

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

---

Legislative Document

No. 427

---

H.P. 313

House of Representatives, February 23, 1989

Reference to the Committee on Business Legislation suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative ALLEN of Washington.

---

STATE OF MAINE

---

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

---

An Act to Create a Fund to Assist Victims of Fraudulent Real Estate Transactions.

---



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

3 Sec. 1. 32 MRSA §13066, sub-§1, ¶E is enacted to read:

5 E. Upon petition of a person alleging damage and seeking  
7 compensation from the Real Estate Recovery Fund under  
chapter 114, the commission shall conduct a hearing.

9 Sec. 2. 32 MRSA c. 114, sub-c. VII, is enacted to read:

11 SUBCHAPTER VII

13 REAL ESTATE RECOVERY FUND

15 §13271. Establishment of fund

17  
19 1. Fund. The commission shall establish and maintain the  
Real Estate Recovery Fund, which is referred to in this  
21 subchapter as the "fund." The commission shall compensate from  
the fund persons damaged by a person licensed pursuant to section  
23 13003, acting as a real estate broker, who has been found by the  
commission or a court under section 13066, subsection 1,  
25 paragraph A to have committed fraud in violation of this chapter.

27 2. Compensation. Pursuant to subsection 1, the commission  
shall pay a person damaged an amount to compensate the person for  
29 the damage provided that the aggregate amount of the payment does  
not exceed \$25,000 for the fraud of any one licensee in  
31 connection with any one transaction or claim, regardless of the  
number of persons aggrieved or parcels of real estate involved.  
33 Prior to making payment from the fund, the commission shall  
provide its written order to the licensee to compensate the  
35 person damaged in the amount established by the commission as  
certain liquidated damages. If the licensee fails to compensate  
37 the person damaged within 20 days of the mailing date of the  
order, the commission shall compensate the person from the fund  
39 for the amount of damages established within the limits of this  
41 subsection and pursuant to the procedures set forth in section  
13273.

43 3. Fee payable to fund. Any person who receives a license  
under section 13003 for the first time shall pay to the director  
45 a fee of \$25 in addition to all other fees payable under this  
chapter. Notwithstanding section 13069, subsection 4, the  
47 director shall credit this fee to the Real Estate Recovery Fund.

49 4. Credits to General Fund. The fees collected under  
chapter shall be paid by the director to the Treasurer of State  
51 and shall constitute the Real Estate Recovery Fund. The  
commission shall maintain the Real Estate Recovery Fund at a  
level not to exceed \$300,000. The director shall credit money

1 received under subsection 3 to the fund if the fund balance is  
2 below this amount. The Treasurer of State may invest or reinvest  
3 money in the fund in the same manner as funds of the Maine State  
4 Retirement System are invested. Any interest arising from these  
5 investments shall be credited to the General Fund. Any money  
6 received by the director under this section not required to  
7 maintain the fund balance shall be paid to the Treasurer of State  
8 to be credited to the General Fund. The Treasurer of State shall  
9 pay from the Real Estate Recovery Fund upon voucher by the  
10 director such compensation as may be due under this chapter.

11 **§13272. Limitation of Actions**

12  
13 No petition by a person alleging damage and seeking  
14 compensation under this chapter may be brought later than 2 years  
15 from the expiration of time for appeal from the finding by the  
16 commission or a court of a violation of this chapter that serves  
17 as the basis of the petition.

18  
19 **§13273. Recovery from fund**

20  
21 1. **Petition; hearing.** A person alleging damage and seeking  
22 compensation under this chapter shall file a petition pursuant to  
23 the Maine Administrative Procedure Act, Title 5, chapter 375,  
24 subchapter IV and any rules adopted under section 13065,  
25 subsection 1. The commission shall conduct a hearing on the  
26 petition pursuant to section 13065, subsection 1, section 13066,  
27 subsection 2 and the Maine Administrative Procedure Act, Title 5,  
28 chapter 375, subchapter IV.

29  
30  
31 2. **Finding; order.** If the commission finds that the  
32 licensee complained of in the petition has committed fraud in  
33 violation of this chapter, or that a court has so found, and that  
34 the petitioner has been damaged by this fraud, the commission  
35 shall order the licensee to pay to the petitioner an amount that  
36 will compensate the petitioner for the petitioner's certain and  
37 liquidated damages within the limit established in section 13271,  
38 subsection 2.

39  
40  
41 3. **Appeal; enforcement.** Any person who is aggrieved by an  
42 order of the commission under this chapter shall be entitled to  
43 judicial review in the Superior Court in the manner provided in  
44 the Maine Administrative Procedure Act, Title 5, chapter 375,  
45 subchapter VII. The commission may enforce its order as provided  
46 in Title 5, section 9064. The petitioner may seek to enforce the  
47 commission's order in the manner of execution to enforce a  
48 judgment for the payment of money under the Maine Rules of Civil  
49 Procedure.

50  
51 4. **Reimbursement of fund.** If payment has been made from  
the fund to a damaged person under section 13271, subsection 2  
and the order of the commission to the licensee to compensate the

1 damaged person is subsequently enforced or executed upon under  
2 subsection 3, the licensee shall make payment of the compensation  
3 to the director in the amount of the payment made from the fund  
4 to the person damaged. Any amount of compensation the licensee  
5 is required to pay the damaged person above the amount required  
6 to reimburse the fund shall be paid by the licensee to the person  
7 damaged. The licensee shall also pay to the director interest at  
8 the rate of 10% per annum on the unpaid compensation required to  
9 reimburse the fund. Interest shall be calculated from the date  
10 of the order of enforcement or execution under subsection 3.

11  
12 5. License suspension. The commission shall seek, pursuant  
13 to the Maine Administrative Procedure Act, Title 5, chapter 375,  
14 section 10051 suspension of the license of a licensee required to  
15 make payment under subsection 4. Any such suspension shall be in  
16 effect until the licensee has made the required payments under  
17 subsection 4.

18  
19 6. Insufficient funds. If, at any time, the money  
20 deposited in the fund is insufficient to satisfy any payments  
21 under section 13271, subsection 2, the commission shall, when  
22 sufficient money has been deposited in the fund, make the  
23 payments in the same order as the commission orders on which the  
24 payments are based were originally made. The commission shall,  
25 along with a payment under this subsection, pay interest  
26 calculated from the date of the original commission order at the  
27 rate of 10% per annum.

28  
29  
30 **STATEMENT OF FACT**

31  
32 This bill establishes the Real Estate Recovery Fund, the  
33 purpose of which is to reimburse persons who have been damaged by  
34 a real estate licensee through that licensee's fraudulent conduct.

35  
36 The limit of the reimbursement is \$25,000 for the fraudulent  
37 conduct of any licensee. The total amount in the fund is not to  
38 exceed \$300,000 and is to be generated from an additional charge  
39 of \$25 for first-time real estate licensees.

40  
41 A law similar to this is currently in place in Connecticut  
and Kentucky.