

# MAINE STATE LEGISLATURE

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3/11/86

(New Draft of S.P. 726, L.D. 1849)  
(New Title)  
SECOND REGULAR SESSION

ONE HUNDRED AND TWELFTH LEGISLATURE

Legislative Document

No. 2160

S.P. 857

In Senate, March 11, 1986

Reported by Senator Bustin of Kennebec from the Committee on Business and Commerce and printed under Joint Rule 2. Original bill sponsored by Senator Trafton of Androscoggin. Cosponsored by Senator Sewall of Lincoln, Representative Aliberti of Lewiston and Representative Murray of Bangor.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SIX

AN ACT to Exempt Property Managers and  
Site Managers from the Licensing as  
Real Estate Brokers or Salesmen.

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

Sec. 1. 32 MRSA §4001, sub-§2, as amended by PL 1975, c. 248, is further amended to read:

2. Real estate broker. A "real estate broker" is any person, firm, partnership, association or corporation who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent or lists or offers to list for sale, lease or rent, any real estate or the improvements thereon for others, as a whole or partial vocation. Further, any person, firm, partnership,

1 association or corporation obtaining 3 or more op-  
2 tions to purchase real estate within a one-year peri-  
3 od for the purpose of finding a buyer for the option,  
4 or the real estate under option, within 6 months from  
5 the date the option was obtained, must be a real es-  
6 tate broker as defined by this section. Any person,  
7 partnership, association or corporation who performs  
8 on behalf of the owner of real estate, fiscal, admin-  
9 istrative or physical management of the real estate,  
10 including leasing or renting the real estate, is not  
11 a "real estate broker."

12 Sec. 2. 32 MRSA §4001, last ¶, as enacted by PL  
13 1981, c. 501, §68, is amended to read:

14 This chapter shall not apply to any person, part-  
15 nership, association or corporation who as owner or  
16 lessor shall perform any of such acts with reference  
17 to property owned or leased by said owner or lessor  
18 or to the regular employees thereof with respect to  
19 the property so owned or leased, where such acts are  
20 performed in the regular course of, or as an incident  
21 to the management of such property and the investment  
22 therein, nor shall this chapter apply to persons act-  
23 ing as attorney in fact under a duly executed power  
24 of attorney from the owner in proper form for record,  
25 authorizing the final consummation by performance of  
26 any contract for the sale, leasing or exchange of  
27 real estate, nor shall this chapter be construed to  
28 include in any way the services rendered by an attor-  
29 ney at law in the performance of his duties as such  
30 attorney at law; nor shall it be held to include,  
31 while acting as such, a receiver, trustee in bank-  
32 ruptcy, administrator or executor or any person sell-  
33 ing real estate under order of any court, nor to in-  
34 clude a trustee, acting under a trust agreement, deed  
35 of trust or will, or the regular salaried employees  
36 thereof. This chapter does not apply to an auction-  
37 eer employed by an owner or his agent for services  
38 limited to "crying the sale." This chapter does not  
39 apply to any person, partnership, association or cor-  
40 poration who performs on behalf of the owner of real  
41 estate, fiscal, administrative or physical management  
42 of the real estate, including leasing or renting the  
43 real estate.

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## STATEMENT OF FACT

2       The purpose of this new draft is to exempt prop-  
3 erty managers from the definition of "real estate  
4 broker." A property manager is a person, partner-  
5 ship, association or corporation which manages fis-  
6 cal, administrative or physical aspects of real es-  
7 tate for the owner of the real estate. The management  
8 does not include the sale of the property.

9       Currently, persons who are hired by the real es-  
10 tate owner to simply manage and rent the property,  
11 not sell it, fall under the definition of "real es-  
12 tate broker." They are therefore required to be li-  
13 censed and regulated as brokers, even though they are  
14 not performing all the functions of real estate bro-  
15 kers.

16       This new draft, rather than creating an entire  
17 system to define and regulate property managers, sim-  
18 ply specifically excludes the property managers from  
19 the definition of real estate broker, and exempts  
20 property managers from the application of the chapter  
21 regulating real estate brokers.

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