

2019 -- S 0189

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - THE RHODE ISLAND UTILITY
FAIR SHARE ROADWAY REPAIR ACT

Introduced By: Senators McCaffrey, Lynch Prata, and Goodwin

Date Introduced: January 31, 2019

Referred To: Senate Commerce

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 39 of the General Laws entitled "PUBLIC UTILITIES AND
2 CARRIERS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 2.2

4 THE RHODE ISLAND UTILITY FAIR SHARE ROADWAY REPAIR ACT

5 **39-2.2-1 Short title.**

6 This chapter shall be known and may be cited as the "Rhode Island Utility Fair Share
7 Roadway Repair Act."

8 **39-2.2-2. Road repair by public utility.**

9 Any public utility as defined by § 39-1-2 which shall alter, excavate, disrupt or disturb a
10 roadway shall be responsible for complete repaving and repair of the roadway from curblin
11 to curblin.

12 **39-2.2-3. State road repair.**

13 Any repaving and repair of a state road required by § 39-2.2-2 shall be to the satisfaction
14 of the director of the department of transportation.

15 **39-2.2-4. Municipal road repair.**

16 Any repaving and repair of a municipal road required by § 39-2.2-2 shall be to the
17 satisfaction of the applicable municipal public works director or designated municipal
18 representative.

1 **39-2.2-5. Complaint for failure to repair.**

2 Within one year of completion of repaving and repair of a roadway by a public utility the
3 director of the department of transportation, with respect to a state roadway, or the municipal
4 public works director or designated municipal representative with respect to a municipal
5 roadway, may file a complaint with the public utility administrator for any insufficient, defective,
6 noncompliant or incomplete repaving or repair of a roadway. The public utility administrator
7 shall immediately set a time for hearing and shall, after notice of the hearing to the public utility
8 and to the official filing the complaint, conduct a hearing to determine whether the public utility
9 failed to comply with the provisions of § 39-2.2-2, and determine what amount, if any, is required
10 for reparation, reconstruction or repaving in compliance with § 39-2.2-2.

11 **39-2.2-6. Recovery for failure to repair.**

12 If any payment, determined to be due from any public utility for reparation,
13 reconstruction or repaving shall not be paid to the state or municipality within one year from the
14 date of the determination by the public utility administrator of the amount due from any public
15 utility, the state or municipality shall be entitled to recover the amount due in an action of debt,
16 together with interest from six (6) months from the date of determination of the public utility
17 administrator, at the rate of ten percent (10%) per annum, and upon securing judgment against
18 any public utility, execution shall issue against the property of the public utility.

19 SECTION 2. Section 24-5-1.1 of the General Laws in Chapter 24-5 entitled
20 "Maintenance of Town Highways" is hereby amended to read as follows:

21 **24-5-1.1. Alteration of roadways.**

22 Any person, firm, or corporation including utilities and contractors who alter a roadway
23 that is subject to the provisions of this chapter shall restore that portion of the roadway which was
24 altered to the same or better condition that existed prior to alteration. Repaving and repair of a
25 roadway by a public utility shall be in accordance with and subject to the provisions of chapter
26 2.2 of title 39.

27 SECTION 3. Section 24-8-43 of the General Laws in Chapter 24-8 entitled "Construction
28 and Maintenance of State Roads" is hereby amended to read as follows:

29 **24-8-43. Alteration of roadways.**

30 (a) Any person, firm or corporation including utilities and contractors who alter a
31 roadway that is subject to the provisions of this chapter shall restore that portion of the roadway
32 which was altered to the same or better condition that existed prior to alteration. Repaving and
33 repair of a roadway by a public utility shall be in accordance with and subject to the provisions of
34 chapter 2.2 of title 39.

1 (b) Any alteration of roadways which creates a public safety concern, as determined by
2 the public safety official of that community, including the need to move utility poles, shall be
3 corrected, by the contractor and/or utility, within thirty (30) days of being notified in writing of
4 such public safety concern by the director of the department of transportation.

5 (c) Where the alteration involves the installation or upgrading of a traffic signal(s), such
6 signal(s) shall not be activated until the alteration has been substantially completed, as determined
7 by the director of the department of transportation.

8 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - THE RHODE ISLAND UTILITY
FAIR SHARE ROADWAY REPAIR ACT

1 This act would create "The Rhode Island Utility Fair Share Roadway Repair Act" which
2 would require public utilities to repave and repair roadways which have been altered or excavated
3 by the public utility. Repaving and repair of the roadway would be to the satisfaction of the state
4 or municipality controlling the roadway. It would also provide for a complaint procedure for
5 defective or incomplete repairs by public utilities. Financial recovery for defective or incomplete
6 repairs is provided.

7 This act would take effect upon passage.

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