

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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:;

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

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

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

**Sec. 12. 9-B MRSA §226, sub-§4,** as enacted by PL 1975, c. 500, §1, is repealed and the following enacted in its place:

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

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

## **CHAPTER 304-A**

### **BAXTER COMPENSATION AUTHORITY RECORDS**

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

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

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

- A. The claimant's name;
- B. The claimant's eligibility for compensation;
- C. The amount of the compensation award, if any; and
- D. A summary of the compensation panel's rationale in deciding eligibility and the compensation award amount.

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

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

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

## **SUMMARY**

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

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

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

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

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