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An Act To Allow Road Associations To Determine Assessments According to Majority Vote Cast at a Duly Held Meeting

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

Sec. 1. 23 MRSA §3101, as amended by PL 2007, c. 162, §1, is repealed and the following enacted in its place:

§ 3101. Call of meetings; maintenance; repairs

1. Definitions. As used in this section, "repairs and maintenance" does not include paving, except in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem or to repair and maintain pavement existing as of July 1, 2007.

2. Call of meeting. Except as provided in this section, when 4 or more parcels of land are benefited by a public easement, private way or bridge as an easement or by fee ownership of the public easement, private way or bridge, the owners of any 3 or more of the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting. The notary may issue a warrant setting forth the time, place and purpose of the meeting. If a warrant is issued, copies of the warrant must be mailed by United States Postal Service to the owners of all the parcels benefited by the public easement, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. If mailing copies of the warrant to all such owners is not possible, the notary shall post a notice in a public place. The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on.

3. Quorum. A quorum for the transaction of business at all meetings held pursuant to this section is 50% of all votes, including proxies and absentee ballots. Each parcel of land benefited by a public easement, private way or bridge represents one vote.

4. Board; repair and maintenance assessment. The owners of parcels of land benefited by a public easement, private way or bridge at a meeting called pursuant to subsection 2 may choose a board, to be sworn. By a majority vote, the owners may determine what repairs and maintenance are necessary and the materials to be furnished or amount of money to be paid by each owner for repairs and maintenance. The board shall report the outcome of all votes to all the owners by United States mail within 30 days. Special assessments for emergency repairs and maintenance may be made at a duly held meeting called for that purpose.

5. Commercial or forest management purposes. This section does not apply to ways constructed or primarily used for commercial or forest management purposes.

Sec. 2. 23 MRSA §3102, as amended by PL 1999, c. 552, §2, is further amended to read:

§ 3102. Board's duties; neglect of owners to pay

The ~~commissioner~~board chosen under section 3101, with respect to the public easement, private way or bridge, has the powers of a road commissioner. If any owner, on requirement of the ~~commissioner~~board, neglects to furnish that owner's proportion of labor, materials or money, the same may be furnished by the other owners and recovered of the owner neglecting to pay in a civil action, together with costs of suit and reasonable attorney's fees. The ~~commissioner's~~board's apportioning of the cost of repairs to the road undertaken pursuant to the provisions of section 3101 may not exceed 1% of an individual owner's property valuation in any calendar year.

Sec. 3. 23 MRSA §3103, as amended by PL 2005, c. 479, §1, is further amended to read:

§ 3103. Contracts for repair; assessments

The owners, at a meeting held under section 3101, may by a majority vote authorize a contract to be made for making repairs to and keeping/maintaining the public easement, private way or bridge in repair by the year or for a lesser time and may raise money for that purpose ~~and choose assessors to assess it on the owners in proportion to each owner's interest pursuant to section 3101, subsection 4. An owner's interest is based on the assessed valuation for property tax on the owner's parcel that is benefited by the private way or bridge. The assessors shall deliver their assessment with a warrant for its collection to the commissioner. The warrant must be in substance such as is prescribed for collection of town taxes. The commissioner/board shall collect the same money as town taxes are collected, and be liable for neglect of duty as town collectors are for similar neglects.~~

Sec. 4. 23 MRSA §3104, as amended by PL 1997, c. 682, §2, is further amended to read:

§ 3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of ~~such~~the owners. In any process for its recovery, a description of the owners in general terms as owners of parcels of land benefited by the public easement, private way or bridge, clearly describing the public easement, private way or bridge, is sufficient. Such process is not abated by the death of any owner or by the transfer of any owner's interest.

SUMMARY

This bill amends the laws pertaining to road associations formed under the private ways laws by allowing them to make assessments using any method they choose that is endorsed by a majority vote at a duly held meeting. The bill establishes guidelines for notifying lot owners of any meeting scheduled to deal with maintenance and repair of the public easement, private way or bridge. The bill establishes a quorum that is necessary to hold a meeting and to vote on issues at the meeting. The bill establishes a board to run the meetings. The bill adds maintenance of a road to the laws pertaining to road repairs. The bill also adds public easements to the private ways laws.