

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1512

H.P. 1075

House of Representatives, March 13, 1997

**An Act Pertaining to the Real Estate Consumer's Right to Seller
Disclosure Information.**

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CAMPBELL of Holden.
Cosponsored by Representatives: BODWELL of Brunswick, CIANCHETTE of South
Portland, DUNLAP of Old Town, MacDOUGALL of North Berwick, MACK of Standish,
PLOWMAN of Hampden, VIGUE of Winslow, Senator: MURRAY of Penobscot.

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

4 Sec. 1. 33 MRSA c. 7, sub-c. I-A is enacted to read:

6 **SUBCHAPTER I-A**

8 **DUTY OF DISCLOSURE BY OWNER OF REAL ESTATE**

10 **§171. Duty to prospective buyer**

12 The owner of real estate that is for sale, referred to in
14 this subchapter as the "seller," shall treat all prospective
16 buyers honestly and may not knowingly give false information.
18 The seller shall disclose in a timely manner to a prospective
20 buyer all material defects pertaining to the physical condition
of the property that the seller knows, or acting in a reasonable
manner, should have known. For purposes of this subchapter, a
"material defect" is any problem that substantially decreases the
value of the property.

22 **§172. Specific disclosure; water and waste systems; insulation**
and hazardous materials

24 The seller shall specifically disclose the following
26 information in writing to a prospective buyer:

28 1. **Water supply system.** The type of system used to supply
water to the property. If the property has a private water
30 supply, the seller shall disclose:

32 A. The type of system;

34 B. The location of the system;

36 C. Any malfunctions of the system;

38 D. The date of the most recent water test; and

40 E. Whether the seller has experienced a problem such as an
unsatisfactory water test or a water test with notations;

42 2. **Insulation.** The type and location of insulation used on
44 the property;

46 3. **Waste disposal system.** The type of waste disposal
system used on the property. If the property has a private waste
48 disposal system, the seller shall disclose:

50 A. The type of system;

52 B. The size and type of the tank;

2 C. The location of the tank;

4 D. Any malfunctions of the tank;

6 E. The date of installation of the tank;

8 F. The location of the leach field;

10 G. Any malfunctions of the leach field;

12 H. The day of installation of the leach field;

14 I. The date of the most recent servicing of the system; and

16 J. The name of the contractor who services the system; and

18 4. Hazardous materials. The presence or prior removal of
known hazardous materials on or in the real estate, including,
but not limited to:

20 A. Asbestos;

22 B. Lead base paint;

24 C. Radon; and

26 D. Underground storage tanks.

28 §173. Remedy for failure to disclose

30 Notwithstanding any other provision of law, if a seller
fails to comply with this subchapter, the buyer may rescind the
contract.

34 §174. Duty of buyer to inspect

36 Nothing in this subchapter precludes the obligation of a
buyer to inspect the physical condition of the property.

40 **SUMMARY**

42 This bill requires the owner of real property to make
44 disclosures to prospective buyers of the property, similar to
46 what is currently required of a real estate broker for the
48 seller. The bill requires the disclosure of any material defects
50 in the property, the type of water and waste systems used, the
type of insulation and whether there are or were any hazardous
materials in or on the property. If an owner fails to make the
required disclosures, the buyer of the property may, at the
buyer's discretion, rescind the sales contract.