

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 783

6
7 S.P. 294

In Senate, February 28, 1985

8 Referred to the Committee on Business and Commerce. Sent down for
9 concurrence and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Carpenter of Aroostook.

11 Cosponsored by Representative Kane of So. Portland, President Pray of Penobscot and Speaker Martin of Eagle Lake.

12 STATE OF MAINE
13

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

17 AN ACT to Promote Free Enterprise in the
18 Banking and Insurance Industries.
19

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

22 Sec. 1. 9-B MRSA §439, as amended by PL 1983, c.
23 150, §2, is further amended to read:

24 §439. Attorneys

25 Every financial institution which accepts an ap-
26 plication for a residential mortgage loan for one to
27 4 residential units and which requires that an attor-
28 ney search the title of the subject real estate shall
29 ~~first~~ permit the prospective mortgagor to select a
30 qualified attorney of his own choice to search the
31 title of the subject real estate and certify that title
32 to the institution or land title insurance compa-
33 ny, provided that the financial institution may re-
34 quire the prospective mortgagor to provide it with
35 adequate liability insurance or land title insurance

1 or such other written policy requirements as the bank
2 may deem necessary to protect its interests, provided
3 that if all such requirements are met by the attorney
4 chosen by the mortgagor, no additional legal costs
5 may be assessed by the financial institution against
6 the mortgagor for review of the title search or any
7 other relevant document by the financial institution
8 or its attorney.

9 No financial institution which accepts an appli-
10 cation for a residential mortgage loan for one to 4
11 residential units may recommend or refer the mortga-
12 gor to or suggest to the mortgagor the name of any
13 attorney or partnership or association of attorneys
14 to perform any services connected with the section.

15 Nothing in this section ~~shall~~ may be construed to
16 require certification of title to a financial insti-
17 tution if that institution does not so require, or to
18 a land title insurance company if that company does
19 not so require.

20 Any violation of this section by a financial in-
21 stitution is an unfair trade practice as defined in
22 Title 5, chapter 10, and subject to the remedies pro-
23 vided in that chapter in addition to such other reme-
24 diies as may be provided otherwise by law.

25 Sec. 2. 24-A MRSA §1543 is enacted to read:

26 §1543. Attorneys

27 No insurance agent or insurance broker may, in
28 any transaction involving property insurance, surety
29 insurance or title insurance relating to residential
30 property with 4 or fewer living units, recommend or
31 refer a potential buyer of that property to or sug-
32 gest to that buyer the name of any attorney, partner-
33 ship or association of attorneys to perform any legal
34 services connected with the purchase of that proper-
35 ty.

36 Any insurance agent or insurance broker who vio-
37 lates this section shall forfeit, to the potential
38 buyer of the property, any and all commission or com-
39 penensation arising or accruing from the sale of insur-
40 ance to that potential buyer. A violation of this

1 section is also an unfair trade practice, as defined
2 in Title 5, chapter 10, and is subject to the remedies
3 provided in that chapter.

4 STATEMENT OF FACT

5 The purpose of this bill is to amend the law
6 dealing with the selection of attorneys to perform
7 title searches in residential real estate mortgage
8 transactions. This bill would prohibit a financial
9 institution or insurance agent from recommending an
10 attorney to a mortgagor and from imposing additional
11 legal costs. It also provides penalties for viola-
12 tions of this law.

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