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Request for Reconsideration of Vote on LD 2035 (“An Act Regarding Disclosure of Flood Risk by Sellers of Real Estate”)

**J. Andrew Cashman on behalf of the Maine Association of REALTORS®
January 19, 2024**

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary, my name is Andy Cashman. I am the Founder of Resolve Government Relations® and I represent the Maine Association of REALTORS®.

The Maine Association of REALTORS® has significant concerns about LD 2035. The bill would require sellers of residential and commercial real estate to make disclosures regarding flood maps, flood zones, flood insurance, and past flood damage. While flood disclosures ensure that potential buyers are well-informed about the flood risk associated with a property, we oppose the bill in its current form because there are many factors that could create harm, confusion, and liability for parties involved in a real estate transaction if it were to pass.

We appreciate your discussion and proposed amendment to the bill updating the reference to the most currently available FEMA Flood Insurance Rate Maps and removing sub-section B in its entirety about an active flood insurance policy. That is positive progress, but we feel more clarity is needed for the bill to provide proper protections to consumers.

1. We recommend the removal of Section 3, Sub-section C (3) and (4) as follows:

(3) Any flood insurance claims were filed for a structure on the property and, if so, the date and amount of each claim; and

(4) Any past disaster-related aid was provided related to the property or a structure on the property from federal, state or local sources for the purposes of flood recovery and, if so, the date and amount of each payment.

**Also recommending removal of the same language appearing in Section 5, Sub-section (3) and (4).*

The removal of personal financial disclosures protects all parties without jeopardizing seller privacy. Such information is not solely determinative of a property’s flood risk but instead is a private financial matter based on an individual’s circumstances and not a direct correlation to the property’s flood risk. Whether a property owner has ever made a personal financial choice to file an insurance claim or to accept disaster-related aid is an arbitrary measure of a property’s physical flood risk. To more holistically protect all parties involved in transacting real estate, we ask that you remove all references to personal financial matters in this bill which will in turn, make it more accurately mirror existing disclosures in statute.



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2. We also request that “flood” be clearly defined. As written now, there are no guidelines to determine when these statutory provisions would apply:

- (1) Any flood events affected the property or a structure on the property;*
- (2) Any flood-related damage to a structure occurred on the property;*

(as written in Section 3, Sub-section C (1) and (2) and Section 5, Subsection (1) and (2)).

Without clearly defining “flood” consumers are more apt to misunderstand what information needs to be disclosed under Maine law. The liability associated with lack of clarity could result in more harm than good in being able to protect consumers. Is “flood” defined by a federal or state declared disaster? Could it have occurred because your neighbor did not clear out their culvert? Without definition, the bill is too ambiguous and the risk then becomes greater for buying and selling property in Maine.

As mentioned in our original testimony, existing law already requires a seller to disclose known defects to property and flood damage would fall into that category. It would be duplicative and confusing to pass LD 2035 without further revisions. We are happy to discuss this and answer any questions the committee may have. We respectfully urge the committee to please heed our concerns and please reconsider before making a recommendation out of committee on LD 2035.