement, or guarantee agreement or arrangement or any similar agreement,
8 arrangement, or other credit enhancement to which a Federal Home Loan Bank is a party. A
9 "Federal Home Loan Bank" is a government-sponsored enterprise, created by the United States
10 Congress pursuant to the Federal Home Loan Bank Act of 1932, 12 U.S.C. section 1421 et seq. as
11 amended, that is charged with a public mission of providing products and services that assist its
12 members in financing housing and community lending. 12 C.F.R. section 1265.2, as amended.

13 2 New Paragraph; Insurers Rehabilitation and Liquidation; Fraudulent Transfers Prior to
14 Petition. Amend RSA 402-C:30 by inserting after paragraph III the following new paragraph:

15 IV. Exception. Notwithstanding paragraph I, RSA 402-C:31, or any other provision of this
16 chapter, no receiver or any other person shall avoid any transfer of, or any obligation to transfer,
17 money or any other property arising under or in connection with any pledge, security, credit,
18 collateral, loan, advances, reimbursement, or guarantee agreement or arrangement or any similar
19 agreement, arrangement or other credit enhancement to which a Federal Home Loan Bank is a
20 party, that is made, suffered, or incurred prior to or after the filing of a successful petition for
21 rehabilitation or liquidation under this chapter, or otherwise would be subject to avoidance under
22 this section or RSA 402-C:31; provided, however, that such a transfer or obligation may be avoided
23 under this section or RSA 402-C:31 if such transfer or obligation was made, suffered, or incurred
24 with actual intent to hinder, delay, or defraud the insurer, the receiver, or existing or future
25 creditors.

26 3 New Subparagraph; Voidable Preferences and Liens. Amend RSA 402-C:32, I by inserting
27 after subparagraph (b) the following new subparagraph:

28 (c) Exception. Notwithstanding subparagraph I(b), or any other provision of this
29 chapter, no receiver or any other person shall avoid any preference arising under or in connection
30 with any pledge, security, credit, collateral, loan, advances, reimbursement or guarantee agreement

SB 66 - AS INTRODUCED

- Page 2 -

- 1 or arrangement or any similar agreement, arrangement or other credit enhancement to which a
- 2 Federal Home Loan Bank is a party.
- 3 4 Effective Date. This act shall take effect January 1, 2024.

SB 66 - VERSION ADOPTED BY BOTH BODIES

2023 SESSION

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SENATE BILL

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8 arrangement, or other credit enhancement to which a Federal Home Loan Bank is a party. A
9 "Federal Home Loan Bank" is a government-sponsored enterprise, created by the United States
10 Congress pursuant to the Federal Home Loan Bank Act of 1932, 12 U.S.C. section 1421 et seq.. as
11 amended, that is charged with a public mission of providing products and services that assist its
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20 party, that is made, suffered, or incurred prior to or after the filing of a successful petition for
21 rehabilitation or liquidation under this chapter, or otherwise would be subject to avoidance under
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23 under this section or RSA 402-C:31 if such transfer or obligation was made, suffered, or incurred
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SB 66 - VERSION ADOPTED BY BOTH BODIES

- Page 2 -

- 1 or arrangement or any similar agreement, arrangement or other credit enhancement to which a
- 2 Federal Home Loan Bank is a party.
- 3 4 Effective Date. This act shall take effect January 1, 2024.

CHAPTER 156
SB 66 - FINAL VERSION

2023 SESSION

23-0946
05/04

SENATE BILL

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CHAPTER 156
SB 66 - FINAL VERSION

23-0946
05/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

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2 Home Loan Bank. Amend RSA 402-C:5 by inserting after paragraph II the following new
3 paragraph:

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9 "Federal Home Loan Bank" is a government-sponsored enterprise, created by the United States
10 Congress pursuant to the Federal Home Loan Bank Act of 1932, 12 U.S.C. section 1421 et seq. as
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12 members in financing housing and community lending, 12 C.F.R. section 1265.2, as amended.

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23 under this section or RSA 402-C:31 if such transfer or obligation was made, suffered, or incurred
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CHAPTER 156
SB 66 - FINAL VERSION
- Page 2 -

1 with any pledge, security, credit, collateral, loan, advances, reimbursement or guarantee agreement
2 or arrangement or any similar agreement, arrangement or other credit enhancement to which a
3 Federal Home Loan Bank is a party.

156:4 Effective Date. This act shall take effect January 1, 2024.

