

Appendix C: Maine's Private Way Law

These statutes can be found in electronic form on the State of Maine's web site for the Constitution, Statutes and Session Laws of Maine at <http://janus.state.me.us/legis/statutes/23/title23sec3101.html>.

Title 23: HIGHWAYS Part 3: LOCAL HIGHWAY LAW Chapter 305: CONSTRUCTION, MAINTENANCE AND REPAIR Subchapter 2: PRIVATE WAYS

§3101. Call of meetings; repairs

Except as provided in this section, when 4 or more parcels of land are benefited by a private way or bridge as an appurtenant easement or by fee ownership of the 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, who may issue a warrant setting forth the time, place and purpose of the meeting, copies of which must be posted at some public place in the town and mailed to the owners of all the parcels benefited by the way at the addresses set forth in the municipal tax records, at least 30 days before such time. When so assembled, they may choose a commissioner, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner for the repairs and the manner of calling future meetings. This section does not apply to ways constructed or primarily used for commercial or forest management purposes. As used in this section, "repairs" does not include paving, except to repair existing pavement or in locations where limited paving is demonstrated to be a cost-effective approach for fixing an erosion problem. [1999, c. 552, §1 (amd).]

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

The commissioner chosen under section 3101, with respect to the way or bridge, has the powers of a road commissioner. If any owner, on requirement of the commissioner, 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 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. [1999, c. 552, §2 (amd).]

§3103. Contracts for repair; assessments

The owners, at a meeting held under section 3101, may authorize a contract to be

made for making and keeping the 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. 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 shall collect the same as town taxes are collected, and be liable for neglect of duty as town collectors are for similar neglects. [2005, c. 479, §1 (amd).]

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of such owners. In any process for its recovery, a description of the owners in general terms as owners of parcels of land benefited by the way or bridge, clearly describing the 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. [1997, c. 682, §2 (amd).]

§3105. Use of town equipment

The inhabitants of any town or village corporation at a legal town or village corporation meeting may authorize the selectmen of the town or assessors of the village corporation to use its highway equipment on private ways within such town or village corporation, whenever such selectmen or assessors deem it advisable in the best interests of the town or village corporation for fire and police protection.