

# MAINE STATE LEGISLATURE

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January 7, 1976

Sylvester L. Poor, Secretary

State Board of Registration for  
Professional Engineers  
Attorney General

Phillip M. Kilmister, Assistant

Interpretation of 5 M.R.S.A. § 1743-B

Your letter of November 12, 1975, addressed to this Office does not spell out what conflict, if any, you believe exists between the language of 5 M.R.S.A. § 1743-A and Attorney Michael D. Lang's interpretation of said statute as evidenced by his memorandum of law submitted to the Maine Housing Authority.


From our personal conversation sometime ago relative to this matter, I assume that you question whether or not the Maine State Housing Authority's policy of excluding engineers from providing design services, is violative of the provisions of 5 M.R.S.A. § 1743-B. The answer is clearly in the negative.

The language of 5 M.R.S.A. § 1743-B reads as follows:

"On projects for the design of buildings, the State of Maine and all political subdivisions thereof may select, without prejudice and on an equal basis, a prime professional who may be either an engineer or an architect. The professional so retained for a project shall perform only those services for which he is competent and shall utilize the services of other qualified professionals as required to provide a proper and complete professional service to the State or subdivision thereof consistent with applicable law." (emphasis supplied)

This statutory language simply states that an engineer as well as an architect may be designated as a prime professional for the design of structures for the State of Maine and its political subdivisions. The language of the statute is totally unambiguous in this regard and requires no further elaboration. The statute, however, sheds no light, nor was it intended to do so, upon the age-old conflict as to what constitutes the practice of engineering as opposed to the practice of architecture.

In summary, an engineer may not perform services for which licensure as an architect is a prerequisite, and vice versa, an architect cannot perform engineering services for which he is not duly licensed, but either may qualify as a "prime professional" for the design of buildings under the terms of 5 M.R.S.A. § 1743-B.

  
PHILLIP M. KILMISTER  
Assistant Attorney General

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