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An Act To Allow Road Associations To Determine Assessments According to Majority Vote Cast at a Duly Held Meeting

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

Sec. 1. 23 MRSA §3101, as amended by PL 2007, c. 162, §1, is repealed and the following enacted in its place:

§ 3101. Call of meetings; maintenance; repairs

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Private way" means a public easement as defined in section 3021, subsection 2.

B. "Repairs and maintenance" does not include paving, except 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. "Maintenance" includes, but is not limited to, snowplowing.

2. Call of meeting. When 4 or more parcels of land are benefited by a private road, private way or bridge as an easement or by fee ownership of the private road, private way or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. If mailing copies of the warrant or similar written notice to all such owners is not possible, the notary shall post a notice in a public place. The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5.

3. E-mail. E-mail may be used as an alternative to United States mail for sending notices and other materials under this section with the agreement of the receiving party as long as the communication includes the current address and telephone number of the sender for purposes of verification.

4. Voting. Each parcel of land benefited by a private road, private way or bridge represents one vote under this section; except that, if the bylaws of the association authorize more than one vote, then each parcel may represent no more than 2 votes under this subsection. The call to a meeting may state that an owner may elect to appoint another owner to vote in the owner's stead. Owners voting by absentee ballot must be polled on all voting items that were not included in the agenda and the final tally must be reported to the owners.

5. Commissioner or board; repair and maintenance assessment. The owners of parcels of land benefited by a private road, private way or bridge at a meeting called pursuant to subsection 2 may choose a commissioner or board, to be sworn. By a majority vote, the owners may determine what repairs and maintenance are necessary and the materials to be furnished or amount of money to be paid by each owner for repairs and maintenance. The determination of each owner's share of the total cost must be fair and equitable. The commissioner or board shall report the outcome of all votes to all the owners by United States mail within 30 days. Special assessments for emergency repairs and maintenance may be made at a duly held meeting called for that purpose. Emergency repairs and maintenance are those actions necessary to maintain or restore the functionality of the private road, private way or bridge.

6. Commercial or forest management purposes. This section does not apply to a private road, private way or bridge constructed or primarily used for commercial or forest management purposes.

Sec. 2. 23 MRSA §3102, as amended by PL 1999, c. 552, §2, is further amended to read:

§ 3102. Commissioner's or board's duties; neglect of owners to pay

The commissioner or board chosen under section 3101, with respect to the private road, private way or bridge, has the powers of a road commissioner. If any owner, on requirement of the commissioner or board, neglects to furnish that owner's proportion of labor, materials or money, the same may be furnished by the other owners and recovered of the owner neglecting to pay in a civil action, together with costs of suit and reasonable attorney's fees. The commissioner's or board's apportioning of the cost of repairs to the road undertaken pursuant to the provisions of section 3101 may not exceed 1% of an individual owner's property valuation in any calendar year.

Sec. 3. 23 MRSA §3103, as amended by PL 2005, c. 479, §1, is further amended to read:

§ 3103. Contracts for repair; assessments

The owners, at a meeting held under section 3101, may by a majority vote authorize a contract to be made for making repairs to and keeping maintaining the private road, private way or bridge in repair by the year or for a lesser time and may raise money for that purpose and choose assessors to assess it on the owners in proportion to each owner's interest pursuant to section 3101, subsection 5. An owner's interest is based on the assessed valuation for property tax on the owner's parcel that is benefited by the private way or bridge. The assessors shall deliver their assessment with a warrant for its collection to the commissioner. The warrant must be in substance such as is prescribed for collection of town taxes. The commissioner or board shall collect the same money as town taxes are collected; and be liable for neglect of duty as town collectors are for similar neglects.

Sec. 4. 23 MRSA §3104, as amended by PL 1997, c. 682, §2, is further amended to read:

§ 3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of such the owners. In any process for its recovery, a description of the owners in general terms as owners of parcels of land benefited by the private road, private way or bridge, clearly describing the private road, private way or bridge, is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest.

Effective July 18, 2008