

2018 -- S 2359 SUBSTITUTE A

LC004496/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

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

Introduced By: Senators Lombardi, McCaffrey, Lynch Prata, Ciccone, and
Archambault

Date Introduced: February 15, 2018

Referred To: Senate Environment & Agriculture

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;

9 (2) "Burdened property" means and includes residential real property over which the
10 easement runs;

11 (3) "Easement" or "right-of-way" means a private appurtenant easement or right-of-way;
12 and

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

15 **34-9.1-2. Maintenance of private easement and rights-of-way.**

16 (a) In the absence of a written agreement to the contrary, the owner of any residential real
17 property that benefits from an easement or right-of-way, the purpose of which is to provide access
18 to such residential real property, shall be responsible for the cost of maintaining such easement or

1 right-of-way in good repair and the cost of repairing or restoring any damaged portion of such
2 easement or right-of-way. Such maintenance shall include, but not be limited to, the removal of
3 snow from such easement or right-of-way.

4 (b) In the absence of a written agreement, the cost of maintaining and repairing or
5 restoring such easement or right-of-way shall be shared by each owner of a benefited property in
6 proportion to the benefit received by each such property; provided, that the market value or
7 assessed valuation of each such property shall not be taken into consideration in the calculation of
8 benefit received.

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

13 (d) If any owner of a benefited or burdened property refuses to repair or restore a
14 damaged portion of an easement or right-of-way in accordance with 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 and/or burdened 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 that the easement benefits.
- 3 This act would take effect upon passage.

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