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

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

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

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

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

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

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

**SUMMARY**

This bill requires that when a road or a discontinued town way pursuant to section 3026-A in which a town holds a public easement is the only road or way that can be used to access one or more residences and the town issues permits for residential use of residences or collects property taxes on those residences, the town is not required to keep the road or way safe and convenient for travelers with motor vehicles but must provide sufficient maintenance to keep the road or way passable to access the residences on the road or way, as determined by the county commissioners.