

MAINE STATE LEGISLATURE

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L D 461

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Date 6/21/23

(Filing No S-399)

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STATE AND LOCAL GOVERNMENT

4

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STATE OF MAINE

6

SENATE

7

131ST LEGISLATURE

8

FIRST SPECIAL SESSION

9
10

COMMITTEE AMENDMENT "A" to S P 215, L D 461, "An Act Regarding Private Roads"

11

Amend the bill by striking out the title and substituting the following

12

'An Act Regarding Private Ways and Private Roads'

13

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

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'Sec. 1. 23 MRSA §3101, sub-§1, ¶B, as amended by PL 2013, c 198, §1, is further amended to read

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B "Repairs and maintenance" does not include paving, except in locations where pavement does not exist if approved by an affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road, private way or bridge at a meeting called in accordance with subsection 2 or in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain pavement existing as of July 1, 2007 for at least 8 years "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control, grading and adding gravel and surface material, installing reclaimed asphalt or grinding existing pavement for reuse, installing, cleaning and replacing culverts, creating and maintaining ditches, drains and other storm water management infrastructure, creating and maintaining sight distances on curves and at intersections, and cutting brush, trees and vegetation in the right-of-way

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Sec. 2. 23 MRSA §3103, as amended by PL 2013, c 198, §9, is repealed and the following enacted in its place

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§3103 Contracts for repair; reserve accounts

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The owners, at a meeting held under section 3101, may by a majority vote of the owners present and voting in person or by written proxy or absentee ballot authorize

33

COMMITTEE AMENDMENT

1 1. Contract for repair. A contract for repairs or maintenance to the private road,
2 private way or bridge by the year or for a lesser time and may raise money for that purpose
3 pursuant to section 3101, subsection 5, and

4 2 Reserve account A reserve account to be established to hold funds solely to be
5 used for repairs and maintenance

6 **Sec. 3. 23 MRSA §3104**, as amended by PL 2017, c 306, §1, is further amended to
7 read

8 **§3104 Penalties and process**

9 Money recovered under sections 3102 and 3103 is for the use of the owners In any
10 notice of claim or process for the money's recovery, a description of the owners as owners
11 of parcels of land benefited by the private road, private way or bridge by name, clearly
12 describing each owner's parcel of land by the book and page number of the owner's deed
13 as recorded in the county's registry of deeds and the private road, private way or bridge, is
14 sufficient If the private road, private way or bridge is shown on a plan recorded in the
15 county's registry of deeds, the plan's recording reference is sufficient Such process is not
16 abated by the death of any owner or by the transfer of any owner's interest Any money
17 owed pursuant to section 3101, 3102 or 3103 is an obligation that is personal to the owners
18 of the subject parcels, jointly or severally, and also burdens the parcel and runs with the
19 land upon the transfer of any owner's interest After June 30, 2018, any money owed
20 pursuant to section 3101, 3102 or 3103 is not an obligation that burdens the parcel or runs
21 with the land upon the transfer of any owner's interest unless a notice of claim is recorded
22 in the county's registry of deeds prior to the transfer A notice of claim filed in the registry
23 of deeds expires ~~18 months~~ 6 years from the date of recording unless extended prior to the
24 expiration by recording of a notice of extension of the notice of claim A recorded notice
25 of claim may be extended for additional ~~18-month~~ 6-year periods until the claim is paid
26 The commissioner or board may cause to be recorded in the county's registry of deeds a
27 notice of claim for money owed pursuant to section 3101, 3102 or 3103 that is more than
28 90 days delinquent and may add to the amount owed the recording costs for filing the notice
29 of claim The recording of such notice does not constitute slander of title Before recording
30 such notice or service of process of a complaint for collection in a civil action, the
31 commissioner or board shall give the owner against whom such action is to be taken written
32 notice, in the same manner as written notices of meetings are provided for in section 3101,
33 of the intended action if the debt is not paid within 20 days of the date of the written notice
34 This written notice to cure must be sent at least 30 days before the recording of the notice
35 of claim or the service of process of the complaint for collection in a civil action

36 **Sec. 4. Report.** The Maine Abandoned and Discontinued Roads Commission,
37 established in the Maine Revised Statutes, Title 23, section 3036, shall review the use of
38 the following terms in the Maine Revised Statutes "private way", "public way", "private
39 road", and "public easement " The commission shall determine whether changes to current
40 law would improve understanding and use of these terms throughout the Maine Revised
41 Statutes By January 5, 2024, the commission shall submit a report to the Joint Standing
42 Committee on State and Local Government with the results of this study along with
43 recommended legislation The committee may report out legislation relating to the report
44 to the Second Regular Session of the 131st Legislature Notwithstanding Title 23, section

COMMITTEE AMENDMENT "A" to S P 215, L D 461

1 3036, subsection 5, the commission may meet more than 6 times in 2023 to complete the
2 work described in this section '

3 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
4 number to read consecutively

5 **SUMMARY**

6 This amendment replaces the bill It instructs the Maine Abandoned and Discontinued
7 Roads Commission, established in the Maine Revised Statutes, Title 23, section 3036, to
8 review the use of the following terms in the Maine Revised Statutes "private way", "public
9 way", "private road", and "public easement," determine whether changes to current law
10 would improve understanding and use of these terms throughout the Maine Revised
11 Statutes and include its conclusions and recommendations in a report to the Joint Standing
12 Committee on State and Local Government submitted by January 5, 2024 The commission
13 is authorized to meet more than 6 times in 2023 to complete this work

14 The amendment expands the definition of "repairs and maintenance" as it applies to
15 road associations established and operating in accordance with Title 23, chapter 305 to
16 include paving in locations where pavement does not exist if the paving is approved by an
17 affirmative vote of at least 3/4 of the owners of all the parcels benefited by the private road,
18 private way or bridge at a meeting called in accordance with Title 23, section 3101,
19 subsection 2 It adds installing reclaimed asphalt or grinding existing asphalt pavement for
20 reuse within the definition of "repairs and maintenance " It allows road associations to
21 establish a reserve account to hold funds for repairs and maintenance, and it changes the
22 expiration date of a notice of claim recorded with the registry of deeds from 18 months to
23 6 years

24 **FISCAL NOTE REQUIRED**
25 (See attached)



131st MAINE LEGISLATURE

LD 461

LR 88(02)

An Act Regarding Private Roads

Fiscal Note for Bill as Amended by Committee Amendment "A" (S399)
Committee: State and Local Government
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor cost increase - Highway Fund

Fiscal Detail and Notes

Additional costs to state agencies with members who serve on the Abandoned and Discontinued Roads Commission in participate in meetings discussing the use of various terms can be absorbed within existing budgeted resources