

# MAINE STATE LEGISLATURE

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**BUSINESS AND ECONOMIC DEVELOPMENT**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1368, L.D. 1966, Bill, "An Act to Require Disclosures in Connection with Transfers of Residential Property"

Amend the bill in section 1 in that part designated "§171." in subsection 1 in the first line (page 1, line 14 in L.D.) by striking out the following: "Material defect." "Material" and inserting in its place the following: 'Known defect.' "Known'

Further amend the bill in section 1 in that part designated "§171." in subsection 1 in the 2nd line (page 1, line 15 in L.D.) by inserting before the following: "that" the following: 'known by the seller.'

Further amend the bill in section 1 in that part designated "§171." in subsection 1 in the next to last line (page 1, line 18 in L.D.) by striking out the following: "or adversely affects"

Further amend the bill in section 1 in that part designated "§171." in subsection 2 in the first line (page 1, line 21 in L.D.) by striking out the following: "Owner." "Owner" and inserting in its place the following: 'Seller.' "Seller'

Further amend the bill in section 1 in that part designated "§171." in subsection 3 in the 2nd line (page 1, line 26 in L.D.) by striking out the following: "an owner" and inserting in its place the following: 'a seller'

Further amend the bill in section 1 in that part designated "§172." in the first paragraph in the 4th line (page 1, line 45 in L.D.) by striking out the following: "whether or not the

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transaction is with" and inserting in its place the following:  
'when the transaction is without'

Further amend the bill in section 1 in that part designated "~~§172.~~" in subsection 10 in the last line (page 2, line 49 in L.D.) by striking out the following: "and"

Further amend the bill in section 1 in that part designated "~~§172.~~" in subsection 11 in the first line (page 2, line 51 in L.D.) by striking out the following: "and" and inserting in its place the following: '; and'

Further amend the bill in section 1 in that part designated "~~§172.~~" by inserting after subsection 11 the following:

~~'12. Corrective deed. Transfers that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded.'~~

Further amend the bill in section 1 by striking out all of that part designated "~~§173.~~" and inserting in its place the following:

**'§173. Required disclosures**

~~Unless the transaction is exempt under section 172, the seller of residential real property shall provide to the purchaser a property disclosure statement containing the following information:~~

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

~~A. The type of system;~~

~~B. The location of the system;~~

~~C. Any malfunctions of the system;~~

~~D. The date of the most recent water test, if any; and~~

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

~~2. Insulation. The type and location of insulation used on the property;~~

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

- 5 A. The type of system;  
6 B. The size and type of the tank;  
7 C. The location of the tank;  
8 D. Any malfunctions of the tank;  
9 E. The date of installation of the tank;  
10 F. The location of the leach field;  
11 G. Any malfunctions of the leach field;  
12 H. The date of installation of the leach field;  
13 I. The date of the most recent servicing of the system;  
14 J. The name of the contractor who services the system; and  
15 K. For systems within shoreland zones, disclosures on  
16 septic systems required by Title 30-A, section 4216;

17 4. Hazardous materials. The presence or prior removal of  
18 hazardous materials or elements on the residential real property,  
19 including, but not limited to:

- 20 A. Asbestos;  
21 B. Lead-based paint for pre-1978 homes in accordance with  
22 federal regulations;  
23 C. Radon; and  
24 D. Underground oil storage tanks as required under Title  
25 38, section 563, subsection 6; and

26 5. Known defects. Any known defects.'

27 Further amend the bill in section 1 in that part designated  
28 "§174." in the first line (page 4, line 48 in L.D.) by striking  
29 out the following: "Time" and inserting in its place the  
30 following: 'Delivery and time'

31 Further amend the bill in section 1 in that part designated  
32 "§174." in subsection 1 in the first line (page 4, line 48 in

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2 L.D.) by striking out the following: "Time" and inserting in its place the following: 'Delivery and time'

4 Further amend the bill in section 1 in that part designated "\$174." in subsection 1 in the first line (page 4, line 50 in L.D.) by striking out the following: "owner" and inserting in its place the following: 'seller'

8 Further amend the bill in section 1 in that part designated "\$174." in subsection 1 in the 2nd line (page 4, line 51 in L.D.) by inserting after the following: "deliver" the following: 'or cause to be delivered'

14 Further amend the bill in section 1 in that part designated "\$175." in subsection 2 in the 2nd line (page 5, line 41 in L.D.) by striking out the following: "an owner" and inserting in its place the following: 'a seller'

18 Further amend the bill in section 1 in that part designated "\$175." in subsection 2 in the 4th line (page 5, line 43 in L.D.) by striking out the following: "owner" and inserting in its place the following: 'seller'

24 Further amend the bill in section 1 by striking out everything from all of that part designated "\$176." to before the summary and inserting in its place the following:

28 '\$176. Rights and duties of seller and purchaser

30 1. Seller's rights and duties. A property disclosure statement and any supplement to a property disclosure statement are not a warranty by the seller. The information in the disclosure statement is for disclosure only and is not intended to be a part of any contract between the purchaser and the seller.

36 If, at the time the disclosures are required to be made, an item of information required to be disclosed under this subchapter is unknown or unavailable to the seller, the seller may comply with this subchapter by advising the purchaser of the fact that the information is unknown.

42 The information provided to the purchaser is based upon the best information available to the seller. The seller is not obligated under this subchapter to make any specific investigation or inquiry in an effort to complete the property disclosure statement.

48 2. Purchaser's rights and duties. The property disclosure statement and any supplement to the property disclosure statement may not be used as substitutes for any inspections or warranties

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2 that the purchaser or seller may obtain. Nothing in this  
3 subchapter precludes the obligation of a purchaser to inspect the  
4 physical condition of the property.

6 **§177. Liability**

8 A seller is not liable for any error, inaccuracy or omission  
9 of any information required to be delivered to the purchaser  
10 under this subchapter if:

12 1. Without actual knowledge. The error, inaccuracy or  
13 omission was not within the actual knowledge of the seller or was  
14 based on information provided by a public agency or by another  
15 person with a professional license or special knowledge who  
16 provided a written or oral report or opinion that the seller  
17 reasonably believed to be correct; and

18 2. Without negligence. The seller was not negligent in  
19 obtaining information from a 3rd party and transmitting that  
20 information to the purchaser.

22 **§178. Effect on other statutes or common law**

24 This subchapter is not intended to limit or modify any  
25 obligation to disclose created by any other statute or that may  
26 exist in common law in order to avoid fraud, misrepresentation or  
27 deceit in the transaction.

28 **§179. Effective date**

30 This subchapter takes effect January 1, 2000.'

32 Further amend the bill by relettering or renumbering any  
34 nonconsecutive Part letter or section number to read  
35 consecutively.

38 **SUMMARY**

40 This amendment provides that the disclosure requirements for  
41 residential real property transactions are applicable when the  
42 transaction is without the assistance of a person licensed to  
43 practice real estate brokerage. The amendment changes the term  
44 "material defect" to "known defect" and changes the term "owner"  
45 to "seller." The amendment adds corrective deeds to the list of  
46 exemptions from the disclosure requirements. It also deletes  
47 specific language of notices that the original bill required the  
48 owner to give to the purchaser. The amendment also deletes the  
specific delivery requirements in the original bill and it

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2 deletes the one-year statute of limitation for action for violations of the subchapter.

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