

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1250

S. P. 428

In Senate, March 11 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Facilitate the Removal of Clouds on Title to Proposed Unaccepted Streets in Subdivisions.

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

Sec. 1. 23 MRSA § 3026, as amended by PL 1977, c. 301, § 1, is further amended by adding at the end 2 new paragraphs to read:

For the purposes of this section and sections 3027 and 3027-A, the "best practicable notice" shall include without limitation the mailing by United States Postal Service, postage prepaid, first class of such notice to those persons indicated to be owners or abutters according to the tax rolls of the municipality, at such addresses as may appear upon those tax rolls. In the event of a proceeding to vacate proposed town ways under sections 3027 and 3027-A, the notice is sufficient if it conforms in substance to the following form:

"NOTICE

A petition has been filed with the municipal officers of \_\_\_\_\_  
\_\_\_\_\_ to vacate the following ways

(Name of Town or City)  
shown upon a subdivision plan (named) (dated) (and) (or) recorded in  
the \_\_\_\_\_ County Registry of Deeds,  
Book of Plans Volume \_\_\_\_\_, Page \_\_\_\_\_ (Herein list or describe  
ways or portions of ways to be vacated) If the municipal officers enter an order

vacating said ways, any person claiming any interest in said ways adverse to the claims of the petitioners must, within one (1) year of the recording of such order, file a written claim thereof under oath in the \_\_\_\_\_ County Registry of Deeds and must, within one hundred eighty (180) days of the filing of such claim commence an action in the Superior Court in \_\_\_\_\_ County in accordance with Title 23, section 3027-A of the Revised Statutes.”

A party claiming an interest to a proposed unaccepted way vacated under section 3027 prior to the effective date of section 3027-A may cause an attested copy of that order in the Registry of Deeds wherein the plan is recorded. That person shall also within 20 days of such recording give notice of his claim to all owners or abutters by mailing by United States Postal Service, postage prepaid, a notice informing them of his claim and advising them that to preserve any claim adverse to his, they must file a claim and commence an action as required by section 3027-A. The notice is sufficient if it conforms in substance to the following form:

“NOTICE

On \_\_\_\_\_, 19\_\_\_\_\_, the Municipal Officers of \_\_\_\_\_ entered an

(Name of Town or City)

order vacating the following ways shown upon a subdivision plan (named) (dated) (and/or) recorded in the \_\_\_\_\_ Registry of Deeds Book of Plans, Volume \_\_\_\_\_, Page \_\_\_\_\_.

(Herein list vacated ways)

The undersigned claims to own the ways or a portion of the ways described above. A copy of the Order of the Municipal Officers was recorded in the \_\_\_\_\_ Registry of Deeds on \_\_\_\_\_, 19\_\_\_\_\_, and any party claiming any interest in said ways adverse to the claims of the undersigned must within one (1) year of the date of such recording file a written claim under oath in said Registry and must, within one hundred eighty (180) days thereafter commence an action in the Superior Court in \_\_\_\_\_ County in accordance with Title 23, section 3027-A of the Revised Statutes.”

Sec. 2. 23 MRSA § 3027-A is enacted to read:

§ 3027-A. Private rights; bar of action after one year

The order of vacation by the municipal officers entered under section 3027 shall be recorded in the Registry of Deeds where the plan of subdivision is recorded. Any person is forever barred from maintaining any action at law or in equity to establish, recover, confirm or otherwise enforce any right which he may claim to or in the proposed or described way by reason of the ownership by him or by any

predecessor in title of a lot or parcel of land shown upon the subdivision plan, unless within one year of the date of recordation of such order the claimant files in the Registry of Deeds a statement under oath specifying the nature, basis and extent of his claim of interest in the way. The claim is forever barred unless within 180 days after the recording of the statement he commences an action in equity under Title 14, chapter 723 to establish the rights he asserts to or in the ways. These limitation periods are not tolled or interrupted by any disability, minority nor absence from this State of any claimant. Upon the trial of the action the court shall grant judgment for the claimant only if it finds that the claimant has acquired an interest in the proposed way and that the deprivation of rights in the proposed way unreasonably limits access to the land of the claimant on the plan from a public way, a public body of water or common land or facility. Any judgment rendered by the court in the action may, in the discretion of the court, grant the claimant reasonable damages instead of establishment of claimant's rights. This section applies to those ways proposed before and after the effective date of this section and any order of vacation entered prior to the effective date of this section may be recorded in the same manner and with the same effects set forth in this section.

#### STATEMENT OF FACT

This bill provides a statutory method for solving serious title problems concerning the private rights in ways shown on subdivision plans, when a municipality vacates any public rights in the way. The bill essentially extends the finalized procedure of the municipal officers in vacating the public rights by providing for the recording of the order of vacation. Claims in the way would be barred after one year unless the claimant filed a statement in the registry and commenced an action to establish those rights.