

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1965 - 1966

October 26, 1966
Banks and Banking

Philip R. Gingrow, Director – Finance
Location of Records of a Home Repair Financing Agency

FACTS:

A foreign corporation, primarily engaged in the business of acquiring home improvement paper, has been acquiring at its Boston, Massachusetts office home improvement paper from contractors in Maine for about two years. Approximately 30 Maine contractors sell home improvement paper to this corporation. The Maine contractors submit home improvement contracts and notes to the Boston office of the corporation. If the home improvement paper submitted by the Maine contractors is accepted by the Boston office of the corporation, the home owner is requested to make his payments to that office. All books, accounts, and records relating to the Maine home owners are kept at the Boston office. The corporation indicates it would not be economically profitable to maintain an office in Maine which would assume the functions of the Boston office. The corporation proposes that the residence of a field man located in Portland, Maine, be the licensed office under the Home Repair Financing Act and that the record relating to those transactions with Maine home owners be retained in the Boston office. There would be no State of Maine office with the records relating to the transactions involving Maine home owners. The corporation would reimburse the Bank Commissioner with appropriate expenses of his staff incurred in auditing the records of the corporation in Boston.

QUESTION:

Under the facts set forth, is the maintenance of the records in the Boston office of the corporation as they relate to business with Maine home owners, in violation of section 3748 of the Home Repair Financing Act? (Public Laws of Maine 1966, Chapter 501). 9 M.R.S.A., Chapter 360.

ANSWER:

Yes.

OPINION:

9 M.R.S.A. § 3748, reads as follows:

“Every home repair contractor, home repair financing agency and holder of a home repair contract shall maintain a place of business in this State and keep at its place or places of business such books, accounts and records relating to all transactions under this chapter as will enable the commissioner to enforce full compliance with the provisions thereof. All such books, accounts and records shall be preserved and kept available for such period of time as the commissioner may by regulation require. The commissioner may prescribe the minimum information to be shown in such books, accounts and records of the licensee so that such records will enable the commissioner to determine compliance with this chapter.”

In interpreting section 3748, we construe the following language: “and keep at its place or places of business such books, accounts and records relating to all transactions under this chapter as will enable the commissioner to enforce full compliance with the provisions thereof” – as referring to the preceding language in the first sentence of

section 3748, which reads: "Every home repair contractor, home repair financing agency, and holder of a home repair contract shall maintain a place of business in this State." Thus, a foreign corporation whose licensed office in Maine is the residence of its State of Maine field man, must maintain at the licensed office in the State of Maine, the books, accounts and records relating to all transactions under the Home Repair Financing Act which would enable the Bank Commissioner to enforce full compliance with the provisions thereof. The maintenance of the books, records and accounts outside of the State of Maine, with no such records being maintained within the State, is not contemplated by 9 M.R.S.A., § 3748, and would be in violation of that section.

JEROME S. MATUS
Assistant Attorney General

Howard Clark, Assistant Director

December 14, 1966
Motor Vehicles

Proper Registration Classification of Tractor Mounted Potato Combines.

FACTS:

Several new types of motorized farm equipment have been recently introduced in Aroostook County including a tractor mounted potato combine. Pictorial brochures of this combine were furnished to this office which show that the tractor portion of the combine is mounted on the combine with the wheels all removed and the steering mechanism attached to the front wheels of the combine.

QUESTION:

Are the tractor mounted potato combine and similar motorized equipment properly classified as "farm tractors" or "special mobile equipment"?

ANSWER:

See opinion.

OPINION:

Farm tractor is defined in our statutes as follows:

" 'Farm tractor' shall mean any motor vehicle designed and used primarily as a farm implement for *drawing* plows, mowing machines and other implements of husbandry." (Emphasis supplied.) 29 M.R.S.A. § 1, sub. 3.

Special mobile equipment is defined in our statutes as follows:

" 'Special mobile equipment' shall mean every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including road construction or maintenance machinery, ditch-digging apparatus, stone-crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section." 29