

# MAINE STATE LEGISLATURE

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November 20, 1969

Leo M. Carignan, Executive Secretary

Real Estate Commission

Richard W. Gerrity, Assistant

Attorney General

SYLLABUS:

The \$15 fee is payable upon granting of a temporary license under 32 M.R.S.A. § 4102-A.

FACTS:

The Real Estate Commission wants a ruling on the amount of the prescribed fee in the following statute:

"§ 4102-A. Temporary license in case of death

"In the event of the death of a licensed broker, who is the sole proprietor of a real estate business, the commission shall, upon application by his legal representative, issue without examination, a temporary license to such legal representative, or to an individual designated by him and approved by the commission and the payment of the prescribed fee, which shall authorize such temporary licensee to continue to transact said business for a period not to exceed one year from the date of death subject to all other provisions of sections 4001 to 4119, except that such temporary license shall not be renewed."

QUESTION:

What is the amount of the prescribed fee upon granting of a temporary license under 32 M.R.S.A. § 4102-A?

ANSWER:

\$15.

REASON:

Since 4102-A, Temporary License in Case of Death, authorizes payment of prescribed fee, one of the three sections prescribing

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fees must apply. The first is 32 M.R.S.A. § 4107-A entitled Original Fees; corporations, partnerships and associations. This \$20 fee is inapplicable because the section covers only corporations, partnerships and associations which may or may not be the sole representative of the decedent. The second is 32 M.R.S.A. § 4110 entitled Examinations. This \$40 fee is inapplicable because it contemplates the \$40 as covering the cost of an examination and there is no examination under 32 M.R.S.A. § 4102-A.

The third section is 32 M.R.S.A. § 4107 entitled Renewals. This \$15 fee is the prescribed fee in 32 M.R.S.A. § 4102-A. 32 M.R.S.A. § 4102-A applies to renewals for the following reason: When the sole proprietor dies, his license, being an incident of his person, expires. However, Section 4102-A allows his legal representative to "renew" the sole proprietor's license. The legal representative steps into the shoes of the deceased. The statute authorizes the issuance of a new license based on an old license. This issuance must be termed a renewal.

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