

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1598

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H.P. 1157

House of Representatives, April 18, 2019

**An Act To Define the Responsibilities of Property Owners for the  
Maintenance and Repair of Private Roads**

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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 McLEAN of Gorham.  
Cosponsored by Senator POULIOT of Kennebec and  
Representatives: BAILEY of Saco, MARTIN of Sinclair, Senator: LIBBY of Androscoggin.

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

2 **Sec. 1. 23 MRSA §3107** is enacted to read:

3 **§3107. Responsibility for cost of repairs and maintenance of private roads and ways**

4 **1. Benefited property defined.** "Benefited property" means real estate consisting of  
5 at least one but not more than 4 residential dwelling units that is benefited by a private  
6 road or private way, as an easement or by fee ownership, providing access to that real  
7 property.

8 **2. Obligation.** An owner of benefited property is responsible for the cost of repairs  
9 and maintenance to a private road or private way providing access to that owner's  
10 benefited property.

11 **3. Cost sharing.** If more than one benefited property benefits from a private road or  
12 private way, each owner of that benefited property is responsible for a share of the cost of  
13 repairs and maintenance to that private road or private way determined pursuant to the  
14 terms of any enforceable written agreement entered into to determine the share of the cost  
15 of repairs and maintenance of the private road or private way, any deed restriction or  
16 covenant applicable to the benefited property or any road association created pursuant to  
17 this subchapter or otherwise. In the absence of any such agreement, restriction, covenant  
18 or road association, each owner of a benefited property shall share, in proportion to the  
19 benefit received by that owner's benefited property, the cost of repairs and maintenance of  
20 the private road or private way providing access to that benefited property.

21 **4. Damage.** Notwithstanding any provision of subsection 2 to the contrary, any  
22 owner of benefited property who directly or indirectly damages a portion of a private road  
23 or private way providing access to a benefited property that benefits from the private road  
24 or private way is solely responsible for repairing or restoring the portion of the private  
25 road or private way damaged by that owner.

26 **5. Enforcement.** If an owner of a benefited property refuses to repair or restore a  
27 damaged portion of a private road or private way in accordance with subsection 3, or  
28 fails, after a demand in writing, to pay that owner's proportion of the cost of repairs and  
29 maintenance of a private road or private way in accordance with subsection 2, an action  
30 for specific performance or contribution may be brought against that owner by an owner  
31 or owners of benefited properties, either jointly or severally.

32 **6. Conflict.** In the event of any conflict between the provisions of this section and  
33 an agreement, restriction, covenant or road association described in subsection 2 existing  
34 on or entered into after the effective date of this section, the terms of the agreement,  
35 restriction, covenant or road association control.

36 **SUMMARY**

37 This bill establishes responsibility for the repair and maintenance of private roads and  
38 private ways that benefit residential properties. Unless there is an agreement, restriction,  
39 covenant or road association that specifies the cost to be paid by each owner of a

1 benefited property, the cost is shared in proportion to the benefit received by each owner  
2 of benefited property. An owner who damages a private road or private way that benefits  
3 other residential properties is solely responsible for the cost of repairs to fix the damage.  
4 An owner who fails to comply may be forced to comply through an action brought by  
5 other owners on the private road or private way.