

# MAINE STATE LEGISLATURE

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September 2, 1953

To Maine Real Estate Commission  
Re: Paying a Commission to an Unlicensed Broker

We have your request for an opinion relative to the Swan Company of Portland, where a broker, then duly licensed, brought in a listing and subsequently, after his severance of employment with the company, the property was sold. At that time the broker did not have a license. The question is, Is he entitled to a commission, notwithstanding he is not now licensed?

In reference to this problem, we would cite to you paragraph six of Section 7, Chapter 75, R. S. 1944:

"No person, partnership, or corporation engaged in the business or acting in the capacity of a real estate broker or a real estate salesman within this state shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as a real estate broker or real estate salesman without alleging and proving that such person, partnership, or corporation was a duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose."

In reading the cases under this section it appears that a person, in order to be entitled to sue for his commission, must be licensed at the time the cause of action arose. From the facts at hand it would appear that the cause of action in this instance arose when the sale was consummated. If the broker could not prove that he was licensed at that time, he could not sue to recover, and by the same token the party liable to pay the commission would not have to pay it. On the other hand, if he was licensed at the time of sale, we feel that the commission should be paid.

Roger A. Putnam  
Assistant Attorney General

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