

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

Inter-Departmental Memorandum Date May 21, 1976

To Paul A. Sawyer, Adm. Officer

Dept. Bureau of Real Estate

From Phillip M. Kilmister, Assistant

Dept. Attorney General

Subject Criminal Records

In answer to your inquiry relating to the disclosure of criminal convictions by applicants for licensure by the Board of Real Estate Brokers and Salesmen, please be advised that the provisions of P.L. 1975, c. 341 (now 5 M.R.S.A. § 5301-5304) govern, and the Board should not require disclosure of criminal violations other than those prior convictions which clearly fall within the purview of said statute.

Section 5303 of Title 5 of our "Occupational License Disqualification On Basis of Criminal Record Act" reads as follows:

"Time limit on consideration of prior criminal conviction.

"The procedures outlined in sections 5301 and 5302 for the consideration of prior criminal conviction as an element of fitness to practice a licensed trade or occupation shall apply within 3 years of the applicant's final discharge, if any, from the correctional system. Beyond the 3-year period, exoffender applicants with no additional convictions are to be considered in the same manner as applicants possessing no prior criminal record for the purposes of licensing provisions." (emphasis supplied)

The above-quoted statutory language evinces a clear intent on behalf of the Legislature to eliminate disadvantages to prior offenders vis-a-vis the remainder of the general population who seek occupational licensure.

Although the burden of proof of fitness of character may be properly placed on the license applicant, the rationale of the above-designated legislation is based upon the principle that an applicant should not have to overcome the discriminatory presumption of unfitness which irretrievably results from the disclosure of criminal convictions, other than those convictions of recent vintage.

Phillip M. Kilmister
Phillip M. Kilmister
Assistant Attorney General

PMK:jg