

§4706. Records confidential

1. Confidential information. Records containing the following information are deemed confidential for purposes of Title 1, section 402, subsection 3, paragraph A:

A. Any information acquired by an authority or a member, officer, employee or agent of an authority from applicants for residential tenancy in housing owned, financed, assisted or managed by an authority or from any residential tenants of such housing or from any 3rd person pertaining to any applicant for tenancy or to any tenant of such housing; [PL 1993, c. 175, §1 (AMD).]

B. Any written or recorded financial statement, as determined by an authority, of an individual submitted to an authority or a member, officer, employee or agent of an authority, in connection with an application for, or receipt of, a grant, mortgage or mortgage insurance; [PL 2007, c. 562, §1 (AMD).]

C. Any information acquired by the Maine State Housing Authority or a state public body, private corporation, copartnership, association, fuel vendor, private contractor or individual, or an employee, officer or agent of any of those persons or entities, providing services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority, when that information was provided by the applicant for, or recipient of, those services or by a 3rd person; [PL 2007, c. 562, §2 (AMD).]

D. Any statements of financial condition or information pertaining to financial condition submitted to any of the persons or entities set forth in paragraph C in connection with an application for services related to weatherization, energy conservation, homeless assistance or fuel assistance programs of the Maine State Housing Authority; and [PL 2007, c. 562, §3 (AMD).]

E. The address of a shelter or other living accommodations for victims of domestic violence. [PL 2007, c. 562, §4 (NEW).]
[PL 2007, c. 562, §§1-4 (AMD).]

2. Wrongful disclosure prohibited. No member, officer, employee or agent of an authority may knowingly divulge or disclose information declared confidential by this section, except that:

A. An authority may make such full and complete reports concerning administration of its programs as required by the Federal Government, any agency or department of the Federal Government, or the Legislature; [PL 1993, c. 175, §3 (AMD).]

B. An authority may publish statistics or other information of a general nature drawn from information declared confidential by this section, provided that the publication is accomplished in a manner which preserves confidentiality; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. An authority may comply with a subpoena, request for production of documents, warrant or court order that appears on its face to have been issued or made upon lawful authority; [PL 1993, c. 175, §3 (AMD).]

D. In any litigation or proceeding in which an authority is a party, the authority may introduce evidence based on any information that is deemed confidential and is within the control or custody of the authority; [PL 2019, c. 313, §1 (AMD).]

E. Any person or agency directly involved in the administration or auditing of weatherization, energy conservation or fuel assistance programs of the Maine State Housing Authority and any agency of the State with a legitimate reason to know must be given access to those records described in subsection 1, paragraphs C and D; and [PL 2019, c. 313, §2 (AMD).]

F. The Maine State Housing Authority may provide records to the Efficiency Maine Trust pursuant to Title 35-A, section 10104, subsection 4, paragraph A, subparagraph (2). [PL 2019, c. 313, §3 (NEW).]

[PL 2019, c. 313, §§1-3 (AMD).]

3. Waiver. This section shall not be construed to limit in any way the right of any person whose interest is protected by this section to waive, in writing or otherwise, the benefits of that protection. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Penalty. A member, officer, employee or agent of an authority who violates subsection 2 commits a civil violation for which a forfeiture of not more than \$200 may be adjudged against the member, officer, employee or agent of an authority for each violation. For the purpose of applying penalties under this subsection, a separate violation is deemed to have occurred with respect to each separate act of disclosure.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Confidentiality of personnel records. The following records are confidential and not open to public inspection:

A. Except as otherwise provided in this paragraph, applications, resumes, letters and notes of reference, working papers, research materials, records, examinations and any other documents or records and the information they contain, solicited or prepared either by the applicant or the authority for use in the examination or evaluation of applicants for employment by the authority.

(1) Applications, resumes and letters and notes of reference pertaining to the applicant hired, other than those letters and notes of reference expressly submitted in confidence, are public records after the applicant is hired.

(2) Telephone numbers are not public records if they are designated as unlisted or unpublished in an application, resume or letter or note of reference; [PL 2017, c. 234, §8 (NEW).]

B. Authority records pertaining to an identifiable employee and containing the following:

(1) Medical information of any kind, including information pertaining to diagnosis or treatment of mental or emotional disorders;

(2) Performance evaluations and personal references submitted in confidence;

(3) Information pertaining to the creditworthiness of a named employee;

(4) Information pertaining to the personal history, general character or conduct of members of the employee's immediate family;

(5) Complaints, charges or accusations of misconduct, replies to those complaints, charges or accusations and any other information or materials that may result in disciplinary action. If disciplinary action is taken, the final written decision relating to that action is no longer confidential after the decision is completed if it imposes or upholds discipline. The decision must state the conduct or other facts on the basis of which disciplinary action is being imposed and the conclusions of the acting authority as to the reasons for that action; and

(6) Personal information, including that which pertains to the employee's:

(a) Age;

(b) Ancestry, ethnicity, genetic information, national origin, race or skin color;

(c) Marital status;

(d) Mental or physical disabilities;

- (e) Personal contact information, as described in Title 1, section 402, subsection 3, paragraph O;
- (f) Personal employment choices pertaining to elected payroll deductions, deferred compensation, saving plans, pension plans, health insurance and life insurance;
- (g) Religion;
- (h) Sex, sexual orientation or gender identity; or
- (i) Social security number; and [PL 2021, c. 366, §31 (AMD).]

C. Other information to which access by the general public is prohibited by law. [PL 2017, c. 234, §8 (NEW).]
[PL 2021, c. 366, §31 (AMD).]

6. Employee right to review. On written request from an employee or former employee, the authority shall provide the employee, former employee or the employee's authorized representative with an opportunity to review the employee's personnel file, if the authority has a personnel file for that employee. The review must take place during normal office hours at the location where the personnel files are maintained. For the purposes of this subsection, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits, compensation and benefits that the authority may possess. The records described in subsection 5, paragraph B may also be examined by the employee to whom the records relate, as provided in this subsection.
[PL 2017, c. 234, §8 (NEW).]

7. Constitutional obligations of a prosecutor. Notwithstanding this section or any other provision of law, subsection 5 does not preclude the disclosure of confidential personnel records and the information contained in those records to the Attorney General, a deputy attorney general, an assistant attorney general, a district attorney, a deputy district attorney, an assistant district attorney or the equivalent departments or offices in a federal jurisdiction that are related to the determination of and compliance with the constitutional obligations of the State or the United States to provide discovery to a defendant in a criminal matter. A person or entity participating in good faith disclosure under this subsection or participating in a related proceeding is immune from criminal and civil liability for the act of disclosure or for participating in the proceeding.
[PL 2017, c. 234, §8 (NEW).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 1993, c. 175, §§1-4 (AMD). PL 2007, c. 562, §§1-4 (AMD). PL 2017, c. 234, §8 (AMD). PL 2019, c. 313, §§1-3 (AMD). PL 2021, c. 366, §31 (AMD).

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