



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1444

H.P. 1038

House of Representatives, April 24, 2013

An Act Relating to Title Insurers Issuing Closing or Settlement Protection

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BECK of Waterville.
Cosponsored by Senator LACHOWICZ of Kennebec and
Representatives: CAREY of Lewiston, CROCKETT of Bethel, MORRISON of South
Portland.

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

2 **Sec. 1. 24-A MRSA §3202** is enacted to read:

3 **§3202. Closing protection letters**

4 **1. Title insurer may issue closing or settlement protection.** A title insurer may
5 issue closing or settlement protection on a form of closing protection letter approved by
6 the superintendent pursuant to section 2412. Only a buyer, borrower or lender that is a
7 party to a transaction in which a title insurance policy will be issued by or on behalf of
8 the title insurer issuing the closing or settlement protection is eligible to receive the
9 benefit of closing or settlement protection. Closing or settlement protection issued
10 pursuant to this subsection must benefit each buyer, borrower and lender that is a party to
11 the transaction for which that closing or settlement protection is issued.

12 **2. Indemnity.** The closing or settlement protection issued pursuant to subsection 1
13 may indemnify a buyer, borrower or lender against loss because of one of the following
14 acts of a policy-issuing title insurance agent or other settlement service provider under the
15 terms and conditions of the closing protection letter as issued by the title insurer:

16 A. Theft or misappropriation of settlement funds in connection with a transaction,
17 but only to the extent that the theft relates to the status of the title to an insured
18 interest in land or to the validity, enforceability and priority of the lien of the
19 mortgage on an insured interest in land; and

20 B. Failure to comply with the written closing instructions when agreed to by the
21 settlement agent or title agent, but only to the extent that the failure to comply with
22 the instructions relates to the status of the title to an insured interest in land or the
23 validity, enforceability and priority of the lien of the mortgage on an insured interest
24 in land.

25 **3. Fee.** The fee charged by a title insurer for closing or settlement protection
26 coverage must be filed with the superintendent pursuant to section 2304-A. The fee may
27 not be subject to any agreement requiring a division of fees or premiums collected on
28 behalf of the title insurer. A title insurer may charge only one fee for closing or
29 settlement protection for a transaction and that fee may not be less than \$50 for the
30 protection of all parties receiving the benefit of closing or settlement protection in
31 connection with the real property transaction giving rise to the issuance of the closing or
32 settlement protection.

33 **4. Provision of other protection prohibited.** Except as provided in this section, a
34 title insurer may not provide any protection that purports to indemnify against improper
35 acts or omissions of a person with regard to settlement or closing services.

36 **SUMMARY**

37 This bill allows title insurers to provide protection against theft or misappropriation
38 of settlement funds and failure to comply with written closing instructions in connection

1 with real estate closings. The bill also provides that title insurers are allowed to charge a
2 fee for this protection.