

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST SPECIAL SESSION-2021

Legislative Document

No. 1513

H.P. 1121

House of Representatives, April 15, 2021

**An Act To Require the Maintenance of a Discontinued Public Road
That Provides the Sole Access to One or More Residences**

Received by the Clerk of the House on April 13, 2021. Referred to the Committee on State and Local Government pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT
Clerk

Presented by Representative NEWMAN of Belgrade.
Cosponsored by Representative: PICKETT of Dixfield.

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

2 **Sec. 1. 23 MRSA §3651, first ¶**, as amended by PL 1977, c. 363, §5, is further
3 amended to read:

4 Highways, town ways and streets legally established ~~shall~~ must be opened and kept in
5 repair so as to be safe and convenient for travelers with motor vehicles. In default thereof,
6 those liable may be indicted, convicted and a reasonable fine imposed therefor.
7 Notwithstanding this paragraph, if a road or a discontinued town way pursuant to section
8 3026-A in which a town holds a public easement is the only road or way that can be used
9 to access one or more residences and the town issues permits for residential use of
10 residences or collects property taxes on those residences, the town is not required to keep
11 the road or way safe and convenient for travelers with motor vehicles but must provide
12 sufficient maintenance to keep the road or way passable to access the residences on the
13 road or way, as determined by the county commissioners.

14 **Sec. 2. 23 MRSA §3652** is amended to read:

15 **§3652. Notice of defect; hearing on petition**

16 When a town liable to maintain a way unreasonably neglects to keep it in repair as
17 provided in section 3651, after one of the municipal officers has had 5 days' actual notice
18 or knowledge of the defective condition, any 3 or more responsible persons, or one or more
19 residents on the road or the discontinued town way pursuant to section 3026-A in which a
20 town holds a public easement if that road or way is the only road or way that can be used
21 to access one or more residences as provided in section 3651, may petition the county
22 commissioners for the county, setting forth such facts, who, if satisfied that such petitioners
23 are responsible for the costs of the proceedings, shall fix a time and place near such
24 defective way for a hearing on such petition and cause such notice thereof to be given to
25 the town and petitioners as they may prescribe. At the time appointed, the commissioners
26 shall view the way alleged to be out of repair and hear the parties interested, and if they
27 adjudge the way to be unsafe and inconvenient for travelers, motor vehicles, horses, teams
28 and carriages, or in the case of a road or a discontinued town way pursuant to section
29 3026-A in which a town holds a public easement if that road or way is the only road or way
30 that can be used to access one or more residences as provided in section 3651 adjudge the
31 road or way to be not passable, they shall prescribe what repairs shall be made, fix the time
32 in which the town shall make them, give notice thereof to the municipal officers and award
33 the costs of the proceedings against the town. If they adjudge the way to be safe and
34 convenient, or in the case of a road or a discontinued town way pursuant to section 3026-A
35 in which a town holds a public easement if that road or way is the only road or way that
36 can be used to access one or more residences as provided in section 3651 adjudge the road
37 or way to be not passable to access the resources on the road or way, they shall dismiss the
38 petition and award the costs against the petitioners. If they find that the way was defective
39 at the time of presentation of the petition, but has been repaired before the hearing, they
40 may award the costs against the town, if in their judgment justice requires it.

41 **SUMMARY**

42 This bill requires that when a road or a discontinued town way pursuant to section
43 3026-A in which a town holds a public easement is the only road or way that can be used
44 to access one or more residences and the town issues permits for residential use of

1 residences or collects property taxes on those residences, the town is not required to keep
2 the road or way safe and convenient for travelers with motor vehicles but must provide
3 sufficient maintenance to keep the road or way passable to access the residences on the
4 road or way, as determined by the county commissioners.