

# MAINE STATE LEGISLATURE

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Real Estate Comm Grant-in-Aid Authority  
32 M.R.S.A. 4055

October 19, 1976

Paul A. Sawyer, Director

Real Estate Commission

David P. Cluchey, Assistant  
Attorney General

Attorney General

Authority of the Real Estate Commission to Grant Funds

SYLLABUS:

The Maine Real Estate Commission is not given the authority under 32 M.R.S.A. §§ 4051, 4101-A, and 4055 to make a grant to the University of Maine at Portland/Gorham to defray the cost of an educational program for real estate brokers and salesmen.

FACTS:

The Maine Real Estate Commission is given the authority by statute to supervise real estate brokers and salesmen, 32 M.R.S.A. § 4051. It is also given general supervisory authority over all educational programs to prepare students for the real estate business, 32 M.R.S.A. § 4101-A. The Commission is specifically empowered by 32 M.R.S.A. § 4055 to defray the cost of an educational program which shall be under its direction and supervision:

"The Commission may, within the moneys available in the Real Estate Fund, defray the cost of an educational program for real estate brokers and salesmen... Such program shall be under the direction and supervision of the Commission."

The Maine Real Estate Commission desires to provide \$35,000 from the fees collected from real estate brokers and salesmen to the University of Maine at Portland/Gorham as "seed money" for the establishment of a Center for Real Estate Education. The University has submitted a proposal for the creation of such a center to the Maine Real Estate Commission outlining the anticipated allocation of \$35,000 in funds.

QUESTION:

Is the Commission authorized to make this expenditure by a grant rather than on a contract basis?

ANSWER:

The Commission is not authorized to make this expenditure by means of a grant.

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REASONS:

In all other situations in which state agencies regularly make grants, the statutes specifically authorize such grants; e.g., 22 M.R.S.A. § 11 (grants to municipalities for purposes related to public health or welfare); 32 M.R.S.A. § 3269(10) (grants to medical students); 20 M.R.S.A. § 2251 (grants to the University of Maine). The language of 32 M.R.S.A. § 4055 provides authority to make funds available in support of an educational program but does not authorize the use of grants to provide this support. In the absence of such authorization, the moneys should be transferred pursuant to a contract.

A review of the proposal of the University of Maine at Portland/Gorham indicates that the benefits to be provided to the Real Estate Commission by the Center are services which would ordinarily be obtained on a contractual basis. For example, the Center will develop course outlines for real estate educational programs, provide in-service short courses and seminars, prepare one article per quarter for the Maine Real Estate News, and develop a proposal for the licensure testing of brokers and salesmen. The use of a contract would be appropriate to insure that these services are, in fact, obtained and to follow the statutory requirement that such programs be under "direction and supervision" of the Commission.

DPC:js

CC: Donald G. Alexander  
Assistant Attorney General