

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1380

H.P. 1014

House of Representatives, April 7, 2021

**An Act To Increase Protections for Option Contracts for the
Purchase of Real Property or Rent-to-own Real Property**

Received by the Clerk of the House on April 5, 2021. Referred to the Committee on
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.
Cosponsored by Representatives: COLLINGS of Portland, DOUDERA of Camden,
PEBORTH of Blue Hill, TALBOT ROSS of Portland, WHITE of Waterville.

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

2 **Sec. 1. 14 MRSA §6203-F, sub-§1-A** is enacted to read:

3 **1-A. Mediation.** Upon the request of either party, mediation must be provided as set
4 forth in section 6321-A if the premises are owner-occupied residential real property of no
5 more than 4 units and the primary residence of the owner-occupant.

6 **Sec. 2. 14 MRSA §6203-H** is enacted to read:

7 **§6203-H. Option contract for purchase of real property or rent-to-own real property**

8 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
9 following terms have the following meanings.

10 A. "Option contract for the purchase of real property or rent-to-own real property"
11 means an agreement for the occupancy of purchaser-occupied residential real property
12 of no more than 4 units that is the primary residence of the purchaser in which the
13 purchaser is required to make an initial payment in excess of 4 times the periodic
14 monthly payments required to occupy the premises and any agreement in which a
15 person is induced to occupy such property as a primary residence by a promise or offer
16 to grant ownership of the property to the person at a future date, at the option of the
17 purchaser.

18 B. "Purchaser" means a person who enters into an option contract for the purchase of
19 real property or rent-to-own real property and thereby obtains an option to purchase
20 the real property.

21 C. "Vendor" means the owner of real property that is the subject of an option contract
22 for the purchase of real property or rent-to-own real property and who enters into an
23 option contract for the purchase of real property or rent-to-own real property for that
24 real property. A vendor is a creditor under Title 9-A, section 1-301, subsection 17,
25 except that an individual who engages in no more than 2 transactions per year and not
26 more than 4 in a 5-year period may not be considered a creditor for purposes of Title
27 9-A, section 1-301, subsection 17.

28 **2. Requirements.** An option contract for the purchase of real property or rent-to-own
29 real property must:

30 A. Be in writing;

31 B. Include a statement that the vendor has inspected the property to be conveyed and
32 certifies that the property is in compliance with sections 6021 and 6021-A, subject to
33 the provisions of section 6021, subsection 5 authorizing a waiver for a stated reduction
34 in payment or other specified fair consideration;

35 C. Identify the party required to maintain the premises in compliance with sections
36 6021 and 6021-A;

37 D. State the amount of the initial payment to secure the option contract for the purchase
38 of real property or rent-to-own real property;

39 E. State the amount of the monthly payment due;

40 F. State the date by which the option contract for the purchase of real property or rent-
41 to-own real property must be exercised;

1 G. State the amount due to exercise the option contract for the purchase of real property
2 or rent-to-own real property;

3 H. Identify the party responsible to make payments for any real property taxes and
4 homeowner's insurance;

5 I. State whether the amounts paid for rent, property taxes or homeowner's insurance
6 will be deducted from the amount due to exercise the option contract for the purchase
7 of real property or rent-to-own real property;

8 J. Include a termination clause that recites the provisions set forth in subsection 4;

9 K. Include a clear and conspicuous provision above the place for the signature of the
10 purchaser that acknowledges receipt by the purchaser of a copy of the option contract
11 for the purchase of real property or rent-to-own real property; and

12 L. Include language that in the event the option contract for the purchase of real
13 property or rent-to-own real property is not exercised, the vendor shall return to the
14 purchaser any amounts paid by the purchaser to the vendor at the commencement of
15 the option contract for the purchase of real property or rent-to-own real property in
16 excess of the lesser of:

17 (1) Four times the monthly rent; and

18 (2) One percent of the contract price for the purchase of the real property.

