

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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Twin City Printery  
Lewiston, Maine  
1987

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**PUBLIC LAWS**

OF THE

**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION  
of the  
ONE HUNDRED AND THIRTEENTH LEGISLATURE  
1987

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

Sec. 1. 7 MRSA §1091, as enacted by PL 1971, c. 438, is amended to read:

§1091. Dues

If a member of a cooperative agricultural marketing association as defined in Title 13, section 1774, subsection 3 ~~shall make~~ makes a written assignment of dues to such that association, such those dues shall be paid out of funds due or to become due to such that member for any farm product produced or to be produced by such that member, or for any services performed or to be performed by such that member in the production of farm products. Pursuant to a collective marketing contract any Any person who accepts or receives such the product or services under such contract from the member is bound by such that assignment after receiving written notice from the association and or from the member, and such that person shall withhold the assigned dues from amounts payable by him to the member thereafter during the period of such the assessment.

Sec. 2. 7 MRSA §1092, as enacted by PL 1971, c. 438, is amended to read:

§1092. Assignment

No provision which is inserted in any contract or other instrument that is prepared by a dealer or processor which makes an assignment of the dues described in section 1091 ineffective is valid.

An assignment of dues may not exceed 1% of the total value of the product or services delivered by the member to the dealer or processor.

Sec. 3. 7 MRSA §1093, as enacted by PL 1971, c. 438, is repealed and the following enacted in its place:

§1093. Remittance of dues; accounting

1. Sale of farm products. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues assigned to the association pursuant to section 1091 with respect to farm products received from members by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues, the dealer or processor shall provide to the association a summary statement showing, for each member, the quantity of farm products received, the payment due to the member for those farm products prior to the deduction of dues and the amount of dues deducted therefrom pursuant to the assignment.

2. Performance of farm services. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues assigned to the association pursuant to section 1091 with respect

to services performed by members in the production of farm products which were received by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues, the dealer or processor shall provide to the association a summary statement showing, for each member, the quantity of farm products for which services were performed and the amount of dues deducted therefrom pursuant to the assignment.

3. Flat rate dues deduction. In the event that the dues assigned to the association pursuant to section 1091 are not calculated on the quantity of farm products sold or tendered by members to the dealer or processor, the dealer or processor shall pay the dues to the association according to the payment schedule contained in the assignment. No payment schedule may require the payment of assigned dues more frequently than once a month.

Sec. 4. 7 MRSA §1096 is enacted to read:

§1096. Violation; penalties

1. Civil violation. Failure of a dealer or processor to pay assigned dues to an association within the time required by section 1093 is a civil violation for which a forfeiture of double the amount of the assigned dues that were not timely paid to the association shall be adjudged. The court shall order payment of the forfeiture to the association. In the event of a willful violation, the dealer or processor shall be subject to an additional civil penalty, payable to the State, of not more than \$1,000 for a first violation and not more than \$2,000 for each subsequent violation. The forfeiture and civil penalty created by this subsection are recoverable by the commissioner in a civil action.

2. Private action. Any dealer or processor that fails to pay assigned dues to an association within the time required by section 1093 is liable to that association in a civil action for double the amount of the assigned dues that were not timely paid to the association, plus reasonable attorneys fees, provided that the filing of a civil violation action, pursuant to subsection 1, shall bar the filing of a private action under this subsection arising from the same events of nonpayment.

Effective September 29, 1987.

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## CHAPTER 385

H.P. 1298 — L.D. 1776

AN ACT to Enhance the Marketability of Titles.

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

Sec. 1. 23 MRSA §3027, sub-§1, as enacted by PL 1981, c. 683, §2, is amended to read:

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 after notice to 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 \_\_\_\_\_.

(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.

Sec. 2. 23 MRSa §§3031 to 3035 are enacted to read:

§3031. Public and private rights in proposed, unaccepted ways in subdivisions

1. Public rights. From the date of recording of a subdivision plan in the registry of deeds, the public acquires rights of incipient dedication to public use of the ways laid out on the plan. If a proposed way laid out in the plan is not accepted by the municipality within 20 years from the date of recording of the plan, the public rights in that way terminate.

