

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 Clarify Certain Right-of-way Limitations

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

Sec. 1. 33 MRSA §459 is enacted to read:

§ 459. Easements or rights-of-way to water; installation of docks

1. Easements or rights-of-way established on or after January 1, 2018. A conveyance after January 1, 2018 of an easement or right-of-way leading to or touching upon a water body does not include any right by implication to install a dock or other fixture on that water body unless such a right is expressly stated in the easement or right-of-way.

Nothing in this subsection may be interpreted to affect any property rights other than those expressly described in this section.

2. Enforcement. A municipality may, upon a written request of the owner of land subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or touching upon a water body that does not expressly include the right to install a dock or other fixture on that water body, order, after notice and hearing, any person who has built a dock or other fixture on that water body under a claim of an implied right under that easement or right-of-way to remove the dock or fixture at that person's expense. An appeal of a decision or order of a municipality under this subsection may be made under the Maine Rules of Civil Procedure, Rule 80B.

SUMMARY

This bill provides that a conveyance after January 1, 2018 of an easement or right-of-way leading to or touching upon a water body does not include any right by implication to install a dock or other fixture on that water body unless such a right is expressly stated in the easement or right-of-way.

This bill also provides that a municipality may, at the request of the owner of land subject to an easement or right-of-way, conveyed after January 1, 2018, leading to or touching upon a water body that does not expressly include a right to install a dock or other fixture on that water body, after notice and hearing, direct any person who has built a dock or other fixture on that water body under a claim of an implied right under that easement or right-of-way to remove the dock or fixture at that person's expense.