

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1842

H.P. 1271

House of Representatives, May 13, 1991

Reference to the Committee on Housing and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative LEBOWITZ of Bangor.

Cosponsored by Representative MELENDY of Rockland, Senator CAHILL of Sagadahoc and Senator CLEVELAND of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Extend Confidentiality Status to Certain Records of
Applicants for Housing, Community or Economic Development
Activities.**



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

4 Sec. 1. 5 MRSA c. 383, sub-c. VIII is enacted to read:

6 SUBCHAPTER VIII

8 CONFIDENTIALITY OF RECORDS

10 §13119. Definitions

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

14 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.

18 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.

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

26 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.

32 §13119-A. Records confidential

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

38 1. Proprietary information. Information that is provided
to or developed by the Department of Economic and Community
Development or a municipality that has to 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:

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

48 B. The department or municipality determines that the
information gives the person making the request opportunity
to obtain business or competitive advantage over another

2 person who does not have access to that information or will
3 result in loss of business or other significant detriment to
4 the person making the request if access is provided to
5 others; and

6 2. Tax or financial information. Records and
7 correspondence provided to or developed by the department or
8 municipality in connection with a program of assistance to any
9 person or municipality that pertain to a person's financial or
10 tax status.

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

15 §13119-B. Disclosure required

16 Notwithstanding section 13119-A, the following may be made
17 available to any person upon request reasonably describing the
18 records to which access is sought or, if no request is made, in
19 any manner and at any time that the department determines:

20 1. Certain limited information. After provision of
21 assistance:

22 A. Names of recipients of or applicants for business
23 assistance, including principals, where applicable;

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

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

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

30 E. Amounts and recipients of assistance provided under a
31 program of assistance;

32 2. Subject to waiver. Any information pursuant to waiver
33 determined satisfactory by the department;

34 3. Available to public. Information that the department
35 determines has already been made available to the public; and

36 4. Not otherwise confidential. Any information not
37 otherwise confidential under section 2 above or other applicable
38 law.

2 §13119-C. Disclosure permitted

4 Notwithstanding section 13119-A, information otherwise
6 confidential under that section may be disclosed:

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

12 2. Transfer of securities or bonds. To the extent
14 necessary to the sale or transfer of revenue obligation
16 securities or of general obligation bonds;

18 3. Collection of certain obligations. If necessary to
20 assure collection of any obligation in which the department or
22 municipality has or may have an interest;

24 4. Litigation or proceeding. In any litigation or
26 proceeding in which the department or the municipality appears,
28 for the purposes of introduction of the information into the
30 record;

32 5. Order by lawful authority. Pursuant to a subpoena,
34 request for production of documents, warrant or other order by
36 competent authority, as long as any such order appears to have
38 first been served on the person to whom the confidential
40 information sought pertains or belongs and as long as any such
42 order appears on its face or otherwise to have been issued or
44 made upon lawful authority; or

46 6. Authorization. Upon written authorization of release of
48 the confidential information by the person or persons to whom
 such information pertains.

36 **STATEMENT OF FACT**

38 The purpose of this bill is to balance the need for
40 accountability with the privacy rights of applicants for state or
42 local economic development assistance and to encourage submission
44 of proposals that will benefit the municipality or the state.
46 Under current law, the Department of Economic and Community
48 Development and municipalities may be required to disclose
 personal financial information of applicants for state or local
 economic development assistance. This bill protects such
 personal information, such as tax returns or financial
 statements, from public disclosure when submitted under a state
 or local program for housing, community or economic development.
 Certain competitive business information is also protected.