

**OTP: HB 1336-FN – Regulated Conditional Deposits**  
**Position: Support (OTP)**

**Bill Summary:**

As amended by the House, this bill creates a new class of security deposit called a “Regulated Conditional Deposit” (RCD) and inserts it as a new subdivision in RSA 540-A. An RCD is an incremental deposit of up to one additional month’s rent that can be used as a compensating factor when an applicant does not meet the landlord’s disclosed approval criteria, subject to guardrails. Eligibility is limited to defined circumstances (e.g., credit score below the landlord’s requirement where the landlord’s minimum FICO threshold is  $\leq 650$ , income below the landlord’s requirement where the landlord’s minimum is  $\leq 3x$  rent, certain eviction/judgment issues, or inability to verify landlord references). It requires notice to the applicant stating the grounds and provides a standardized form for use when accepting an RCD, which serves as a safe harbor satisfying all notice requirements if used. It creates a tenant option to request re-screening no more than once every 6 months; if the tenant then meets standard criteria, the additional deposit must be refunded or credited within 30 days. The bill also clarifies that advance rent payments are not security deposits and need not be held in escrow, and authorizes refunds of security deposits to third-party payors such as rental charities, enabling those organizations to function as revolving loan funds.

**Key Points:**

1. **Screening is essential consumer protection and a Fair Housing compliance function.** Objective criteria protect applicants and landlords by reducing arbitrary decision-making and inconsistent treatment.
2. **The real problem is “marginal” applicants who don’t cleanly meet a checkbox but could still be reliable tenants with structured risk mitigation;** without such tools, they’re often denied.
3. **Exceptions must be structured and programmable.** Case-by-case discretion is exactly what creates Fair Housing risk; a standardized compensating-factor pathway is safer than “managerial vibes.” The bill provides a standardized form for use when accepting an RCD that serves as a safe harbor if used, though landlords are not required to use it.
4. **Today’s legal compensating factors are unevenly accessible:** co-signers (social capital), surety bonds (often non-refundable and pricing-punitive for low credit), and prepaid rent (liquidity/class privilege). A refundable, interest-bearing deposit is often less regressive than these alternatives.
5. **The bill’s guardrails cut against abuse.** A landlord with more restrictive criteria (e.g., 700+ FICO or  $>3x$  income) cannot use the RCD option at all and remains bound by the one-month cap.
6. **Re-screening creates an off-ramp.** This isn’t a permanent “poor tax” if the tenant improves; it’s a refundable condition that can be removed on demonstrated progress. Landlords may also accept RCD payments in installments, reducing the upfront burden.

7. **Third-party refunds unlock a circular flow of charitable funds.** Under current law, security deposit refunds may only be issued to the tenant—even when paid by a rental charity. The amended bill legalizes refunds to third-party payors when all parties agree upfront, enabling every security deposit assistance organization in New Hampshire to function as a revolving loan fund.
8. **Equity and disparate impact concerns deserve honesty.** Credit outcomes differ materially by race, class, and place, and those gaps emerge early and persist; this is precisely why a transparent, rule-based pathway is preferable to informal discretionary “exceptions” that are harder to audit and more vulnerable to disparate treatment.
9. **This bill reflects genuine landlord-tenant collaboration.** The amended language was developed with substantial collaboration from New Hampshire Legal Assistance (NHLA) and the Landlord Associations of NH. Both organizations engaged in the drafting process and aligned on the language—uncommon ground between landlord and tenant advocacy groups.

## Full Testimony

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Mr. Chair, Members of the Committee—

My name is Christopher Freeman. I am a housing provider in Keene, Walpole, and Lebanon, New Hampshire where I focus on affordable housing through co-living rentals. I also sit with multiple advocacy groups, including the Monadnock Housing Collaborative. I am submitting this testimony in writing from abroad, and I respectfully urge the Committee to recommend the bill as Ought to Pass as Amended. The amended language was developed with substantial collaboration from New Hampshire Legal Assistance (NHLA) and the Landlord Associations of NH, both of whom engaged in the drafting process and aligned on the language.

This bill helps applicants who are facing denial of housing qualify for a lease by offering a Regulated Conditional Deposit, or RCD—an incremental deposit of up to one additional month’s rent. As some safeguards, the landlord must disclose their approval criteria before accepting the application and before collecting any application fees. Those criteria must conform to caps set by the state. The tenant has a right to re-screen to have the requirement removed and the excess deposit credited to rent.

Under current law, New Hampshire caps security deposits at one month’s rent for most landlords. However, the very next sentence in the statute expressly authorizes landlords to charge rent quarterly or less frequently.

