MAINE STATE LEGISLATURE

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1	L.D. 19
3	(Filing No. H- 157)
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7	STATE OF MAINE
9	HOUSE OF REPRESENTATIVES 114TH LEGISLATURE FIRST REGULAR SESSION
11	_
13	COMMITTEE AMENDMENT "A" to H.P. 24, L.D. 19, Bill, "An Act to Establish Utility Rights in Certain Easements"
15 17	Amend the bill by striking out the title and inserting in its place the following:
19	'An Act Concerning the Right to Install Utilities in Certain Easements or Rights-of-Way'
21	Further amend the bill by striking out everything after the
23	enacting clause and before the statement of fact and inserting in its place the following:
25	'33 MRSA §458 is enacted to read:
27 29	§458. Easements or rights-of-way: installation of utility services
31	1. Easements or rights-of-way established on or after January 1, 1990. The owner of an easement or right-of-way does
33	not have the right by implication to install utility services on or under the easement or right-of-way if:
35	A. The easement or right-of-way is originally established
37	in a written instrument executed on or after January 1, 1990; and
9	
1	B. The instrument granting or reserving the easement or right-of-way does not expressly include the right to install
13	utility services.
15	2. Definitions. As used in this section, the following terms have the following meanings.
<u>.</u> 7	A. "Easement or right-of-way" means the right of a person to pass over the land of another person.

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1	B. "Utility services" includes facilities necessary for the transmission of electricity, gas, telephone communications,
3	cable television, sewerage, water or similar services which
5	are currently or may in the future become available.'
7	STATEMENT OF FACT
9	This amendment replaces the original bill and amends the title to more accurately reflect the effect of this amendment.
11	
13	Currently, the law concerning the right to install utilities on or under easements or rights-of-way is unclear. Case law in Maine provides that in determining if the grant or reservation of
15	an easement or right-of-way was made without limit on its use and no mention was made about the installation of utilities, the
17	facts and circumstances surrounding that grant or reservation determine whether the right to install utilities was included.
19	This necessarily involves a case-by-case inquiry by a court to determine the rights of the parties. If it appears to a court
21	reviewing a particular case that, based on the facts and circumstances existing at the time the easement or right-of-way
23	was created, the parties did not contemplate the installation of utilities, then the court will not construe the easement or
25	right-of-way as including the right to install utility services. This amendment clarifies the rights involved in easements or
27	rights-of-way.
29	This amendment provides that no right to install utility services on or under an easement or right-of-way exists if:
31	
33	 The easement or right-of-way was created in a writter instrument on or after January 1, 1990; and
35	2. The instrument creating the easement or right-of-way
37	does not expressly include the installation of utilities.

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or rights-of-way in any manner.

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This amendment is not intended to affect existing easements