

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1473

H.P. 1078

House of Representatives, March 31, 2003

An Act To Amend the Laws Governing Public Easements

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on State and Local Government suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative McKEE of Wayne.
Cosponsored by Senator KNEELAND of Aroostook and
Representatives: NORBERT of Portland, SAVIELLO of Wilton.

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

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4 **Sec. 1. 23 MRSA §3026, sub-§1**, as enacted by PL 1981, c. 683,
§1, is amended to read:

6 **1. General procedures.** A municipality may terminate in
8 whole or in part any interests held by it for highway purposes.
A municipality may discontinue a town way or public easement
10 after the municipal officers have given best practicable notice
to all abutting property owners and the municipal planning board
12 or office and have filed an order of discontinuance with the
municipal clerk that specifies the location of the way, the names
of abutting property owners and the amount of damages, if any,
14 determined by the municipal officers to be paid to each abutter.

16 Upon approval of the discontinuance order by the legislative
body, and unless otherwise stated in the order, ~~a public easement~~
18 ~~shall, in the case of town ways, be retained and~~ all remaining
interests of the municipality shall pass to the abutting property
20 owners to the center of the way. A municipality may retain a
public easement by including a statement in the discontinuance
22 order that a public easement is retained. For purposes of this
section, the words "public easement" shall include, without
24 limitation, an easement for public utility facilities necessary
to provide service.

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28 **Sec. 2. 23 MRSA §3101**, as amended by PL 1999, c. 552, §1, is
further amended by adding at the end a new paragraph to read:

30 An owner of a parcel of land directly benefited by a public
easement has an appurtenant easement in a way or bridge for
32 purposes of utilizing the process in this section to maintain
that public easement.

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SUMMARY

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This bill allows a person who is directly benefited by a
public easement to collect funds to maintain that easement and
40 provides that a municipality may only retain a public easement in
a discontinued road by stating in the discontinuance order that a
42 public easement is retained.