

MAINE STATE LEGISLATURE

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L D 1306

Date 6/13/23

(Filing No H-487)

INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND
BUSINESS

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to HP 831, L D 1306, "An Act to Protect Homeowners from Unfair Agreements to Exclusively List Residential Real Estate for Sale"

Amend the bill by striking out everything after the enacting clause and inserting the following

'Sec. 1. 32 MRS A §13177-B is enacted to read

§13177-B. Unfair agreements to list residential real estate

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

A "Long-term agreement" means a contract or agreement between a provider and an owner under which

(1) The owner agrees to list the owner's residential real estate for sale with the provider at a future date, and

(2) Any portion of the real estate brokerage service to be provided under the contract or agreement by the provider may be performed more than 2 years after the date the contract or agreement becomes effective

B "Owner" means an owner of an interest in residential real estate

C "Provider" means a person or entity providing or offering to provide real estate brokerage services

D "Recording" means presenting a document to a register of deeds for official placement in the records of the registry of deeds

E "Residential real estate" means real estate consisting of not less than one nor more than 4 residential dwelling units

2. Prohibited agreements. A provider may not enter into or offer to enter into a long-term agreement that purports to

COMMITTEE AMENDMENT

- 1 A Bind any future owner not a party to the long-term agreement.
- 2 B Allow for the assignment by the provider of a real estate brokerage service to a 3rd
- 3 party without notice to or consent of the owner.
- 4 C Create a lien, encumbrance or other real property security interest, or
- 5 D Obligate the owner to pay a fee or commission to the provider upon a sale or transfer
- 6 of the residential real estate when the sale or transfer is not the result of a real estate
- 7 brokerage service provided by the provider
- 8 3. Unfair trade practice. A violation of subsection 2 is a violation of the Maine
- 9 Unfair Trade Practices Act
- 10 4. Unenforceable; recording prohibited. A long-term agreement in violation of
- 11 subsection 2 is unenforceable A person may not record or cause to be recorded a long-term
- 12 agreement in violation of subsection 2 A long-term agreement in violation of subsection 2
- 13 recorded in the State does not provide actual or constructive notice against an otherwise
- 14 bona fide purchaser or creditor If a long-term agreement is recorded in violation of this
- 15 subsection, a party with an interest in the residential real estate that is the subject of that
- 16 long-term agreement may apply to a District Court or Superior Court in the county where
- 17 the recording occurred for an order declaring the long-term agreement void and of no effect
- 18 5. Rights of recovery. If a long-term agreement is recorded in violation of subsection
- 19 4, a party with an interest in the residential real estate that is the subject of the long-term
- 20 agreement may recover actual damages, costs and attorney's fees as may be proven against
- 21 the party who recorded that long-term agreement
- 22 6. Mechanic's lien. Nothing in this section affects a lien on residential real estate
- 23 established under Title 10, section 3251 '
- 24 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
- 25 number to read consecutively

SUMMARY

This amendment strikes and replaces the bill The amendment prohibits the creation of a long-term agreement with an owner of residential real estate that includes a provision that purports to bind any future owner of the property, allow for the assignment of the real estate brokerage services without the consent of the owner, create any lien, encumbrance or other real property security interest, or obligate the owner to pay a fee or commission upon the sale of the residential real estate that is not the result of real estate brokerage services provided under the agreement

FISCAL NOTE REQUIRED

(See attached)



131st MAINE LEGISLATURE

LD 1306

LR 994(02)

An Act to Protect Homeowners from Unfair Agreements to Exclusively List Residential Real Estate for Sale

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-487)
Committee: Innovation, Development, Economic Advancement and Business
Fiscal Note Required: Yes

Fiscal Note

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

Correctional and Judicial Impact Statements

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 will increase General Fund revenue by minor amounts

Fiscal Detail and Notes

Additional costs to the Department of Professional and Financial Regulation, Real Estate Commission associated with the provisions in this legislation can be absorbed within existing budgeted resources