

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
H.P. 831 - L.D. 1306

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

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

Sec. 1. 32 MRSA §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:

A. Bind any future owner not a party to the long-term agreement;

B. Allow for the assignment by the provider of a real estate brokerage service to a 3rd party without notice to or consent of the owner;

C. Create a lien, encumbrance or other real property security interest; or

D. Obligate the owner to pay a fee or commission to the provider upon a sale or transfer of the residential real estate when the sale or transfer is not the result of a real estate brokerage service provided by the provider.

3. Unfair trade practice. A violation of subsection 2 is a violation of the Maine Unfair Trade Practices Act.

4. Unenforceable; recording prohibited. A long-term agreement in violation of subsection 2 is unenforceable. A person may not record or cause to be recorded a long-term agreement in violation of subsection 2. A long-term agreement in violation of subsection 2 recorded in the State does not provide actual or constructive notice against an otherwise bona fide purchaser or creditor. If a long-term agreement is recorded in violation of this subsection, a party with an interest in the residential real estate that is the subject of that long-term agreement may apply to a District Court or Superior Court in the county where the recording occurred for an order declaring the long-term agreement void and of no effect.

5. Rights of recovery. If a long-term agreement is recorded in violation of subsection 4, a party with an interest in the residential real estate that is the subject of the long-term agreement may recover actual damages, costs and attorney's fees as may be proven against the party who recorded that long-term agreement.

6. Mechanic's lien. Nothing in this section affects a lien on residential real estate established under Title 10, section 3251.