

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 676

H.P. 445

House of Representatives, February 16, 2023

An Act to Protect Financial Privacy

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.
Cosponsored by Senator STEWART of Aroostook and
Representatives: FAULKINGHAM of Winter Harbor, O'NEIL of Saco, PLUECKER of
Warren, Speaker TALBOT ROSS of Portland, Senators: BENNETT of Oxford, BRAKEY of
Androscoggin, HICKMAN of Kennebec, KEIM of Oxford.

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

2 **Sec. 1. 9-B MRSA §162, sub-§6**, as enacted by PL 2009, c. 213, Pt. AAAA, §4, is
3 repealed.

4 **Sec. 2. 9-B MRSA §162**, as amended by PL 2009, c. 213, Pt. AAAA, §§2 to 4 and
5 c. 402, §8, is further amended by enacting at the end a new paragraph to read:

6 Notwithstanding any provision of law to the contrary, a financial institution authorized
7 to do business in this State or credit union authorized to do business in this State may not
8 disclose financial records to any federal agency except in response to a lawful subpoena,
9 summons, warrant or court order that meets the requirements of section 163.

10 **Sec. 3. 9-B MRSA §163, sub-§1**, as amended by PL 2009, c. 213, Pt. AAAA, §5,
11 is further amended to read:

12 **1. Service.** A financial institution authorized to do business in this State or credit
13 union authorized to do business in this State shall disclose financial records under section
14 162 pursuant to a subpoena, summons, warrant or court order that on its face appears to
15 have been issued upon lawful authority only if the subpoena, summons, warrant or court
16 order is served upon the customer prior to disclosure by the financial institution or credit
17 union. The agency or person requesting the disclosure of financial records shall certify in
18 writing to the financial institution or credit union the fact that the subpoena, summons,
19 warrant or court order has been served upon the customer. The court for good cause shown
20 may delay or dispense with service of the subpoena, summons, warrant or court order upon
21 the customer. The court shall delay or dispense with service of the subpoena, summons,
22 warrant or court order upon the customer upon notice by the Attorney General, the Attorney
23 General's designee or the District Attorney that service upon the customer would not be in
24 the public interest. A subpoena, summons or warrant issued in connection with a criminal
25 proceeding or state or federal grand jury proceeding, a request for information by the
26 Department of Health and Human Services for purposes related to establishing, modifying
27 or enforcing a child support order, ~~a request for information by the Department of~~
28 ~~Administrative and Financial Services, Bureau of Revenue Services for purposes related to~~
29 ~~establishing, modifying or enforcing tax liabilities~~ or a trustee process lawfully issued need
30 not be served upon the customer.

31 **Sec. 4. 9-B MRSA §164, sub-§3**, as amended by PL 2009, c. 213, Pt. AAAA, §6,
32 is further amended to read:

33 **3. Immunity.** A financial institution authorized to do business in the State or its
34 affiliate or a credit union authorized to do business in the State or its affiliate that in good
35 faith discloses financial records to the Department of Health and Human Services pursuant
36 to section 162, subsection 5 ~~or the Department of Administrative and Financial Services,~~
37 ~~Bureau of Revenue Services pursuant to section 162, subsection 6~~ is immune from civil or
38 criminal liability that might otherwise arise from the disclosure. In a proceeding regarding
39 immunity from liability, there is a rebuttable presumption of good faith.

40 **SUMMARY**

41 This bill repeals the exception in current law that permits a financial institution or credit
42 union authorized to do business in this State to disclose financial records about a customer
43 without a lawful subpoena, summons, warrant or court order in response to a request for

1 information related to establishing, modifying or enforcing tax liabilities. The bill also
2 clarifies that a financial institution or credit union may not disclose records to any federal
3 agency unless the records are disclosed pursuant to a lawful subpoena, summons, warrant
4 or court order requested by the agency.