



**AN BILLE UM CHEANNAITHEOIRÍ TÍ CÓNAITHE (CUR I
gCOINNE GASUMPÁIL), 1998**
HOME PURCHASERS (ANTI-GAZUMPING) BILL, 1998

Mar a tionscnaíodh
As initiated

ARRANGEMENT OF SECTIONS

Section

1. Definitions.
 2. Delivery of written contract.
 3. Prohibition on other agreement.
 4. Failure to sign contract.
 5. Signing of contract.
 6. Jurisdiction of Courts.
 7. Offences and penalties.
 8. Form of contract.
 9. Regulations.
 10. Commencement.
 11. Short title.
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BILL

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entitled

AN ACT TO PREVENT VENDORS FROM UNREASONABLY
INCREASING THE SALE PRICES OF REAL AND CHAT-
TEL REAL RESIDENTIAL PROPERTIES.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

10 **1.**—In this Act—

“booking deposit” means any deposit paid by a purchaser in connec- Definitions.
tion with an agreement for the purchase of a residential property
prior to the execution of a written agreement for that purchase;

15 “the Minister” means the Minister for Justice, Equality and Law
Reform;

“residential property” means real or chattel real property upon
which a dwelling stands or upon which it is intended that a dwelling
should be erected and includes the buildings or other structures
erected or to be erected thereon;

20 “purchaser” means a purchaser who has agreed to buy a residential
property from a vendor, and who has paid a booking deposit to a
vendor;

25 “purchase price” means the price which the vendor and the pur-
chaser have agreed for the sale of a residential property and includes
the price of any buildings or other structures erected or agreed to be
erected on that property;

30 “vendor” means a vendor who has agreed to sell a residential prop-
erty to a purchaser, and includes any person or a body corporate,
associated in any way with a vendor, who has agreed to build or erect
any building or structure on that property.

2.—Whenever a vendor of a residential property shall either per- Delivery of written
sonally or through an agent, and either directly or indirectly, receive contract.
a booking deposit from a purchaser of that property, the vendor shall
within 14 days of the payment thereof deliver a written contract
35 embodying the agreement between the vendor and the purchaser to
that purchaser or his or her solicitor together with—

(a) copies of the documents evidencing the title of the vendor to that property, and

(b) if the vendor has built or erected, or has agreed to build or erect any building or other structure on that property, true copies of the relevant site map, plans and specifications of the residential property, together with such other documentation as may be prescribed by regulations made pursuant to *section 8* of this Act. 5

Prohibition on other agreement.

3.—The vendor referred to in *section 2* hereof shall not enter into any other agreement, either orally or in writing, for the sale of that property within a period of 14 days from the date of the receipt by the purchaser of the documents mentioned in *section 2* hereof. Any such purported agreement shall be null and void. 10

Failure to sign contract.

4.—If the purchaser referred to in *sections 2* and *3* of this Act shall not sign that contract and deliver it, with a remittance for the balance of a deposit of not more than 10 per cent of the purchase price of the property in question, to the vendor in question or his or her solicitor within 14 days of the receipt thereof, that vendor shall be at liberty to resell that property without recourse to the purchaser, provided that, before entering into any such further agreement he or she shall return the booking deposit in question to the purchaser or his or her solicitor. 15 20

Signing of contract.

5.—If the said purchaser shall sign that contract and deliver it, with the remittance mentioned in *section 4* hereof, to the vendor in question or his or her solicitor within the time mentioned in that section, the vendor shall not be at liberty to resell that property, and shall sign that contract within seven days of the receipt thereof, failing which the purchaser shall be at liberty to apply to the Circuit Court, or in an appropriate case, to the High Court, in a summary manner for an order compelling the vendor to do so. 25 30

Jurisdiction of Courts.

6.—(1) Subject to the provisions of this section, the Circuit Court shall, concurrently with the High Court, have jurisdiction to hear and determine proceedings under *section 5*.

(2) Where the rateable valuation of any land to which proceedings under *section 5* relate exceeds £500, the Circuit Court shall, if an application is made to it in that behalf by any person having an interest in the proceedings, transfer those proceedings to the High Court, but any act done in the course of such proceedings before the transfer shall be valid unless discharged or varied by the High Court by order. 35 40

(3) The jurisdiction conferred on the Circuit Court by this Act may be exercised by a judge of the circuit in which any of the parties to the proceedings ordinarily resides or carries on any profession, business or occupation, or of that circuit in which the residential property concerned is situate. 45

(4) The Circuit Court may, for the purposes of *subsection (2)*, in relation to land that has not been given a rateable valuation or is the subject with other land of a rateable valuation, determine that its rateable valuation would exceed or would not exceed £500.

7.—(1) A vendor who fails to comply with the provisions of *section 2* or *section 5* of this Act commits an offence for which he or she shall be liable— Offences and penalties.

5 (i) on summary conviction in the District Court to a fine not exceeding £5,000, and

(ii) upon a second or subsequent summary conviction in the District Court for such an offence, in addition, to a term of imprisonment not exceeding 12 months.

10 (2) A vendor convicted of an offence under this Act may be ordered by the court before which he or she is convicted to pay to the purchaser in question who paid a booking deposit such sum by way of compensation as that court deems appropriate, such compensation not to exceed a sum that is ten times the booking deposit in question or the sum of £10,000, whichever is the greater.

15 **8.**—The contract mentioned in *section 2* hereof shall be in the current Law Society of Ireland form thereof or in such form as the Minister may by regulations prescribe, and shall provide the purchaser with a good marketable title to the property. Form of contract.

20 **9.**—The Minister may make such regulations for the proper and effective implementation of this Act as he or she shall think fit, after consultation with the Law Reform Commission and the Law Society of Ireland. Regulations.

10.—This Act shall come into effect on the day that is 28 days after the date of its enactment. Commencement

25 **11.**—This Act may be cited as the Home Purchasers (Anti-Gazumping) Act, 1998. Short title.