

H.498

Introduced by Representatives Jewett of Ripton and Kitzmiller of Montpelier

Referred to Committee on

Date:

Subject: Highways; private roads; road maintenance; cost allocation

Statement of purpose: This bill proposes to require that, in the absence of a written maintenance agreement for a private road, the maintenance costs shall be divided equally among the owners of property located adjacent to the road and the owners of any easements recorded in the municipal land records of the town in which the road is located granting a right to cross the road in order to access their property.

An act relating to maintenance of private roads

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 19 V.S.A. chapter 27 is added to read:

CHAPTER 27. PRIVATE ROADS

§ 2701. DEFINITIONS

As used in this chapter, "private road" means a road whose owner is not the state of Vermont, a municipality, or a single private property owner, but two or more owners of private property located adjacent to the road and the owners of any easements recorded in the municipal land records of the town in which the

1 ~~road is located granting a right to cross the road in order to access their~~
2 ~~property.~~

3 § 2702. PRIVATE ROAD MAINTENANCE

4 ~~In the absence of a written agreement for the maintenance of a private road,~~
5 ~~the maintenance costs shall be divided equally among the owners of property~~
6 ~~located adjacent to the road and the owners of any easements recorded in the~~
7 ~~municipal land records of the town in which the road is located granting a right~~
8 ~~to cross the road in order to access their property.~~

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~~CHAPTER 27. PRIVATE ROADS~~

~~§ 2701. DEFINITIONS~~

~~As used in this chapter, "private road" means a road whose owner is not the state of Vermont, a municipality, or a single private property owner, but two or more owners of private property abutting the road and the owners of any easements recorded in the municipal land records of the town in which the road is located granting a right to cross the road in order to access their property.~~

~~§ 2702. PRIVATE ROAD MAINTENANCE~~

~~In the absence of any other agreement for the maintenance of a private road, including covenants, requirements contained in deeds, and state or local permits, the owners of the property abutting a private road and the holders of recorded easements with a right to use a private road shall divide the cost of maintaining the road commensurate with their use of the private road.~~

Sec. 1. LEGISLATIVE FINDINGS

The general assembly finds that:

(1) The current Fannie Mae appraisal form contains a section for the appraiser to comment on off-site improvements — including private streets — and to indicate whether the improvements are publicly or privately maintained. If a property is located on a community-owned or privately

owned and maintained street, Fannie Mae requires a legally enforceable agreement or covenant for maintenance of the street.

(2) On January 31, 2008, Fannie Mae issued Announcement 08-01, which specifies that Fannie Mae will permit the delivery of mortgage loans for properties for which there is no such maintenance agreement or covenant, provided that the property is located in a state that has statutory provisions defining the responsibilities of property owners for the maintenance and repair of private streets.

(3) Since the mortgage crisis, Fannie Mae has become stricter in its underwriting standards and in enforcing the private street maintenance agreement requirement. Because the ability to sell mortgages to Fannie Mae on the secondary market is critical to most mortgage lenders, this has delayed mortgage closings and created uncertainty for Vermont homeowners throughout the state.

Sec. 2. PRIVATE ROAD MAINTENANCE AGREEMENT STUDY

(a) A committee consisting of two members of the public appointed by the governor, a representative of the Vermont Bankers Association, a representative of the Vermont League of Cities and Towns, and the commissioner of banking, insurance, securities, and health care administration or designee is established to study the creation of default statutory requirements defining the responsibilities of property owners for the maintenance and repair of private roads and to formulate recommended legislation.

(b) For attendance at committee meetings, the members of the committee appointed by the governor shall be reimbursed at the per diem rate set forth in 32 V.S.A. § 1010(b) and for their actual and necessary mileage expenses.

(c) The committee shall report its findings and recommended legislation to the senate committees on finance and on transportation and to the house committee on commerce and economic development no later than January 15, 2011.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.