

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1067

S.P. 390

Received by the Secretary, March 8, 1991

Referred to the Committee on Business Legislation and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland
Cosponsored by Representative GRAHAM of Houlton.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Relating to Real Estate Broker Disclosure.

Printed on recycled paper



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

32 MRSA §13184 is enacted to read:

§13184. Broker relationships

This section pertains only to transactions dealing with one to 4 family residential properties.

1. With seller. Before reaching an agreement with a perspective seller, a listing agent shall explain the following agency relationships, including their advantages and disadvantages, and have the seller indicate a preference concerning the agency relationship in the listing contract.

A. In the listing contract the seller shall indicate whether the seller wishes the listing to include a provision for subagency.

B. The listing agent shall indicate to the seller that the buyer may wish to retain an agent. The listing agent and the seller shall include in the listing contract an agreement indicating the amount, if any, the listing agent or seller will pay toward the commission of the buyer's agent.

C. Prior to an agreement being reached in a transaction, the listing agent shall explain to the seller the option of dual agency as described in subsection 2.

2. With buyer. A seller agent and a cooperating agent must adhere to the following provisions in dealing with a buyer.

A. The following provisions govern disclosure of the buyer-agent relationship;

(1) In any transaction, at the initial interview and prior to the buyer's specific needs being discussed, a listing agent shall inform the buyer that the agent represents the seller of the property, unless the 2 parties agree, then the agent is a dual agent who represents both seller and buyer.

(2) A cooperating agent shall inform the buyer that the buyer may elect to have that agent act as a dual agent or as the buyer's agent, not the agent of the seller. The agent shall explain to the buyer that, if the agent is to represent the buyer, the buyer is responsible for that agent's compensation and the amount of compensation expected. The agent shall explain the terms of the listing contract regarding buyer-agent compensation and that the buyer may include

2 in the offer to purchase a provision regarding the
4 compensation of buyer agents. The cooperating agent
6 shall indicate to the buyer that the agent does not
8 receive compensation from the seller on properties for
10 which the seller has not employed an agent. The
12 cooperating agent and the buyer shall agree on the
 compensation expected from the buyer if the buyer
 purchases that property being shown by the agent.
 Payment of compensation to the cooperating agent by the
 seller or listing agent does not affect the status of
 the cooperating agent's relationship with the buyer.

14 B. In all disclosures by any selling agent the agent shall
16 indicate to the buyer that, if the agent is acting as the
18 seller's agent, the agent is required to report to the
20 seller any facts that the buyer may disclose that may
 influence a seller's decision, including any disclosures
 that the buyer may make concerning the buyer's desired
 purchase price, financial situation and anticipated
 negotiating tactics.

22 C. In all disclosures by any selling agent, the agent shall
24 explain the concept of dual agency to include the fact that
26 those agents shall remain impartial in negotiations, provide
28 the same information to both parties and may not disclose
 any facts about either party that may influence the other
 party's decision to sell or buy.

30 D. Immediately after the verbal disclosure required by this
32 section, the listing agent or cooperating agent shall
34 provide the buyer with a written disclosure of the same
36 material on a form approved by the commission and shall
 obtain a signed acknowledgement of receipt. A copy of this
 confirmation must be forwarded immediately to the listing
 agent, if that agent is not the agent making the disclosure,
 and to the seller.

38 **STATEMENT OF FACT**

40 This bill requires that a real estate agent inform the buyer
42 of real estate, prior to the buyer's needs being disclosed, that
44 the agent represents the seller, unless, in the case of a
46 nonlisting agent, the buyer elects to have the agent be a dual
48 agent or represent the buyer. The bill requires that the
 reimbursement of a buyer's agent be agreed to between seller and
 listing agent. It also requires that the seller be given the
 option of whether subagency will be offered.