

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**  
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

**SECOND SPECIAL SESSION**

September 25, 1981

AND

**THIRD SPECIAL SESSION**

December 9, 1981

AND

**SECOND REGULAR SESSION**

January 6, 1982 to April 13, 1982

AND AT THE

**FOURTH SPECIAL SESSION**

April 28, 1982 to April 29, 1982

AND AT THE

**FIFTH SPECIAL SESSION**

May 13, 1982

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co.  
Augusta, Maine  
1981

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND AND THIRD SPECIAL SESSIONS

and

SECOND REGULAR SESSION

and

FOURTH AND FIFTH SPECIAL SESSIONS

of the

ONE HUNDRED AND TENTH LEGISLATURE

1981

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repealed and replaced by PL 1979, c. 470, is amended to read:

For the ~~purpose~~ purposes of this section, "operating investment" means investment in railway property used in transportation service, (less depreciation) plus cash (including temporary cash investments and special deposits) plus material and supplies, all as reported by the railroad in its annual report to the Public Utilities Commission.

Sec. 2. 36 MRSA §2624, first ¶, 9th sentence, as amended by PL 1981, c. 384, is further amended to read:

For purposes of railroad excise taxes payable in 1980~~7~~ 1981 and 1982 through 1983, based upon operations for the calendar years 1979~~7~~ 1980 and 1981 through 1982, "operating investment" shall also include freight car operating leases of 10 years or more, valued at cost less straight-line depreciation over the initial term of the lease.

Effective July 13, 1982.

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## CHAPTER 683

S.P. 854 - L.D. 1991

### AN ACT to Facilitate the Removal of Clouds on Titles to Proposed Unaccepted Streets in Subdivisions.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation provides for a one-year period during which a person claiming a right in a subdivision street may file his claim after an order vacating the street is recorded; and

Whereas, if vacation orders may be entered as soon as possible after passage of this legislation that time period may begin to run; and

Whereas, it is important to clear the title to appropriately vacate subdivision streets in time for next year's

building season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 23 MRSA §3026**, as amended by PL 1977, c. 301, §1, is repealed and the following enacted in its place:

§3026. Discontinuance of town ways

1. General procedures. A municipality may terminate in whole or in part any interests held by it for highway purposes. A municipality may discontinue a town way or public easement after the municipal officers have given best practicable notice to all abutting property owners and the municipal planning board or office and have filed an order of discontinuance with the municipal clerk that specifies the location of the way, the names of abutting property owners and the amount of damages, if any, determined by the municipal officers to be paid to each abutter.

Upon approval of the discontinuance order by the legislative body, and unless otherwise stated in the order, a public easement shall, in the case of town ways, be retained and all remaining interests of the municipality shall pass to the abutting property owners to the center of the way. For purposes of this section, the words "public easement" shall include, without limitation, an easement for public utility facilities necessary to provide service.

2. Definition of best practicable notice. "Best practicable notice" means, at minimum, the mailing by the United States Postal Service, postage prepaid, first class, of notice to abutting property owners whose addresses appear in the assessment records of the municipality.

**Sec. 2. 23 MRSA §3027**, as enacted by PL 1975, c. 711, §8, is repealed and the following enacted in its place:

§3027. Vacation of proposed town ways in land subdivision; revocation of dedication

1. Vacation of ways. Where proposed town ways have been described in a recorded subdivision plan and lots have been sold with reference to the plan, the municipal officers, with the approval of the municipal planning board or

office, may, on their own initiative, on petition of the abutting property owners or on petition of any person claiming a property interest in the proposed way, vacate in whole or in part proposed ways that have not been accepted. The municipal officers shall give best practicable notice, as defined in section 3026, subsection 2, of the proposed vacation to owners of lots on the recorded subdivision plan and their mortgagees of record. The notice shall conform in substance to the following form:

NOTICE

(The municipal officers of) (A petition has been filed with the municipal officers of)

(Name of Town or City)

(propose to) (to vacate) the following (ways) (way) shown upon a subdivision plan (named) (dated) (and) recorded in the County Registry of Deeds, Book of Plans, Volume , Page

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(Herein list or describe ways to be vacated)

If the municipal officers enter an order vacating (these ways) (this way) any person claiming an interest in (these ways) (this way) (adverse to the claims of the petitioners) must, within one (1) year of the recording of the order, file a written claim thereof under oath in the County Registry of Deeds and must, within one hundred eighty (180) days of the filing of the claim, commence an action in the Superior Court in County in accordance with the Revised Statutes Title 23, section 3027-A.

