

2016 -- H 7673

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

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

Introduced By: Representatives Filippi, Chippendale, Price, Fogarty, and Giarrusso

Date Introduced: February 24, 2016

Referred To: House 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. -- As used in this chapter:**

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

8 (2) "Easement" or "right-of-way" means a private appurtenant easement or right-of-way.

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

11 **34-9.1-2. Maintenance of private easements and rights-of-way. --** (a) In the absence of  
12 a written agreement to the contrary, the owner of any residential real property that benefits from  
13 an easement or right-of-way, the purpose of which is to provide access to such residential real  
14 property, shall be responsible for the cost of maintaining such easement or right-of-way in good  
15 repair and the cost of repairing or restoring any damaged portion of such easement or right-of-  
16 way. Such maintenance shall include, but not be limited to, the removal of snow from such  
17 easement or right-of-way.

18 (b) If more than one residential real property benefits from such easement or right-of-

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

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

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

17 (e) In the event of any conflict between the provisions of this section and an agreement  
18 described in subsection (b) of this section, the terms of the agreement shall control.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

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

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- 1           This act would establish the rights and obligations of property owners concerning the
- 2 maintenance of private easements and rights-of-way.
- 3           This act would take effect upon passage.

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