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Minority
Report

L.D. 1598

Date:

(Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1157, L.D. 1598, Bill, “An Act To Define the Responsibilities of Property Owners for the Maintenance and Repair of Private Roads”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 23 MRSA c. 305, sub-c. 2-A is enacted to read:

SUBCHAPTER 2-A

MAINTENANCE OF PRIVATE ROADS

§3121. Responsibility for cost of repairs to and maintenance of private roads

1. Cost sharing. If more than one property shares a common benefit from a private road, each property owner that shares the common benefit is responsible for a share of the cost of reasonable and necessary repairs to and maintenance of that private road determined pursuant to the terms of any agreement entered into to determine the share of the cost of reasonable and necessary repairs to and maintenance of the private road, any deed restriction, covenant or declaration applicable to the benefited property, any road association created pursuant to this chapter or otherwise or any method elected under section 3101, when applicable. In the absence of any such agreement, restriction, covenant, declaration, road association or method elected under section 3101, each residential property owner, after reasonable due process and notice, shall share equally in the cost of reasonable and necessary repairs to and maintenance of the private road when the private road is the primary means of access to the benefited property. For purposes of this subchapter, each residential property may be assessed only one share toward the collective cost of repairs and maintenance regardless of whether there are multiple owners of record for one property.

COMMITTEE AMENDMENT

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2. Repairs and maintenance defined. For the purposes of this subchapter, "repairs and maintenance" has the same meaning as set forth in section 3101, subsection 1, paragraph B.

3. Enforcement. If a residential property owner fails, after a demand in writing, to pay that owner's share of the cost of reasonable and necessary repairs to and maintenance of the private road in accordance with subsection 1, a legal claim for payment of the amount owed may be brought against the owner of the property by a residential owner or owners who share a common benefit in the road, either jointly or severally.

4. Conflict. In the event of any conflict between the provisions of this section and an agreement, restriction, covenant, declaration, road association or method elected in section 3101 existing on or entered into after the effective date of this section, the terms of the agreement, restriction, covenant, declaration, road association or method elected in section 3101 control.

5. Exceptions. This section does not apply to:

A. A private road constructed or primarily used for commercial or forest management purposes;

B. A property owner who issues a ground lease to a 3rd party who maintains a residence on the subject property. For purposes of this section, a ground lease is an arrangement under which a property owner leases only land to a lessee and the lessee retains the rights to use the land and any improvements the lessee makes for the term of the lease; or

C. Private roads located in Aroostook County!

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the minority report of the Joint Standing Committee on Judiciary. It replaces the bill. It differs from the majority report in that it does not apply to private roads in Aroostook County.

The amendment enacts a new subchapter in the Maine Revised Statutes, Title 23, chapter 305, which concerns local road construction and repair, to address the responsibility for the repair and maintenance of private roads and private ways that benefit residential properties. It is limited in application to residential properties only. Unless there is an agreement, deed restriction, covenant or declaration or road association that specifies the cost to be paid by each owner of a benefited property, the cost is shared equally by the benefited properties. Each residential property is subject to cost sharing, not each residential property owner; each residential property is assessed one share of the collective costs of repairs and maintenance regardless of whether there are multiple owners of record for that property. An owner who fails to comply may be forced to comply through an action brought by other owners on the private road or private way.

The amendment uses the definition of "repairs and maintenance" provided in the law that applies to road associations.

COMMITTEE AMENDMENT

R O P C

COMMITTEE AMENDMENT " " to H.P. 1157, L.D. 1598

1 The provisions do not apply to a private road constructed or used primarily for
2 commercial or forest management purposes, to a property owner who issues a ground
3 lease to a 3rd party who maintains a residence on the subject property or to private roads
4 in Aroostook County. "Ground lease" is defined for the purposes of this law as an
5 arrangement under which a property owner leases only land to the lessee and the lessee
6 retains the rights to use the land and any improvements the lessee makes for the term of
7 the lease.

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FISCAL NOTE REQUIRED

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(See attached)



Approved: 02/25/20 *MGC*

129th MAINE LEGISLATURE

LD 1598

LR 1831(03)

An Act To Define the Responsibilities of Property Owners for the Maintenance and Repair of Private Roads

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.