

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND REGULAR SESSION-2004

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Legislative Document

No. 1799

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H.P. 1321

House of Representatives, December 22, 2003

### An Act to Ensure Access to Real Property by Owners

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Transportation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative JACKSON of Fort Kent.  
Cosponsored by Senator MARTIN of Aroostook and  
Representatives: BROWNE of Vassalboro, HATCH of Skowhegan, SMITH of Van Buren,  
USHER of Westbrook, WOTTON of Littleton, Senators: DAMON of Hancock, HATCH of  
Somerset.

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

**Sec. 1. 23 MRSA §7229**, as enacted by PL 1989, c. 398, §8, is repealed and the following enacted in its place:

**§7229. Maintenance charges for private crossings**

**1. Municipal officers.** In a municipality in which a private way is crossed by a railroad, the municipal officers may act as agents for a railroad corporation in collecting maintenance and insurance charges from those property owners using that crossing. This section does not authorize a municipality to assess or levy these charges or to use its taxing power to collect these charges.

**2. Bisected property.** A railroad corporation shall provide and maintain a private crossing for property that is owned by the same owner and is located on both sides of the railroad.

**3. Exception for current property owners.** A railroad corporation may not collect maintenance and insurance charges under subsection 1 or 2 from a private property owner who uses a right-of-way on a private crossing to access the owner's property. A railroad corporation may require a written agreement signed by a property owner stating that the property owner agrees to indemnify and hold the railroad corporation harmless from and against any claims, losses and damages arising out of bodily injury or death to persons and damages to property caused by or resulting from the negligence of the property owner or any person using the railroad crossing with the permission or acquiescence of the property owner.

**SUMMARY**

This bill requires railroad corporations to provide and maintain private crossings on land bisected by the railroad. It also prohibits railroad corporations from collecting maintenance and insurance fees from property owners using rights-of-way on private crossings. The bill allows railroad corporations to seek an indemnification and hold harmless agreement from the property owner.