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An Act To Maintain Mail Routes and Access to Residential Structures

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

Sec. 1. 23 MRSA §3026-A, sub-§2, as enacted by PL 2015, c. 464, §5, is amended to read:

2. Municipal officers meet to discuss proposed discontinuance and file order of discontinuance. The municipal officers shall discuss a proposed discontinuance of a town way or public easement at a public meeting and file an order of discontinuance with the municipal clerk that specifies:

- A. The location of the town way or public easement;
- B. The names of abutting property owners;
- C. The amount of damages, if any, determined by the municipal officers to be paid to each abutting property owner; and
- D. Whether or not a public easement is retained.

If a proposal includes the discontinuance of a town way without retention of a public easement, that must be stated explicitly in the order of discontinuance; otherwise, the public easement is retained. If a public easement is retained, all other interests of the municipality in the discontinued way, if any, pass to abutting property owners to the center of the wayThe public easement may not be discontinued if it provides the sole access to any property. If a public easement is retained, the purpose for the public easement must be stated in the order and the municipality is responsible for keeping the easement passable for that purpose. If a public easement is not retained, all interests of the municipality in the discontinued way pass to abutting property owners to the center of the way.

Sec. 2. 23 MRSA §3026-B is enacted to read:

§ 3026-B. Maintenance of town ways providing access to residential structures

Notwithstanding section 3026-A, a town may not discontinue a way on which there is a residential structure if that way is the only way that provides access to that residential structure. A town is required to keep passable for use by motor vehicles a way that is prevented from being discontinued pursuant to this section.

Sec. 3. 23 MRSA §3028, sub-§1, as enacted by PL 1991, c. 195, is amended to read:

1. Presumption of abandonment. It is prima facie evidence that a town or county way not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years has been discontinued by abandonment. A presumption of abandonment may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider

or use the way as if it were a public way or by evidence that there is a residential structure that depends upon the way for its sole access as described in section 3026-B. A proceeding to discontinue a town or county way may not prevent or estop a municipality from asserting a presumption of abandonment. A municipality or its officials are not liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section is relegated to the same status as it would have had after a discontinuance pursuant to section 3026, ~~except that this status is at all times subject to an affirmative vote of the legislative body of the municipality within which the way lies making that way an easement for recreational use~~3026-A. A presumption of abandonment is not rebutted by evidence that shows isolated acts of maintenance, unless other evidence exists that shows a clear intent by the municipality or county to consider or use the way as if it were a public way.

Sec. 4. 23 MRSA §3201 is amended to read:

§ 3201. Removal required; damages

When any ~~ways are~~public way is blocked or encumbered with snow, the road commissioner shall forthwith cause so much of ~~it~~the snow to be removed ~~or trodden down~~ as will render ~~them~~the way passable. The town may direct the manner of doing it. In case of sudden injury to public ways or bridges, ~~he~~the road commissioner shall without delay cause them to be repaired. All damage, accruing to a person in ~~his~~the person's business or property through neglect of such road commissioner or the municipal officers of such town to so render passable public ways that are blocked or encumbered with snow, within a reasonable time, may be recovered of such town by a civil action.

Sec. 5. 23 MRSA §3202 is amended to read:

§ 3202. Mail routes; snow fences

~~There shall be furnished and kept in repair in each section of the town through which there is a mail route some effectual apparatus for opening ways obstructed by snow, to be used to break and keep open the way to the width of 10 feet, and the~~Wherever there is an established mail route over a right-of-way held by a municipality, the municipal officers of the municipality shall ensure that the way is kept safe for the use of the mail carrier throughout the year in accordance with United States Postal Service regulations. ~~When any municipality fails to keep an established mail route safe for the mail carrier, responsible persons may proceed as provided under sections 3652, 3653 and 3654. All damage accruing to a person, business or property through neglect of such municipal officers to render the way passable for the mail carrier within a reasonable time may be recovered of such municipality by a civil action.~~ The municipal officers of towns, or any road commissioner under their direction, may take down fences upon the line of public highways when they ~~deem~~determine it necessary to prevent the drifting of snow ~~therein~~on those public highways, but they ~~shall~~the fences must in due season be replaced, in as good condition as when taken down, without expense to the owner.

SUMMARY

This bill prohibits a municipality from discontinuing a road on which there is a residential structure that depends upon the road for its sole access and requires the municipality to plow snow from that road and keep it passable. The bill allows for the rebuttal of the presumption of abandonment of a public way if there is a residential structure that depends on the way for its sole access. The bill requires municipalities to maintain mail routes in accordance with United States Postal Service regulations.