## MAINE STATE LEGISLATURE

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1 2	(New Draft of H.P. 298, L.D. 357) (New Title)
3 4	FIRST REGULAR SESSION
5 6	ONE HUNDRED AND ELEVENTH LEGISLATURE
7 <b>8</b>	Legislative Document No. 1225
9	H.P. 969 House of Representatives, March 17, 1983
10	Reported by Representative Stevens from the Committee on Business Legislation and printed under Joint Rule 2.
12	EDWIN H. PERT, Clerk
13	
14 15	STATE OF MAINE
16 17 18	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-THREE
19 20 21	AN ACT Relating to Attorneys Searching and Certifying Title to Real Estate.
22 23	Be it enacted by the People of the State of Maine as follows:
24	Sec. 1. 9-A MRSA §3-311 is enacted to read:
25	§3-311. Attorneys
26 27 28 29 30 31 32 33	Every supervised lender which accepts an application for a residential mortgage transaction for one to 4 residential units and which requires that an attorney search the title of the subject real estate shall first permit the prospective mortgagor to select a qualified attorney of his own choice to search the title of the subject real esate and certify that title to the lender or land title insurance
34	company, provided that the lender may require the

prospective mortgagor to provide it with adequate liability insurance or land title insurance or such other written policy requirements as the lender may deem necessary to protect its interests.

Sec. 2. 9-B MRSA §439, as enacted by PL 1979, c. 531, is amended to read:

## §439. Attorneys

Every financial institution which accepts an application for a residential mortgage loan for one to 4 residential units and which requires that an attorney search the title of the subject real estate shall first permit the prospective mortgagor to select a qualified attorney of his own choice to search the title of the subject real estate and certify that title to the institution or land title insurance company, provided that the financial institution may require the prospective mortgagor to provide it with adequate liability insurance or land title insurance or such other written policy requirements as the bank may deem necessary to protect its interests.

## STATEMENT OF FACT

This new draft clarifies the current banking laws regarding the consumer's choice of attorney to search the title in a residential mortgage transaction. Additionally, it extends this freedom of choice to dealings with other lenders, such as mortgage companies, who are governed by the Maine Consumer Credit Code rather than the banking laws. In the latter respect, this new draft also replaces L.D. 463.

Under current law, banks, unlike mortgage companies, typically afford the consumer the choice provided in this new draft. In a limited number of cases, financial institutions have required certification of title to be performed by their chosen attorney, rather than the consumer's attorney. This may result in extra charges, or at least in thwarting the intent of the law.

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