

# MAINE STATE LEGISLATURE

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*Conflicts of interest*

*Maine Guarantee Auth.*

April 29, 1976

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Joseph M. Hochadel

Executive

Donald G. Alexander, Deputy

Attorney General

Conflict of Interest - Maine Guarantee Authority

This responds to your memorandum to this office of April 2, 1976. Basically, your question involves whether there is any conflict of interest such as would prohibit an individual associated with a financial institution from serving as a member of the Maine Guarantee Authority.

The question is a difficult one to address without a specific factual situation. As a general matter, and subject to the qualifications discussed herein, we see no conflict of interest which would absolutely prohibit individuals associated with financial institutions from serving on the Maine Guarantee Authority.

Generally, conflicts of interest which affect individuals in State positions are of two types. First, there is a conflict of interest for an individual with an interest in a particular business serving in a government position of responsibility which would have a continuing relationship with such a business. These are the types of conflicts recently addressed in the opinions of this office relating to proposed appointments to the offices of Commissioner of Agriculture and Commissioner of Finance and Administration.

The other conflicts involve situations where an individual in a position of responsibility has no continuing conflict but in specific instances may face situations either regulatory, contractual or otherwise in which the individual as a government official may be in a position to influence a matter in the private sector in which that individual has a financial interest. Such occasional conflicts do not prohibit taking a government position, but do indicate that the individual should abstain from consideration of such matters when they come before the individual's agency. As you point out in your memo, such abstention is contemplated in certain instances in the next to the last paragraph of 10 M.R.S.A. § 751.

Because the Board of the Maine Guaranty Authority consists of 9 members, 5 of which make a quorum, and because the potential for conflicts is specifically referenced in the law, a connection with a financial institution does not disqualify a person from serving on the Maine Guaranty Authority. The Maine Guarantee Authority can still act in cases in which a "conflict" or the appearance of a conflict arise because it is a multi-member board with capacity to act with 4 members absent or abstaining.

DONALD G. ALEXANDER  
Deputy Attorney General