

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to H.P. 1271, L.D. 1842, Bill, "An Act to Extend Confidentiality Status to Certain Records of Applicants for Housing, Community or Economic Development Activities"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

5 MRSA c. 383, sub-c. VIII is enacted to read:

SUBCHAPTER VIII

CONFIDENTIALITY OF RECORDS

§13119. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Local development corporation. "Local development corporation" means any nonprofit corporation organized by a city or town under Title 13, chapter 81 or Title 13-B.

2. Municipality. "Municipality" means any city, town or local development corporation and any board, commission, agency or authority of any such city, town or local development corporation.

3. Person. "Person" means an individual, corporation, partnership, firm, organization or other legal entity.

4. Program of assistance. "Program of assistance" means any financial or technical assistance program established or authorized by the department or a municipality and providing assistance to persons for the improvement and development of housing, community and economic development opportunities.

2 §13119-A. Records confidential

4 The following records are confidential for purposes of Title
6 1, section 402, subsection 3, paragraph A and are not open for
public inspection:

8 1. Proprietary information. Information that is provided
10 to or developed by the department or a municipality that has to
12 do with a program of assistance and is included in a business or
marketing plan or a grant application or provided or developed to
fulfill reporting requirements, as long as:

14 A. The person to whom the information belongs or pertains
requests that it be designated as confidential; and

16 B. The department or municipality determines that the
18 information gives the person making the request opportunity
20 to obtain business or competitive advantage over another
22 person who does not have access to that information or will
result in loss of business or other significant detriment to
the person making the request if access is provided to
others;

24 2. Tax or financial information. Any financial statement,
26 supporting data or tax return of any person;

28 3. Monitoring. Any financial statement, supporting data or
30 tax return obtained or developed by the department or the
32 municipality in connection with any monitoring or servicing
activity by the department or the municipality pertaining to any
program of assistance provided or to be provided;

34 4. Credit assessment. Any record obtained by the
36 department or the municipality that contains an assessment of the
credit worthiness, credit rating or financial condition of any
person or project; and

38 5. Potential investors. Any record, including any
40 financial statement or supporting data, business plan or tax
42 return obtained or developed by the department or municipality in
44 connection with the matching of potential investors with
businesses in the State by the department or the municipality
through its maintenance of a data base or other record-keeping
system.

46 Nothing in this section prevents the disclosure of any
48 records, correspondence or other materials to authorized officers
and employees of municipal government, State Government or
50 Federal Government for authorized use.

2 §13119-B. Disclosure required

4 Notwithstanding section 13119-A, the department or the
6 municipality shall make available, upon request, to any person
8 reasonably describing the records to which access is sought or,
if no request is made, in any manner and at any time that the
department or municipality determines appropriate, the following
information.

10 1. Certain limited information. The following must be
12 released after provision of assistance:

14 A. Names of recipients of or applicants for business
16 assistance, including the business principals, if applicable;

18 B. Types and general terms of assistance provided to those
recipients or requested by those applicants;

20 C. Descriptions of projects and businesses benefiting or to
22 benefit from the assistance provided;

24 D. Number of jobs and the amount of tax revenues projected
or resulting in connection with a completed project; and

26 E. Amounts and names of recipients of assistance provided
28 under a program of assistance.

30 2. Subject to waiver. Any information pursuant to waiver
determined satisfactory by the department must be released.

32 3. Available to public. Information that the department
34 determines has already been made available to the public must be
released.

36 4. Not otherwise confidential. Any information not
38 otherwise confidential under section 13119-A or other applicable
law must be released.

40 §13119-C. Disclosure permitted

42 Notwithstanding section 13119-A, information otherwise
44 confidential under that section may be disclosed:

46 1. Financing institutions or credit reporting services. To
a financing institution or credit reporting service;

48 2. Transfer of securities or bonds. To the extent
50 necessary to the sale or transfer of revenue obligation
securities or of general obligation bonds;

2 3. Collection of certain obligations. If necessary to
3 ensure collection of any obligation in which the department or
4 municipality has or may have an interest;

6 4. Litigation or proceeding. In any litigation or
7 proceeding in which the department or the municipality appears,
8 for the purposes of introduction of the information into the
9 record;

10 5. Order by lawful authority. Pursuant to a subpoena,
11 request for production of documents, warrant or other order by
12 competent authority, as long as any such order appears to have
13 first been served on the person to whom the confidential
14 information sought pertains or belongs and as long as any such
15 order appears on its face or otherwise to have been issued or
16 made upon lawful authority; or

18 6. Authorization. Upon written authorization of release of
19 the confidential information by the person or persons to whom
20 such information pertains.'

22 **STATEMENT OF FACT**

24
25 This amendment provides further detail concerning the kinds
26 of material to be held confidential under the Maine Revised
27 Statutes, chapter 383, subchapter VIII. That material includes:
28 records obtained or developed by the Department of Economic and
29 Community Development or a municipality in connection with
30 monitoring or servicing a program of assistance; records obtained
31 by the department or a municipality that contain a credit
32 assessment of a person or project; and any records obtained or
33 developed by the department or a municipality concerning the
34 matching of potential investors with Maine businesses by the
35 department or the municipality.

36
37 This amendment replaces the bill so that numerous technical
38 changes may be made.

Filed by Rep. Melendy of Rockland
Reproduced and distributed under the direction of the Clerk of the
House
(5/23/91) (Filing No. H-435)