

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

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IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2011

§434. Review of proposed exceptions to public records; accessibility of public records

1. Procedures before legislative committees. Whenever a legislative measure containing a new public records exception is proposed or a change that affects the accessibility of a public record is proposed, the joint standing committee of the Legislature having jurisdiction over the proposal shall hold a public hearing and determine the level of support for the proposal among the members of the committee. If there is support for the proposal among a majority of the members of the committee, the committee shall request the review committee to review and evaluate the proposal pursuant to subsection 2 and to report back to the committee of jurisdiction. A proposed exception or proposed change that affects the accessibility of a public record may not be enacted into law unless review and evaluation pursuant to ~~subsection~~ subsections 2 and 2-B have been completed.

2. Review and evaluation. Upon referral of a proposed public records exception from the joint standing committee of the Legislature having jurisdiction over the proposal, the review committee shall conduct a review and evaluation of the proposal and shall report in a timely manner to the committee to which the proposal was referred. The review committee shall use the following criteria to determine whether the proposed exception should be enacted:

- A. Whether a record protected by the proposed exception needs to be collected and maintained;
- B. The value to the agency or official or to the public in maintaining a record protected by the proposed exception;
- C. Whether federal law requires a record covered by the proposed exception to be confidential;
- D. Whether the proposed exception protects an individual's privacy interest and, if so, whether that interest substantially outweighs the public interest in the disclosure of records;
- E. Whether public disclosure puts a business at a competitive disadvantage and, if so, whether that business's interest substantially outweighs the public interest in the disclosure of records;
- F. Whether public disclosure compromises the position of a public body in negotiations and, if so, whether that public body's interest substantially outweighs the public interest in the disclosure of records;
- G. Whether public disclosure jeopardizes the safety of a member of the public or the public in general and, if so, whether that safety interest substantially outweighs the public interest in the disclosure of records;

H. Whether the proposed exception is as narrowly tailored as possible; and

I. Any other criteria that assist the review committee in determining the value of the proposed exception as compared to the public's interest in the record protected by the proposed exception.

2-A. Accountability review of agency or official. In evaluating each proposed public records exception, the review committee shall, in addition to applying the criteria of subsection 2, determine whether there is a publicly accountable entity that has authority to review the agency or official that collects, maintains or uses the record subject to the exception in order to ensure that information collection, maintenance and use are consistent with the purpose of the exception and that public access to public records is not hindered.

2-B. Accessibility of public records. In reviewing and evaluating whether a proposal may affect the accessibility of a public record, the review committee may consider any factors that affect the accessibility of public records, including but not limited to fees, request procedures and timeliness of responses.

3. Report. The review committee shall report its findings and recommendations on whether the proposed exception or proposed limitation on accessibility should be enacted to the joint standing committee of the Legislature having jurisdiction over the proposal.

Sec. D-4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 1, chapter 13, subchapter 1-A, in the subchapter headnote, the words "exceptions to public records" are amended to read "public records exceptions and accessibility" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART E

Sec. E-1. 1 MRSA §402, sub-§3, ¶N, as amended by PL 2009, c. 176, §1 and c. 339, §1, is further amended to read:

N. Social security numbers ~~in the possession of the Department of Inland Fisheries and Wildlife;~~

See title page for effective date.

CHAPTER 321

S.P. 482 - L.D. 1521

**An Act To Amend the InforME
Public Information Access Act**

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

Sec. 1. 1 MRSA §532, sub-§1-A is enacted to read:

1-A. Agency fees. "Agency fees" are fees defined in statute or agency rulemaking that the data custodian charges to provide a record or service.

Sec. 2. 1 MRSA §532, sub-§2-B is enacted to read:

2-B. Fee service. "Fee service" means an electronic service provided for a fee.

Sec. 3. 1 MRSA §532, sub-§3, as enacted by PL 1997, c. 713, §1, is amended to read:

3. InforME. "InforME" means the system through which the State electronically provides public information, access to public information and ~~premium~~ electronic services to individuals, businesses and other entities.

Sec. 4. 1 MRSA §532, sub-§3-B is enacted to read:

3-B. Portal fee. "Portal fee" means a fee, authorized in section 534, paid by a user for a transaction.

Sec. 5. 1 MRSA §532, sub-§4, as enacted by PL 1997, c. 713, §1, is amended to read:

4. Premium services. "Premium services" means InforME services that are available only to subscribers. Premium services include, but are not limited to, ~~the enhancement of enhanced information that is otherwise available through InforME for the statutory fee or at no charge~~ access or other electronic services that provide significant value to the subscriber.

Sec. 6. 1 MRSA §532, sub-§6, as amended by PL 2003, c. 406, §2, is further amended to read:

6. Subscriber. "Subscriber" means ~~a person an individual, business or organization~~ who, in exchange for a fee established under section 534, subsection 5, paragraph G, ~~subparagraph (8), receives access to premium services or other electronic services available for a statutory fee or at no charge.~~

Sec. 7. 1 MRSA §532, sub-§§6-A and 6-B are enacted to read:

6-A. Transaction. "Transaction" means a transaction between a user and a data custodian involving electronic services, including but not limited to: the submission by a user of an application, registration or other document; the purchase by a user of a permit, license or other document or service; the payment of a tax, fee, fine or other charge; and the retrieval of records.

6-B. User. "User" means an individual, business or organization that uses electronic services, whether for a fee or at no charge.

