An Act To Clarify Prepayment Requirements in Home Construction Contracts

Received by the Clerk of the House on January 11, 2021. Referred to the Committee on Innovation, Development, Economic Advancement and Business pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

Sec. 1. 10 MRSA §1489, as enacted by PL 1987, c. 574, is amended to read:

§1489. Exemption

Parties to a home construction contract may exempt themselves from the requirements of this chapter only if the contractor specifically informs the homeowner or lessee of his the homeowner's or lessee's rights under this chapter and the parties then mutually agree to a contract or change order that does not contain the parts set forth in sections 1487 and 1488.

Parties to a home construction contract may exempt themselves from the initial down payment limitations set forth in section 1487, subsection 5 only if the following conditions have been met:

1. Limit on amount of initial down payment. The contractor informs the homeowner or lessee of the homeowner's or lessee's right under section 1487, subsection 5 to pay no more than 1/3 of the contract price in an initial down payment;

2. Waiver of rights. The homeowner or lessee agrees, in a writing signed by both the homeowner or lessee and the contractor on a separate page, included in the contract, to waive the homeowner's or lessee's rights under section 1487, subsection 5; and

3. Amount due clearly stated. The signed document under subsection 2 clearly states the amount due as an initial down payment.

SUMMARY

This bill clarifies the requirement that a contractor obtain informed consent from a homeowner or lessee in the event the initial down payment for a construction project is more than 1/3 of the total contract price. The bill requires a contractor to set forth a waiver from the requirement that an initial down payment not exceed 1/3 of the total contract price in writing, on a separate page included in the contract, signed by both the homeowner or lessee and the contractor. The bill also requires that the waiver document clearly state the initial down payment amount due.