

MAINE STATE LEGISLATURE

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130 ✓
July 19, 1965

Doris Hayes, Supervisor, Corp. Div.

State

George C. West, Deputy

Attorney General

Consumers Co-operatives

Reference is made to your memo of July 7, 1965.

FACTS:

The Secretary of State's office has received for recording Monmouth Water Association which is defined as a consumer co-operative and said to be organized under Title 13, Sections 1501-1731. Title 13, Section 1551 sets forth that "The same provision shall apply under said general law to associations organized under this subchapter in respect to the first meeting of the corporation, and as to fees payable to the State." In a discussion of the fee payable on this corporation, apparently the attorney felt that there would be a fee on the capital. The charter documents list the authorized stock as 20 membership shares valued at \$200 per share (\$4000).

It has been the policy of the Secretary of State's office to interpret the chapter governing consumer co-operatives as requiring only the \$5 fee when a conformed copy of the charter is filed in the office.

QUESTION:

What is the proper fee for recording a consumer co-operative corporation in the Secretary of State's office?

ANSWER:

See Opinion for answer.

OPINION:

The statute relating to organization of consumer co-operatives is 13 M.R.S.A. § 1551, which reads:

"Articles of incorporation for the formation of an association under this subchapter shall be drawn up and

July 19, 1965

filed in the same manner and under the same provisions as for organizing business corporations under the general law, except where such procedure would be inconsistent with this subchapter. The same provision shall apply under said general law to associations organized under this subchapter in respect to the first meeting of the corporation, and as to fees payable to the State. (Emphasis ours)

It seems obvious from the above section and the emphasized language that consumer co-operative corporations are to be organized and pay the same fees as corporations under the general law.

Although section 150, subsection 3, defines "member" as a member in a nonshare association as well as a share association, any references to members in subsequent sections seem to refer to shares having a par value. See sections 1641, 1642, 1643, 1644, 1645, 1691, 1692, and 1731. Certainly the general tenor of Chapter 85, subchapter 1, indicates that consumer co-operatives are corporations having capital stock.

The opinion of this office dated December 29, 1948, is not applicable to consumer co-operatives. That opinion related to Chapter 294 Public Laws 1945, now 13 M.R.S.A., Chapter 85, subchapter IX. See section 1824 which in the last sentence sets forth that the Secretary of State shall receive \$5 for its fee. The same provision was in the original act and is the one construed by the above opinion.

Also note section 1502 which specifies a \$5 fee for filing an amendment.

We conclude that a consumer co-operative has to have authorized capital and pay the same filing fee as any stock corporation.

George C. West
Deputy Attorney General

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