

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1957 - 1958

Bills were presented to the 1955 Legislature which would have materially strengthened the position of the Governor in the event of neglect on the part of officers in political subdivisions. One law actually contemplated the removal from office of such officer who wilfully failed to fulfil his duties under the statute or under a proper order or regulation. The Legislature, however, refused to enact such legislation and in its place provided for the \$20 fine above mentioned.

Under the present state of law relating to Civil Defense and Public Safety, it appears that the Legislature expects all persons to participate voluntarily, and, lacking such voluntary participation, there is little that can be done to strengthen the organization. It is difficult to define the responsibilities of the Governor when so little can be done to remedy the situation where local offenders fail to do their part. The failure of the Legislature to provide teeth by which the provisions of the act could be enforced would seem to indicate that your personal responsibility in the matter is quite limited by legislative intent. Perhaps this legislative session will see some methods enacted whereby the law can be enforced.

JAMES GLYNN FROST
Deputy Attorney General

March 12, 1957

To Scott K. Higgins, Director of Aeronautics

Re: State Registration of Civil Air Patrol Aircraft

We acknowledge receipt of your memo inquiring if the Civil Air Patrol is exempt from paying State registration fees for aircraft located in Maine and operated by the Civil Air Patrol.

We have examined the charter of the Civil Air Patrol passed by Congress on July 1, 1946, Public Law 476, and find it to be substantially the type of corporation that would be organized under our own non-stock corporation chapter of laws. It is a non-profit organization.

While the corporation is probably exempt from excise taxes, we do not find that it is exempt from payment of registration fees.

Provisions relating to registration of aircraft are found in Chapter 24, Section 13, R. S. 1954. Subsection I reads in part:

“No civil aircraft shall be flown in the state unless such aircraft and its pilot are properly certificated under federal law, nor unless they have a valid certificate of registration as hereinafter provided. . .”

Subsection IV contains the exemptions:

“A. an aircraft owned by and used exclusively in the service of any government or any political subdivision thereof, including the government of the United States, any state, territory or possession of the United States, any state, territory or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

“B. an aircraft registered under the laws of a foreign country, and not engaged in air commerce within the state;

"C. an aircraft not engaged in air commerce within the state which is owned by a non-resident and registered in another state, or otherwise qualified there;

"D. an aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;"

Paragraph C. of subsection IV appears to be the only provision under which the corporation could possibly be exempt. So far as we can ascertain from the material supplied to us, on which the Civil Air Patrol bases its request for exemption from registration fees, the planes in question are not registered in another State by a non-resident, nor are they otherwise qualified in another State.

We therefore are of the opinion that the Civil Air Patrol does not fall within any provision exempting its planes from paying registration fees.

JAMES GLYNN FROST
Deputy Attorney General

March 18, 1957

To A. S. Noyes, Bank Commissioner

Re: Mortgages on out-of-State Property

We have your memo in which you make the following request:

"Will you kindly rule as to whether or not mortgage companies outside of Maine, selling or offering for sale loans secured by real estate mortgages on property outside of Maine, should be required to register with this department (Banks and Banking) as dealers in securities?"

It appears that some banking institutions and the Maine State Retirement System from time to time purchase out-of-state guaranteed mortgages. Such mortgages are purchased from companies domiciled outside the State of Maine. The payments of principal and interest due to the purchasers are also collected for a fee by the mortgage companies and remitted to the owners of the mortgage loans on an agreed basis.

Such mortgages are securities within the meaning of the Act:

"The term 'securities' shall include . . . notes secured by mortgages of real estate in this state. . . . The term 'securities' shall further include documents of title to and certificates of interest in real estate, including cemetery lots, and personal estate when the sale and purchase thereof is accompanied by or connected in any manner with any contract, agreement or conditions, other than a policy of title insurance issued by a company authorized to do a title insurance business in this state, under the terms of which the purchaser is insured, guaranteed or agreed to be protected against financial loss, or is promised financial gain."

Section 228 of Chapter 59 defines the manner of solicitation for sale, offer for sale, or invitation for offers which, if carried on in this State, would require registration as a dealer in securities:

"No dealer in securities shall in this state, by direct solicitation or through agents or salesmen, or by letter, circular or advertising, sell, offer for sale or invite offers for or inquiries about securities, unless registered as a dealer under the provisions of the following sections. No sales-