

# 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)

R. 113

L.D. 1974

DATE: 3-26-98

(Filing No. H-1095)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 1410, L.D. 1974, Bill, "An Act to Require Abutting Landowners to Pay a Fair Share of the Costs of Maintaining a Private Road"

Amend the amendment by striking out the substitute title and replacing it with the following:

'An Act Regarding Maintenance of Private Ways'

Further amend the amendment by striking out everything after the 2nd indented paragraph and before the summary and inserting in its place the following:

'Sec. 1. 23 MRSA §3101, as amended by PL 1995, c. 227, §1, is further amended to read:

§3101. Call of meetings

When Except as provided in this section, when 4 or more persons are owners and occupants of parcels of land are benefited by a private way or bridge, as an appurtenant easement or by fee ownership of the way or bridge, the owners of any 3 or more of them the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting, who may issue a warrant setting forth the time, place and purpose of the meeting, a copy copies of which must be posted at some public place in the town and mailed to the owners of all the parcels benefited by the way at the addresses set forth in the municipal tax records, at least 30 days before such time. When so assembled, they may choose a clerk and a surveyor a commissioner, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner for the repairs and the manner of calling future meetings. This section does not apply to ways constructed or primarily used for commercial or forest management purposes.

2           **Sec. 2. 23 MRSA §§3102 to 3104** are amended to read:

4           **§3102. Commissioner's duties; neglect of owners to pay**

6           The surveyor commissioner chosen under section 3101, with  
8           respect to such the way or bridge, has the powers of a road  
10           commissioner. ~~For refusing to accept the trust or to take the~~  
12           ~~eath, he forfeits \$4, to be recovered as provided in section~~  
14           3104. If any owner or occupant, on requirement of the surveyor  
16           commissioner, neglects to furnish his that owner's proportion of  
18           labor, materials or money, the same may be furnished by the other  
20           owners and occupants and recovered of him the owner neglecting to  
22           pay in a civil action, together with costs of suit and reasonable  
24           attorney's fees.

26           **§3103. Contracts for repair; assessments**

28           The owners, at such a meeting held under section 3101, may  
30           authorize a contract to be made for making and keeping such the  
32           way or bridge in repair by the year or for a less time; may raise  
34           money for that purpose and choose assessors to assess it on such  
36           the owners and occupants in proportion to their interests, who  
38           shall deliver their assessment with a warrant for its collection  
40           to the surveyor commissioner. ~~Such warrant shall~~ The warrant  
42           must be in substance such as is prescribed for collection of town  
44           taxes. The surveyor commissioner shall collect the same as town  
46           taxes are collected, and be liable for neglect of duty as town  
48           collectors are for similar neglects.

50           **§3104. Penalties and process**

          Money recovered under sections 3102 and 3103 is for the use  
of such owners. In any process for its recovery, a description  
of ~~them~~ the owners in general terms as ~~proprietors and occupants~~  
~~of~~ owners of parcels of land benefited by the way or bridge,  
clearly describing it ~~therein~~ the way or bridge, is sufficient.  
Such process is not abated by the death of any owner or by the  
transfer of his any owner's interest.

**Sec. 3. Application.** Before July 1, 1999, only owners who are  
members of road associations incorporated as of March 1, 1998 may  
utilize the process set forth in this Act.'

Further amend the bill by inserting at the end before the  
summary the following:

**FISCAL NOTE**

This bill may increase the number of civil suits filed in


HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "A" to H.P. 1410,  
L.D. 1974

2 the court system. The additional workload and administrative  
costs associated with the minimal number of new cases filed can  
4 be absorbed within the budgeted resources of the Judicial  
Department. The collection of additional filing fees may also  
6 increase General Fund revenue by minor amounts.'

8 **SUMMARY**

10 This amendment replaces the bill and the committee  
12 amendment. It amends the current law regarding maintenance of  
private ways by deleting the requirement that the property owners  
14 hire a surveyor and allowing owners to recover court costs and  
attorney's fees from any person who fails to pay an assessment  
16 and must be taken to court by the other owners. The amendment  
does not change the terminology "private way," which describes  
18 the category of roads to which the law applies, but it provides  
that the law applies when 4 or more parcels of land are benefited  
20 by the private way, rather than referring to 4 or more people  
being benefited. It also provides that the process may be  
22 initiated only by persons who own parcels of land that are  
benefited by the private way or bridge as an appurtenant easement  
24 or by fee ownership of the private way or bridge. The amendment  
provides that the law does not apply to ways constructed or  
26 primarily used for commercial purposes or forest management  
activities. Finally, the amendment requires notice of a meeting  
28 to be provided by making notice to property owners 30 days before  
the meeting as well as posting notice in a public place.

30 This amendment specifies that only the owners who are  
members of road associations incorporated as of March 1, 1998 may  
32 make use of the process as amended by this amendment.

34  
36 SPONSORED BY:   
(Representative AHEADNE)

38 TOWN: Madawaska  
40