

§975-A. Disclosure and confidentiality of records

1. Disclosure required. Notwithstanding subsections 2 and 3 and except as provided in paragraph F, the following shall 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 which the authority may determine:

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

- (1) Names of recipients of or applicants for financial assistance, including principals, where applicable;
- (2) Amounts, types and general terms of financial assistance provided to those recipients or requested by those applicants;
- (3) Descriptions of projects and businesses benefiting or to benefit from the financial assistance;
- (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) Number of jobs and the amount of tax revenues projected or resulting in connection with a project;
- (6) Upon the authority's satisfaction of its loan insurance liability, the amount of any loan insurance payments with respect to a loan insurance contract; and
- (7) Names of financial institutions participating in providing financial assistance and the general terms of that financial assistance; [PL 2003, c. 537, §17 (AMD); PL 2003, c. 537, §53 (AFF).]

B. Any information pursuant to waiver deemed satisfactory by the authority; [PL 1985, c. 344, §25 (NEW).]

C. Information which, as determined by the authority, has already been made available to the public; [PL 1985, c. 344, §25 (NEW).]

D. Any information necessary to carry out section 1043 or 1063; [PL 1985, c. 344, §25 (NEW).]

E. Information necessary to comply with Title 1, section 407, subsection 1; [PL 1985, c. 344, §25 (NEW).]

F. Information or records specified in a written request signed by the chairs 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; and [RR 2023, c. 2, Pt. C, §5 (COR).]

G. The annual report of the authority required pursuant to section 974. [PL 1985, c. 344, §25 (NEW).]

[RR 2023, c. 2, Pt. C, §5 (COR).]

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

A. Any record obtained or developed by the authority prior to receipt of a written application or proposal, in form specified by or acceptable to the authority, for financial assistance 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 shall not be considered confidential unless it meets the requirements of other paragraphs of this subsection; [PL 1985, c. 344, §25 (NEW).]

B. Any record obtained or developed by the authority which 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 information in the record gives the owner or a user an opportunity to obtain business or competitive advantage over another person who does not have access to the information, except through authority records, or that access to the information by others would result in a business or competitive disadvantage, loss of business or other significant detriment, other than loss or denial of financial assistance from the authority, in the case of a person other than the authority, to any person to whom the record belongs or pertains; [PL 1985, c. 344, §25 (NEW).]

C. Any 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 1985, c. 344, §25 (NEW).]

D. Any record including any 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 provided or to be provided by or with the assistance of the authority; [PL 1985, c. 344, §25 (NEW).]

E. Any record obtained or developed by the authority which 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 1989, c. 552, §10 (AMD).]

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the authority pursuant only to subchapter 3 or 4, except section 1053, subsection 5, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential; and [PL 2021, c. 676, Pt. A, §15 (AMD).]

G. Any record, including any financial statement, business plan or tax return obtained or developed by the authority in connection with the matching of potential investors with Maine businesses by the authority through its maintenance of a data base or other record keeping system. For purposes of this section, an application by a potential investor shall not be deemed to be an application for financial assistance. [PL 1989, c. 552, §11 (NEW).]

[PL 2021, c. 676, Pt. A, §15 (AMD).]

3. Wrongful disclosure prohibited. No member, officer, employee, agent, other representative of the authority or other person may 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 or under the following circumstances:

A. Impersonal, statistical or general information; [PL 1985, c. 344, §25 (NEW).]

B. If necessary in connection with processing any application for, obtaining or maintaining financial assistance for any person or in connection with acquiring, maintaining or disposing of property; [PL 1985, c. 344, §25 (NEW).]

C. To a financing institution or credit reporting service; [PL 1985, c. 344, §25 (NEW).]

D. Information necessary to comply with any federal or state law, including section 979, or rule or with any agreement pertaining to financial assistance; [PL 1987, c. 697, §3 (AMD).]

E. Information to the extent the authority deems the disclosure necessary to the sale or transfer of revenue obligation securities or to the sale or transfer of bonds of the State; [PL 1985, c. 344, §25 (NEW).]

F. If necessary to assure collection of any obligation in which it has or may have an interest; [PL 1985, c. 344, §25 (NEW).]

G. In any litigation or proceeding in which the authority has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [PL 1985, c. 344, §25 (NEW).]

H. Pursuant to a subpoena, request for production of documents, warrant or other order by competent authority, provided that any such order appears to have first been served on the person to whom the confidential information sought pertains or belongs and provided that any such order appears on its face or otherwise to have been issued or made upon lawful authority. [PL 1985, c. 344, §25 (NEW).]

[PL 1987, c. 697, §3 (AMD).]

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

[PL 1985, c. 344, §25 (NEW).]

SECTION HISTORY

PL 1985, c. 344, §25 (NEW). PL 1987, c. 697, §3 (AMD). PL 1989, c. 552, §§10,11 (AMD). PL 2003, c. 537, §17 (AMD). PL 2003, c. 537, §53 (AFF). PL 2021, c. 676, Pt. A, §15 (AMD). RR 2023, c. 2, Pt. C, §5 (COR).

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