Sec. 8. 1 MRSA §534, sub-§5, ¶F, as enacted by PL 1997, c. 713, §1, is amended to read:

F. Approve ~~premium~~ services offered.

(1) The board may not approve a service that provides access to public records and data in the form they are maintained by the data custodian and available for public inspection under chapter 13, subchapter ~~F~~ 1 as a premium service;

Sec. 9. 1 MRSA §534, sub-§5, ¶G, as amended by PL 2003, c. 406, §6, is further amended to read:

G. Review revenue and expenditures and approve ~~premium services~~ fees and fee schedules to be levied by the network manager.

(1) Fees must be sufficient to maintain, develop, operate and expand InforME on a continuing basis.

(2) Fees for ~~premium~~ services must be reasonable but sufficient to support the maximum amount of information and services provided at no charge.

(3) The board may establish fee schedules that include no charge for designated services for one or more specified classes of users. If services are to be provided at no charge to libraries, the services must be provided to libraries designated as depository libraries for government documents pursuant to 44 United States Code, Chapter 19 and to any other libraries the board designates.

(4) Fees must be sufficient to ensure that, to the extent possible, data custodians do not suffer loss of revenues from sources that are approved or authorized by law due to the operations of InforME.

(5) Fees must be sufficient to ensure that data custodians are reimbursed for the actual costs of providing data to InforME.

(6) Fees must be sufficient to meet the expenses of the board.

(7) The board may approve, when applicable, service level agreements entered into by InforME and data custodians for information, electronic services and transactions provided by InforME.

(8) The board may establish a subscription fee for subscribers;

(9) The board may establish portal fees to maintain, develop, operate and expand InforME on a continuing basis. A portal fee may not exceed \$6 plus 3% of the total charges for each transaction, except that the board may establish a higher portal fee by

major substantive rule as defined in Title 5, chapter 375, subchapter 2-A;

Sec. 10. 1 MRSA §534, sub-§5, ¶I, as enacted by PL 1997, c. 713, §1, is amended to read:

I. Approve interagency agreements that affect premium electronic services;

Sec. 11. 1 MRSA §535, sub-§2, ¶F, as enacted by PL 1997, c. 713, §1, is amended to read:

F. Develop ~~charges~~ fees for the services provided to users, agencies and subscribers, which must meet the provisions of section 534, subsection 5, paragraph G;

Sec. 12. 1 MRSA §536, sub-§2, as enacted by PL 1997, c. 713, §1, is amended to read:

2. Duplication of fee services. Executive branch and semiautonomous state agencies may not provide services that duplicate premium fee services offered by InforME except as authorized by the board.

Sec. 13. 1 MRSA §536, sub-§3, as amended by PL 2007, c. 37, §6, is further amended to read:

3. Service level agreements. Services provided by the network manager and information to be provided by a data custodian are governed by service level agreements between the network manager and the data custodian. A service level agreement may include a provision for the network manager to receive a portion of the agency fee for information or services in return for electronically providing that information or service. ~~The fee for electronically accessing the information or service may not exceed the agency fee for distributing the information or providing the service in its usual form.~~

Sec. 14. 1 MRSA §537, sub-§1, as repealed and replaced by PL 2007, c. 37, §7, is amended to read:

1. Funding. InforME is self-supporting and may not receive an appropriation or allocation from the General Fund or other state funds.

Revenue is generated through fees ~~or surcharges~~ on services paid by data custodians, subscribers or ~~other~~ users, from contracts with other state departments and agencies and from money, goods or in-kind services donated or awarded to carry out the purposes of this Act.

Sec. 15. 1 MRSA §537, sub-§2, as enacted by PL 1997, c. 713, §1, is amended to read:

2. Fiscal year. InforME's fiscal year begins July January 1st and ends on June 30th December 31st of the next each calendar year.

Sec. 16. 1 MRSA §538, sub-§3, as enacted by PL 1997, c. 713, §1, is repealed and the following enacted in its place:

3. User records. Information in records of the network manager or collected by InforME relating to the identity of or use by users of electronic services is confidential and may be released only with the express permission of the user or pursuant to court order. This subsection does not affect the public record status of any records of data custodians regarding users.

Sec. 17. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 1, section 537, subsection 2 takes effect January 1, 2012.

See title page for effective date, unless otherwise indicated.

CHAPTER 322

S.P. 488 - L.D. 1531

An Act To Amend the Maine Human Rights Act Regarding Accessible Building Standards

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

Sec. 1. 5 MRSA §4593, as amended by PL 1995, c. 393, §25, is further amended to read:

§4593. Standards for facilities constructed or altered between September 1, 1974 and January 1, 1982

1. Public accommodations. For any building or facility constructed specifically as a place of public accommodation on or after September 1, 1974, but before January 1, 1982, or when the estimated total costs for remodeling or enlarging an existing building exceed \$250,000 and the remodeling or enlarging is begun before January 1, 1982, the following standards of construction must be met.

A. There must be at least one public walk not less than 40 inches wide with a slope not greater than one foot rise in 12 feet leading directly to a primary entrance. However, after April 1, 1977, the public walk must be not less than 48 inches wide.

B. There must be a door at the primary entrance with a clear opening of not less than 32 inches and operable by a single effort. If doors at a primary entrance are in a series, they must have a space between them of not less than 84 inches measured from their closed positions; and each must open in the same direction so that swings do not conflict.

C. Rest room facilities must have at least one stall that is not less than 4 feet wide, 5 feet in depth, a 32-inch wide door that swings out or slides, handrails on each side mounted 33 inches from the floor, and a water closet with a seat 20 inches high.