

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date June 9, 1975

To Paul A. Sawyer, Ex Officio Dept. Real Estate Commission
From Phillip M. Kilmister, Assistant Dept. Attorney General
Subject Nonresident Real Estate Courses and Examination Review Courses

In answer to your inquiry relating to the above-subject, please be advised that it is the position of this office that nonresident privately owned schools which solicit or sell real estate courses in the State of Maine, should register with the Department of Educational and Cultural Services pursuant to the terms of 20 M.R.S.A. § 266.

Schools offering instruction in real estate required to be approved by the Real Estate Commission were specifically exempted from registration with the Department of Educational and Cultural Services by the enactment of (P.L. 1973, c. 448) entitled "An Act Relating to Schools Teaching Real Estate Subjects." This same law provided for the administration of said schools solely under the auspices of the Real Estate Commission and gave the Commission complete authority to promulgate rules and regulations relating thereto, all as set forth in toto in 32 M.R.S.A. § 4101-A.

By expressly exempting registration of real estate courses and schools conducted within the State of Maine from the Department of Educational and Cultural Services and simultaneously placing jurisdiction relating to the administration of such courses or schools with the Real Estate Commission, it does not necessarily follow that the Legislature intended to remove any reservoir of registration authority relating to nonresident courses and schools from the Department of Educational and Cultural Services, however.

Had the Legislature intended to abrogate registration authority from the Department of Educational and Cultural Services, it could have chosen to do so. Instead, the language of the second paragraph of Title 20, Section 2661 remains clear and unambiguous, and leads to the inescapable conclusion that nonresident real estate schools which solicit business within the State, should register with said Department.


PHILLIP M. KILMISTER
Assistant Attorney General

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