

MAINE STATE LEGISLATURE

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RQFS

L.D. 1426

Date: 6/13/19

Majority

(Filing No. H-582)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1039, L.D. 1426, Bill, "An Act To Increase Protections for Land Installment Contracts"

Amend the bill by striking out all of section 2 and inserting the following:

'Sec. 2. 33 MRSA §481, sub-§2, as enacted by PL 1983, c. 368, is repealed and the following enacted in its place:

2. Land installment contract. "Land installment contract" means an agreement under which the vendor agrees to sell an interest in real property to the purchaser and the purchaser agrees to pay the purchase price in 5 or more subsequent payments exclusive of the down payment, if any, and the vendor retains title to the real property as security for the purchaser's obligation under the agreement. Land installment contracts include:

A. A bond for deed and a contract for the sale of real estate that meets the criteria set forth in this subsection; and

B. Option contracts for the purchase of real property, an agreement for the occupancy of residential real estate in which the occupant is required to make an initial payment in excess of 4 times the periodic monthly payments required to occupy the premises and any agreement in which a person is induced to occupy a property as a primary residence by a promise or offer to grant ownership of the property to the person at a future date.

Land installment contracts do not include purchase and sale agreements entered into with the good faith expectation of a separate transaction in which the parties agree that the purchase price will be paid in a single installment, either through a cash sale or when a 3rd party or the vendor agrees to finance the transaction.'

Amend the bill by striking out all of sections 5 and 6 and inserting the following:

'Sec. 5. 33 MRSA §482, sub-§2, as enacted by PL 1983, c. 368, is amended to read:

2. Recordation. Within 20 days after the contract has been signed by both the vendor and the purchaser, the vendor shall cause a copy of the contract or a memorandum

1 of the contract to be recorded at the purchaser's expense in the registry of deeds in the
2 county where the real property sold under the contract is located. If a memorandum of
3 the contract is recorded, it ~~shall~~ must be entitled "Memorandum of a Land Installment
4 Contract" and ~~shall~~ must contain, as at a minimum, the names of the parties, the
5 signatures of the parties, a description of the real property and applicable time periods. A
6 person other than a vendor and purchaser may rely on the recorded materials in
7 determining whether the requirements of this subsection have been met. If a contract is
8 not recorded pursuant to this subsection, the vendor may not enforce the contract. The
9 recordation requirement of this subsection does not apply to purchase and sale
10 agreements exempt from the definition of "land installment contract" pursuant to section
11 481, subsection 2 or option-to-buy contracts exempt from the definition of "land
12 installment contract" pursuant to section 481, subsection 2.

13 **Sec. 6. 33 MRSA §482, sub-§§4, 5 and 6** are enacted to read:

14 **4. Option contracts.** In any contract under section 481, subsection 2, paragraph B,
15 the parties may agree that the relationship between the vendor and purchaser is subject to
16 the provisions of Title 14, chapters 709, 710 and 710-A. The agreement must be in
17 writing and must contain a written agreement whereby, in the event of any default by the
18 purchaser, the vendor will return to the purchaser:

19 A. Any initial payment made by the purchaser in excess of 4 times the periodic
20 monthly payment;

21 B. The value of any improvements to the real estate made by the purchaser necessary
22 to bring the real estate into compliance with Title 14, sections 6021 and 6021-A;

23 C. The value of any other improvements made to the real estate by the purchaser in
24 excess of the amount of one monthly payment;

25 D. Property taxes paid by the purchaser;

26 E. Payments of homeowner's insurance paid by the purchaser; and

27 F. Reimbursements by the purchaser to the vendor of homeowner's insurance,
28 property taxes or improvements set forth in paragraphs B and C.

29 The vendor may not maintain an eviction action pursuant to Title 14, section 6001 against
30 the purchaser until the vendor has returned to the purchaser the sums set forth in this
31 subsection. In addition to returning any payments made under this subsection, the vendor
32 shall also return any additional security deposit to the purchaser in accordance with Title
33 14, section 6033.

34 **5. Vendor is creditor.** A vendor in a land installment contract is a creditor under
35 Title 9-A, section 1-301, subsection 17, except that an individual who engages in no more
36 than one such transaction per year may not be considered a creditor for purposes of Title
37 9-A, section 1-301, subsection 17.

38 **6. Violations.** A violation of this chapter is a violation of the Maine Unfair Trade
39 Practices Act. In addition to any other rights and remedies a purchaser may have in the
40 law, upon a finding that a violation of this chapter by a vendor has occurred, a court shall
41 find one or both of the following:



129th MAINE LEGISLATURE

LD 1426

LR 1767(02)

An Act To Increase Protections for Land Installment Contracts

Fiscal Note for Bill as Amended by Committee Amendment *A (H-582)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.

Fiscal Detail and Notes

Any additional costs to the Bureau of Consumer Credit Protection, within the Department of Professional and Financial Regulation, of requiring vendors who engage in land installment contracts to be treated as creditors under the Maine Consumer Code are expected to be minor and can be absorbed within existing budgeted resources.

Additional revenues collected as a result of annual registration fees for these creditors are expected to be minor.