This produces a latent absurdity. In essentially the same breath, we seem to say:

“Three months of rent up front? An insult to dignity! What do you think this is, Massachusetts? ...But if you’ve got twelve months’ rent plus a deposit, hey kid—welcome home.”

This cap was intended to limit the up-front cost of rental housing. Transparently, it has not hurt my business—but I see firsthand about once every three weeks how it hurts

tenants. Intent and consequence often work opposite shifts, and the truth is that this consumer protection can and frequently does protect the consumer from things like housing of their choice.

In 2025, I received a total of fifty-one rental applications. Sixteen of them—nearly one in three—required a compensating factor to qualify. Of those sixteen, only three became tenants. The rest either withdrew or were unable to satisfy the options they were offered. That's thirteen people I was prepared to house who didn't get the chance because none of the lawful options we could offer worked for them.

A foundational constraint here is that applicant screening is not optional. Screening serves numerous critical consumer protection functions, not least of which is federal Fair Housing compliance.

In the real world, many applicants fall into a gray zone: not catastrophically unqualified, but not within underwriting norms either—credit a bit low, income slightly short, no rental history.

This is where we need to be honest about the limits of case-by-case compassion in a regulated environment, because discretionary exceptions court Fair Housing risk. Any alternate approval pathways need to be structured and consistent so that they can be offered at scale to any applicant in the same situation.

New Hampshire landlords currently have several compensating factors to choose from, including co-signers, rental surety bonds, and prepaid leases.

But the problem is not whether alternatives exist. The problem is that our current options all presuppose resources the applicant may not have: co-signers depend on social capital, surety bonds are often non-refundable and punitive, and prepaid rent is essentially a liquidity test.

- A co-signer can be a great solution—if the applicant has access to someone creditworthy and sufficiently high income who is willing to sign. Many do not.
- A rental surety bond is an insurance product with non-refundable premiums. For applicants with weaker credit, pricing can be punitive. I have seen tenants pay over \$700 in non-refundable premiums to secure housing.
- Prepaid rent is authorized by statute and in practice correlates strongly with social class: traveling professionals, graduate students with loan disbursements, or well-resourced family support.

With these options considered, I humbly submit that our current deposit framework produces regressive outcomes in screening. It pushes risk mitigation toward tools that presuppose higher socioeconomic standing, or toward financial products whose risk pricing costs the most to those who need it the most.

HB 1336-FN offers a better middle path: a refundable, interest-bearing security deposit, fully regulated under RSA 540-A—used only when the applicant doesn't meet disclosed criteria, and only where the landlord's criteria fall within evidence-based parameters set by the state.

A landlord who wants to use this tool may not require a FICO score above 650, or an income threshold above three times rent. A landlord whose standards are more restrictive may not use the RCD provision and remains bound by the one-month cap. This creates an incentive: if landlords want access to this risk-mitigation tool, they may need to make their criteria more accessible, not less.

The bill also entitles tenants to request re-screening every six months. This is designed to be an off-ramp as circumstances change. People repair credit, increase income, build rental history, and establish trust with their landlord. If they do, the burden is not permanent. Landlords may also accept RCD payments in installments, further reducing the upfront burden on tenants.

### **A Small Change with Significant Impact for Rental Assistance Organizations**

One provision in the amended bill arose directly from concerns raised by rental assistance organizations during our public hearing. Several groups noted that RCDs might cause tenants to request higher levels of financial assistance, putting pressure on limited charitable resources.

That feedback revealed an opportunity. Under current law, landlords are prohibited from refunding a security deposit to anyone other than the tenant—even when the deposit was paid in full by a third party such as a family member or a housing charity. This makes security deposit assistance a one-way flow of cash.

The amended bill legalizes deposit refunds to third-party payors when the landlord, tenant, and third party all agree to that arrangement in writing before the tenancy begins. If a rental charity pays the deposit and everyone signs off at move-in, the landlord refunds the deposit to the charity at move-out.

The practical effect is significant. Every security deposit assistance organization in New Hampshire will have the option to manage charitable funds like a revolving loan fund—collecting deposits back at the end of each tenancy to use again for the next family in need. Each dollar of charitable funding could serve multiple households over time, without requiring a single additional donation.

One final point: under current law, most owner-occupying landlords are already fully exempt from deposit caps. What this bill proposes with restrictions already exists on an unregulated basis throughout the state—just for a narrower class of housing providers. When I previously fell under this exemption, I accepted a double deposit several times in lieu of credit. In one of those situations, I learned after the new housemate moved in that he was coming out of homelessness.

