

MAINE STATE LEGISLATURE

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February 14, 1975

Carol J. Leighton, Lic. & Exams.

Real Estate Commission

Phillip M. Kilmister, Assistant

Attorney General

Licensure of a non-resident salesman employed in Maine

Although our statutes do not expressly provide for licensure of a nonresident salesman in the employ of a Maine broker within this State, there are no valid grounds upon which the Commission can refuse to allow a duly licensed nonresident salesman from practicing the profession of real estate within this State.

By granting a license to a nonresident salesman in the employ of a broker in another state, reason and fairness seem to dictate that said nonresident may, if he chooses, be allowed to engage in the transaction of real estate in the employ of a broker within the State of Maine, the licensing state. To rule otherwise, would seem to negate the only valid purpose for granting nonresident licensure.

Denial of licensure to qualified licensees on the basis of non-residency, is such a clear cut violation of the equal protection clause of the Federal Constitution as to require no further elaboration. (For a detailed discussion of the unconstitutionality of residency requirements, you might wish to look at an Opinion of the Attorney General's Office submitted to the Real Estate Commission under date of September 13, 1971.)

As you properly point out in your memorandum addressed to this Office, the statutes do not specifically provide for licensure of a non-resident salesman in the employ of a Maine broker, but the Commission has the implied authority to grant such a license, and I would urge that they do so forthwith.

PHILLIP M. KILMISTER
Assistant Attorney General

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