Approved: July 28, 2023
Effective Date: January 01, 2024

Committee Minutes

SENATE CALENDAR NOTICE

Commerce

Sen Bill Gannon, Chair
Sen Denise Ricciardi, Vice Chair
Sen Daniel Innis, Member
Sen Donna Soucy, Member
Sen Shannon Chandley, Member

Date: January 25, 2023

HEARINGS

Tuesday		01/31/2023
(Day)		(Date)
Commerce	State House 100	9:00 a.m.
(Name of Committee)	(Place)	(Time)
9:00 a.m.	SB 66	relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.
9:15 a.m.	SB 197-FN	relative to the operation and regulation of certain business entities within the state.
9:30 a.m.	SB 199	relative to the standard of care for insurance agents.
9:45 a.m.	SB 201	relative to resale of event tickets.
10:00 a.m.	SB 142	relative to the regulation of forms and rates for property and casualty insurance.
10:15 a.m.	SB 137-FN	relative to nano brewery licenses and beverage manufacturers licenses.
10:30 a.m.	SB 194	allowing students under age 21 to taste wine in educational settings.

EXECUTIVE SESSION MAY FOLLOW

Sponsors:

SB 66

Sen. Gannon

Sen. Soucy

Rep. Hunt

Rep. Sweeney

SB 197-FN

Sen. Gannon

Sen. Soucy

Sen. Ricciardi

Rep. Hunt

SB 199

Sen. Gannon

Rep. Infantine

SB 201

Sen. Chandley

Sen. Perkins Kwoka

Sen. Watters

Sen. Whitley

Sen. Soucy

SB 142

Sen. Lang

Sen. Avard

Sen. Innis

Rep. Moffett

SB 137-FN

Sen. Lang

SB 194

Sen. Innis

Rep. Nutter-Upham

Sen. Birdsell

Sen. Pearl

Rep. Burroughs

Sen. Pearl

Sen. Murphy

Sen. Gannon

Sen. Murphy

Rep. Hunt

Rep. Moffett

Sen. Bradley

Sen. Carson

Rep. Potucek

Aaron Jones 271-2609

Bill M. Gannon
Chairman

Senate Commerce Committee

Aaron Jones 271-2609

SB 66, relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

Hearing Date: January 31, 2023

Time Opened: 9:09 a.m.

Time Closed: 9:15 a.m.

Members of the Committee Present: Senators Gannon, Ricciardi, Innis and Chandley

Members of the Committee Absent : Senator Soucy

Bill Analysis: This bill provides that in financial transactions involving the liquidation or rehabilitation of an insurer, a person shall not be prohibited from enforcing any right or cause of action under any agreement to which a Federal Home Loan Bank is a party.

Sponsors:

Sen. Gannon

Sen. Soucy

Rep. Hunt

Rep. Sweeney

Who supports the bill: Senator Bill Gannon, Senator Donna Soucy, Keith Walsh (FHLB Boston)

Who opposes the bill: No one

Who is neutral on the bill: No one

Summary of testimony presented in support:

Senator Bill Gannon

- This bill is applicable to insurance companies, and it would modify insurance insolvency regulation provisions specifically related to stays and voidable transfers.
- Additionally, this bill would ensure that insurance companies are treated similar to depository institutions; thus, allowing them to borrow at the cheapest possible rate, so savings are passed downstream to consumers.
- In 1932, Federal Home Loan Banks (FHLBs) were chartered by Congress.

- They are cooperatively structured and member-owned wholesale banks that provide reliable access to low cost funding and liquidity to support housing, finance, and community development.
- Banks, credit unions, and insurance companies located in New England are eligible to voluntarily join as members.

Keith Walsh, General Counsel and Senior Vice President, Federal Home Loan Bank of Boston

- As a government sponsored enterprise, the FHLB of Boston can access capital markets on advantageous terms.
- The FHLB of Boston has lent on narrow margins to their members, which include banks, credit unions, and insurance companies, throughout New England. A total of 33 FHLB of Boston members are from NH.
- Presently, the FHLB of Boston can lend to NH insurance companies on more conservative terms than how they can lend to banks and credit unions due to the disparity between existing state and federal law. Banks and credit unions are governed by federal law; whereas, insurance is regulated by each state.
- Under existing statute, the receiver and courts have broad powers to settle the affairs of an insolvent insurance company. In these situations, a FHLB may have secured credit that is subjected to a stay, injunction, or voidable transfer that can cause a delay in the liquidation of their collateral.
- This bill would equalize the treatment of NH insurance companies with the treatment afforded to banks and credit unions under federal law.
- According to Attorney Walsh, these proposed changes would make the FHLB an attractive funding source to help strengthen NH insurance companies. Further, it would allow the FHLB of Boston to work with the Insurance Department Commissioner if one of their members has become insolvent.
- Similar legislation has been adopted in 23 states, and at least a half dozen are considering legislation this session.
- The American Council of Life Insurers are in support of this bill because it would strength insurance companies by providing them with better access to funding, which is to the benefit of their policyholders.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

Speakers

Senate Remote Testify

Commerce Committee Testify List for Bill SB66 on 2023-01-31

Support: 1 Oppose: 0

<u>Name</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>
Soucy, Donna	An Elected Official	SD 18	Support

