1	L.D. 1306
2	Date: (Filing No. H-)
3 4	INNOVATION, DEVELOPMENT, ECONOMIC ADVANCEMENT AND BUSINESS
5	Reproduced and distributed under the direction of the Clerk of the House.
6	STATE OF MAINE
7	HOUSE OF REPRESENTATIVES
8	131ST LEGISLATURE
9	FIRST SPECIAL SESSION
10 11	COMMITTEE AMENDMENT "" to H.P. 831, L.D. 1306, "An Act to Protect Homeowners from Unfair Agreements to Exclusively List Residential Real Estate for Sale"
12 13	Amend the bill by striking out everything after the enacting clause and inserting the following:
14	'Sec. 1. 32 MRSA §13177-B is enacted to read:
15	<u>§13177-B. Unfair agreements to list residential real estate</u>
16 17	1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.
18 19	<u>A.</u> "Long-term agreement" means a contract or agreement between a provider and an owner under which:
20 21	(1) The owner agrees to list the owner's residential real estate for sale with the provider at a future date; and
22 23 24	(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.
25	B. "Owner" means an owner of an interest in residential real estate.
26 27	C. "Provider" means a person or entity providing or offering to provide real estate brokerage services.
28 29	D. "Recording" means presenting a document to a register of deeds for official placement in the records of the registry of deeds.
30 31	E. "Residential real estate" means real estate consisting of not less than one nor more than 4 residential dwelling units.
32 33	2. Prohibited agreements. A provider may not enter into or offer to enter into a long-term agreement that purports to:

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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 of the residential real estate when the sale or transfer is not the result of a real estate 6 brokerage service provided by the provider. 7 8 3. Unfair trade practice. A violation of subsection 2 is a violation of the Maine Unfair Trade Practices Act. 9 10 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 11 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 long-term agreement may apply to a District Court or Superior Court in the county where 16 17 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 18 4, a party with an interest in the residential real estate that is the subject of the long-term 19 20 agreement may recover actual damages, costs and attorney's fees as may be proven against the party who recorded that long-term agreement. 21 22 6. Mechanic's lien. Nothing in this section affects a lien on residential real estate established under Title 10, section 3251.' 23 24 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section 25 number to read consecutively. 26 SUMMARY 27 This amendment strikes and replaces the bill. The amendment prohibits the creation 28 of a long-term agreement with an owner of residential real estate that includes a provision 29 that purports to bind any future owner of the property; allow for the assignment of the real 30 estate brokerage services without the consent of the owner; create any lien, encumbrance 31 or other real property security interest; or obligate the owner to pay a fee or commission 32 upon the sale of the residential real estate that is not the result of real estate brokerage 33 services provided under the agreement. 34 **FISCAL NOTE REQUIRED** 35 (See attached)

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