

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years

1959 - 1960

MAINE STATE
LIBRARY

September 29, 1959

To: Scott Higgins, Director of Aeronautics Commission

Re: Appointment of Commissioners

We have your memorandum of September 28, 1959 in which you advise that one of the members of the Aeronautics Commission has recently resigned and it becomes necessary for the Governor to appoint a new member.

You ask the following questions with respect to the new appointment:

1. The length of the term of office the new member should be appointed for.
2. Should all members of the present Commission be reappointed under the amended statute, or
3. Should they serve the present term of office and be eligible for reappointment on a three-year basis?

Your question is caused by an amendment to Chapter 24 of the Revised Statutes as effected by Chapter 120 of the Public Laws of 1959. This latest amendment provided that one member was to serve for one year; two to serve for two years; and two to serve for three years; evidently having in mind that experienced people should always be on the Commission.

In answer to your first question, Chapter 120 did not change that provision of Section 4 of Chapter 24 which provides that vacancies shall be filled for the unexpired term. The newly appointed officer would, therefore, be appointed to fill out the unexpired term of the resigned Commissioner.

An appointment made in such a manner would mean that all members of the Commission would have terms expiring in November or December of 1961. We would, therefore, suggest that in 1961 the Governor then start appointments so as to comply with the terms of office set forth in Chapter 120.

JAMES GLYNN FROST
Deputy Attorney General

October 5, 1959

To: George B. Coffin, Field Representative
Small Business Administration
Rooms 11 and 12
335 Water Street
Augusta, Maine

Dear Mr. Coffin:

We acknowledge receipt of your letter of September 23, 1959, in which you state that Arthur P. MacIntyre, Chief of Investment Division, would like a clarification or ruling on the following questions:

"1. Under the present statute, will the State of Maine issue a charter to a domestic corporation licensed by SBA to do business under the Small Business Investment Act of 1958?"

Answer: Yes.

"2. Will the State of Maine qualify a foreign corporation licensed by SBA to do business under the Small Business Investment Act of 1958 to do business in the State of Maine?"

Answer: Yes.

Prior to the amendment of our law, we have refused to accept such corporations because they were plainly in violation of our law which prohibits businesses organized under the general law from lending money for profit.

However, Chapter 178, Public Laws 1959, amended Chapter 53, section 8, as follows:

"Nothing in this section shall be construed to prevent the organization of small business investment companies organized to carry out the provisions of the Small Business Investment Act enacted by the 85th Congress of the United States, and acts amendatory thereto and additional thereto and which become such corporations under said Small Business Investment Act of 1958. Such small business investment companies shall not be deemed banking corporations or institutions."

As a result of the above-quoted amendment, we have answered your questions in the affirmative.

Very truly yours,

JAMES GLYNN FROST
Deputy Attorney General

October 5, 1959

To: Ronald W. Green, Commissioner of Sea & Shore Fisheries

Re: Quahog Tax Law

We have your request for an opinion concerning the proceeds of taxes collected under Sections 294 through 301, both inclusive, of Chapter 16 of the Revised Statutes of 1954. As I understand it, at the present time one of the taxpayers is litigating the question of the constitutionality of this tax law.

Your specific questions are:

- "1. Will I be able to spend money received as a result of this tax which may be paid by other dealers?
- "2. Should I discontinue this program and refrain from spending money until this question has been finally determined by the courts?
- "3. In the event that the court rules in favor of Mr. Laskey, will the State be responsible for refunding all tax money received since this law became effective?"

In reference to your first question, I would answer in the affirmative. You are charged under Section 301 with the expenditure of the funds for certain purposes as you may determine.

The second question should be answered in the negative.