

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Assist Maine Citizens Residing along Public Easements

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

Sec. 1. 23 MRSA §3026, sub-§1, as enacted by PL 1981, c. 683, §1, is amended to read:

1. General procedures; maintenance of public easement. 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, must be retained and all remaining interests of the municipality shall pass to the abutting property owners to the center of the way. If a public easement is retained and, at the time of approval of the discontinuance order, there are legal residences on the property abutting that public easement, the municipality, at the expense of that municipality, shall keep that public easement reasonably passable for the use of motor vehicles for the purpose of access to the residences abutting that public easement. If a public easement is not retained, all interests of the municipality pass to the abutting property owners to the center of the way and the municipality is not responsible for maintenance of that discontinued town way. For purposes of this section, the words "public easement" shall include, without limitation, an easement for public utility facilities necessary to provide service.

Sec. 2. 23 MRSA §3202 is repealed and the following enacted in its place:

§ 3202. Mail routes

If a municipality holds a right-of-way over which there is a mail route, it is the responsibility of that municipality to keep the mail route to the standard required by United States Postal Service regulations.

SUMMARY

This bill requires a municipality that discontinues a town way but that retains a public easement on that town way to continue to maintain that public easement, at the expense of the municipality, so that it is reasonably passable by motor vehicles if there are legal residences on the property abutting the town way at the time of discontinuance. If a municipality discontinues a town way and specifically discontinues the public easement on that town way, the interests of the municipality pass to the abutting property owners to the center of the town way and the municipality is not required to keep the town way passable. As defined in current law, a town way includes a county way not discontinued prior to July 29, 1976.

This bill also requires a municipality to maintain a mail route located on a right-of-way held by the municipality to the standard required by United States Postal Service regulations.