

**§13120-M. Disclosure and confidentiality of records**

**1. Disclosure required.** Notwithstanding subsections 2 and 3, the following must be made available to any person upon request reasonably describing the records to which access is sought or, if no request is made, in any manner and at any time that the authority may determine:

A. After filing of a written application or proposal for financial assistance, investment or property transfer, in a form specified by or acceptable to the authority:

- (1) Names of recipients of or applicants for financial assistance or investment, including principals, where applicable;
- (2) Amounts, types and general terms of financial assistance or investment provided to those recipients or requested by those applicants;
- (3) Descriptions of projects and businesses that are benefiting or that will benefit from the financial assistance or investment;
- (4) Names of transferors or transferees, including principals, of property to or from the authority, the general terms of transfer and the purposes for which transferred property will be used;
- (5) The number of jobs and the amount of tax revenues projected or resulting in connection with a project; and
- (6) Names of financial institutions participating in providing financial assistance or investment and the general terms of that financial assistance or investment; [PL 2001, c. 703, §6 (NEW).]

B. Any information pursuant to waiver considered satisfactory by the authority; [PL 2001, c. 703, §6 (NEW).]

C. Information that, as determined by the authority, has already been made available to the public; and [PL 2001, c. 703, §6 (NEW).]

D. Information necessary to comply with Title 1, section 407, subsection 1. [PL 2001, c. 703, §6 (NEW).]

Information or records specified in a written request signed by the cochairs of a legislative committee must be provided to the legislative committee. The information or records may be used only for the lawful purposes of the committee and in any action arising out of any investigation conducted by it. [PL 2001, c. 703, §6 (NEW).]

**2. Confidential information.** The following records are designated as confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. A record obtained or developed by the authority in advance of the receipt of a formal written application or proposal, in a form specified by or acceptable to the authority, for financial assistance or investment to be provided by or with the assistance of the authority or in connection with a transfer of property to or from the authority. After receipt by the authority of the application or proposal, a record pertaining to the application or proposal is not confidential unless it meets the requirements of paragraphs B to G; [PL 2001, c. 703, §6 (NEW).]

B. A record obtained or developed by the authority that fulfills the following requirements:

- (1) A person, including the authority, to whom the record belongs or pertains has requested that the record be designated confidential; and
- (2) The authority has determined that the record contains proprietary information or commercial or financial information, the release of which could be competitively harmful to the submitter of the information or that would result in loss of business or other significant

detriment to any person, including the authority, to whom the record belongs or pertains; [PL 2001, c. 703, §6 (NEW).]

C. A financial statement or tax return of an individual or any other record obtained or developed by the authority, the disclosure of which would constitute an invasion of personal privacy, as determined by the authority; [PL 2001, c. 703, §6 (NEW).]

D. A record that includes a financial statement or tax return obtained or developed by the authority in connection with any monitoring or servicing activity by the authority, pertaining to any financial assistance or investment provided or to be provided by or with the assistance of the authority; [PL 2001, c. 703, §6 (NEW).]

E. A record obtained or developed by the authority that contains an assessment by a person who is not employed by the authority of the credit worthiness or financial condition of any person or project; [PL 2001, c. 703, §6 (NEW).]

F. A financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance or investment from the authority, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [PL 2001, c. 703, §6 (NEW).]

G. A record that includes any financial statement, business plan or tax return obtained or developed by the authority in connection with the marketing of its property and the identification and qualification of potential investors. [PL 2001, c. 703, §6 (NEW).]

For purposes of this section, an application by a potential investor is not an application for financial assistance or solicitation of investment.

[PL 2001, c. 703, §6 (NEW).]

**3. Wrongful disclosure prohibited.** A member of the board of trustees, officer, employee, agent, other representative of the authority or other person may not knowingly divulge or disclose records declared confidential by this section, except that the authority may, in its discretion, make or authorize any disclosure of information of the following types:

A. Impersonal, statistical or general information; [PL 2001, c. 703, §6 (NEW).]

B. Information necessary in connection with processing an application for obtaining or maintaining an investment or financial assistance for a person or in connection with acquiring, maintaining or disposing of property; [PL 2001, c. 703, §6 (NEW).]

C. Information disclosed to a financial institution or credit reporting service; [PL 2001, c. 703, §6 (NEW).]

D. Information necessary to comply with a federal or state law or rule or with an agreement pertaining to financial assistance or investment; [PL 2001, c. 703, §6 (NEW).]

E. Information to the extent the authority determines the disclosure necessary to the sale or transfer of revenue obligation securities; [PL 2001, c. 703, §6 (NEW).]

F. Information necessary to ensure collection of an obligation in which the authority has or may have an interest; [PL 2001, c. 703, §6 (NEW).]

G. Information obtained from records declared confidential by this section for introduction for the record in litigation or a proceeding in which the board has appeared; or [PL 2001, c. 703, §6 (NEW).]

H. Information pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, as long as the order appears to have first been served on the person to whom the confidential information sought pertains or belongs and as long as the order appears on

its face or otherwise to have been issued or made upon lawful authority. [PL 2001, c. 703, §6 (NEW).]

[PL 2001, c. 703, §6 (NEW).]

**4. Records on effective date.** Whether a record in the possession of the authority on the effective date of this section is confidential must be determined pursuant to this section and not pursuant to the law in effect when the authority or any of its predecessors obtained the record and the record may be disclosed or divulged to the extent required or permitted by this section.

[PL 2001, c. 703, §6 (NEW).]

#### SECTION HISTORY

PL 2001, c. 703, §6 (NEW).

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