

Senate Public and Municipal Affairs Committee

Kelly Flathers 271-3093

HB 265, relative to accessory dwelling units.

Hearing Date: March 22, 2017

Time Opened: 10:08 a.m.

Time Closed: 10:22 a.m.

Members of the Committee Present: Senators Gray, Ward, Birdsell and Kahn

Members of the Committee Absent: None

Bill Analysis: This bill authorizes a municipality to limit the right to have an accessory dwelling unit for certain single-family dwellings and to prohibit condominium conveyance of an accessory dwelling unit.

Sponsors:

Rep. Matthews

Rep. Hunt

Sen. Fuller Clark

Who supports the bill: Rep. Carolyn Matthews - Rockingham 3; Sen. Fuller Clark - District 21; Ben Frost - NH Housing; Jack Gardner; Cordell Johnston - NH Municipal Association

Who opposes the bill: Darryl W. Perry - Liberty Lobby LLC; Rep. Ivy Vann - Hillsborough 24; Will Anderson - Concord/Self; Sen. Dan Feltes - District 15

Who is neutral on the bill: No one

Summary of testimony presented in support:

Rep. Carolyn Matthews – Rockingham 3

- In the back of the information I handed out, there is a document with examples that may shed some light on why towns have had some difficulty writing their accessory dwelling unit ordinances.
- Some towns have already written them, some are in the process, and some have done nothing.
- Nowhere in statute is there a definition for “single family dwelling”.
- As a result, towns that are writing their accessory dwelling unit ordinances are using their own definitions, which creates considerable confusion.
- Most towns define “single family dwelling” as detached. This is easy to deal with because it excludes dwellings like townhouses.

- Some towns specifically exclude manufactured housing, which creates a problem because the mandate only applies to “single family dwellings”.
- There is a concern about condominium conveyance. Most towns have said that accessory dwelling units can’t be conveyed as condominiums. There’s some concern as to whether the law actually justifies these actions that have already been taken.
- The intent of the bill is to give towns the opportunity to either permit or prohibit.

Sen. Kahn

- (Q) Are there no definitions for both single family dwelling and multiple family dwelling?
 - (A) **Rep. Matthews:** Most towns separate duplex, single family dwelling unit, multiple family housing, and manufactured housing. It all appears in the zoning ordinances separately. Specifically, single family dwelling is defined in most ordinances. It’s just defined differently.
- (Q) Is it your observation that single family dwelling is not defined in RSAs?
 - (A) **Rep. Matthews:** That is correct.
- (Q) Is it also your observation that multiple family dwelling is not defined in RSAs?
 - (A) **Rep. Matthews:** I can’t speak to that, but I do not believe it is defined in RSAs.
- (Q) We have defined accessory dwelling unit, correct?
 - (A) **Rep. Matthews:** Yes.

Ben Frost – NH Housing Finance Authority

- I am speaking in support.
- This is a cleanup bill to the legislation we passed on accessory dwelling units last year.
- This bill allows municipalities to prohibit accessory dwellings associated with multiple unit townhouse-style developments/manufactured housing and expressly prohibits condominium conveyance of ADUs unless the municipality chooses to allow it.
- The latter issue dealing with condominium conveyances is deemed necessary because the condominium act in RSA 356-B:5 expressly prohibits municipalities from limiting condominium conveyance. This bill is necessary to say “except” for ADUs.
- It was never anyone’s intention to allow condominium conveyance of ADUs, so it was never included in the original act.
- In response to Sen. Kahn: there are no statutory definitions. I worked with Rep. Matthews, the Homebuilders, and the Municipal Association to craft an

amendment that addressed a lot of different concerns. We ultimately concluded that there should not be a definition of “single family dwelling” in statute because municipalities already define these terms in their ordinances. Creating a single definition at the state level would pose a problem for a lot of municipalities.

Jack Gardner – Portsmouth, NH

- I am speaking in support.
- Several weeks ago, the Portsmouth planning committee held a meeting to explain ADUs to citizens.
- ADUs are a response to the changing housing and rental needs in NH.
- This bill helps ensure the intent of the original law. It prevents ADUs from becoming the latest real estate investment toy.

Summary of testimony presented in opposition: None

Neutral Information Presented: None

Future Action: Pending

KEF

Date Hearing Report completed: March 23, 2017