

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 1084

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S. P. 324

In Senate, March 23, 1977

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Martin of Aroostook.

Cosponsors: Senator Carpenter of Aroostook, Senator Levine of Kennebec.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT Concerning Confidential Financial Records.**

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

9-B MRSA, c. 16 is enacted to read :

**CHAPTER 16**

**CONFIDENTIAL FINANCIAL RECORDS**

§ 161. Definitions; exemptions

1. Definitions. For the purposes of this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

A. "Fiduciary institution" means a credit union authorized to do business in this State or a financial institution authorized to do business in this State as those terms are defined in section 131, subsection 12-A and 17-A.

B. "Financial records" means any original or any copy of:

- (1) A document granting signature authority over a deposit or share account;
- (2) A statement, ledger card or other record of any deposit or share account, which shows each transaction in or with respect to that account;
- (3) A check, clear draft or money order drawn on an institution or issued and payable by an institution; or
- (4) Any item, other than an institutional or periodic charge, made pursuant to any agreement by an institution and a person which constitutes

a debit or credit to that person's deposit or share account, including charges made through the use of credit cards as authorized by section 144, if the item is not included in subparagraph (3).

C. "Supervisory agency" means:

- (1) The Federal Deposit Insurance Corporation
- (2) The Federal Savings and Loan Insurance Corporation;
- (3) The Federal Home Loan Bank Board;
- (4) The National Credit Union Administration;
- (5) The Federal Reserve Board;
- (6) The United States Comptroller of the Currency;
- (7) The Maine Bureau of Banking; and
- (8) The Maine Bureau of Consumer Protection.

2. Exemptions. This chapter does not prohibit:

A. The preparation, examination, handling or maintenance of any financial records by any officer, employee or agent of a fiduciary institution having custody of such records or the examination of such records by a certified public accountant engaged by the fiduciary institution to perform an independent audit;

B. The examination of any financial records by, or the furnishing of financial records by a fiduciary institution to, any officer, employee or agent of a supervisory agency for use solely in the exercise of his duties as an officer, employee or agent;

C. The publication of data furnished from financial records relating to customers where the data cannot be identified to any particular customer or account;

D. The making of reports or returns required under chapter 81 of the Internal Revenue Code of 1954;

E. Furnishing information permitted to be disclosed under the Uniform Commercial Code concerning the dishonor of any negotiable instrument;

F. The exchange in the regular course of business of credit information between a fiduciary institution and other fiduciary institutions or commercial enterprises, directly or through a consumer reporting agency; or

G. Any disclosure of records made pursuant to section 226.

§ 162. Disclosure of financial records prohibited; exceptions

A fiduciary institution may not disclose to any person, except to the customer or his duly authorized agent, any financial records relating to that customer of that fiduciary institution unless:

1. Authorized disclosure. The customer has authorized disclosure to the person; or

2. Disclosure in response to legal process. The financial records are disclosed in response to a lawful subpoena, summons, warrant or court order which meets the requirements of section 163.

§ 163. Subpoena, summons, warrant or court order

1. Service. A fiduciary institution shall disclose financial records under section 162 pursuant to a lawful subpoena, summons, warrant or court order only if the subpoena, summons, warrant or court order is served upon the customer and upon the fiduciary institution. The court for good cause shown may delay or dispense with service of the subpoena, summons, warrant or court order upon the customer. The court shall delay or dispense with service of the subpoena, summons, warrant or court order upon the customer upon certification by the Attorney General or his designee that such service upon the customer would not be in the public interest.

2. Action or subpoena valid on its face. If a fiduciary institution is presented with a subpoena, summons, warrant or court order which on its face appears to have been issued upon lawful authority, the fiduciary institution may act upon such subpoena, summons, warrant or court order.

§ 164. Penalties

1. Violation. Any officer or employee of a fiduciary institution or consumer reporting agency who intentionally or knowingly furnishes financial records in violation of this chapter commits a civil violation and shall be subject to a civil penalty of not more than \$1,000.

2. Inducing violation. Any person who intentionally or knowingly induces or attempts to induce any officer or employee of a fiduciary institution or consumer reporting agency to disclose financial records in violation of this subtitle commits a civil violation and shall be subject to a civil penalty of not more than \$1,000.

### STATEMENT OF FACT

The purpose of this bill is to regulate access to the records of individual customers which banks and other financial institutions are required to maintain. The bill would prevent release of these records by the institutions unless authorized by the customer or under specified procedures for a subpoena, summons, warrant or court order. If the latter procedures are used, both the customer and the institution would have to be served with the order, unless a court decides there is good cause for waiving service on the customer. The bill would not prevent access to records by financial supervisory agencies or during the regular course of business.