STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

March 9, 1962

R. L. Chasse, M. D.
Chairman, Maine State Board of Registration of Medicine
P.O. Box 637
Brunswick, Maine

Dear Dr. Chasse:

We have your request of March 8, 1962 for an opinion with regard to the legal requirements for temporary licensing of doctors planning to practice medicine in Maine as hospital residents in other than State institutions, or doctors who plan to accept positions as camp physicians.

Revised Statutes, Chapter 66, Section 9, limits any such temporary licensure to a physician who is a graduate of a class A medical school or university and is duly registered and licensed in this or any other State. The physician must also meet the requirements of the Board relative to medical education and must be of good reputation. No person can be granted a temporary license under Section 9 if he or she is not duly registered and licensed in one of the United States prior to his or her application for such temporary license.

Very truly yours,

THOMAS W. TAVENNER

Assistant Attorney General

March 12, 1962

To: Philip R. Gingrow, Personal & Consumer Finance Examiner, Banks and Banking

Re: Co-maker Loans by Licensed Small Loan Agencies

We have received your memo of 7 February, 1962, in which you state that the last two sentences of section 217, chapter 59, Revised Statutes of 1954, would seem to prohibit a licensee under sections 210 to 227 from inducing or permitting a present borrower to be a co-maker on a note with another borrower, or a co-maker to become a borrower on his own note.

Section 217 only prohibits this when the intent of or the result of this transaction is to get more than the statutory interest rate. When one signs a note to a finance company, as per the standard form enclosed, he signs as a primary maker regardless of the fact that he may have actually signed as the second person on the note and with the intention of being a surety on the note. It is immaterial which signature appears first, because both the signer and co-signer are primarily responsible, and only as a matter of practice do the finance companies endeavor to collect from the person whose signature appears first. With this in mind the last sentence of section 218, chapter 59, clearly forbids a finance company from having a person sign a standard note carrying the standard statutory interest rate when such signer already has another note outstanding with the same finance company. By so signing, the signer is contracting to pay on two separate loans, each carrying a separate interest rate, which, by the provisions of

the aforementioned section 218, make the second note void. It must be noted, however, that this whole opinion is predicted on the aggregate total of the two notes being in excess of $150. Any combination of loans with an aggregate total of under $150 would not be in violation of this chapter.

You give the following hypothetical, and ask whether the merger clause you suggest would rectify the above situation:

> "A licensee makes a loan to borrower A. Subsequently, borrower B wishes to obtain a loan. The licensee requires borrower B to have a co-maker before he will grant the loan. Borrower B brings borrower A to the licensee's office to be his co-maker. The licensee has both sign a note containing a clause which in effect says that should borrower A be called upon to pay this loan while he still has a loan of his own, the interest on the two loans would be computed as though they were one loan."

By introducing this clause into the note as it is worded you could still be in violation of the aforementioned section 218, in that the signer who already has a loan outstanding is still contracting to pay the second note at the statutory interest rate, regardless of the fact that "if he is called upon to pay" he would pay as if both loans were one. The violation occurs when the contract is made, and not when the co-signer is called upon to pay. This can be rectified, however, by putting in a clause which in effect states that if any of the signers have another loan outstanding with the same company then as to them the interest on both loans shall be determined as if there is only one loan. By doing this you would effectively have made the second or subsequent notes valid in that they would all be figured on the statutory interest rate as if they were one note for the purposes of interest. Introducing such a merger clause into the note would seem to be advisable in that the occasion may arise where a person inadvertently becomes a co-maker while he has his own note outstanding.

WAYNE B. HOLLINGSWORTH

Assistant Attorney General

March 12, 1962

Harvey R. Pease
Clerk of the House of Representatives
State House
Augusta, Maine

Dear Harvey:

In answer to your letter of March 7th to this office as to your duties relative to interim committees:

By statute, Revised Statutes, Chapter 10, § 7, you are the executive officer of the legislature when it is not in session. One of your duties is to approve accounts for payment. This would include accounting of interim committee expenses, etc.

I see no reason why either of the committees referred to cannot hire clerk or secretarial help to carry out their duties. However, such total expense for clerical or secretarial help, plus travel and meal expense, should not exceed $1,000 in either case. If that amount is exceeded then it shall be up to the 101st