

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1947 - 1948

September 20, 1948

To Fred W. Rowell, Director of Veterans' Affairs
Re: GI Training of Real Estate Salesmen

I received your memo of September 14th, calling my attention to paragraph II of Section 3 of Chapter 75, R. S., and also to Section 3 of the same law. You ask if a veteran taking a course of training which has been approved by the Veterans Administration under Public Law 346, being trained by a licensed broker, (1) would be considered a salesman, as defined in Paragraph III of Section 2, or (2) could legally perform such duties as his training would require without first obtaining a license, provided that in addition to his apprentice wage being paid to him by the broker he also received as added remuneration a certain commission on sales originated through his efforts.

Section 3 prohibits any partnership, association or corporation from having a license unless every employee who acts as a salesman for such partnership, association or corporation holds a license as a real estate salesman. Therefore, in my opinion, a veteran taking a course of training and selling real estate and receiving a commission would be considered as a salesman as defined by the statute, and (2) could not legally perform such duties as his training would require in selling real estate without first obtaining a license as provided by statute.

However, any veteran taking a course in training as a salesman and not receiving a commission would be allowed to act as a salesman under the direction of the licensed partnership, association or corporation.

Any veteran taking a course of training, however, can apply for a salesman's license and if he can fulfill the requirements of the statute, he can secure a license and then he would be in a position to receive an added remuneration in the nature of a commission on sales originated through his efforts.

The Real Estate Commission has no power to make rules and regulations contrary to this statute.

RALPH W. FARRIS
Attorney General

September 21, 1948

To Lucius D. Barrows, Chief Engineer, State Highway Commission
Re: Snow Removal

I have your letter of September 16th in connection with snow removal operations by the State Highway Commission, and I note that a substantial amount of work is carried on by the towns, either by contract approved by the State Highway Commission, or by the hour, or on a force account basis, in which case this method is approved by the Commission. You state that the work is under the general direction of the Commission, to the extent that it must be carried on in a satisfactory manner if state aid for snow removal is paid to the town. You further state that this work is carried on on state aid, third class and town roads, the State participating in the cost and reimbursing the towns for the amount of state aid due under the snow removal law. On this statement of fact you ask, "Are men engaged on this snow removal work entitled to payments by the State under the Workmen's Compensation Act in case of accidents."

The question in your letter cannot be answered in the affirmative or the negative without some explanation. When contracts are let out by the town for snow removal, even though they are approved by the State Highway Commission, the employer would be the town or the particular individual who had taken the contract, and employees would not be entitled to payments by the State in case of accident within the meaning of the Workmen's Compensation Act. However, if the employees engaged in snow removal are on the State Highway Commission payroll and under the supervision of the State Highway Commission through its supervisors or foremen, then they would be entitled to the benefits of the Workmen's Compensation Act, as employees of the State.

One of these cases went to the Law Court in 1927. . . In that case the Commission awarded compensation to the widow of an employee who was killed in a gravel pit in the City of Belfast, while engaged in the construction of a third-class highway. The City of Belfast appealed, contending that the employee was working for the State Highway Commission rather than the City of Belfast. In this case, of course, the city was entitled to receive funds from the State for the purpose, and the location of the highway was approved by the Highway Commission, in conformity with the old statute of 1919, which has now been amended. The Court held that the employee was in fact hired and paid by the City of Belfast, and the work was being done by the City of Belfast, notwithstanding the fact that it received reimbursements from the State Highway Commission and the highway was subject to approval by the Commission.

I believe that this reasoning would apply to the snow removal operations, unless the State Highway Commission carried the employees on its payroll and had direct supervision of the work of snow removal, and not merely approval.

RALPH W. FARRIS
Attorney General

September 30, 1948

To Hon. Frank S. Carpenter, Treasurer of State
Re: Investment of Bridge Funds

I received your letter of September 29th, requesting a ruling on the following questions:

"1. Does the Treasurer of the State have control of investing the funds of the Waldo-Hancock Bridge, and if so, what board approves this action?

"2. Does the Treasurer of the State have control of investing the funds of the Kennebec Carlton Bridge, Bath, Maine, and if so, what board approves this action?

"3. Does the Treasurer of the State have control of investing the funds of the Deer Isle-Sedgwick Bridge, and if so, what board approves this action?

"4. If the Treasurer of the State does invest these funds, what are considered legal investments?"