

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**

**REPORT**

**OF THE**

**ATTORNEY GENERAL**

**for the calendar years**

**1945-1946**

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Defense Commission takes the place of the old Armory Commission; (c) any moneys received in settlement of insurance as a result of said losses should be accepted by the Commission and placed to their credit and used for the replacement of the destroyed property at such time and under such conditions as the Commission may see fit to prescribe.

RALPH W. FARRIS  
Attorney General

March 23, 1945

To W. H. Deering, Treasurer, Augusta State Hospital

Chapter 12, Section 15, of the Revised Statutes of 1944 provides:

“The governor with the advice and consent of the council is hereby authorized to accept in the name of the state any and all gifts, bequests, grants, or conveyances to the State of Maine.”

With respect to the gift for the benefit of the State Hospital about which you talked to me the other day, the above section is the authority for accepting it, and hence a council order should be prepared and submitted, authorizing the acceptance of the gift, with a statement attached to it describing the person making it, in whose memory the same was made, and the use to be made of the fund.

ABRAHAM BREITBARD  
Deputy Attorney General

March 27, 1945

To Homer E. Robinson, Bank Commissioner

I received your letter of March 15th, but owing to my absence from town have been unable to give same my attention.

First, you state that Chapter 55, Section 3, provides:

“No person, copartnership, association, or corporation shall do a banking business unless duly authorized under the laws of this state or the United States, except as provided by section 4.”

Section 4 provides:

“A corporation, desiring to encourage thrift among its employees by receiving deposits subject to interest at a specified rate, may apply to the bank commissioner for a license to receive such deposits and shall, at the same time, file with the said commissioner a complete statement of its financial condition,” etc.

Your first question is: “Can a corporation organized under the laws of another State, with due regard to the provisions of Chapter 49, R. S. Sections 123 to 131, relating to foreign corporations, be authorized to engage in the business of making small loans in this State under the provisions of Chapter 55, Sections 190 to 207?”

My answer to that question is, No; because a foreign corporation cannot do anything that a domestic corporation cannot do, under the statute.

Your second question is: "Can a corporation organized under the provisions of Chapter 49, Section 8, be authorized to engage in the business of making small loans as provided under Chapter 55, R. S. Sections 190 to 207?"

My answer to that question is, No; because no corporation can be formed under that provision of statute which intends to derive profit from the loaning of money, except as a reasonable incident to the transaction of other business.

The next proposition is that Chapter 55, Section 197, provides, among other things:

"No person shall owe any licensee at any time more than \$300 for principal. No licensee shall induce or permit any borrower to split up or divide any loan, and all sums owed by any person at any one time shall be considered as 1 contract of loan for the purpose of computing the interest payable thereon. No licensee shall induce or permit any person, nor any husband and wife, jointly or severally to become obligated, directly or contingently or both, under more than 1 contract of loan at the same time, for the purpose or with the result of obtaining a higher rate of interest than would otherwise be permitted by this section."

After quoting this provision of law, you state, "My understanding is that under the general interest law a person may charge any rate of interest provided that the agreement is in writing, and that there is no fraud in the transaction. Under the provisions of Chapter 55, R. S., Sections 190 to 207, a person is permitted on loans up to \$300 to charge interest at the rate of 12% per annum without a license, and at the rate of 3% per month on the first \$150 and 2½% per month on any remainder, after having obtained a license from the Bank Commissioner."

The third question is: "Does a person, copartnership, or corporation, holding a small loan license and operating under the provisions of Chapter 55, R. S., Sections 190 to 207, forfeit the right to make loans in amounts exceeding \$300 at rates as provided for under the General Interest Law?"

My answer to this question is: Any person can exercise this right to lend money under the general interest law; but it should not be done in connection with his small loan business. It should be altogether separate, and the person so doing should keep a separate set of books available for the Examiners from your office, so that you can check upon the question of whether or not he is doing business under the general interest law or as a licensee under the small loan law.

RALPH W. FARRIS  
Attorney General