

MAINE STATE LEGISLATURE

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Legislative Document

No. 2140

H.P. 1520

House of Representatives, January 9, 2008

An Act To Protect Sellers in Residential Real Estate Transactions

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SIROIS of Turner.

Cosponsored by Representatives: BRYANT of Windham, CRAVEN of Lewiston, FLETCHER of Winslow, SAVAGE of Falmouth, Senator NUTTING of Androscoggin and Representatives: CAREY of Lewiston, FAIRCLOTH of Bangor, FINCH of Fairfield, GILES of Belfast, HAYES of Buckfield, KNIGHT of Livermore Falls, PILON of Saco, RICHARDSON of Warren, SAMSON of Auburn, WAGNER of Lewiston.

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

2 **Sec. 1. 33 MRSA c. 7, sub-c. 1-B** is enacted to read:

3 **SUBCHAPTER 1-B**

4 **RESIDENTIAL REAL ESTATE SELLERS PROTECTION ACT**

5 **§181. Short title**

6 This subchapter may be known and cited as "the Residential Real Estate Sellers
7 Protection Act."

8 **§182. Definitions**

9 As used in this subchapter, unless the context otherwise indicates, the following
10 terms have the following meanings.

11 **1. Loan closing.** "Loan closing" means the time agreed upon by the borrower and
12 lender when the execution of the loan documents by the borrower and the receipt of those
13 executed documents by the lender or settlement agent occur.

14 **2. Settlement.** "Settlement" means the time when the settlement agent has received
15 the loan funds, loan documents and other documents and funds to carry out the terms of
16 the contract between the parties and the settlement agent reasonably determines that all
17 conditions for disbursement of the settlement proceeds as required by applicable law or
18 such contracts have been satisfied. For purposes of this subsection, "parties" means the
19 seller, purchaser, borrower, lender and the settlement agent.

20 **3. Settlement agent.** "Settlement agent" means the person responsible for
21 conducting a settlement and disbursement of the settlement proceeds. "Settlement agent"
22 includes an individual, corporation, partnership or other entity conducting the settlement
23 and disbursement of loan proceeds. The lender may be the settlement agent.

24 **§183. Application**

25 This subchapter applies to transactions:

26 **1. Purposes.** That are incurred primarily for personal, family or household
27 purposes;

28 **2. Location of lender or closing.** When the lending office or branch from which a
29 loan is made is located in this State, a loan closing occurs within this State or the property
30 is located in this State; and

31 **3. Secured by mortgages.** That are secured by mortgages on real estate containing
32 not more than 4 residential dwelling units.

1 **§184. Duty of municipality to offer means of notification of transfer**

2 Each municipality shall develop a method by which a settlement agent or the seller of
3 residential real estate may notify the municipality of the sale or transfer of a property.
4 This notification must be accomplished on forms satisfactory to the municipality or by an
5 alternate means satisfactory to the municipality.

6 **§185. Duty of settlement agent**

7 A settlement agent shall either:

8 1. Notification to municipality. Notify the municipality where the property is
9 located of a sale or transfer of residential real property pursuant to the method developed
10 pursuant to section 184; or

11 2. Require prepayment of property taxes. Cause the purchaser of residential real
12 estate to pay all property taxes on the purchased property to the municipality from the
13 date of closing to April 1st of the subsequent year.

14 **§186. Lien to be filed in name of purchaser**

15 If the settlement agent or the seller of residential real estate has notified the
16 municipality of a sale or transfer of property pursuant to section 185, then any subsequent
17 lien resulting from nonpayment of property taxes must be filed and recorded in the name
18 of the purchaser of the property and not in the name of the previous owner of the
19 property.

20 **§187. Penalty**

21 1. Consumer remedies. A settlement agent who violates any provision of this
22 subchapter and causes actual damage to a seller or purchaser is subject to a civil action by
23 the aggrieved seller or purchaser in which the seller or purchaser has the right to recover
24 the greater of actual damages in an amount determined by the court and, except as
25 provided in subsection 2, an amount determined by the court of not less than \$250 nor
26 more than \$1,000, plus costs of the action together with reasonable attorney's fees.

27 2. Bona fide error. Liability under subsection 1 is limited to actual damages, plus
28 costs of the action together with reasonable attorney's fees, if the settlement agent shows
29 by a preponderance of the evidence that the violation was not intentional and resulted
30 from a bona fide error despite the maintenance of procedures reasonably adopted to avoid
31 such an error.

32 3. Limitation of actions. An action may not be brought pursuant to this subchapter
33 more than 2 years after the violation occurred.

34 **§188. Enforcement**

35 The Superintendent of Consumer Credit Protection shall enforce this subchapter
36 pursuant to the superintendent's administrative powers as set forth in Title 9-A, Article 6.

