

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 1139

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H.P. 802

House of Representatives, March 23, 2017

### An Act To Clarify Certain Right-of-way Limitations

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Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT  
Clerk

Presented by Representative STEARNS of Guilford.

Cosponsored by Representatives: GRIGNON of Athens, HILLIARD of Belgrade, LYFORD of Eddington, WOOD of Greene.

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

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

3 **§459. Easements or rights-of-way to water; installation of docks**

4 **1. Easements or rights-of-way established on or after January 1, 2018.** A  
5 conveyance after January 1, 2018 of an easement or right-of-way leading to or touching  
6 upon a water body does not include any right by implication to install a dock or other  
7 fixture on that water body unless such a right is expressly stated in the easement or right-  
8 of-way.

9 Nothing in this subsection may be interpreted to affect any property rights other than  
10 those expressly described in this section.

11 **2. Enforcement.** A municipality may, upon a written request of the owner of land  
12 subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or  
13 touching upon a water body that does not expressly include the right to install a dock or  
14 other fixture on that water body, order, after notice and hearing, any person who has built  
15 a dock or other fixture on that water body under a claim of an implied right under that  
16 easement or right-of-way to remove the dock or fixture at that person's expense. An  
17 appeal of a decision or order of a municipality under this subsection may be made under  
18 the Maine Rules of Civil Procedure, Rule 80B.

19 **SUMMARY**

20 This bill provides that a conveyance after January 1, 2018 of an easement or right-of-  
21 way leading to or touching upon a water body does not include any right by implication  
22 to install a dock or other fixture on that water body unless such a right is expressly stated  
23 in the easement or right-of-way.

24 This bill also provides that a municipality may, at the request of the owner of land  
25 subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or  
26 touching upon a water body that does not expressly include a right to install a dock or  
27 other fixture on that water body, after notice and hearing, direct any person who has built  
28 a dock or other fixture on that water body under a claim of an implied right under that  
29 easement or right-of-way to remove the dock or fixture at that person's expense.