2. Private rights. A person acquiring title to land shown on a subdivision plan recorded in the registry of deeds acquires a private right-of-way over the ways laid out in the plan. If a proposed, unaccepted way is not constructed within 20 years from the date of recording of the plan, and if the private rights created by the recording of the plan are not constructed and utilized as private rights within that 20-year period, the private rights-of-way in that way terminate.

Unless title has been reserved pursuant to Title 33, section 469-A, when the private rights established by this subsection are terminated as provided in this subsection or by order of vacation by the municipality, the title of the fee interest in the proposed, unaccepted way for which the private rights-of-way have terminated passes to the abutting property owners to the centerline of the way.

3. Shorter duration of public and private rights; rights of lesser extent. Notwithstanding subsections 1 and 2, the developer or other person recording a subdivision plan in the registry of deeds may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The developer or other person recording the subdivision plan shall cause the shorter duration to be noted on the face of the subdivision plan.

Pursuant to a subdivision review under Title 30, section 4956, the municipal reviewing authority may set a shorter duration for the public and private rights established in subsections 1 and 2 than the period provided in those subsections. The municipal reviewing authority shall cause the shorter duration to be noted on the face of the subdivision plan.

Nothing in this section may be construed to prohibit the developer or other person recording a subdivision plan in the registry of deeds from granting rights of lesser extent than those established in subsections 1 and 2. If rights of lesser extent are granted, the person recording the subdivision plan shall cause the extent of those rights to be described on the face of the subdivision plan and in any conveyance of land shown on the plan.

4. Fee interest reserved by owner of subdivision. If the owner of land for which a subdivision is proposed reserves the fee interest in any ways proposed on the subdivision plan, the owner shall place a statement of this reservation in all conveyances by him of land in the subdivision.

§3032. Proposed, unaccepted ways deemed vacated

1. Deemed vacation. A proposed, unaccepted way or portion of a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds prior to the effective date of this section shall be deemed to have been subject to an order of vacation under section 3027 if the way or portion of the way has not been constructed or used as a way and has not been accepted as a town, county or state way or highway by the later of:

A. Fifteen years after the date of the recording of the subdivision plan laying out the way or portion of the way; or

B. Ten years after the effective date of this section.

A way or portion of a way considered vacated under this subsection is subject to section 3033.

2. Extensions. The municipal officers of the affected municipality may except a proposed, unaccepted way or portion of a proposed, unaccepted way described in subsection 1 from the operation of the time limitations of that subsection by filing, in the registry of deeds where the subdivision plan is recorded, a notice stating that the way or portion of the way is excepted from the operation of subsection 1 for a period of 20 years from the filing of the notice. To be effective, this exception must be filed prior to the expiration of the time limitations of subsection 1. An extension accomplished under this subsection may be extended by the municipal officers for a subsequent 20-year period by the filing of a new notice within the preceding 20-year extension period.

§3033. Rights of action concerning ways deemed vacated

1. Notice by person claiming ownership. Any person claiming to own a proposed, unaccepted way or portion of a proposed, unaccepted way deemed vacated under section 3032 may record, in the registry of deeds where the subdivision plan, to which the notice set forth in this subsection pertains, is recorded, a conformed copy of the notice set forth in this subsection, with an alphabetical listing of the names of the current record owners of lots on the subdivision plan to which the notice pertains and their mortgagees of record. The person shall give notice of his claim to these current record owners and their mortgagees of record. Within 20 days of recording of the notice, the person shall give this notice by mailing, by the United States postal service, postage prepaid, to the current record owners and mortgagees, a copy of the notice set forth below:

#### NOTICE

By virtue of the Maine Revised Statutes, Title 23, section 3032, the following proposed, unaccepted ways or portions of proposed, unaccepted ways were deemed by law to have been vacated by the municipal officers of (name of town or city) . The ways or portions of ways so vacated are shown on a plan (named) (dated) (and) recorded in the County Registry of Deeds, Book of Plans, Volume , Page , (Folio #) and are described as follows:

(Herein list vacated ways or portions of ways)

The undersigned claims to own the (way or ways) (portion of way or ways) described above. Any person claiming an interest in (this way or these ways) (a por-

tion of this way or these ways) adverse to the claim of the undersigned, within one year from the date of recording of a copy of this notice in the registry of deeds, must file a written claim, under oath, in the same registry and, within 180 days thereafter, must commence an action in Superior Court in

County in accordance with the Maine Revised Statutes, Title 23, section 3033. A copy of this notice was recorded in the registry of deeds on

, 19 .

