

2017 -- S 0235

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PROPERTY - MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-
OF-WAY

Introduced By: Senators Lombardi, Jabour, Nesselbush, Lynch Prata, and McCaffrey

Date Introduced: February 02, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by
2 adding thereto the following chapter:

3 CHAPTER 9.1

4 MAINTENANCE OF PRIVATE EASEMENTS AND RIGHTS-OF-WAY

5 **34-9.1-1. Definitions.**

6 As used in this chapter:

7 (1) "Benefited property" or "property that benefits" means and includes residential real
8 property enjoying the use of an easement or right-of-way; and

9 (2) "Easement" or "right-of-way" means a private appurtenant easement or right-of-way;
10 and

11 (3) "Residential real property" means one to four (4) family residential real estate located
12 in this state, but does not include property owned by the state or any political subdivision thereof.

13 **34-9.1-2. Maintenance of private easements and rights-of-way.**

14 (a) In the absence of a written agreement to the contrary, the owner of any residential real
15 property that benefits from an easement or right-of-way, the purpose of which is to provide access
16 to such residential real property, shall be responsible for the cost of maintaining such easement or
17 right-of-way in good repair and the cost of repairing or restoring any damaged portion of such
18 easement or right-of-way. Such maintenance shall include, but not be limited to, the removal of

1 snow from such easement or right-of-way.

2 (b) If more than one residential real property benefits from such easement or right-of-
3 way, the cost of maintaining and repairing or restoring such easement or right-of-way shall be
4 shared by each owner of a benefited property, pursuant to the terms of any enforceable written
5 agreement entered into for such purpose. In the absence of such agreement, the cost of
6 maintaining and repairing or restoring such easement or right-of-way shall be shared by each
7 owner of a benefited property in proportion to the benefit received by each such property,
8 provided that the market value or assessed valuation of each such property shall not be taken into
9 consideration in the calculation of benefit received.

10 (c) Notwithstanding the provisions of subsections (a) and (b) of this section, any owner of
11 a benefited property who directly or indirectly damages any portion of the easement or right-of-
12 way shall be solely responsible for repairing or restoring the portion damaged by the owner.

13 (d) If any owner of a benefited property refuses to repair or restore a damaged portion of
14 an easement or right-of-way in accordance with subsection (c) of this section, or fails, after a
15 demand in writing, to pay the owner's proportion of the cost of maintaining or repairing or
16 restoring such easement or right-of-way in accordance with subsection (b) of this section, an
17 action for specific performance or contribution may be brought in the superior court against such
18 owner by other owners of benefited properties, either jointly or severally.

19 (e) In the event of any conflict between the provisions of this section and an agreement
20 described in subsections (a) or (b) of this section, the terms of the agreement shall control.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would require that the cost of maintaining an easement or right-of-way be the
- 2 responsibility of the owner(s) of the property the easement benefits.
- 3 This act would take effect upon passage.

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