

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 316

H.P. 232

House of Representatives, February 22, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative REED of Falmouth.

Cosponsored by Representative ALLEN of Washington.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act Relating to Confidentiality of Investigative Records of Boards  
and Commissions.

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

3 10 MRSA §8003-B is enacted to read:

5 §8003-B. Confidentiality of investigative records

7 Investigative files of the licensing boards and commissions  
8 within the Department of Professional and Financial Regulation  
9 including investigative records of the Department of the Attorney  
10 General pertaining to licensees shall be confidential. Any such  
11 investigative files may be disclosed only to:

13 1. Department employees. Department employees designated  
14 by the commissioner;

15 2. Complaint officers. Designated complaint officers of  
16 the appropriate board or commission;

17 3. Licensee subject to investigation. A licensee who has  
18 been the subject of an investigation provided that the board or  
19 commission involved has determined to hold an adjudicatory  
20 hearing on the matter under Title 5, chapter 375, subchapter IV  
21 or has sought the suspension or revocation of the licensee's  
22 license in Administrative Court under Title 4, chapter 25;

23 4. Other state or federal agencies. Other state or federal  
24 agencies when the files contain evidence of possible violations  
25 of laws enforced by those agencies provided that the receiving  
26 agency is subject to a confidentiality provision comparable to  
27 that which governs the investigative files of the department; and

28 5. Discretion of commissioner. Other persons when, in the  
29 discretion of the commissioner, disclosure is necessary to avoid  
30 imminent and serious harm. The authority of the commissioner to  
31 make such a disclosure shall not be delegable. In making the  
32 determination that disclosure is warranted, the commissioner  
33 shall consult with the Department of the Attorney General.

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35 **STATEMENT OF FACT**

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37 The Department of Professional and Financial Regulation,  
38 Division of Licensing and Enforcement is authorized to  
39 investigate complaints against persons licensed by the boards and  
40 commissions within the department. This bill is necessary to  
41 protect the confidentiality of the investigative files of the  
42 division, encouraging aggrieved parties to come forward with  
43 complaints, allowing the investigative process to proceed  
44 effectively, and protecting the privacy of innocent parties. The  
45 bill establishes limited exceptions to the confidentiality rule  
46 for investigative files. The provision of current law

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1 authorizing disclosure of the disposition of a complaint would not be changed by this bill.