

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 478

H. P. 388

House of Representatives, February 16, 1977

On motion of Mr. Blodgett of Waldoboro, referred to Committee on Natural Resources. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Benoit of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish Warranty Standards for Subsurface Sewage Disposal Systems.

Be it enacted by the People of the State of Maine, as follows:

10 MRSA c. 219 is enacted to read:

CHAPTER 219

**WARRANTY STANDARDS FOR SUBSURFACE
SEWAGE DISPOSAL SYSTEMS**

§ 1481. Definitions:

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. **Builder.** "Builder" means any individual, firm, association, partnership or corporation which builds, constructs or offers for sale subsurface sewage disposal systems as defined in this chapter. Any individual, firm, association, partnership or corporation which purchases a subsurface sewage disposal system from a builder for the purpose of resale to a purchaser shall be deemed a builder under this chapter and shall give the same warranty as required of a builder.

2. **Purchaser.** "Purchaser" means an individual or individuals who purchase or contract for a new subsurface sewage disposal system, either separately or as part of the purchase of a new or existing residential dwelling.

3. **Subsurface sewage disposal system.** "Subsurface sewage disposal system" shall mean any system for disposing of wastes or waste waters on or

beneath the surface of the earth including, but not limited to, holding ponds, surface spray systems, septic tanks, drainage fields, cesspools, wells, holding tanks, surface ditches or any other fixture, mechanism or apparatus used for such purposes, but shall not include any discharge system licensed under Title 38, section 414, or any municipal or quasi-municipal sewer system.

§ 1482. Application

The warranty provided for in this chapter shall apply to the builder or to the manufacturer of any subsurface sewage disposal system or any component part thereof and shall extend for a period of 5 years from the date of sale of a subsurface sewage disposal system to a purchaser.

§ 1483. Written warranty; contents

The warranty from the builder or from the manufacturer as specified in section 1482 to the purchaser shall be set forth in writing and shall be delivered to the purchaser at the time of purchase and shall contain the following terms:

1. Defects. That the subsurface sewage disposal system is free from any substantial defects in material or workmanship and that any subsurface sewage disposal system intended for use by occupants of the dwelling does not itself violate or, in its operation, will not cause the violation of any municipal ordinance, statute of the State or regulation promulgated pursuant thereto including, but not limited to, Title 30, section 3221 et seq. and regulations promulgated thereunder and Title 38, section 413;

2. Corrective action. That the builder or manufacturer or both shall correct substantial defects in the material or workmanship and shall correct or reimburse the purchaser for the cost of correcting subsurface sewage disposal systems which violate or cause the violation of any municipal ordinances, statutes of the State of Maine or regulation promulgated pursuant thereto if the purchaser gives written notice of those defects or violations to the builder at the builder's address within 180 days after the expiration of the warranty period.

3. Fitness for purpose intended. That the subsurface sewage disposal system is fit for the purpose for which it is intended to be used.

4. Liability. That the builder and manufacturer shall be jointly and severally liable to the purchaser for the fulfillment of the terms of the warranty and the purchaser may notify either one or both of the need for appropriate corrective action in instances of substantial defects in materials, workmanship or function of the subsurface sewage disposal system.

5. Notice. That the name, address and phone number of the builder where the purchaser may mail or deliver written notice of defects shall be set forth in the document.

§ 1484. Cumulative remedies; prohibition against waiver

The warranty under this chapter shall be in addition to and not in derogation of all other rights and privileges which such purchaser may have under

any other law or instrument. The builder shall not require the purchaser to waive his rights under this chapter and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void.

§ 1485. Violation as unfair trade practice

Any violation of this chapter shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

STATEMENT OF FACT

The purpose of this bill is to provide the purchasers of newly-constructed subsurface sewage disposal systems with a warranty extending 5 years from the date of purchase of the system. The expense of repairing or replacing such systems is almost always considerable and places a substantial burden on the purchaser of a private residential dwelling.