

MAINE STATE LEGISLATURE

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September 4, 1974

Maynard C. Dolloff, Commissioner

Agriculture

Phillip M. Kilmister, Assistant

Attorney General

Bear Damage to Bee Hives

Prior to the recent enactment of (P.L. 1973, c. 776) the owner of beehives who suffered damage or destruction of same by wild animals, could only seek compensation for his loss by applying for reimbursement from the Legislature. The enactment of the "beehive damage statute" bypasses the circuitous legislative reimbursement route and provides for application for reimbursement directly from the Department of Agriculture.

The attached statement to your memo under date of July 23, 1974 indicates that the owner of the beehives in question suffered damage on April 24, 1973, slightly more than 2 months prior to the effective date of the "beehive damage statute".

Questions:

1. Does the Commissioner of Agriculture have authority or responsibility under this Act to honor this (enclosed) statement?

Answer: No.

2. Does the wording of the Act specifically rule out the payment of damages inflicted on beehives rented by the residents of Maine?

Answer: Yes

3. Does the law apply to damages to beehives prior to June 28, 1974 when the legislation became effective?

Answer: No

In response to questions numbered one and three, it must be stated that there is no evidence of any legislative intent to indicate that the law shall apply retroactively as well as prospectively as of June 28, 1974. It therefore follows that compensation for damage to beehive colonies or so-called "apiaries", incurred prior to June 28, 1974, must be sought through legislative action.

In the instant case, even if the law were applicable, it would appear that as Commissioner, you would not be responsible for payment of the within bill.

The applicable language of (P. L. 1973, c. 776) reads as follows:

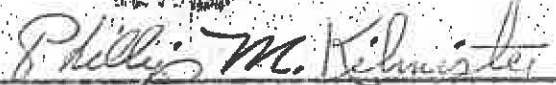
"Whenever any beehives, bee colonies or honey, owned by a resident of this State, are damaged or destroyed by wild animals, the owner may present evidence of such damage or destruction and may make complaint thereof to the mayor of a city or to one of the municipal officers of the town or plantation where such damage was done within 24 hours after he has knowledge of same. Thereafter, such claims shall be investigated reported and adjusted or approved in the same manner as claims under section 3652." (emphasis supplied)

The contents of the above-quoted statute expressly provide for the procedural steps which a claimant must undertake to substantiate his claim for reimbursement for any loss allegedly sustained, and mirrored against said statutory language, the claimant in the instant case, has not submitted a proper verification of his claim.

He has, however, undoubtedly established a prima facie case for seeking and obtaining relief by way of damages from the Legislature.

In answering question numbered two, the plain meaning of the word "owner" would seem to exclude a claimant who merely leases or rents beehives.

In a lessor-lessee relationship regarding ownership of beehives structures it is true that the so-called lessee or renter is likely to be the sole or primary owner of the honey and honey combs, the queen bees, and the entire brood of bees inseparably connected to the beehive. However, in such a situation, he can recover for his provable losses, only as owner of the bees, or honey, and not as lessee or renter of the beehive.


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PMK/bls