

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 996

6
7 H.P. 702

House of Representatives, March 12, 1985

8 Referred to the Committee on Local and County Government. Sent up
9 for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Rolde of York.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Grant Municipalities the Option of
18 Repairing Private Roads Within
19 Subdivisions.
20

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

23 23 MRSA c. 305, sub-c. II-A is enacted to read:

24 SUBCHAPTER II-A

25 PRIVATE ROADS WITHIN SUBDIVISIONS

26 §3131. Private roads within subdivisions

27 1. Ordinance. A municipality may adopt an ordi-
28 nance allowing the municipality to perform work on
29 private roads within municipality approved subdivi-
30 sions for the purpose of bringing these roads into
31 conformity with the road standards adopted by the mu-
32 nicipality. The ordinance shall be pursuant to the

1 provisions contained in subsections 2 to 4. A pri-
2 private road is a road which has never been accepted by
3 the municipality's legislative body as a town way,
4 private way or a public easement and over which the
5 general public has no legal right of access.

6 2. Petition. Two-thirds of the owners of prop-
7 erty abutting a private road within a subdivision may
8 petition the municipality to perform work which
9 brings the road, or any portion of the road, into
10 conformity with the road standards adopted by the mu-
11 nicipality by ordinance or subdivision regulations.
12 The municipal officers shall present this petition
13 for consideration by the legislative body only if all
14 of the following requirements have been met:

15 A. The petition is presented at least 35 days
16 prior to the annual municipal budget meeting for
17 consideration at that meeting;

18 B. The petition has been signed by a least 2/3
19 of the owners of property abutting the private
20 road which is the subject of the petitions; and

21 C. The property owners who signed the petition
22 present sufficient proof, which satisfies the mu-
23 nicipal officers, that they have a legal right-
24 of-way to the private road.

25 In reaching its decision the municipality will con-
26 sider the exigency of the request, whether the work
27 is necessary for safety reasons, the municipality's
28 ability to perform the work and the possibility of
29 successful litigation by the property owners against
30 the subdivider to require him to perform the work.
31 The decision by the municipality shall be final. If
32 the petition is granted, it will be with the under-
33 standing that work required on town ways has priority
34 over any work on these private roads. The municipali-
35 ties does not obligate itself in any way to accept a
36 private road as a town way merely by virtue of the
37 municipality's decision to perform work pursuant to
38 this section.

39 3. Assessments. When a municipality has com-
40 pleted the work pursuant to this section, the muni-
41 cipal officers shall determine what lots or parcels of

1 land are benefited by the road improvements and shall
2 estimate and assess against the owners of the lots or
3 parcels of land a sum equal to the total actual ex-
4 penses of the work including labor, materials, equip-
5 ment and any related insurance or administrative
6 costs prorated among the owners according to the num-
7 ber of feet the lot or parcel of land borders the
8 road.

9 4. Collection of assessments. All assessments
10 made pursuant to this subchapter shall be certified
11 by the municipal officers and shall be paid to the
12 municipality by the property owners within 30 days
13 after demand or a special tax may be assessed by the
14 assessors against the land for the amount of the ex-
15 penses and such amount shall be included in the next
16 annual warrant of the tax collector, and shall be
17 collected in the same manner as other state, county
18 and municipal taxes are collected. A municipality
19 may by ordinance provide for the collection of the
20 assessments over a period of time not to exceed 3
21 years and may implement this collection method if the
22 assessed property owner has agreed to this method in
23 writing and notice of this fact has been recorded in
24 the appropriate register of deeds. The municipal of-
25 ficers shall annually commit to the tax collector a
26 list of installment payments due the municipality
27 which shall be collected with interest at a rate de-
28 termined by the municipality.

29 STATEMENT OF FACT

30 Municipalities are prohibited from engaging in
31 work for private purposes such as plowing or repair-
32 ing privately-owned roads. The purpose of this bill
33 is to give municipalities the option of adopting a
34 local ordinance which permits them to perform road
35 work on private roads within subdivisions if 2/3 of
36 the property owners abutting the road petition the
37 municipality.

38 The intent of this bill is to address the partic-
39 ular problem in older subdivisions where developers
40 have constructed roads that do not meet current
41 municipapl standards and the developers are no longer
42 able to perform the work. This proposal does not ob-

1 ligate the municipality to accept a road which it im-
2 proved; the provisions of the Maine Revised Statutes,
3 Title 23, chapter 304, would still apply.

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