

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 1083

S.P. 382

In Senate, February 9, 1999

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### An Act to Amend the Real Estate Brokerage Law.

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Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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

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

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator KONTOS of Cumberland.  
Cosponsored by Representative O'NEAL of Limestone and  
Representatives: BOWLES of Sanford, MENDROS of Lewiston, SHOREY of Calais,  
USHER of Westbrook.

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

2  
4       **Sec. 1. 32 MRSA §13002, sub-§2**, as amended by PL 1991, c. 53, §1, is further amended to read:

6       **2. Transactions by attorneys-at-law.** Transactions conducted by an attorney-at-law in the performance of duties as an attorney-at-law. This exception does not apply to attorneys who are regularly engaged in real estate brokerage; and

10       **Sec. 2. 32 MRSA §13002, sub-§3**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

14       **3. Exception.** Any person licensed as an auctioneer under chapter 5, hired to call bids at an auction, if the person employed does not prepare contracts or otherwise control the actual sale or take custody of any part of the purchase price; and

20       **Sec. 3. 32 MRSA §13002, sub-§4** is enacted to read:

22       **4. Time share.** Real estate transaction services subject to the provisions of Title 33, chapter 10-A.

24       **Sec. 4. 32 MRSA §13066, sub-§1, ¶B**, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

28       **Sec. 5. 32 MRSA §13067, sub-§1, ¶L**, as amended by PL 1991, c. 53, §4, is further amended to read:

30       L. Failure to produce to the director any requested documents in the licensee's possession or under the licensee's control concerning any ~~transaction matter~~ under investigation; and

36       **Sec. 6. 32 MRSA §13069, sub-§6, ¶A**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

38       A. ~~Dismiss~~ With the commission's approval, dismiss the complaint;

42       **Sec. 7. 32 MRSA §13173, sub-§6**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

44       **6. Branch office.** Other locations where real estate brokerage business is regularly conducted or which that are advertised as locations where the public may contact the agency or its employees concerning brokerage services shall must be licensed as a branch office, ~~except that places of residence need not be licensed as a branch office.~~ In order to qualify for a

2 branch office license, the agency designated broker may  
designate himself ~~or~~ another broker to act as branch manager, in  
4 which case the manager shall ~~have~~ has designated broker  
responsibilities for that office. ~~The designated broker may~~  
~~designate himself to act as manager for all branch offices.~~

6  
8 **Sec. 8. 32 MRSA §13177, first ¶**, as enacted by PL 1987, c. 395,  
Pt. A, §212, is amended to read:

10 ~~All exclusive right to sell contracts, exclusive agency~~  
~~contracts and any nonexclusive contract relating to one to 4~~  
12 ~~family residential properties shall be in writing, signed by the~~  
~~person to be charged and shall specifically identify the date~~  
14 ~~upon which the contract will expire. Nonexclusive listing~~  
~~contracts relating to one to 4 family residential properties, in~~  
16 ~~addition to all exclusive right to sell and exclusive agency~~  
~~listing contracts must be in writing, signed by the person to be~~  
18 ~~charged and specifically identify the date upon which the~~  
~~contract will expire. If the parties to the contract desire to~~  
20 ~~continue the contract, a new contract must be executed.~~

22 **Sec. 9. 32 MRSA §13195**, as enacted by PL 1987, c. 395, Pt. A,  
§212, is amended to read:

24 **§13195. Changes**

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28 Any change of address, name or other material change in the  
conditions or qualifications set forth in the original  
30 application shall including but not limited to criminal  
convictions or suspension or revocation of any professional  
32 license, must be reported to the director no later than 10 days  
after the change. Upon proper application and payment of the  
34 prescribed fee, the commission records shall must be changed and  
a new license shall ~~be~~ issued for the unexpired term of the  
36 current license, if appropriate.

