

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
115TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 275, L.D. 395, Bill, "An Act to Clarify Ownership of Public Ways"

Amend the bill in section 1 in the first line (page 1, line 3 in L.D.) by striking out the following: "Sec. 1."

Further amend the bill in section 1 in that part designated "~~§3028.~~" by striking out subsection 2 and inserting in its place the following:

'2. Status of town way or public easement. The determination of the municipal officers regarding the status of a town way or public easement is binding on all persons until a final determination of that status has been made by a court, unless otherwise ordered by a court during the pendency of litigation to determine the status.

3. Removal of obstructions. If the municipal officers have determined under subsection 2 that the way is a town way or public easement and a court has not ordered otherwise, the municipality or an abutter on the way, acting with the written permission of the municipal officers, may remove any gates, bars or other obstructions in the way.'

Further amend the bill by striking out all of section 2.

Further amend the bill by inserting before the statement of fact the following:

**FISCAL NOTE**

The additional work load and administrative costs associated with a minimal number of additional cases filed in the court

C  
O  
M  
M  
I  
T  
T  
E  
E  
A  
M  
E  
N  
D  
M  
E  
N  
T

2 system to request issuance of temporary restraining orders or  
final determinations of disputes will be absorbed within the  
4 budgeted resources of the Judicial Department.'

6 **STATEMENT OF FACT**

8 This amendment changes the bill by deleting the presumption  
of nonabandonment and the requirement that parties to a dispute  
10 over town ways and public easements go through mediation before  
litigation.

12 This amendment adds the Maine Revised Statutes, Title 23,  
14 section 3028, subsections 2 and 3. Subsection 2 provides that,  
if the municipal officers determine that a way is a town way or  
16 public easement, that determination is binding on all persons,  
including all the parties to the dispute until a court makes the  
18 final determination, or until a court orders otherwise, such as  
issuing a temporary restraining order, while the litigation is  
20 pending.

22 Subsection 3 provides that, if the municipal officers  
determine that the way is a town way or a public easement, the  
24 municipality or abutters on the way, with the written permission  
of the municipal officers, may remove any obstructions on the  
26 way. Municipalities often do not have the resources to remove  
obstructions. The abutters who want to use the way may remove  
28 the obstructions themselves.

30 The amendment also adds a fiscal note.

Reported by the Committee on Judiciary.  
Reproduced and distributed under the direction of the Clerk  
of the House.  
4/26/91 (Filing No. H-187)