

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1775

7 H.P. 1335

House of Representatives, June 17, 1983

8 Submitted by the Department of Business Regulation pursuant to Joint
9 Rule 24.

10 Referred to the Committee on Business Legislation. Sent up for
concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brannigan of Portland.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Validate the Procedure for
18 Selection of Members of the Maine Real
19 Estate Commission.
20

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

23 32 MRSA §4051-A, as repealed and replaced by PL
24 1983, c. 171, §6, is repealed and the following
25 enacted in its place:

26 §4051-A. Real Estate Commission; organization

27 1. Real Estate Commission created. There is
28 created the Real Estate Commission, in this chapter
29 referred to as the "commission." The commission
30 shall consist of 4 industry members and one public
31 member, as provided in this section.

32 2. Qualifications. Each industry member of the
33 commission shall have been a real estate broker or

1 salesman by vocation in this State for at least 5
2 years prior to appointment. The public member shall
3 have had no professional or financial connection with
4 the real estate business.

5 3. Geographic distribution. There shall at no
6 time be more than one member of the commission from
7 any one county.

8 4. Term; removal. Terms of the members of the
9 commission shall be for 3 years. No person may be
10 appointed for more than 2 consecutive 3-year terms.
11 A vacancy occurring prior to the expiration of a term
12 shall be filled by an appointment for the unexpired
13 term. Members may be removed by the Governor for
14 cause.

15 5. Quorum; procedure. A majority of the members
16 of the commission constitute a quorum for the trans-
17 action of business under this chapter. The commis-
18 sion shall establish guidelines, policies and rules
19 by which it shall carry out the duties prescribed by
20 this chapter.

21 6. Appointments. The members of the commission
22 shall be appointed by the Governor, subject to review
23 by the joint standing committee of the Legislature
24 having jurisdiction over business legislation and to
25 confirmation by the Senate. As a part of the
26 appointment, the Governor shall specify whether the
27 appointment is for a vacancy occurring prior to the
28 expiration of a term, in which case the appointment
29 shall be only for the remainder of the unexpired
30 term.

31 7. Chairman. The commission shall annually
32 elect a chairman from its members.

33 STATEMENT OF FACT

34 This bill simply reenacts a provision contained
35 in Legislative Document 837, Public Law 1983, chapter
36 171, governing the manner of selection of members of
37 the Maine Real Estate Commission. That measure was
38 enacted without a recorded vote in the House on April
39 14, 1983, and in the Senate on April 15, 1983. By an

1 opinion of the Attorney General, it has been deter-
2 mined that the Constitution of Maine, Article V,
3 Part 1, Section 8, requires such a measure to have
4 the affirmative vote of 2/3 of the members of each
5 House present and voting.

6 Because of this procedural infirmity, the consti-
7 tutionality of the appointment procedure and the acts
8 of the Real Estate Commission might be thrown into
9 doubt. This measure, if passed by an affirmative
10 vote of 2/3 of the members of each House present and
11 voting, would remedy this infirmity.

12 The substance of this measure is identical to the
13 earlier passed provision.

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