19 **3. Recordation.** Within 20 days after the option contract for the purchase of real
20 property or rent-to-own real property has been signed by both the vendor and the purchaser,
21 the vendor shall cause a copy of the option contract for the purchase of real property or
22 rent-to-own real property or a memorandum of the option contract for the purchase of real
23 property or rent-to-own real property to be recorded at the purchaser's expense in the
24 registry of deeds in the county where the real property sold under the option contract for
25 the purchase of real property or rent-to-own real property is located. If a memorandum of
26 the option contract for the purchase of real property or rent-to-own real property is
27 recorded, it must be entitled "Memorandum of a Land Installment Contract" and must at a
28 minimum contain the names of the parties, the signatures of the parties, a description of the
29 real property and the applicable time periods. A person other than a vendor and purchaser
30 may rely on the recorded materials in determining whether the requirements of this
31 subsection have been met.

32 **4. Termination.** The following provisions govern the termination of an option
33 contract for the purchase of real property or rent-to-own real property.

34 A. An option contract for the purchase of real property or rent-to-own real property
35 may be terminated only pursuant to the eviction process set forth chapter 709 if:

36 (1) The vendor has entered into not more than one contract in any calendar year
37 or 2 contracts in any 5-year period;

38 (2) The option contract for the purchase of real property or rent-to-own real
39 property does not require an initial payment of more than 4 times the monthly rent
40 charged for the real property;

41 (3) The option contract for the purchase of real property or rent-to-own real
42 property requires the vendor to maintain the real property pursuant to the

1 provisions of section 6021, unless a waiver pursuant to the provisions of section
2 6021, subsection 5 has been entered into, and section 6021-A; and

3 (4) The vendor has otherwise complied with the requirements of this section.

4 B. If paragraph A does not apply, an option contract for the purchase of real property
5 or rent-to-own real property may be terminated only pursuant to the foreclosure process
6 set forth in section 6203-F.

7 **5. Violations.** A violation of this section is a violation of the Maine Unfair Trade
8 Practices Act. In addition to any other rights and remedies a purchaser may have in the law,
9 upon a finding that a violation of this section by a vendor has occurred, a court shall find
10 one or more of the following:

11 A. The purchaser is entitled to recover all actual damages or \$1,000, whichever is
12 greater;

13 B. The purchaser may rescind the option contract for the purchase of real property or
14 rent-to-own real property and recover all payments made on the contract; and

15 C. The purchaser is entitled to recover the aggregate amount of costs, expenses and
16 attorney's fees determined by the court to have reasonably been incurred on the
17 purchaser's behalf in connection with the prosecution or defense of the matter.

18 **Sec. 3. 33 MRSA §483** is enacted to read:

19 **§483. Prohibited acts**

20 **1. Bad faith avoidance.** A person may not in bad faith attempt to avoid the application
21 of this chapter including engaging in subterfuge or designing or structuring a transaction
22 with the purpose of evading the provisions of this chapter.

23 **2. Survival of foreclosure.** A land installment contract may not require a purchaser
24 to enter into a promissory note or any other financial instrument or obligation that survives
25 the foreclosure of the purchaser's interest in the real estate, or enforce any such obligation,
26 unless:

27 A. The term of the promissory note does not exceed the term of the land installment
28 contract;

29 B. Payments of principal made during the term of the promissory note are credited to
30 reduce the principal due on the note; and

31 C. After obtaining a judgment for foreclosure and the expiration of the period of
32 redemption set forth in Title 14, section 6203-F, the vendor conducts a sale in the same
33 manner as required for a mortgagee in Title 14, section 6323 and complies with the
34 provisions of Title 14, section 6324 except with the equity of redemption being 60
35 days.

36 **SUMMARY**

37 This bill makes the following changes to the laws governing residential real property
38 contracts.

39 1. It provides for mediation upon the request of either party in a foreclosure proceeding
40 regarding a contract for the sale of real property, including a bond for a deed, in the case of

1 owner-occupied residential real property of no more than 4 units that is the primary
2 residence of the owner-occupant.

3 2. It specifies information that must be included in an option contract for the purchase
4 of real property or rent-to-own real property including basic terms of the contract and
5 certification that the real property meets the warranty of habitability under state law subject
6 to the provision in the law that authorizes a waiver for a stated reduction in payment or
7 other specified fair consideration.

8 3. It specifies under what conditions an option contract for the purchase of real
9 property or rent-to-own real property may be terminated.

10 4. It provides that a violation of the provisions governing an option contract for the
11 purchase of real property or rent-to-own real property is a violation of the Maine Unfair
12 Trade Practices Act.

13 5. It specifies prohibited acts with respect to land installment contracts.