2. Rights of action by persons receiving notice. All persons receiving a notice under subsection 1, who claim any private right of any kind in the way or portion of a way to which the notice pertains, 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 the way or portion of a way by reason of the ownership by the person, or by a predecessor in title, of a lot or parcel of land shown on the recorded subdivision plan to which the notice pertains, unless, within one year from the date of recording of the notice, the person files in the registry of deed where the pertinent subdivision plan is recorded a statement, under oath, specifying the nature, basis and extent of the claimed interest in the way or portion of a way. The claim is forever barred unless, within 180 days of the recording of the statement, the claimant, or a person acting on his behalf, commences an action in equity under Title 14, chapter 723, to establish the rights asserted to or in the way or portion of a way.

The limitation periods in this section are not tolled or interrupted by any disability, minority, lack of knowledge or absence from this State by the claimant.

3. Trial of an action. Upon trial of an action initiated under subsection 2, the court shall grant judgment for the claimant only if it finds that:

A. The claimant has acquired an interest in the way or portion of a way; and

B. The deprivation of the claimant's rights in the way or portion of the way unreasonably limits the claimant's access from his land shown on the recorded subdivision plan to:

(1) A public way;

(2) A public body of water; or

(3) Common land or a common facility within the subdivision.

Any judgment rendered by the court in an action under subsection 2, in the discretion of the court, may grant the claimant reasonable damages instead of establishment of the claimant's rights, except that under no circumstances shall a municipality be liable for any damages granted by any judgment rendered by the court under subsection 2.

§3034. Structures located in proposed ways

1. Action to compel removal. When any structure, for 20 years, has been continuously located, in whole or in part, within a proposed, unaccepted way laid out in a subdivision plan recorded in the registry of deeds, and lots have been sold with reference to this plan, no action may be maintained by any person to compel removal of the structure based upon the fact of its location within the proposed, unaccepted way. For the purposes of this section, person includes a corporation, partnership, governmental entity or other entity.

Nothing in this section may be construed to restrict or affect private rights in a proposed, unaccepted way which come into existence under common law, in equity or under existing statutes. This section shall not be construed for any reason to extend the 20-year period set forth in this subsection.

2. Applicability. This section applies to structures existing and proposed, unaccepted ways laid out on subdivision plans recorded in registries of deeds before, on or after the effective date of this section, except that:

A. When a structure is located within a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds 20 years or more before the effective date of this section, any person, other than the owner of the structure, who claims a right or interest of any kind in the land within the proposed, unaccepted way, or any person claiming by, through or under such a person, may preserve his right or interest by recording the notice set forth in subsection 3, within 2 years after the effective date of this section, in the registry of deeds where the pertinent subdivision plan is recorded; and

B. When a structure is located within a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds less than 20 years before the effective date of this section, any person, other than the owner of the structure, who claims a right or interest of any kind in the land within the proposed, unaccepted way, or any person claiming by, through or under such a person, may preserve his right or interest by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within the later of:

(1) Twenty years from the date of the recording of the subdivision plan, on which the way is laid out, in the registry of deeds; or

(2) Two years after the effective date of this section.

A person seeking to preserve a right or interest under paragraph A or B, within one year after the recording of the notice, shall bring an action to quiet title to establish the existence and extent of his claimed right or interest.

3. Notice. The notice required under subsection 2, paragraphs A and B, shall contain:

A. An intelligible description of the land in which the right or interest is claimed;

B. The name and address of the person on whose behalf the right or interest is claimed;

C. A description of the structure claimed to be within the proposed, unaccepted way in which the person claims a right or interest;

D. The name and address of the owner of the structure;

E. A description, including specific reference, by date of recording and the volume and page numbers, of the recorded instrument upon which the person claims the right to or interest in the recorded source of title; and

F. A duly verified oath taken by the person claiming the right or interest before a person authorized to administer oaths.

4. Register's duties. In indexing a notice presented for recording under subsection 2, the register of deeds shall make an entry:

A. In the grantee index of deeds under the name of the person making the claim in the notice; and

B. In the grantor index of deeds under the name of the owner of the structure described in the notice.

The register of deeds may charge the same fee for recording the notice that is charged for recording deeds.

