

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 983

S. P. 317

In Senate, February 21, 1973

Referred to Committee on Judiciary. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Joly of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT to Clarify Title to Roads and Ways.

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 33, c. 7, sub-c. VII, additional. Chapter 7 of Title 33 of the Revised Statutes is amended by adding a new subchapter VII to read as follows:

SUBCHAPTER VII

TITLE TO ROADS AND WAYS

§ 460. Conveyance of land abutting a road or way

A conveyance of land which abuts a town or private way, county road or highway shall be deemed to convey all of the grantor's interest in the portion of such road or way which abuts said land, unless the grantor shall expressly reserve his title to such road or way by a specific reference thereto contained in said conveyance.

§ 461. Prior conveyances

Any conveyance made prior to the effective date of this Act which conveyed land abutting upon a town or private way, county road or highway shall be deemed to have conveyed all of the grantor's interest in the portion of such road or way, which abutted said land unless the grantor shall have expressly reserved his title to such road or way by a specific reference thereto contained in said conveyance. This section shall not apply to any conveyance of a lot or lots by reference to a recorded plan.

§ 462. Preservation of claims by filing of notice within 2 years

Any grantor who, prior to the effective date of this Act, shall have conveyed land abutting a town or private way, county road or highway, with the intent to reserve his title in such road or way, but who shall not have expressly reserved his title thereto by specific reference as required in section 461, or any person who claims title to any road or way, or discontinued portion thereof, by, through or under, or as the heir, successor, executor, administrator or assign of any such grantor, may preserve his title or claim by filing the notice provided in section 463 in the registry of deeds for the county in which the road or way is located, within 2 years after the effective date of this Act. In any action concerning title to a road or way, or discontinued portion thereof, the burden of proof in establishing the grantor's intent to reserve such title shall be on said grantor or those claiming by, through or under him.

§ 463. Filing of notice; recording fee

In order for the notice specified in section 462 to be effective, it shall contain an accurate description of the road or way, or portion thereof, to which title is being claimed; the name or names of the person or persons on behalf of whom the title is being claimed; and a specific reference by volume and page to the recorded conveyance in which the title to such road or way is alleged to have been reserved by the grantor therein. The register of deeds for the county in which the road or way is located shall accept all such notices presented to him which describe land located in said county and shall enter and record full copies thereof in the same way that deeds and other instruments are recorded and shall be entitled to charge the same fee for the recording thereof as is charged for recording deeds. Within a reasonable time after recording such notice, the register of deeds shall enter upon the margin of the record of the prior conveyance referred to in said notice the volume and page in which the copy of said notice may be found.

§ 464. Persons under a disability; 2-year period not suspended

The notice specified in section 463 may be filed for record by the claimant or by any other person acting on behalf of any claimant who is under a disability or unable to assert a claim on his own behalf, but no disability or lack of knowledge of any kind shall suspend or extend the 2-year period provided for such filing.

§ 465. Abutters own to centerline of road or way

Any person owning land in this State abutting a town or private way, county road or highway, whose predecessors in title have not reserved any title in such road or way as provided in sections 460 and 461, or filed the notice provided in section 462 within the time specified therein, shall be deemed to own the centerline of such road or way except as provided in the following sections.

§ 466. —State and municipal owned roads

This subchapter shall not apply to any road or way, title to which is owned by the State or any municipality or other governmental body.

§ 467. —public easement acquired over opposite sides of road or way in unequal proportion

Where a town or private way, county road or highway shall be, or shall have been, laid out, widened or altered in such a manner that the public easement is located over land taken from the land on opposite sides of such road or way in unequal proportions, then the persons owning the land abutting the road or way on opposite sides thereof, shall each be deemed to own that portion of such road or way which shall have been acquired from their respective sides of such road or way. If it cannot be determined from which side of the road or way the land was so acquired, the owners of the abutting land on opposite sides of such road or way shall each be deemed to own to the centerline thereof.

§ 468. Statutes of limitation not extended

Nothing contained in this subchapter shall be construed to extend the period for the bringing of an action or for the doing of any other required act under any statute of limitations.

§ 469. Liberal construction

This subchapter shall be liberally construed to effect the legislative purpose of clarifying the title to the land underlying roads and ways by eliminating the possibility of ancient claims.

STATEMENT OF FACT

The purpose of this Act is to clarify the ownership of the land which underlies the public easement in roads and ways by giving statutory effect to the common law presumption that an abutting owner owned to the centerline of the road. A provision is made for those persons who wish to preserve possible adverse claims by allowing such claims to be filed within 2 years after the effective date of this Act. This 2 year period should be sufficient to satisfy due process considerations.