

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

It would seem that children attending secondary schools are not provided for in Section 163, or to our knowledge in any other section. With respect to such secondary school children we would suggest that legislation would be appropriate.

JAMES GLYNN FROST
Deputy Attorney General

February 7, 1957

To Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Change of Address

We have your memo of February 4, 1957, with regard to the change of address where licensed resident brokers are returning their licenses with the request to change the address to other States.

As a condition to licensing, Section 7 of your law requires that every *resident* real estate broker shall maintain a place of business in this State. Notice in writing shall be given to the Commission by each licensee of every change of principal business location whereupon the Commission shall issue a new license for the unexpired portion without charge. A change of business location without notification shall automatically cancel the license theretofore issued.

If the resident broker is attempting to change his principal place of business from a point within this state to a point without this state, he has automatically forfeited his right to a resident license for he no longer maintains a place of business in this state.

Section 10 provides that a non-resident of this state may become a real estate broker or salesman by complying with all the conditions of this section and this chapter. It further provides that a non-resident applicant, if a broker, shall maintain an active place of business in the state in which he is located. You will note that this section pre-supposes two classes; one of which would be a non-resident who was a real estate broker in his home state, the other a non-resident who would not be a real estate broker in his home state. If he is a broker in his home state, the Commission may license him as provided in Section 10 under the so-called "comity" clause. If he is not, then he must take the examination as provided in your law and proceed accordingly.

If a resident licensee does not maintain a place of business in this state, his license should be revoked or canceled and the attempted change of address refused. A resident cannot become a non-resident until he leaves this state. Once he becomes a non-resident, he must then act in accordance with Section 10 as a non-resident.

You have stated in your memo that it is the purpose of these applicants to keep their Maine license active with the idea that they could avoid taking another examination if the individual returns to the state.

In view of the presence of the legislature, it might be wise for the Commission to consider whether or not it would be appropriate to ask the legislature to pass a law which would allow a real estate broker or salesman to place his license upon an inactive list or status during which time he could transact no real estate business and such license could be reinstated upon application and payment of

certain fees. This would cover the problem at hand and, as I see it, fairly treat both the Commission and the broker or salesman.

ROGER A. PUTNAM
Assistant Attorney General

February 7, 1957

To Doris M. St. Pierre, Secretary of Real Estate Commission

Re: Status of a Co-partnership

We have your memo of February 6, 1957, with regard to the license issued to a partnership known as the "Maine Camp Service" which consisted of two people at the time of issuance. One of the partners is now deceased. The surviving partner wishes to keep "Maine Camp Service" licensed as a partnership with "only a vague possibility that the wife of the deceased member would be a silent partner".

The law is clear that upon the death of one partner, the partnership is dissolved. *Putnam v. Parker*, 55 Me. 235 at 236. Another partnership made up of the survivors of the old partnership or their heirs or assigns would be a new and distinct partnership. Under such a situation a new license would be required and for an analogous situation with regard to motor vehicle registration and dissolution of partnership, see *Gass v. Robie*, 138 Me. 348, holding that a surviving partner had to re-register the automobiles formerly registered in the name of the partnership even though he had purchased the interest of his former partner and continued the partnership under the same firm name.

ROGER A. PUTNAM
Assistant Attorney General

February 12, 1957

To Edmund S. Muskie, Governor of Maine

Re: Governor's Powers when Local Officials Fail to Act

. . . You state that you have an inquiry from a citizen relative to the failure of the County Commissioners to establish a local organization for Civil Defense and Public Safety and their failure to appoint a director of such organization.

Section 9 of Chapter 12 of the Revised Statutes of 1954 requires:

"Each political subdivision of this state is authorized to establish and shall establish a local organization for Civil Defense and Public Safety in accordance with the state Civil Defense and Public Safety plan and program. Each local organization for Civil Defense and Public Safety shall have a director who shall be appointed by the executive officer or governing body of the political subdivision."

You ask what provisions are made in the act for enforcement of the foregoing and what authority and responsibility the Governor may have in connection with the same. Section 19-A appears to be the only section relating to the penalty in the event an officer of a political subdivision neglects any duty lawfully required of him under the provisions of Chapter 12. This section provides for a fine of \$20 for every such neglect.