



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1145

H.P. 808

House of Representatives, March 23, 2017

**An Act To Allow the Department of Transportation To Recover
Costs Incurred by the Department for Allowing Access to a
Controlled Access Highway**

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative LUCHINI of Ellsworth.

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

2 **Sec. 1. 23 MRSA §704, sub-§6**, as amended by PL 2013, c. 220, §1, is further
3 amended to read:

4 **6. Access denied.** Notwithstanding any other provision of this Title and except as
5 provided in subsection 10, the Department of Transportation and the municipalities shall
6 deny ingress to and egress from property abutting a controlled access highway established
7 by the department pursuant to chapter 7, except that the Commissioner of Transportation
8 may allow access for the development of state and state aid highways and may allow
9 access upon a determination by the commissioner that such access will not adversely
10 affect public safety and will not have a significant negative impact on the mobility of
11 through-travelers. The commissioner may approve or deny a relocation of an existing
12 break in a control of access consistent with the rules adopted pursuant to subsection 2.
13 When the department allows access under this subsection, it may recover from the
14 applicant costs incurred by the department to allow access, plus the lesser of the amount
15 the department determines was paid to the landowner to extinguish rights of access on the
16 portion of land to be used to gain access to the highway, adjusted by the percentage
17 increase in the Consumer Price Index, and the difference between the appraised value of
18 the affected property without the access and the appraised value of the affected property
19 with the access.

20 **Sec. 2. 23 MRSA §704, sub-§10**, as enacted by PL 2005, c. 188, §1, is amended
21 to read:

22 **10. Requirements waived.** The department may waive the requirements of rules
23 adopted pursuant to this section and may issue a permit for a driveway when the property
24 abuts no other road affording vehicular access to a person's property and the property is
25 outside the compact area of an urban compact municipality. The department may not
26 deny a person the right to build on or to have vehicular access to property owned by that
27 person unless the access is determined inconsistent with access management safety
28 standards. When the department allows access under this subsection, it may recover from
29 the applicant costs incurred by the department to allow access and any costs associated
30 with maintaining the mobility of through-travelers, plus the lesser of the amount the
31 department determines was paid to the landowner to extinguish rights of access on the
32 portion of land to be used to gain access to the highway, adjusted by the percentage
33 increase in the Consumer Price Index, and the difference between the appraised value of
34 the affected property without the access and the appraised value of the affected property
35 with the access.

36 **SUMMARY**

37 This bill provides that, when the Department of Transportation allows access onto a
38 controlled access highway because the access will not adversely affect public safety and
39 will not have a significant negative impact on the mobility of through-travelers, the
40 department may recover from the applicant costs incurred by the department to allow
41 access and any costs associated with maintaining the mobility of through-travelers, plus
42 the lesser of the amount the department determines was paid to the landowner to

1 extinguish rights of access on the portion of land to be used to gain access to the highway,
2 adjusted by the percentage increase in the Consumer Price Index, and the difference
3 between the appraised value of the affected property without the access and the appraised
4 value of the affected property with the access.

5 The bill also provides that, when the department allows access onto a controlled
6 access highway when the property abuts no other road affording vehicular access to the
7 applicant's property, the department may recover from the applicant costs incurred by the
8 department to allow access and any costs associated with maintaining the mobility of
9 through-travelers, plus the lesser of the amount the department determines was paid to the
10 landowner to extinguish rights of access on the portion of land to be used to gain access
11 to the highway, adjusted by the percentage increase in the Consumer Price Index, and the
12 difference between the appraised value of the affected property without the access and the
13 appraised value of the affected property with the access.