

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 2102

H.P. 1488

House of Representatives, December 27, 2007

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**An Act To Allow Road Associations To Determine Assessments  
According to Majority Vote Cast at a Duly Held Meeting**

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

Reference to the Committee on Transportation suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative KNIGHT of Livermore Falls.  
Cosponsored by Senator NASS of York, Senator HOBBS of York and  
Representatives: CONNOR of Kennebunk, FAIRCLOTH of Bangor, JOHNSON of Greenville,  
MILLER of Somerville, PRESCOTT of Topsham, SMITH of Monmouth, THOMAS of  
Ripley, WEAVER of York.

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

2 **Sec. 1. 23 MRSA §3101**, as amended by PL 2007, c. 162, §1, is repealed and the  
3 following enacted in its place:

4 **§3101. Call of meetings; maintenance; repairs**

5 **1. Definitions.** As used in this section, "repairs and maintenance" does not include  
6 paving, except in locations where limited paving is demonstrated to be a cost-effective  
7 approach for fixing an erosion problem or to repair and maintain pavement existing as of  
8 July 1, 2007.

9 **2. Call of meeting.** Except as provided in this section, when 4 or more parcels of  
10 land are benefited by a public easement, private way or bridge as an easement or by fee  
11 ownership of the public easement, private way or bridge, the owners of any 3 or more of  
12 the parcels, as long as at least 3 of the parcels are owned by different persons, may make  
13 written application to a notary public to call a meeting. The notary may issue a warrant  
14 setting forth the time, place and purpose of the meeting. If a warrant is issued, copies of  
15 the warrant must be mailed by United States Postal Service to the owners of all the  
16 parcels benefited by the public easement, private way or bridge at the addresses set forth  
17 in the municipal tax records at least 30 days before the date of the meeting. If mailing  
18 copies of the warrant to all such owners is not possible, the notary shall post a notice in a  
19 public place. The notice must inform the owners of the planned meeting's agenda and  
20 specify all items to be voted on.

21 **3. Quorum.** A quorum for the transaction of business at all meetings held pursuant  
22 to this section is 50% of all votes, including proxies and absentee ballots. Each parcel of  
23 land benefited by a public easement, private way or bridge represents one vote.

24 **4. Board; repair and maintenance assessment.** The owners of parcels of land  
25 benefited by a public easement, private way or bridge at a meeting called pursuant to  
26 subsection 2 may choose a board, to be sworn. By a majority vote, the owners may  
27 determine what repairs and maintenance are necessary and the materials to be furnished  
28 or amount of money to be paid by each owner for repairs and maintenance. The board  
29 shall report the outcome of all votes to all the owners by United States mail within 30  
30 days. Special assessments for emergency repairs and maintenance may be made at a duly  
31 held meeting called for that purpose.

32 **5. Commercial or forest management purposes.** This section does not apply to  
33 ways constructed or primarily used for commercial or forest management purposes.

34 **Sec. 2. 23 MRSA §3102**, as amended by PL 1999, c. 552, §2, is further amended  
35 to read:

36 **§3102. Board's duties; neglect of owners to pay**

37 The ~~commissioner~~ board chosen under section 3101, with respect to the public  
38 easement, private way or bridge, has the powers of a road commissioner. If any owner,  
39 on requirement of the ~~commissioner~~ board, neglects to furnish that owner's proportion of

1 labor, materials or money, the same may be furnished by the other owners and recovered  
2 of the owner neglecting to pay in a civil action, together with costs of suit and reasonable  
3 attorney's fees. The ~~commissioner's board's~~ apportioning of the cost of repairs to the road  
4 undertaken pursuant to the provisions of section 3101 may not exceed 1% of an  
5 individual owner's property valuation in any calendar year.

6 **Sec. 3. 23 MRSA §3103**, as amended by PL 2005, c. 479, §1, is further amended  
7 to read:

8 **§3103. Contracts for repair; assessments**

9 The owners, at a meeting held under section 3101, may by a majority vote authorize a  
10 contract to be made for making repairs to and keeping maintaining the public easement,  
11 private way or bridge in repair by the year or for a lesser time and may raise money for  
12 that purpose ~~and choose assessors to assess it on the owners in proportion to each owner's~~  
13 ~~interest pursuant to section 3101, subsection 4. An owner's interest is based on the~~  
14 ~~assessed valuation for property tax on the owner's parcel that is benefited by the private~~  
15 ~~way or bridge. The assessors shall deliver their assessment with a warrant for its~~  
16 ~~collection to the commissioner. The warrant must be in substance such as is prescribed~~  
17 ~~for collection of town taxes.~~ The ~~commissioner~~ board shall collect the same money as  
18 town taxes are collected, and be liable for neglect of duty as town collectors are for  
19 similar neglects.

20 **Sec. 4. 23 MRSA §3104**, as amended by PL 1997, c. 682, §2, is further amended  
21 to read:

22 **§3104. Penalties and process**

23 Money recovered under sections 3102 and 3103 is for the use of ~~such~~ the owners. In  
24 any process for its recovery, a description of the owners in general terms as owners of  
25 parcels of land benefited by the public easement, private way or bridge, clearly describing  
26 the public easement, private way or bridge, is sufficient. Such process is not abated by the  
27 death of any owner or by the transfer of any owner's interest.

28 **SUMMARY**

29 This bill amends the laws pertaining to road associations formed under the private  
30 ways laws by allowing them to make assessments using any method they choose that is  
31 endorsed by a majority vote at a duly held meeting. The bill establishes guidelines for  
32 notifying lot owners of any meeting scheduled to deal with maintenance and repair of the  
33 public easement, private way or bridge. The bill establishes a quorum that is necessary to  
34 hold a meeting and to vote on issues at the meeting. The bill establishes a board to run  
35 the meetings. The bill adds maintenance of a road to the laws pertaining to road repairs.  
36 The bill also adds public easements to the private ways laws.