

MAINE STATE LEGISLATURE

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Legislators; Conflict of Interest
Legislator/Landlord of subsidized housing
Housing Authority; Conflict of Interest
30 MRSA 4603

DM

July 8, 1977

Honorable Emile Jacques
House of Representatives
State House
Augusta, Maine

Dear Representative Jacques:

We are responding to your question of whether a State Legislator who is an apartment house owner may receive rents subsidized by Federal, State or local governments. The answer to your question is generally affirmative.

We have found no State statutes which would specifically prohibit a State Legislator from receiving subsidized rental payments, assuming the limited facts stated in your question. Title 30 M.R.S.A. § 4603 makes it a misdemeanor for a commissioner or an employee of the State Housing Authority or any local housing authority to have any interest, direct or indirect, in any project of the Authority, with certain exceptions. However, this section would not apply to a State Legislator who is not also a commissioner or employee of such Authority. Likewise, rent subsidies which are in the form of general assistance by a municipality and which are at least in part reimbursed by the State pursuant to 22 M.R.S.A. Chapter 1251, would be at the complete discretion of the municipal officials and generally would not present a problem of conflict for a State Legislator who is not also a municipal official.

We should also add that many rent subsidy programs are funded in whole or in part through section 8 of the United States Housing Act of 1937 (42 U.S.C. § 1437, et seq.), which is administered by the Department of Housing and Urban Development (HUD). Landlords who receive subsidized rent under this program must also meet additional Federal regulations. Our preliminary discussion with HUD officials indicates that a State Legislator/landlord would probably be able to accept subsidized rental payments made by a local housing authority which receives its grant directly from HUD.

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However, the answer to this question may be different if the program is administered through the State Housing Authority. In order to obtain a definitive answer in your particular circumstances, you should ask the local housing authority to present the question with all appropriate details to the HUD area office in Manchester, New Hampshire. The inquiry should be addressed to Mr. Newton Davidow, HUD Area Counsel.

One final comment concerns a possibility of a conflict of interest which may be present if a Legislator/landlord were to vote upon a legislative measure which would involve his financial interests. Questions of this type should be submitted to the Commission on Governmental Ethics and Election Practices under the procedures set forth in 1 M.R.S.A. § 1013. It is our understanding that the Commission may already have addressed the Legislator/landlord question in an advisory opinion of June 15, 1977, addressed to Representative John M. Norris, II.

We hope the foregoing information will be helpful to you.

Sincerely,

S. KIRK STUDSTRUP
Assistant Attorney General

SKS:mfe

cc: Charles M. Sexton, Esquire
Maine State Housing Authority