

# MAINE STATE LEGISLATURE

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Legislative Document

No. 1376

H. P. 989

House of Representatives, February 8, 1961

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Berman of Auburn.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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**AN ACT Relating to Preservation of Essential Records Against Destruction  
in Event of a Disaster.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., c. 1, §§ 42-54, additional.** Chapter 1 of the Revised Statutes is amended by adding 13 new sections to be numbered 42 to 54, to read as follows:

**‘Preservation of Essential Records.**

**Sec. 42. Definitions.** As used in sections 42 to 54 the following words and terms shall have the following meanings:

**I. Disaster.** “Disaster” means any occurrence of fire, flood, storm, earthquake, explosion, epidemic, riot, sabotage or other condition of extreme peril resulting in substantial damage or injury to persons or property within this State, whether such occurrence is caused by an act of nature or man, including an enemy of the United States.

**II. Local record.** “Local record” means a record of a county, city, town, or village corporation unless the record is designated or treated as a state record under the law of this State.

**III. Preservation.** “Preservation” duplicate means a copy of an essential state record which is used for the purpose of preserving such state record pursuant to sections 42 to 54.

**IV. Record.** “Record” means document, book, paper, photograph, microfilm or other material, regardless of physical form or characteristics, made

or received pursuant to law or in connection with the transaction of official business.

V. State record. "State record" means:

- A. A record of department, office, commission, board or other agency, however designated, of the State Government;
- B. A record of the Legislature;
- C. A record of any court of record, whether of statewide or local jurisdiction; and
- D. Any other record designated or treated as a state record under the law of this State.

Sec. 43. Categories of records to be preserved. State or local records which are within the following categories are essential records which shall be preserved pursuant to sections 42 to 54:

Category A. Records containing information necessary to the operations of government in the emergency created by a disaster.

Category B. Records not within Category A but containing information necessary to protect the rights and interests of persons or to establish and affirm the powers and duties of governments in the resumption of operations after a disaster.

Sec. 44. Records preservation board. The Records Preservation Board, hereinafter in sections 44 to 53 called the "board," shall be composed of the following members: The Attorney General, Commissioner of Finance and Administration, Director of Civil Defense and Public Safety, State Auditor and State Historian. The board shall establish and maintain a program for the selection and preservation of essential state records and shall advise and assist in the establishment of programs for the selection and preservation of essential local records. The board, with the approval of the Governor and Council, and subject to the Personnel Law, is authorized to employ such assistants and employees as it may deem necessary to carry out sections 42 to 54.

Sec. 45. Essential state records; rules and regulations. The board shall promulgate such rules and regulations concerning the selection and preservation of essential state records as are necessary or proper to effectuate the purpose of sections 42 to 54.

Sec. 46. Essential state records; selection. The board shall select the state records which are essential and determine their category pursuant to section 43. In accordance with the rules and regulations promulgated by the board each person who has custody or control of state records shall inventory the state records in his custody or control; submit to the board a report thereon containing such information as the board directs and containing his recommendations as to which state records are essential; and periodically review his inventory and his report and, if necessary, revise his report so that it is current, accurate and complete.

**Sec. 47. Essential state records; preservation duplicates:**

**I. Preservation duplicates.** The board may make or cause to be made preservation duplicates or may designate as preservation duplicates existing copies of essential state records. A preservation duplicate shall be durable, accurate, complete and clear and a preservation duplicate made by means of photography, microphotography, photocopying, film or microfilm shall be made in conformity with the standards prescribed therefor by the board.

**II. How made.** A preservation duplicate, made by a photographic, photo-static, microfilm, micro-card, miniature photographic or other process which accurately reproduces or forms a durable medium for so reproducing the original, shall have the same force and effect for all purposes as the original record whether the original record is in existence or not. A transcript, exemplification or certified copy of such preservation duplicate shall be deemed for all purposes to be a transcript, exemplification or certified copy of the original record.

**III. Copies.** No copy of an essential state record shall be used as a preservation duplicate unless under the law of this State the copy has the same force and effect for all purposes as the original state record.

**Sec. 48. Essential state records; safekeeping:**

**I. Place and manner.** The board shall prescribe the place and manner of safekeeping of essential state records and preservation duplicates and may establish, with the approval of the Governor and Council, storage facilities therefor. The board may provide for storage outside the State.

**II. Other locations.** When in the opinion of the board the legally designated or customary location of an essential state record is such that the essential state record may be destroyed or unavailable in the event of a disaster caused by an enemy of the United States:

**A.** The board shall store a preservation duplicate at another location and permit such state record to remain at its legally designated or customary location; or

**B.** The board shall store such state record at a location other than its legally designated or customary location and deposit at the legally designated or customary location a preservation duplicate for use in lieu of the state record; or

**C.** The board may store such state record at a location other than its legally designated or customary location without providing for a preservation duplicate upon a determination that it is impracticable to provide for a preservation duplicate and that the state record is not frequently used. Such determination shall be made by the board and the regularly designated custodian of such state record.

**III. Application.** The requirements of subsection II shall not prohibit the board from removing an essential state record or preservation duplicate

from the legally designated or customary location of the state record if a disaster caused by an enemy of the United States has occurred or is imminent.

Sec. 49. Essential state records; maintenance, inspection and use. The board shall properly maintain essential state records and preservation duplicates stored by it. An essential state record or preservation duplicate stored by the board may be recalled by the regularly designated custodian of the state record for temporary use when necessary for the proper conduct of his office and shall be returned by such custodian to the board immediately after such use. When an essential state record is stored by the board, the board upon request of the regularly designated custodian of the state record, shall provide for its inspection, or for the making or certification of copies thereof, and such copies when certified by the board shall have the same force and effect as if certified by the regularly designated custodian.

Sec. 50. Essential state records; confidential records. When a state record is required by law to be treated in a confidential manner and is an essential state record, the board, in effectuating the purposes of sections 42 to 54 with respect to such state record, shall protect its confidential nature.

Sec. 51. Essential state records; review of program. The board shall review periodically but at least once a year the program for the selection and preservation of essential state records, including the classification of records and the provisions for preservation duplicates and for safekeeping of essential state records of preservation duplicates to ensure that the purposes of sections 42 to 54 are accomplished.

Sec. 52. Selection and preservation of essential local records. The governing body of each county, city, town or village corporation shall establish and maintain, with the advice and assistance of the board, a program for the selection and preservation of its essential local records. Such governing body shall, as far as practicable, follow the program established for the selection and preservation of essential state records and shall report annually to the board on the status and progress of its records preservation program.

Sec. 53. Annual report of the records preservation board. The board shall prepare annually a written report on the status and progress of the programs established under sections 42 to 54 for the selection and preservation of essential state records and essential local records and shall submit such a report to the Governor and the Legislature.

Sec. 54. Short title. Sections 42 to 54 may be cited as the "Preservation of Essential Records Act."'