

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 307

H.P. 239 House of Representatives, February 6, 1987
Reference to the Committee on Transportation suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative DORE of Auburn.
Cosponsored by Senator GAUVREAU of Androscoggin.

STATE OF MAINE

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

AN ACT to Enhance the Marketability
of Titles.

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

Sec. 1. 23 MRS.A §3027-A, sub-§§2-A to 2-D are
enacted to read:

2-A. Ways considered vacated. With respect to
ways considered to have been vacated pursuant to sec-
tion 3032, all persons claiming any private rights of
any kind in those ways are forever barred from main-
taining any action at law or in equity to establish,
recover, confirm or otherwise enforce any right
claimed to or in a prescribed vacated way by reason
of the ownership by the claimant or by a predecessor
in title of a lot or parcel of land shown on a re-

1 corded subdivision plan, unless, within one year of
2 the date as of which the way is considered vacated
3 pursuant to section 3032, the claimant files in the
4 registry of deeds where the subdivision plan is re-
5 corded a statement under oath specifying the nature,
6 basis and extent of the claimed interest in the way.
7 The claim is forever barred, unless, within 180 days
8 after the recording of the statement, the claimant or
9 any other person acting on behalf of the claimant
10 commences an action in equity under Title 14, chapter
11 723, to establish the rights asserted to or in the
12 way.

13 These limitation periods are not tolled or inter-
14 rupted by any disability, minority, lack of knowledge
15 or absence from this State of any claimant.

16 Upon the trial of an action, the court shall grant
17 judgment for the claimant only if it finds that the
18 claimant has acquired an interest in the proposed way
19 and that the deprivation of rights in the proposed
20 way unreasonably limits access from a public way, a
21 public body of water or common land or facility to
22 the land of the claimant shown on the recorded subdi-
23 vision plan.

24 Any judgment rendered by the court in the action may,
25 in the discretion of the court, grant the claimant
26 reasonable damages instead of establishment of the
27 claimant's rights.

28 2-B. Structures located in proposed way; action
29 to compel removal. When any structure has been con-
30 tinuously located, for a period of 20 years, in whole
31 or in part within a proposed town way described in a
32 recorded subdivision plan with reference to which
33 plan lots have been sold, no action may be maintained
34 by any person, corporation, governmental or other en-
35 tity or instrumentality to compel removal of the
36 structure based upon the fact of its location in the
37 proposed town way.

38 2-C. Notice by municipality of intent to prevent
39 acquisition of rights to maintain structures within
40 proposed unaccepted way. If a municipality appre-
41 hends that a person may be acquiring rights under
42 this section to permanently maintain a structure

1 within a proposed unaccepted way, it may give notice
2 of its intention to prevent the acquisition of those
3 rights by causing a copy of the notice to be served
4 upon that person by an officer qualified to serve
5 civil process, either in hand or by leaving at the
6 dwelling house of that person or, if that person is
7 not a resident of the State, by sending a copy to
8 that person by mail, return receipt requested.

9 A certificate by an officer qualified to serve pro-
10 cess that the copy has been served, as provided in
11 this subsection, or a certificate of the municipal
12 clerk that the copy has been sent by mail, as pro-
13 vided in this subsection, when recorded within 90
14 days after the date of the notice in the registry of
15 deeds for the county or district in which the pro-
16 posed unaccepted way is located, accompanied by an
17 attested copy of the notice, shall be conclusive evi-
18 dence of service.

19 In the event that notice is given and recorded as
20 provided in this subsection, the notice shall, for a
21 period of 10 years, prevent the running of the
22 20-year period of limitation provided for in subsec-
23 tion 2-B. After the expiration of the 10-year peri-
24 od, the period of limitation shall once again contin-
25 ue to run unless the notice is again given and re-
26 corded as provided in this subsection.

27 2-D. Applicability. This section applies to
28 structures existing and ways described or shown in
29 recorded subdivision plans proposed before and after
30 April 15, 1982.

31 Sec. 2. 23 MRSA §§3031 and 3032 are enacted to
32 read:

33 §3031. Private rights in proposed unaccepted streets

34 A person acquiring title to land shown upon a re-
35 corded subdivision plan acquires a private right-
36 of-way over those portions of such ways as are laid
37 out on that plan which:

38 1. Abutting ways. Abut that person's lot;

1 2. Ways between lot and highway. Lie between
2 that person's lot and the nearest accepted town,
3 county or state way or highway;

4 3. Ways between lot and common areas. Lie be-
5 tween that person's land and common areas or common
6 facilities other than ways, by the shortest possible
7 route, measured by the centerline of those ways; and

8 4. Ways between land and public body of water.
9 Lie between that person's land and a public body of
10 water shown or located upon that plan, by the short-
11 est possible route, measured by the centerline of
12 those ways.

13 Except as set out in this section, no person ac-
14 quiring title to land upon a recorded subdivision
15 plan acquires any other private rights in ways shown
16 on that plan, but ways laid out upon that plan shall
17 be subject to rights of the public, subject to the
18 right of the municipal officers to vacate those
19 rights pursuant to section 3027.

20 §3032. Proposed unaccepted ways considered vacated

21 Any proposed unaccepted way or portion of a pro-
22 posed unaccepted way shown upon any recorded plan
23 shall be conclusively considered to have been subject
24 to an order of vacation pursuant to section 3027 and
25 shall also be subject to section 3027-A, unless the
26 proposed unaccepted way or portion of a proposed un-
27 accepted way has been accepted as a town, county or
28 state way or highway by the later of:

29 1. Fifteen years after plan recorded. Fifteen
30 years after the date of recording of the plan laying
31 out that proposed way; or

32 2. Three years after effective date of section.
33 Three years following the effective date of this sec-
34 tion.

35 The municipal officers of a town may extend the
36 life of a proposed unaccepted way for up to 3 5-year
37 periods by filing in the appropriate registry of
38 deeds a notice of their intention to do so, provided
39 that the notice is filed prior to the expiration of

1 the period set forth in this section or any extension
2 of that period.

3 STATEMENT OF FACT

4 This bill is a comprehensive attempt to deal with
5 a variety of title and title marketability problems
6 presented by old, proposed, unaccepted streets shown
7 on subdivision plans. Because surveys are increas-
8 ingly becoming the rule rather than the exception,
9 these problems are turning up with increasing fre-
10 quency. The bill permits towns to extend the life of
11 these "paper streets" if they so desire.

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