



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL
REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Anne L. Head
Commissioner, DPFR
Director, OPOR

April 11, 2023

Senator Curry, Senate Chair
Representative Roberts, House Chair
Joint Standing Committee on Innovation, Development, Economic Advancement and Business
100 State House Station
Augusta, ME 04333-0100

Re: LD 1306 An Act to Protect Homeowners from Unfair Agreements to Exclusively List Residential Real Estate for Sale

Dear Senator Curry, Representative Roberts, and Members of the Committee:

I am writing this letter on behalf of the Department of Professional and Financial Regulation's Office of Professional and Occupational Regulation ("OPOR"). The Maine Real Estate Commission is one of 37 regulatory entities within OPOR. OPOR is opposed to LD 1306 as drafted, but supportive of the intent behind the bill.

As drafted, LD 1306 would prohibit any contract in which the owner agrees to list their residential property for sale at a future date; however, this may unintentionally render fair agreements unenforceable. There are situations in which a seller may contract for a future listing date for which there is no public protection concern. For example, a seller may be unhappy with a current listing agreement and subsequently may enter into a listing agreement with another agency with a start date that commences after the expiration of the current listing or a seller may sign a listing agreement for a future date to allow time to prepare the property for sale.

Our understanding is that the sponsor's intent is to protect consumers from certain kinds of listing arrangements which tie a consumer to a listing agreement well beyond the duration of the original listing agreement. In some states homeowners have signed real estate listing agreements lasting 40 years. While believe the intent was to base this bill on the American Land Title Association's ("ALTA") model to protect consumers from those types of decades long listing agreements by prohibiting the filing of unfair real estate fee agreements in property records, the bill as drafted is not narrowly tailored to achieve that goal.

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Thank you for the opportunity to share our input and we would be happy to answer any questions prior to or at the work session.

Sincerely,

Joan

Joan Cohen

Deputy, Department of Professional and Financial Regulation