

State of Wisconsin



2021 Senate Bill 283

Date of enactment: **December 3, 2021**
Date of publication*: **December 4, 2021**

2021 WISCONSIN ACT 99

AN ACT *to create* 710.20 of the statutes; **relating to:** maintenance and repair of private roads.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 710.20 of the statutes is created to read:
710.20 Maintenance and repair of private roads.

(1) DEFINITIONS. In this section:

(a) "Access easement" means an easement that is appurtenant to real estate and that provides ingress and egress between the real estate and a public road by means of a private road or driveway.

(b) "Access easement holder" means the owner of real estate that is benefited by an access easement.

(c) "Beneficial user" means a person that has a right to use a private road or driveway. "Beneficial user" includes an owner of real estate burdened by an access easement if the owner has a right to use the private road or driveway.

(d) "Owner" means a person that has a present ownership interest in real estate. "Owner" includes a purchaser of real estate under a land contract that has a right to occupy and use the real estate.

(e) "Private road or driveway" means a private road or driveway located on an access easement.

(2) COSTS OF MAINTENANCE AND REPAIR. Except as provided under sub. (4), the beneficial users of a private road or driveway shall contribute to the reasonable and necessary costs of maintenance and repair of the private road or driveway as provided in a written agreement

entered into by the beneficial users for that purpose, in the instrument that created the access easement, or in a deed restriction, covenant, or declaration that sets forth the respective maintenance and repair obligations of the beneficial users. In the absence of such a document and except as provided under sub. (3), the beneficial users shall contribute an equitable share based on the amount and intensity of each beneficial user's actual use in proportion to the amount and intensity of all beneficial users' actual use. In determining whether costs are reasonable and necessary, the beneficial users may consider any of the following factors:

(a) Whether notice of, and an opportunity to participate in, the decision to undertake the maintenance and repair was provided to the beneficial users.

(b) Whether the costs were incurred for work that constituted improvements rather than maintenance or repair.

(c) Whether the work was of a reasonable quality and cost.

(d) The value of monetary or in-kind contributions to maintenance and repair made by beneficial users.

(3) COSTS TO REPAIR DAMAGE. Except as provided in sub. (4), if a beneficial user or a guest or invitee of a beneficial user causes damage to a private road or driveway, except reasonable wear and tear, the beneficial user is solely responsible for the costs of repairing the damage.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(4) EXCEPTIONS. This section does not apply to an access easement to which any of the following applies:

(a) The access easement holder or the owner of real estate that is burdened by the access easement is any of the following:

1. A railroad corporation.
2. A public utility, as defined in s. 196.01 (5).
3. A water carrier, as defined in s. 195.02 (5).
4. An electric cooperative organized and operating on a nonprofit basis under ch. 185.
5. A natural gas company, as defined in 15 USC 717a (6).

6. A trustee or receiver of a person described under subds. 1. to 5.

(b) The access easement holder or the owner of real estate that is burdened by the access easement is the state or any of its political subdivisions.

SECTION 2. Initial applicability.

(1) This act first applies to maintenance or repair of a private road or driveway, as defined in s. 710.20 (1) (e), that is conducted on the effective date of this subsection.