5. Who may present notice for recording. The notice required under subsection 2 may be presented for recording by the person claiming the right or interest or a person acting on his behalf. Disability or lack of knowledge by the person claiming the right or interest shall not extend the time limitations related to the recording of the notice.

6. Mailing the notice. Within 20 days of the recording of the notice required under subsection 2, the person who presented the notice for recording shall deliver or mail, to the owner's last-known address, a copy of the notice to the owner of the structure described in the notice.

§3035. Construction of laws

Nothing in sections 3031 to 3034 may be construed to extend the period for the bringing of an action or for the doing of any other required act under any statute of limitations. Nothing in those sections may be construed to affect the nature of any right or interest which may be claimed in property to which those sections apply, or to affect the law regarding the sale, release or other dispo-

sition of such a right or interest.

Sections 3031 to 3034 shall be liberally construed to affect the legislative purpose of enhancing the merits of title to land by eliminating the possibility of ancient claims to proposed, unaccepted, unconstructed ways that are outstanding on the record but unclaimed.

Sec. 3. 33 MRSA §460, as amended by PL 1975, c. 416, is repealed and the following enacted in its place:

§460. Conveyance of land abutting a road or way

A conveyance of land which abuts a town or private way, county road, highway or proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds shall be deemed to convey all of the grantor's interest in the portion of the road or way which abuts the land, except:

1. Proposed, unaccepted ways. With respect to a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds, those rights provided to owners of other lots in the subdivision by Title 23, section 3031; and

2. All roads and ways. With respect to a town or private way, county road or highway, an easement of access necessary to provide ingress and egress to property adjoining the town or private way, county road or highway which shall be preserved, unless the grantor expressly reserves his title to the road or way by a specific reference to the road or way contained in the conveyance.

Sec. 4. 33 MRSA §469-A is enacted to read:

§469-A. Title to proposed, unaccepted ways

1. Reservation of title. Any conveyance made before the effective date of this section which conveyed land abutting upon a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds shall be deemed to have conveyed all of the grantor's interest in the portion of the way which abuts the land conveyed, unless the grantor expressly reserved his title to the way by a specific reference to this reservation in the conveyance of the land.

2. Intent to reserve. Any grantor who, before the effective date of this section, conveyed land abutting a proposed, unaccepted way laid out on a subdivision plan recorded in the registry of deeds with the intent to reserve title to the way, but who did not expressly reserve title to the way as required in subsection 1, or any person who claims title to the way by, through or under the grantor, may preserve the grantor's claim by recording the notice set forth in subsection 3, in the registry of deeds where the pertinent subdivision plan is recorded, within 2 years after the effective date of this section.

3. Notice. The notice required under subsection 2

shall contain:

A. An intelligible description of the way or portion of a way in which title is being claimed;

B. The name and address of the person on whose behalf the title is being claimed;

C. A description, including specific reference, by date of recording and the volume and page numbers, to that conveyance, of the recorded instrument in which the person claims title to the way or portion of the way which was intended to be reserved; and

D. A duly verified oath taken by the person claiming title before a person authorized to administer oaths.

4. Register's duties. The register of deeds shall enter upon the margin of the recorded conveyance, described in the notice under subsection 3, paragraph C, the volume and page numbers where the notice is recorded.

The register of deeds may charge the same fee for recording the notice that is charged for recording deeds.

5. Who may present notice for recording. The notice required under subsection 2 may be presented for recording by the person claiming title or a person acting on his behalf. Disability or lack of knowledge by the person claiming title shall not extend the time limitations related to the recording of the notice.

6. Lack of reservation. Any person owning land in this State abutting a proposed, unaccepted way or portion of a proposed, unaccepted way, whose predecessors in title had not reserved title in the way under subsection 1 or 2, is deemed to own to the center line of the way or portion of the way.

7. Action to establish title. In any action concerning title to a proposed, unaccepted way, the burden of proof concerning the grantor's intent to reserve title shall be on the grantor or those claiming title by, through or under the grantor.

8. Construction of laws. Nothing contained in this section may be construed to extend the period for the bringing of an action or for the doing of any other required act under any statute of limitations.

This section shall be liberally construed to affect the legislative purpose of clarifying the title to land underlying proposed, unaccepted ways by eliminating the possibility of ancient claims.

Effective September 29, 1987.

## CHAPTER 386

H.P. 1299 — L.D. 1777