

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Sellers in Residential Real Estate Transactions**

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

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

### **SUBCHAPTER 1-B**

#### **Residential Real Estate Sellers Protection Act**

##### **§ 181. Short title**

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

##### **§ 182. Definitions**

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

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

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

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

##### **§ 183. Application**

This subchapter applies to transactions:

- 1. Purposes.** That are incurred primarily for personal, family or household purposes;
- 2. Location of lender or closing.** When the lending office or branch from which a loan is made is located in this State, a loan closing occurs within this State or the property is located in this State; and

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

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

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

### **§ 185. Duty of settlement agent**

A settlement agent shall either:

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

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

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

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

### **§ 187. Penalty**

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

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

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

### **§ 188. Enforcement**

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

## **SUMMARY**

Under current law, a seller of real estate is liable to a municipality for property taxes from the date of sale through the following April 1st if the buyer of the property fails to pay those taxes.

This bill makes the settlement agent, the entity performing the closing on residential property, responsible for notifying a municipality of the sale or for requiring those taxes to be paid at closing and remitted to the municipality. The bill also requires that municipalities develop a method by which a settlement agent or the seller of residential property may notify the municipality of a sale, and, if subsequent nonpayment of taxes results in a lien on the property, the lien be filed and recorded in the purchaser's name, not in the name of the former owner.