

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1930

H. P. 1875

The Office of the Clerk of the House

The Committee on Local and County Government suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Mr. Diamond of Windham

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

AN ACT Relating to the Maintenance of Private Ways in the Town of Windham by Special Assessments.

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

1. **Purpose.** The purpose of this Act is to authorize the Town of Windham to maintain and improve private ways and to recover the costs of that maintenance and improvements by following the same procedures used for the collection of real estate taxes, including, but not by way of limitation, the imposition of liens or tax sales.

2. **Definition.** For the purpose of this Act, a "private way" is defined as any way open to vehicular traffic and used by the public, but which has not been accepted by the Town of Windham as a public way.

3. **Petition.** No less than 55% of the owners of a private way who represent no less than 60% of the total frontage of a private way may petition the municipal officers of the Town of Windham to enter into a maintenance agreement for maintenance of that private way. The petition shall be accompanied by an application fee in an amount determined by the municipal officers of the Town of Windham to be sufficient to enable them to act on the petition.

4. **Notice of hearing.** The municipal officers of the Town of Windham shall receive those petitions and, after notice to all persons who will be affected thereby and hearing thereon, may agree to maintain that private way upon such terms and conditions as they deem proper. The cost of that maintenance shall be paid as provided in this chapter.

5. **Special account.** If the municipal officers of the Town of Windham should, in their discretion, decide to maintain that private way, then a separate account shall be

established by the town in which moneys collected for maintenance shall be deposited and from which expenditures shall be paid.

**6. Assessment of costs.** The costs of maintaining the way shall be assessed against all persons whom the municipal officers determine, after notice and hearing, will benefit from that maintenance. The basis for assessment shall either be the valuation of the real estate owned by persons who have been identified as benefiting from that maintenance or some other constitutionally permissible method adopted by the Town of Windham in an ordinance. All those assessments shall be collected in the way real estate taxes are collected.

**7. Nature of improvements.** The nature of the improvements and types of maintenance to be performed on the private way shall be determined annually by the municipal officers of the Town of Windham who shall, after notice, consult with those persons who will benefit from such improvements. The municipal officers have the right to reject any proposal which in their sole discretion is not in the best interest of the municipality.

**8. Amount of assessment.** The amount of each annual assessment shall be determined by the municipal officers who, after notice, shall seek the advice of persons who will be assessed for the cost of that maintenance. In no event shall the assessment be less than 20 cents per foot.

**9. Restriction of expenditures.** Balances may be carried forward from year to year, but projects may not be undertaken which would require the expenditure of funds in anticipation of future year collections.

**10. Termination.** Any agreement entered into pursuant to this Act may be terminated by the municipal officers at any time. Any funds remaining in the account at the time of that termination shall be held by the town for a period of one year in order to pay for any charges which had not been paid at the time of termination. Any funds remaining in the account after the expiration of one year shall be expended on the private way in a manner to be determined by the municipal officers.

#### STATEMENT OF FACT

The purpose of this bill is to provide a mechanism whereby the costs of maintaining and improving private ways in the Town of Windham would be shared equitably by all persons benefiting from those improvements and the expenses of those improvements would be collected as real estate taxes are now collected in the State of Maine.