

# 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**

**1963 - 1964**

A careful reading indicates that a municipality may, by an appropriation, purchase for its inhabitants the free use of the books owned by a private library. If the library upon assurance of an appropriation from the municipality makes its books freely available to the inhabitants, then it is considered a free public library. The law does not limit the use to which the municipal appropriation may be made. Its use is within the discretion of the managing board of the library.

GEORGE C. WEST  
Deputy Attorney General

June 22, 1964

To: George F. Mahoney, Commissioner, Insurance

Re: Brokerage Firm to handle state insurance and commission fund to pay deductible losses.

**Facts:**

The Chairman of the Governor's Committee to study insurance on State-owned property has submitted two questions propounded by a member of his Committee relating to the study of the Committee.

**Question No. 1:**

Within the framework of present insurance statutes and regulations, can an insurance brokerage firm be created and licensed to deal only with insurance on property in which the State has an insurable interest?

**Answer:**

Yes.

**Opinion:**

There is no statutory prohibition to the creation and licensing of a brokerage firm to deal only with insurance on property in which the State has an insurable interest.

A partnership, company, or corporation may be licensed as an agency or broker provided it meets the organization license requirements as set forth in R. S. Me. 1954, c. 60, § 273-E, as amended. Subsection V of this section provides:

"A person authorized to transact business for the organization must comply with the requirements of section 273-D."

R. S. Me. 1954, c. 60, § 273-D, as amended, establishes the requirements for the obtaining of an individual license as an agent, broker, or adjuster. R. S. Me. 1954, c. 60, § 273-G, as amended, states in part:

"If the applicant complies with the pertinent requirements of sections 273-D and 273-E, the commissioner shall issue him the license for which he applies."

There are no requirements of §§ 273-D and 273-E which could not be complied with by a brokerage firm created to handle only state insurance; and if the requirements of §§ 273-D and 273-E are complied with, the Commissioner shall issue the license.

There are no administrative rules or regulations of the insurance department which would prohibit the licensing of a brokerage firm created to handle only insurance on state property.

Question No. 2:

Can the brokerage firm licensed to deal only with insurance on property in which the state has an insurable interest allow its commissions to accrue to pay the State's losses uncollectible because of policy deductibles?

Answer:

No.

Opinion:

A brokerage firm establishing a fund from commissions received for fire and liability insurance on state property and from which fund losses would be paid up to the amount of the deductible in the insurance policies is in direct violation of R. S. Me. 1954, c. 60, § 298. The pertinent portion of the section reads as follows:

"No insurance company transacting fire or liability insurance in this state and no agent or broker transacting fire or liability insurance, either personally or by any other party, shall offer, promise, allow, give, set off or pay, directly or indirectly, as an inducement to fire or liability insurance on any risk in this state, now or hereafter to be written, any rebate of or part of the premium payable on any policy or of the agent's commission thereon; . . . "

The establishment of such a fund would contravene § 298 as it would be a direct offer or promise on the part of a broker transacting fire or liability insurance to rebate at least a part of the agent's commission as an inducement to the writing of fire and liability insurance on risks in this state. Such a payment from the fund would be a violation of the statute.

JEROME S. MATUS

Assistant Attorney General

June 24, 1964

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Tuition Charges; Attendance at Portion of Term

Facts:

Your memorandum acknowledges the existence of two opinions directed to your Department by this Office under the dates of January 4, 1950, and April 5, 1957. These opinions deal with the question whether a full-semester tuition charge may be made by the receiving school although the student does not complete a full semester of study. You state that while the reference opinions appear to be closely related, there seems to be a difference of expression on the question.

The amount of State subsidy expended to administrative units is based (in part) on amounts paid or received for tuition.

Question:

May a receiving school charge a full semester's tuition for pupils who enroll late or leave the school before the end of the period?

Answer:

No.