

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1306

H.P. 831

House of Representatives, March 23, 2023

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

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

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

ROBERT B. HUNT
Clerk

Presented by Representative BELL of Yarmouth.

Cosponsored by Representative: DODGE of Belfast, Senators: BAILEY of York, CARNEY of Cumberland.

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

2 **Sec. 1. 32 MRSA §13177-B** is enacted to read:

3 **§13177-B. Unfair agreements to list residential real estate**

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

6 A. "Agreement to list" means an agreement or contract between an owner of residential
7 real estate and a real estate brokerage agency or 3rd party in which the owner agrees
8 to:

9 (1) List the owner's residential real estate for sale with the real estate brokerage
10 agency or 3rd party at a future date when the owner wants to sell the residential
11 real estate; or

12 (2) Be obligated to pay a fee or commission to the real estate brokerage agency or
13 3rd party upon sale of the residential real estate when the real estate brokerage
14 agency or 3rd party has not provided real estate brokerage services to the owner.

15 "Agreement to list" includes a notice or memorandum of the agreement or a mortgage
16 purporting to secure the obligations of an owner of residential real estate under the
17 agreement.

18 B. "Real estate brokerage agency" has the same meaning as in section 13271,
19 subsection 10.

20 C. "Recording" means presenting a document to a register of deeds for official
21 placement in the records of the registry of deeds.

22 D. "Residential real estate" means real property located in the State that is used or
23 intended to be used primarily for personal, family or household purposes and is
24 improved by one to 4 dwelling units.

25 **2. Agreement to list unenforceable.** An agreement to list is unenforceable.

26 **3. Unfair trade practice.** An agreement to list is an unfair method of competition and
27 unfair or deceptive act or practice in the conduct of any trade or commerce under the Maine
28 Unfair Trade Practices Act.

29 **4. Recording prohibited.** A person may not record or cause to be recorded an
30 agreement to list. An agreement to list recorded in the State does not provide actual or
31 constructive notice against an otherwise bona fide purchaser or creditor.

32 **5. Recording of court order.** If an agreement to list is recorded in violation of
33 subsection 4, a party with an interest in the residential real estate that is the subject of the
34 agreement to list may apply to a District Court or Superior Court in the county where the
35 recording occurred to record a court order declaring the agreement to list as void and of no
36 effect.

37 **6. Rights of recovery.** If an agreement to list is recorded in violation of subsection 4,
38 a party with an interest in the residential real estate that is the subject of the agreement to
39 list may recover actual damages, costs and attorney's fees as may be proven against the
40 party who recorded the agreement to list.

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SUMMARY

This bill prohibits the use of agreements for homeowners to exclusively list their residential property for sale. The bill prohibits the recording of the agreements and provides remedies for owners who are affected by the recording of the agreements.