

Maine Revised Statutes
Title 23: TRANSPORTATION
Chapter 305: CONSTRUCTION, MAINTENANCE AND REPAIR

§3101. CALL OF MEETINGS; MAINTENANCE; REPAIRS

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Private way" means a public easement as defined in section 3021, subsection 2. [2007, c. 625, §1 (NEW) .]

B. "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. "Maintenance" includes, but is not limited to, snowplowing, snow removal, sanding and ice control; grading and adding gravel and surface material; installing, cleaning and replacing culverts; creating and maintaining ditches, drains and other storm water management infrastructure; creating and maintaining sight distances on curves and at intersections; and cutting brush, trees and vegetation in the right-of-way. [2013, c. 198, §1 (AMD) .]

[2013, c. 198, §1 (AMD) .]

2. Call of meeting. When 4 or more parcels of land are benefited by a private road, private way or bridge as an easement or by fee ownership of the private road, 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 or similar written notice setting forth the time, place and purpose of the meeting. Copies of the warrant or similar written notice must be mailed by means of the United States Postal Service to the owners of all the parcels benefited by the private road, private way or bridge at the addresses set forth in the municipal tax records at least 30 days before the date of the meeting. The notice must inform the owners of the planned meeting's agenda and specify all items to be voted on, including, but not limited to, all proposed budget items or amendments that will determine the amount of money to be paid by each owner pursuant to subsection 5. Subsequent meetings may be called in the same manner or by a commissioner or board appointed at a previous meeting pursuant to subsection 5.

[2013, c. 198, §2 (AMD) .]

3. E-mail. E-mail may be used as an alternative to United States mail for sending notices and other materials under this section with the agreement of the receiving party as long as the communication includes the current address and telephone number of the sender for purposes of verification.

[2007, c. 625, §1 (NEW) .]

4. Voting. Each parcel of land benefited by a private road, private way or bridge represents one vote under this section; except that, if the bylaws of the association authorize more than one vote, then each parcel may represent no more than 2 votes under this subsection. The call to a meeting may state that an owner may elect in writing to appoint another owner to vote in the owner's stead. Owners voting by absentee ballot must be polled on all voting items that were not included in the agenda and the final tally must be reported to the owners.

[2013, c. 198, §3 (AMD) .]

4-A. Road associations. A road association under this subchapter through its commissioner or board may address present and future repair and maintenance of a private road, private way or bridge as authorized by the owners at meetings called and conducted pursuant to this section until the association is dissolved by a majority vote of its members.

[2013, c. 198, §4 (AMD) .]

5. Commissioner or board; assessment for repair, maintenance and other costs. The owners of parcels of land benefited by a private road, private way or bridge at a meeting called pursuant to subsection 2 may choose a commissioner or board, to be sworn. By a majority vote of the owners present and voting in person or by written proxy or absentee ballot, 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 and may determine the amount of money to be paid by each owner for other costs, including, but not limited to, the cost of liability insurance for the officers, directors and owners and costs of administration. The determination of each owner's share of the total cost must be fair and equitable and based upon a formula provided for in the road association's bylaws or adopted by the owners at a meeting called and conducted pursuant to this section. The commissioner or 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. Emergency repairs and maintenance are those actions necessary to maintain or restore the functionality of the private road, private way or bridge.

[2013, c. 198, §5 (AMD) .]

5-A. Easements. A road association under this subchapter may negotiate an easement for the installation of a ditch, drain, culvert or other storm water management infrastructure to benefit the private road, private way or bridge. The easement must specify when a ditch, drain, culvert or other storm water management infrastructure must be maintained and include reasonable performance standards to guide the timing and extent of its upkeep and repair. The easement must also be recorded at the registry of deeds in the county in which the property subject to the easement is located. A ditch, drain, culvert or other storm water management infrastructure subject to an easement under this subsection must be under the control of and maintained by the road association.

[2013, c. 198, §6 (AMD) .]

6. Commercial or forest management purposes. This section does not apply to a private road, private way or bridge constructed or primarily used for commercial or forest management purposes.

[2007, c. 625, §1 (NEW) .]

7. Immunity from suit. A commissioner, board or owner of a parcel of land who undertakes activities of a road association under this subchapter is immune from civil liability in all actions by owners or lessees of other lots for the following activities:

- A. The determination of repairs and maintenance to be undertaken; [2009, c. 238, §1 (NEW) .]
- B. The determination of materials to be furnished or amount of money to be paid by each owner for repairs and maintenance; [2009, c. 238, §1 (NEW) .]
- C. The collection of the money from each owner; and [2009, c. 238, §1 (NEW) .]
- D. The awarding of a contract authorized under section 3103. [2009, c. 238, §1 (NEW) .]

[2009, c. 238, §1 (NEW) .]

8. Environmental violations. Notwithstanding subsection 7, a commissioner, board or owner of a parcel of land is not immune from an enforcement action for a violation of law under the jurisdiction of the Department of Environmental Protection or a municipality.

[2009, c. 238, §2 (NEW) .]

9. Insurance. A road association under this subchapter may purchase liability insurance to defend and indemnify the road association's officers, directors and owner members for any and all claims of liability or violation of law concerning the private road, private way or bridge and may include the costs of such insurance in the determination of each owner's share of the total cost under subsection 5.

[2013, c. 198, §7 (NEW) .]

SECTION HISTORY

1995, c. 227, §1 (AMD). 1997, c. 682, §1 (AMD). 1999, c. 552, §1 (AMD).
2007, c. 162, §1 (AMD). 2007, c. 625, §1 (RPR). 2009, c. 238, §§1, 2
(AMD). 2009, c. 239, §§1-3 (AMD). 2013, c. 198, §§1-7 (AMD).

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