

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date December 8, 1977

To Doris Hayes, Deputy

Dept. Secretary of State

From Kay R. H. Evans, Assistant

Dept. Attorney General

Subject Maine Nonprofit Corporation Act

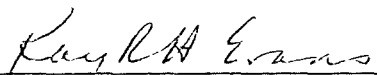
Your memo of November 17, 1977, requests our interpretation of Chapter 13 of the new Nonprofit Corporation Act, enacted as C. 525, P.L. 1977 and effective January 1, 1978. Chapter 13 requires corporations covered by the Act to file biennial reports with your office and requires you to provide by regulation for the filing of approximately one-half of these reports in each year. There is a monetary penalty for failure to file; a corporation which fails both to file and to pay the penalty loses its authority to do business in the State.

You have asked when the first biennium is to be regarded as commencing, that is, whether it is the "biennium already running," or the biennium beginning with the Act's effective date.

By the "biennium already running," I assume you mean the current legislative biennium. In my opinion, the legislative biennium is irrelevant to Chapter 13. Chapter 13, with all other provisions of the Act, becomes effective on January 1, 1978, and on that date the biennia provided in the chapter begin to run. Thus, the first biennium ends December 31, 1979, and reports fall due thereafter.

This conclusion is based on the general rule that no legislative enactment can be effective before its effective date. To read the Act to refer to the "biennium already running" would be to indirectly give effect to Chapter 13 before the legislatively-prescribed effective date.

The Act provides that the prescribed penalties may not be imposed before January 1, 1981. § 1302(1). The effect of the provision is to create a 6-month period during which those corporations whose reports are due between January and June, 1980 and who fail to file on time may not be charged the statutory penalties. Those penalties may be levied against these corporations after January 1, 1981. Against corporations whose reports fall due in the latter half of 1980 and thereafter, the penalties are to be levied as they accrue.


KAY R. H. EVANS
Assistant Attorney General

KRHE:jg