

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 560

H.P. 423

House of Representatives, February 6, 2003

An Act To Allow a Mortgagor To Select a Land Title Company To Perform a Title Search

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SHERMAN of Hodgdon.
Cosponsored by Senator NASS of York.

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

2
4 **Sec. 1. 9-B MRSA §241, sub-§4,** as amended by PL 1999, c. 218,
§3, is further amended to read:

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

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

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32 Every financial institution and credit union subject to this
33 subsection shall provide written notice to the prospective
34 mortgagor that the mortgagor has the right to select a land title
35 company or a qualified attorney of the mortgagor's choice for the
36 performance of ~~title work~~ closing services, along with a list of
37 land title companies and qualified attorneys. The notice must
38 inform the prospective mortgagor whether the institution requires
39 title insurance. The notice must inform the prospective
40 mortgagor that, if the title insurance is required or if the
41 qualified attorney chosen by the mortgagor meets the financial
42 institution's requirements, additional fees may not be charged to
43 the mortgagor for ~~title work~~ closing services. It is the
44 mortgagor's responsibility to provide a mortgage and promissory
45 note as required by the lending institution. If the prospective
46 mortgagor indicates on the written notice that the mortgagor does
47 not wish to exercise the mortgagor's right to select a land title
48 company or an attorney, then the institution may recommend a land
49 title company or an attorney. A financial institution may not
50 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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SUMMARY

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