

**§391. Disclosure and confidentiality of records**

**1. Disclosure required.** Notwithstanding subsections 2 and 3, and except as provided in subsection 2, paragraph F, the board shall make available the following records, either to any person upon a request that reasonably describes the records to which access is sought or, if no request is made, in any manner and at any time that the board may determine:

- A. After a written application or proposal for financial assistance or property transfer has been filed in a form specified by or acceptable to the board:
  - (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) Description 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 board, the general terms of transfer and the purposes for which transferred property will be used; and
  - (5) Number of jobs and the amount of tax revenues projected and resulting from a project; [PL 1995, c. 699, §3 (NEW).]
- B. Any information pursuant to a waiver determined satisfactory by the board; [PL 1995, c. 699, §3 (NEW).]
- C. Information that, as determined by the board, has already been made available to the public; and [PL 1995, c. 699, §3 (NEW).]
- D. Information necessary to comply with Title 1, section 407, subsection 1. [PL 1995, c. 699, §3 (NEW).]

The board shall provide to a legislative committee the information or records specified in a written request signed by the chair of that 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 2021, c. 676, Pt. A, §13 (AMD).]

**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 board prior to receipt of a written application or proposal, in a form specified by or acceptable to the board, for financial assistance to be provided by or with the assistance of the board or in connection with a transfer of property to or from the board. After receipt by the board of the application or proposal, a record pertaining to the application or proposal may not be considered confidential unless it is confidential under another provision of this subsection; [PL 1995, c. 699, §3 (NEW).]
- B. Any record obtained or developed by the board that:
  - (1) A person, including the board, to whom the record belongs or pertains has requested be designated confidential; and
  - (2) The board has determined contains information that 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 board records, or access to which 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 board in the case of a person other

than the board, to any person to whom the record belongs or pertains; [PL 1995, c. 699, §3 (NEW).]

C. Any financial statement or tax return of an individual or any other record obtained or developed by the board the disclosure of which would constitute an invasion of personal privacy, as determined by the board; [PL 1995, c. 699, §3 (NEW).]

D. Any record, including any financial statement or tax return obtained or developed by the board in connection with any monitoring or servicing activity by the board, pertaining to any financial assistance provided or to be provided by or with the assistance of the board; [PL 1995, c. 699, §3 (NEW).]

E. Any record obtained or developed by the board that contains an assessment by a person who is not employed by the board of the creditworthiness or financial condition of any person or project; and [PL 1995, c. 699, §3 (NEW).]

F. Any financial statement or business and marketing plan in connection with any project receiving or to receive financial assistance from the board, if a person to whom the statement or plan belongs or pertains has requested that the record be designated confidential. [PL 1995, c. 699, §3 (NEW).]  
[PL 1995, c. 699, §3 (NEW).]

**3. Wrongful disclosure prohibited.** A member, officer, employee, agent, other representative of the board or other person may not knowingly divulge or disclose records declared confidential by this section, except that the board 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 1995, c. 699, §3 (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 1995, c. 699, §3 (NEW).]

C. To a financing institution or credit reporting service; [PL 1995, c. 699, §3 (NEW).]

D. Information necessary to comply with any federal or state law or rule or with any agreement pertaining to financial assistance; [PL 1995, c. 699, §3 (NEW).]

E. If necessary to ensure collection of any obligation in which it has or may have an interest; [PL 1995, c. 699, §3 (NEW).]

F. In any litigation or proceeding in which the board has appeared, introduction for the record of any information obtained from records declared confidential by this section; and [PL 1995, c. 699, §3 (NEW).]

G. 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 1995, c. 699, §3 (NEW).]  
[PL 1995, c. 699, §3 (NEW).]

## SECTION HISTORY

PL 1995, c. 699, §3 (NEW). PL 2021, c. 676, Pt. A, §13 (AMD).

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