38 **Sec. 10. 32 MRSA §13196**, as amended by PL 1991, c. 53, §8, is  
repealed and the following enacted in its place:

40 **§13196. Inactive licenses**

42 1. Placement on inactive status. Any licensee who does not  
desire to perform any of the activities described in section  
44 13001 and who wants to preserve the license while not engaged in  
any brokerage activity may surrender that license to the  
46 commission for placement on inactive status. The commission may  
place the license on inactive status and issue an inactive  
48 license only upon proper application by the licensee. During  
inactive status, the licensee is required to renew the license

2 biennially, but is not required to maintain a place of business  
3 or meet the educational provisions of section 13197.

4 2. Reinstatement to active status. Licensees who have  
5 surrendered their licenses pursuant to this section and who have  
6 remained on inactive status for 6 years or more may have their  
7 licenses reinstated to active status by submitting proper  
8 application and fee and by successfully passing a license  
9 examination designated by commission rule for this purpose.  
10 Licensees who activate within 6 years of the initial inactive  
11 license may activate by successfully completing the designated  
12 examination or by completing continuing education courses that  
13 meet commission approved clock hours as follows:

14  
15 A. For those applicants remaining inactive from the  
16 issuance of the inactive licenses up to 2 years, 15 clock  
17 hours of continuing education completed within the previous  
18 biennium;

19  
20 B. For those applicants remaining inactive for more than 2  
21 years but less than 4 years, 22 clock hours of continuing  
22 education completed within the previous biennium; or

23  
24 C. For those applicants remaining inactive for more than 4  
25 years but less than 6 years, 30 clock hours of continuing  
26 education completed within the previous biennium.

27 Paragraphs A and B apply to those applicants who have maintained  
28 inactive licenses for 2 years or more from the effective date of  
29 this subsection.

30  
31 **Sec. 11. 32 MRSA §13197, sub-§1, as enacted by PL 1987, c.**  
32 **395, Pt. A, §212, is amended to read:**

33  
34  
35 **1. Requirement.** As a prerequisite to renewal of a license,  
36 applicants ~~shall have completed 12~~ must complete 15 clock hours  
37 of continuing education within 2 years prior to the date of  
38 application in programs or courses approved by the commission.  
39 This requirement ~~shall~~ does not apply to agency and company  
40 licenses.

41  
42 **Sec. 12. 32 MRSA §13199, sub-§2, ¶C, as enacted by PL 1987, c.**  
43 **395, Pt. A, §212, is repealed.**

44  
45 **Sec. 13. 32 MRSA §13201, as enacted by PL 1987, c. 395, Pt.**  
46 **A, §212, is repealed.**

47  
48 **Sec. 14. 32 MRSA §13251, as enacted by PL 1987, c. 770, §10,**  
49 **is repealed.**

2           **Sec. 15. 32 MRSA §13271, sub-§§10 and 12, as enacted by PL**  
1993, c. 679, §1, are amended to read:

4           **10. Real estate brokerage agency.** "Real estate brokerage  
6           agency" means a person or entity providing real estate brokerage  
services through that person's designated broker, associates or  
8           employees and licensed by the commission as a real estate  
brokerage agency.

10          **12. Subagent.** "Subagent" means a licensee real estate  
12          brokerage agency engaged by another brokerage agency to perform  
brokerage tasks for a client.

14

### SUMMARY

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18           This bill amends the real estate brokerage laws. The  
proposed changes in the bill will:

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1. Repeal the licensing requirement for time-share agents;

22

2. Repeal the right of a complainant to appeal a decision  
made by the director to dismiss or not to pursue a complaint;

24

26           3. Increase the number of continuing education clock hours  
from 12 to 15 for active licensees;

28

4. Increase in increments the total number of hours  
required to activate a license;

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32           5. Require an examination for licensees activating after 6  
years on the inactive status;

34

6. Repeal one method to qualify for licensure as an  
associate broker;

36

38           7. Repeal an outdated section requiring specific disclosure  
for mobile home sales with or without land; and

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42           8. Clarify sections regarding the need for certain listings  
to be in writing, the duty to produce documents requested by the  
director, the need to license branch offices, the duty to notify  
44           the commission of material changes in the original license  
application and certain definitions used in the agency  
relationship subchapter.