The municipal officers shall file an order of vacation with the municipal clerk that specifies the location of the way, the names of owners of lots on the recorded subdivision plan and the amount of damages, if any, determined by the municipal officers to be paid to each lot owner or other person having an interest in the way. Damages and reasonable costs as determined by the municipal officers shall be paid by the petitioners, if any.

2. Revocation of dedication. A dedication of property or interest therein to the municipality described in a recorded subdivision plot plan may not be revoked or vacated by the dedicator unless no lot has been sold with reference to the plan, and unless an amended subdivision plan has been approved by the municipal subdivision review authority and recorded in the appropriate registry of deeds.

Sec. 3. 23 MRSA §3027-A is enacted to read:

§3027-A. Recording of vacation orders; rights of action; prior orders

1. Recording of vacation order. A copy of the order of vacation by the municipal officers entered under section 3027 shall be recorded in the registry of deeds where the plan of subdivision is recorded and shall contain an alphabetical listing of the names of the subdivision lot owners and their mortgagees of record whose interests may be affected by the order. The register of deeds shall make a cross-reference to the order of vacation upon or attached to the face of the subdivision plan. The register of deeds shall also index the order under the names of the lot owners whose names appear in the body of the order. Any order of vacation entered prior to the effective date of this section may be recorded by the municipal officers in the same manner and with the same effect set forth in this section.

2. Rights of action. All persons are forever barred from maintaining any action at law or in equity to establish, recover, confirm or otherwise enforce any right claimed to or in a proposed or described vacated way by reason of the ownership by the claimant or by an predecessor in title of a lot or parcel of land shown on a recorded subdivision plan, unless, within one year of the date of recording of the order of vacation, the claimant files in the registry of deeds where the subdivision plan is recorded a statement under oath specifying the nature, basis and extent of the claimed interest in the way. The claim is forever barred unless, within 180 days after the recording of the statement, the claimant or any other person acting on behalf of the claimant commences an action in equity under Title 14, chapter 723, to establish the rights asserted to or in the way. These limitation periods are not tolled or interrupted by any disability, minority, lack of knowledge or absence from this State of any claimant. Upon the trial of an action, the court shall grant judgment for the claimant only if it finds that the claimant has acquired an interest in the proposed way and that the deprivation of rights in the proposed way unreasonably limits access from a public way, a public body of water or common land or facility to the land of the claimant shown on the recorded subdivision plan. Any judgment rendered by the court in the action may, in the discretion of the court, grant the claimant reasonable damages instead of establishment of the claimant's rights.

3. Prior orders. A person claiming an interest in a proposed unaccepted way vacated under section 3027 prior to the effective date of this section may cause an attested copy of that order to be recorded in the registry of deeds

where the subdivision plan describing or showing the way is recorded. That person shall append to the order to be recorded an alphabetical listing of the names of the current subdivision lot owners and their mortgagees of record whose interest in the way may be affected by the order. The register of deeds shall also index the order under the names of the lot owners appearing in the appendix.

Within 20 days of the recording of a prior order, the person causing the order to be recorded shall give notice of his claim to all current owners of lots on the subdivision plan and their mortgagees of record by mailing by the United States Postal Service, postage prepaid, a notice informing them of his claim and advising them that, to preserve any claim adverse to his, they must file a claim and commence an action as required by subsection 2. The notice shall conform in substance to the following form:

NOTICE

On \_\_\_\_\_, 19\_\_\_\_, the municipal officers of

\_\_\_\_\_ (Name of Town or City)  
entered an order vacating the following (ways) (way)  
shown upon a subdivision plan (named) (dated) (and)  
recorded in the \_\_\_\_\_ Registry of Deeds  
Book of Plans, Volume \_\_\_\_\_, Page \_\_\_\_\_.

(Herein list vacated ways)

The undersigned claims to own the (ways) (way) described above. A copy of the order of the municipal officers was recorded in the \_\_\_\_\_ Registry of Deeds on \_\_\_\_\_, 19\_\_\_\_, and any person claiming an interest in (these ways) (this way) adverse to the claims of the undersigned must, within one (1) year of the date of the recording of the above order, file a written claim under oath in the Registry of Deeds and must, within one hundred eighty (180) days thereafter, commence an action in the Superior Court in \_\_\_\_\_ County in accordance with the Revised Statutes, Title 23, section 3027-A.

4. Applicability. This section applies to ways described or shown in recorded subdivision plans proposed before and after the effective date of this section.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.