

MAINE STATE LEGISLATURE

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March 19, 1976

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Real Estate

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Referral Fees - Acceptance from Foreign Brokers


Statutes which involve the regulation of real estate business and require licensure of brokers and salesmen, are designed to protect the public from fraud and misrepresentation, and to insure that honest and competent people engage in the profession of the practice of real estate. This purpose is not violated when a broker licensed in another jurisdiction cooperates with a licensed domiciliary broker in procuring a purchaser for property in the domiciliary's state, in exchange for which he shares in a commission. The public is protected by the participation in the transaction of licensed brokers. (For a typical case upholding the legality of commission sharing by licensees in different states, see Howell v. Steffey, 204 A.2d 695.

Our Maine licensing law simply provides that a licensee may share his commission with another licensee, including nonresidents. The last sentence of 32 M.R.S.A. § 4003 reads as follows:

"A licensed broker may share his commission with a nonresident provided such nonresident is licensed as a real estate broker within his own State."

It logically follows that in the absence of a legislative proscription in the licensing laws of another state, that a Maine broker may receive an origination or referral fee, for his services in procuring a purchaser of real estate from a nonresident broker. The term "nonresident" as delineated in 32 M.R.S.A. § 4003 clearly does not include brokers licensed in foreign countries, however.

In the absence of any express legislative prohibition in our real estate licensing law, it is my opinion that the Real Estate Commission has no authority to enjoin the practice of "commission sharing" between Maine brokers and foreign brokers, relative to the consummation of sales of real estate located in foreign countries.


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