

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1637

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H.P. 1114

House of Representatives, March 8, 2016

### **An Act To Assist Maine Citizens Residing along Public Easements**

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HILLIARD of Belgrade. (GOVERNOR'S BILL)  
Cosponsored by Senator SAVIELLO of Franklin.

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

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

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

12 Upon approval of the discontinuance order by the legislative body, and unless otherwise  
13 stated in the order, a public easement ~~shall~~, in the case of town ways, must be retained  
14 and all remaining interests of the municipality ~~shall~~ pass to the abutting property owners  
15 to the center of the way. If a public easement is retained and, at the time of approval of  
16 the discontinuance order, there are legal residences on the property abutting that public  
17 easement, the municipality, at the expense of that municipality, shall keep that public  
18 easement reasonably passable for the use of motor vehicles for the purpose of access to  
19 the residences abutting that public easement. If a public easement is not retained, all  
20 interests of the municipality pass to the abutting property owners to the center of the way  
21 and the municipality is not responsible for maintenance of that discontinued town way.  
22 For purposes of this section, the words "public easement" ~~shall~~ include, without  
23 limitation, an easement for public utility facilities necessary to provide service.

24 **Sec. 2. 23 MRSA §3202** is repealed and the following enacted in its place:

25 **§3202. Mail routes**

26 If a municipality holds a right-of-way over which there is a mail route, it is the  
27 responsibility of that municipality to keep the mail route to the standard required by  
28 United States Postal Service regulations.

29 **SUMMARY**

30 This bill requires a municipality that discontinues a town way but that retains a public  
31 easement on that town way to continue to maintain that public easement, at the expense  
32 of the municipality, so that it is reasonably passable by motor vehicles if there are legal  
33 residences on the property abutting the town way at the time of discontinuance. If a  
34 municipality discontinues a town way and specifically discontinues the public easement  
35 on that town way, the interests of the municipality pass to the abutting property owners to  
36 the center of the town way and the municipality is not required to keep the town way  
37 passable. As defined in current law, a town way includes a county way not discontinued  
38 prior to July 29, 1976.

1           This bill also requires a municipality to maintain a mail route located on a right-of-  
2 way held by the municipality to the standard required by United States Postal Service  
3 regulations.