There are people who do not present well on paper—because their lives have been chaotic, because they are rebuilding, because their history doesn't compress neatly into a score—who still deserve the opportunity to succeed as tenants, and who just might get the chance if property owners can manage the risk in a structured way.

In conclusion: HB 1336-FN doesn't compel landlords to change their screening practices. It doesn't weaken the one-month cap for qualified applicants. It doesn't

remove tenant protections. What it does is extend an existing practice through a regulated, refundable mechanism that is less regressive than the compensating factors we're already using—and certainly less regressive than outright denial of housing. And it gives rental assistance organizations a structural tool to serve more families without spending more money.

For those reasons, I respectfully urge the Committee to recommend HB 1336-FN as Ought to Pass.

Thank you for your time and consideration.

Respectfully submitted,

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### **Dig Deeper with these Frequently Asked Questions**

#### **Q: Why are they called Regulated Conditional Deposits?**

A: The term was chosen deliberately to avoid confusion with ordinary security deposits or any impression that New Hampshire is broadly authorizing double deposits. “Regulated Conditional Deposit” makes clear that this is a distinct tool with specific rules, eligibility limits, and consumer protections.

#### **Q: If Regulated Conditional Deposits can be used whenever an applicant doesn't meet their approval criteria, won't some landlords inflate their approval criteria to collect RCDs from everyone?**

A: No. HB 1336-FN does not allow RCDs to be used “whenever.” It caps each approval criterion for which an RCD may be accepted. If a landlord's screening criteria are more restrictive than the corresponding RCD threshold, the landlord may not accept an RCD on that basis. This closes the loophole and, in fact, creates an incentive to lower screening criteria to match the RCD statute.

#### **Q: How does this actually make things easier or better for tenants? Doesn't it just add upfront cost?**

A: Landlords have a legal obligation to maintain consistent screening standards under fair housing laws. They cannot make case-by-case exceptions without risking the appearance of discriminatory business practices. What landlords can do is adopt standardized alternative approval criteria for marginal applicants. The key is that these compensating factors must be consistent and available to any applicant.

In New Hampshire, landlords may already accept co-signers, rental surety bonds, and prepaid leases. Those tools work for many tenants, but each has meaningful limits. Co-signers require social capital that not all tenants have. Prepaid leases require substantially more cash upfront than an RCD and are usually realistic only for students using loans or for high earners. Surety bonds are insurance products, and the premiums

are nonrefundable and can be steep. I have personally seen tenants pay more than \$700 upfront to guarantee a one-year lease. A refundable RCD would have been far better for them.

RCDs will not solve every housing problem, but they create another option that will be better for some renters than the alternatives currently available. Most importantly, they expand housing choice and reduce the risk that someone cannot secure housing at all.

**Q: Can a tenant have their RCD refunded early if they later meet the required approval criteria?**

A: Yes. The bill creates a periodic rescreening right that allows a tenant to qualify for an early refund of the RCD. Otherwise, the RCD is refunded along with the security deposit as provided under state law.

**Q: How do we know this tool will be used consistently and that it won't just create confusion?**

A: Landlords cannot accept an RCD if they did not disclose the relevant approval criteria upfront. This creates an incentive for front-loaded transparency and produces a written record of consistent application. The bill also requires certain disclosures to the tenant and includes a form to ensure all parties receive them.

**Q: What happens if a landlord tries to keep an RCD without cause?**

A: RCDs are protected under RSA 540-A and the New Hampshire Consumer Protection Act. A landlord who wrongfully withholds an RCD refund may face penalties of up to \$1,000, plus court costs and attorneys' fees. If the violation is found to be willful and knowing, that penalty may increase to \$3,000.

**Q: Will landlords be forced to accept an RCD or change their approval criteria?**

A: No. This is a voluntary framework. Landlords retain complete discretion over whether and under what conditions they are willing to accept an RCD. The main statutory limit is that landlords may not accept RCDs based on criteria that are stricter than the eligibility caps established by the bill.

**Q: How did you determine the credit score cap of 650?**

A: The cap was based on TransUnion research showing that a score of 650 is an inflection point for eviction risk. Above that point, incremental risk reduction falls off significantly.

**Q: How did you determine the income requirement caps?**

A: Income-based RCD eligibility is capped using both rent-to-income ratio and household income relative to the federal poverty line. A three-times-rent standard is a widely used industry benchmark that helps avoid predatory rent burdens and is generally recognized as a stable threshold. The bill does not allow landlords to use an RCD if they require more than that reasonable limit. The income prong is also limited by household income relative to the federal poverty line, with a floor of 350 percent for a

two-person household. This tailors income-based RCDs to situations where supplying the RCD is unlikely to overextend the tenant financially.