

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

For The Calendar Years

1963 - 1964

Note, too, that the Legislature has decreed upon the status of bondholders respecting remedies available to them for default of Trust provisions, inter alia. *R. S., c. 41, § 252*. The answer to the second question must also be in the negative.

JOHN W. BENOIT
Assistant Attorney General

June 3, 1964

To: Philip R. Gingrow, Banks and Banking

Re: Collection of small loans made in other states.

Facts:

From time to time small loan companies in other states make loans to individuals, resident in another state. The individual, before completing payment of the loan moves to Maine. The loan company then sells the loan to its Maine corporation. In one instance the so-called parent corporation has two Maine corporations. One Maine corporation is a licensed small loan company. The other is a corporation engaged in purchasing sales contracts and making loans in excess of \$2,500.

A question has arisen around the purchase in Maine, of pre-computed or add-on loans by the non-licensed corporation.

Question:

Do Sections 222 and 224 require that a person or corporation be licensed under Sections 210-227 before being permitted to collect loans of the amount of \$2,500 or less, for which a greater rate of interest, consideration or charges than is permitted by Sections 210-227 has been charged, contracted for or received when such loan was made in another state which has in effect a regulatory small loan law similar in principle to Section 210-227.

Answer:

No.

Opinion:

The answer to this question is found in *R. S., C. 59, § 224*.

"No loan of the amount of \$2,500 or less, for which a greater rate of interest, consideration or charges than is permitted by section 210 to 227, has been charged, contracted for, or received, wherever made, shall be enforced in this State. Every person in anywise participating therein in this State shall be subject to sections 210 to 227. The foregoing shall not apply to loans legally made in any state to a person who is at that time a resident of that state, which has in effect a regulatory small loan law similar in principle to sections 210 to 227."

The above section was completely rewritten by P. L. 1963 C. 141, § 5. Prior to September 21, 1963 a loan bearing interest greater than allowed by sections 210 to 227 "wherever made" was not enforceable in this state. Although the wording of the first two sentences above quoted is somewhat changed, the intent is not. However the third sentence which has been added now changes the whole concept of section 224 as it was previously worded.

The legislative intent is clearly expressed. There is no ambiguity. By the use of the word "foregoing" the legislature clearly stated that loans bearing interest in excess of that permitted by sections 210 to 227 may be enforced under the particular circumstances stated in the third sentence. Further than that by the use of the words "The foregoing shall not apply" the legislature also stated that enforcement of such loans may be by any person, whether licensed by sections 210 to 227 or not. The word "foregoing" must refer to both preceding sentences. It cannot be interpreted otherwise.

It is concluded that a person or corporation need not be licensed under sections 210 to 227 to enforce a loan made legally in another state having a law similar in principle to Maine, to a person then a resident of that state and now a resident of Maine.

GEORGE C. WEST

Deputy Attorney General

June 12, 1964

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Compulsory School Attendance

Facts:

In June, 1964, an elementary school student will complete the eighth grade and will attain 15 years of age in September, 1964. The student's parent (father) has notified the superintendent of schools that his son will not attend school after June, 1964; and that he will tutor his son through use of the American School Correspondence courses. The family lives in a School Administrative District, #28, which has a contract with the Town of Bucksport for secondary school privileges. Conveyance is provided to Bucksport High School.

The Maine Statute requiring school attendance is R. S., c. 41, § 92:

"Every child between the 7th and 15th anniversaries of his birth and every child between the 15th and 17th anniversaries who cannot read at sight and write legibly simple sentences in the English language and every child between the 15th and 16th anniversaries who has not completed the grades of the elementary schools shall attend some public day school during the time such school is in session. . . ."

You state in your memorandum that the Department of Education has interpreted Section 92 to require all children between the 7th and 15th anniversaries of their birth to attend secondary school even though the elementary school program may have been completed prior to age 15.

You also state that in administrative units where no secondary school is operated or where no such school is provided, it has been the opinion that attendance outside the unit could not be compelled. In the present case, District #28 holds a contract with Bucksport for secondary school privileges, which contract provides for school attendance in the same fashion as though a secondary school were operating within the confines of the District. Transportation is provided by the District; and a pupil is under no hardship in attending secondary school.