

MAINE STATE LEGISLATURE

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Date: 5/24/17

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 802, L.D. 1139, Bill, "An Act To Clarify Certain Right-of-way Limitations"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 33 MRSA §459 is enacted to read:

§459. Easements and rights-of-way; installation of docks

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dock" means a platform used for access to a water body or to secure, protect and provide access to a boat or ship. The platform may extend from a shore over the water body or may be a floating platform attached to a mooring.

B. "Easement or right-of-way" means the right of a person to pass over the land of another person.

C. "Water body" means all inland and coastal waters, including but not limited to all ponds, great ponds, lakes, rivers, streams and coastal waters.

2. Easements or rights-of-way established on or after January 1, 2018. The owner of an easement or right-of-way leading to or touching upon a water body does not have the right by implication to construct a dock on the easement or right-of-way or use the easement or right-of-way to facilitate the construction of a dock on the water body if:

A. The easement or right-of-way is originally established in a written instrument executed on or after January 1, 2018; and

B. The instrument granting or reserving the easement or right-of-way does not expressly include the right to construct a dock on the easement or right-of-way or the right to use the easement or right-of-way to facilitate the construction of a dock on the water body.'

COMMITTEE AMENDMENT

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SUMMARY

This amendment replaces the bill to clearly state that, unless the written instrument that establishes an easement or right-of-way that leads to or touches upon a water body expressly includes the right to construct a dock on or using the easement or right-of-way, no such right exists in an easement or right-of-way created on or after January 1, 2018. "Water body" is intended to be all-inclusive, covering all inland and coastal waters.

This amendment does not affect easements or rights-of-way created before January 1, 2018.