

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 629

H.P. 489

House of Representatives, February 8, 2001

**An Act to Allow a Mortgagor to Select a Land Title Company to Perform
the Title Search.**

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative SHERMAN of Hodgdon.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: CARR of Lincoln, CLOUGH of Scarborough, DUNCAN of Presque Isle,
FOSTER of Gray, JACOBS of Turner, JODREY of Bethel, MORRISON of Baileyville,
WHEELER of Bridgewater.

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

Sec. 1. 9-B MRSA §241, sub-§4, as amended by PL 1999, c. 218, §3, is further amended to read:

4. Land title companies or attorneys. Every financial institution authorized to do business in this State and every credit union authorized to do business in this State that accepts an application for a residential mortgage loan for one to 4 residential units and that requires ~~that-an-attorney~~ a search of the title of the subject real estate shall permit the prospective mortgagor to select a land title company or a qualified attorney of the mortgagor's choice to search the title of the subject real estate ~~and-certify-that-title-to-the-institution-or-land-title insurance-company,-except-that-the,~~ The land title company shall provide title insurance to the institution or the attorney shall certify the title to the institution. The institution may require the prospective mortgagor's attorney to provide it with evidence of adequate liability insurance or land title insurance or such other written policy requirements as the institution may determine necessary to protect its interests,~~-as-long-as,-if.~~ If all requirements are met by the attorney chosen by the mortgagor, additional legal costs may not be assessed by the financial institution or credit union against the mortgagor for review of the title search or the review or preparation of any other relevant title documents by the institution,~~-its-title-company or its~~ attorney.

The mortgagor may provide a land title insurance policy in lieu of an attorney's certification to the lending institution.

Every financial institution and credit union subject to this subsection shall provide written notice to the prospective mortgagor that the mortgagor has the right to select a land title company or a qualified attorney of the mortgagor's choice for the performance of ~~title-work~~ closing services, along with a list of land title companies and qualified attorneys. The notice must inform the prospective mortgagor whether the institution requires title insurance. The notice must inform the prospective mortgagor that, if the title insurance is required or if the qualified attorney chosen by the mortgagor meets the financial institution's requirements, additional fees may not be charged to the mortgagor for ~~title--work~~ closing services. It is the mortgagor's responsibility to provide a mortgage and promissory note as required by the lending institution. If the prospective mortgagor indicates on the written notice that the mortgagor does not wish to exercise the mortgagor's right to select a land title company or an attorney, then the institution may recommend a land title company or an attorney. A financial institution may not require the mortgagor to pay for closing services by an attorney

2 or land title company for legal services rendered to the
3 financial institution as part of the closing.

4 This subsection may not be construed to require certification of
5 title to a financial institution or credit union if that
6 institution does not so require or to a land title insurance
7 company if that company does not so require. A financial
8 institution may not require both certification of title and title
9 insurance to protect its interests.

10 Any violation of this section by a financial institution
11 authorized to do business in this State or credit union
12 authorized to do business in this State is an anticompetitive or
13 deceptive practice as defined in this chapter and subject to the
14 remedies provided in this chapter in addition to such other
15 remedies as may be provided otherwise by law.

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20 SUMMARY

21 This bill requires that a financial institution or credit
22 union that accepts an application for a residential mortgage for
23 1 to 4 residential units and requires a title search on the
24 property subject to the mortgage must permit the prospective
25 mortgagor to select a land title company to perform the title
26 search.