Voting Sheets

Senate Commerce Committee
EXECUTIVE SESSION RECORD
2023-2024 Session

Bill # SB 66

Hearing date: 1/31/23

Executive Session date: 1/31/23

Motion of: OTP Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Gannon, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi, V-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Innis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: CONSENT Vote: 5-0

Committee Member	Made by	Second	Yes	No
Sen. Gannon, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi, V-Chair	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Innis	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Motion of: _____ Vote: _____

Committee Member	Made by	Second	Yes	No
Sen. Gannon, Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Ricciardi, V-Chair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Innis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Soucy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Chandley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reported out by: SEN. SOUCY

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Wednesday, February 1, 2023

THE COMMITTEE ON Commerce

to which was referred **SB 66**

AN ACT

relative to financial transactions involving the
liquidation or rehabilitation of an insurer in which
the Federal Home Loan Bank is a party.

Having considered the same, the committee recommends that the Bill

OUGHT TO PASS

BY A VOTE OF: 5-0

Senator Donna Soucy
For the Committee

In 1932, Federal Home Loan Banks (FHLBs) were chartered by Congress. FHLBs can provide their members with reliable access to funding at a low cost and liquidity to support housing, finance, and community development. This bill would modify insurance insolvency regulations pertaining to stays and voidable transfers. Currently, the FHLB may have secured credit that is subjected to a stay, injunction, or voidable transfer that can cause a delay in the liquidation of their collateral. By treating insurance companies like depository institutions, insurers would be provided with better access to funding and more favorable credit terms, which is beneficial to their policyholders.

Aaron Jones 271-2609

FOR THE CONSENT CALENDAR

COMMERCE

SB 66, relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

Ought to Pass, Vote 5-0.

Senator Donna Soucy for the committee.

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Docket of SB66

Docket Abbreviations

Bill Title: relative to financial transactions involving the liquidation or rehabilitation of an insurer in which the Federal Home Loan Bank is a party.

Official Docket of SB66.:

Date	Body	Description
1/12/2023	S	Introduced 01/05/2023 and Referred to Commerce; SJ 4
1/25/2023	S	Hearing: 01/31/2023, Room 100, SH, 09:00 am; SC 8
2/1/2023	S	Committee Report: Ought to Pass, 02/09/2023; Vote 5-0; CC; SC 9
2/9/2023	S	Ought to Pass: MA, VV; OT3rdg; 02/09/2023; SJ 6
3/20/2023	H	Introduced (in recess of) 03/16/2023 and referred to Commerce and Consumer Affairs
4/18/2023	H	Public Hearing: 04/26/2023 11:00 am LOB 302-304
5/3/2023	H	Executive Session: 05/10/2023 10:00 am LOB 302-304
5/12/2023	H	Committee Report: Ought to Pass 05/10/2023 (Vote 18-0; CC)
6/8/2023	H	Ought to Pass: MA VV 06/08/2023 HJ 15 P. 2
6/30/2023	H	Enrolled (in recess of) 06/29/2023 HJ 17 P. 16
6/30/2023	S	Enrolled Adopted, VV, (In recess 06/29/2023); SJ 20
8/1/2023	S	Signed by the Governor on 07/28/2023; Chapter 0156; Effective 01/01/2024

NH House

NH Senate

Other Referrals

Senate Inventory Checklist for Archives

Bill Number: SB 66

Senate Committee: Commerce

Please include all documents in the order listed below and indicate the documents which have been included with an "X" beside

Final docket found on Bill Status

Bill Hearing Documents: {Legislative Aides}

Bill version as it came to the committee

All Calendar Notices

Hearing Sign-up sheet(s)

Prepared testimony, presentations, & other submissions handed in at the public hearing

Hearing Report

Revised/Amended Fiscal Notes provided by the Senate Clerk's Office

Committee Action Documents: {Legislative Aides}

All amendments considered in committee (including those not adopted):

N/A - amendment # _____ - amendment # _____

_____ - amendment # _____ - amendment # _____

Executive Session Sheet

Committee Report

Floor Action Documents: {Clerk's Office}

All floor amendments considered by the body during session (only if they are offered to the senate):

_____ - amendment # _____ - amendment # _____

_____ - amendment # _____ - amendment # _____

Post Floor Action: (if applicable) {Clerk's Office}

_____ Committee of Conference Report (if signed off by all members. Include any new language proposed by the committee of conference):

_____ Enrolled Bill Amendment(s)

_____ Governor's Veto Message

All available versions of the bill: {Clerk's Office}

_____ as amended by the senate _____ as amended by the house

_____ final version

Completed Committee Report File Delivered to the Senate Clerk's Office By:

Aaron Jones
Committee Aide

8/10/23
Date

Senate Clerk's Office AK