

BUREAU OF BANKING

Department of Professional and Financial Regulation

State of Maine

June 13, 1995

BULLETIN #62 CORPORATE CLERKS OF FINANCIAL INSTITUTIONS

To the Chief Executive Officer Addressed:

On May 10, 1995, the Governor signed Public Law 63, "An Act Concerning the Liability of Corporate Clerks," which amended the Maine Business Corporations Act (Title 13-A). The changes recognized the fact that a corporate clerk performs ministerial functions rather than executive functions, such as those performed by the president, treasurer and other officers. Accordingly, a corporate clerk is no longer considered an officer of the corporation and is not liable in that capacity for any liabilities of the corporation (13-A MRSA 714.1 and 13 MRSA 714.11-A).

§s 317 and 327 of the Maine Banking Code, however, were not amended and, therefore, continue to include the clerk or secretary as an officer of a financial institution. Both of these sections, however, refer to Title 13-A in describing the powers of the clerk.

Public Law 63 has, therefore, resulted in conflicting definitions of the corporate clerk in the Business Corporations Act and the Banking Code which may cause confusion to financial institutions. The Bureau concurs with the statutory amendment that the duties of the corporate clerk are ministerial and will work to change the Banking Code to be consistent with the Business Corporations Act. In the interim period until the statutory changes can be made, the Bureau will be guided by the Business Corporations Act provisions and will not consider the clerk as an officer of the financial institution nor will the clerk be required to take the oath of office. Should you have any questions regarding this Bulletin or the role of the clerk, please contact Colette Mooney.

/s/H. Donald DeMatteis
Superintendent