

# MAINE STATE LEGISLATURE

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**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1579, L.D. 2212, Bill, "An Act Concerning Public Records Exceptions"

Amend the bill by striking out all of section 2.

Amend the bill by inserting after section 4 the following:

'Sec. 5. 5 MRSA §1976, sub-§2, as enacted by PL 2001, c. 388, §14, is amended to read:

**2. Public records.** Except as provided in subsection 1, any document created or stored on a State Government computer is a public record and must be made available in accordance with Title 1, chapter 13 unless specifically exempted by that chapter.'

Amend the bill by inserting after section 7 the following:

'Sec. 8. 7 MRSA §607, sub-§5-A, as enacted by PL 2005, c. 620, §6, is amended to read:

**5-A. Confidentiality.** Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.'

Amend the bill by striking out all of section 10 and inserting the following:

'Sec. 10. 9-B MRSA §226, sub-§1, as enacted by PL 1975, c. 500, §1, is amended to read:

**1. Requirement.** Except as provided in subsections 2 and 3, the following information derived by or communicated to the superintendent or to any employee of the bureau shall be confidential and may not be disclosed or made public:;

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- 1      A. Information designated confidential under federal law or regulations;
- 2      B. Examination and investigative working papers and reports;
- 3      C. Personal identifying information of consumers and other complainants who  
4      contact the bureau;
- 5      D. Personal identifying information of the governing body organizers and the  
6      proposed investors of a financial institution contained in an application filed with the  
7      bureau;
- 8      E. Privileged trade secrets, detailed business plans and commercial or financial  
9      information that, if disclosed to the public, would cause detriment to the financial  
10     institution; and
- 11     F. Information other than that in paragraphs A to E for which the superintendent  
12     determines that confidential treatment is necessary and appropriate for the  
13     supervision of a specific financial institution or for state-chartered financial  
14     institutions in general.

15     **Sec. 11. 9-B MRSA §226, sub-§3, ¶F**, as amended by PL 1995, c. 628, §14, is  
16 further amended to read:

17     F. To those persons or entities necessary in order to comply with provisions of this  
18 Title relating to legal or regulatory proceedings and to disclosure or publication of  
19 certain applications, reports, statistics and information.

20     **Sec. 12. 9-B MRSA §226, sub-§4**, as enacted by PL 1975, c. 500, §1, is repealed  
21 and the following enacted in its place:

22     4. **Penalty.** A person who intentionally or knowingly discloses confidential  
23 information in violation of this section commits a Class E crime.

24     **Sec. 13. 20-A MRSA c. 304-A** is enacted to read:

25   **CHAPTER 304-A**

26                                 **BAXTER COMPENSATION AUTHORITY RECORDS**

27     **§7451. Baxter Compensation Authority records confidential**

28     1. **Application.** This section governs all records of the former Baxter Compensation  
29 Authority, as established under former Title 5, section 22002, referred to in this section as  
30 "the authority." These records may be released only with the approval of the Attorney  
31 General as authorized in this section.

32     2. **Designation of information.** All records of the authority that are in any way  
33 related to a claimant or a claimant's family are confidential, except that the following  
34 information is a public record:

- 35     A. The claimant's name;
- 36     B. The claimant's eligibility for compensation;
- 37     C. The amount of the compensation award, if any; and

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1 D. A summary of the compensation panel's rationale in deciding eligibility and the  
2 compensation award amount.

3 All information other than that described in paragraphs A to D supporting or  
4 corroborating a claim continues to be confidential until those records are destroyed. This  
5 confidential information may be released only to the Attorney General, the Governor and  
6 the chairs of the joint standing committee of the Legislature having jurisdiction over  
7 judiciary matters and remains confidential in their custody.

8 **Sec. 14. Retroactivity.** That section of this Act that enacts the Maine Revised  
9 Statutes, Title 20-A, chapter 304-A applies retroactively to July 1, 2007.'

10 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
11 section number to read consecutively.

12 **SUMMARY**

13 This amendment deletes the section of the bill that directs the Joint Standing  
14 Committee on Judiciary to review specific public records exceptions and report by  
15 December 1, 2008 with recommendations. The committee completed the review and  
16 includes the recommendations in this amendment.

17 This amendment revises the law governing documents created or stored on a State  
18 Government computer to clarify that such documents must be made available in  
19 accordance with the freedom of access laws. This clarifies that documents created or  
20 stored on a State Government computer are public records if they meet the definition of  
21 "public record" contained in the Maine Revised Statutes, Title 1, chapter 13.

22 This amendment narrows the confidentiality of pesticide test results requested by the  
23 Board of Pesticides Control to that information that has been determined to be  
24 confidential by the Administrator of the United States Environmental Protection Agency  
25 in accordance with federal law.

26 This amendment includes language to continue the confidentiality of records of the  
27 former Baxter Compensation Authority consistent with the Baxter Compensation  
28 Authority statutes that were repealed upon the termination of the program. That  
29 provision is retroactive to the date the Baxter Compensation Authority statutes were  
30 repealed to ensure the continuity of protection of the records. The information may be  
31 released to the Attorney General, the Governor and the chairs of the joint standing  
32 committee of the Legislature having jurisdiction over judiciary matters and must remain  
33 confidential in their custody.

34 This amendment reverses the presumption that information derived by or  
35 communicated to the Bureau of Financial Institutions may not be disclosed to the public.  
36 This amendment provides that specific categories of information are confidential and may  
37 not be disclosed or made public. The existing exceptions to the prohibition on disclosure  
38 are retained. The penalty for disclosure in violation of the statute is updated, and the  
39 culpable mental state of "intentionally or knowingly" is added.

**COMMITTEE AMENDMENT**