



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0476/1
KRP:klm

2021 ASSEMBLY BILL 208

March 25, 2021 - Introduced by Representatives SUMMERFIELD, KNODL, ROZAR and SKOWRONSKI, cosponsored by Senator BALLWEG. Referred to Committee on Housing and Real Estate.

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

Analysis by the Legislative Reference Bureau

This bill requires all persons that have a right to use a private road or driveway located on an access easement (beneficial users) to contribute to the reasonable and necessary costs of maintenance and repair of the private road or driveway. If the beneficial users enter into a written agreement to determine how costs are shared, that agreement controls. In the absence of a written agreement, the bill requires the beneficial users to 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.

The cost-sharing obligation created in the bill does not apply to any of the following:

1. Costs for repairing damage, beyond reasonable wear and tear, caused by a beneficial user or a guest or invitee of a beneficial user.
2. An access easement that benefits or burdens real estate owned by the state, a political subdivision, or certain entities, including railroad corporations and public utilities.

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

ASSEMBLY BILL 208**SECTION 1**

1 **SECTION 1.** 710.20 of the statutes is created to read:

2 **710.20 Maintenance and repair of private roads. (1) DEFINITIONS.** In this
3 section:

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

7 (b) “Access easement holder” means the owner of real estate that is benefited
8 by an access easement.

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

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

15 (e) “Private road or driveway” means a private road or driveway located on an
16 access easement.

17 **(2) COSTS OF MAINTENANCE AND REPAIR.** Except as provided under subs. (3) and
18 (4), the beneficial users of a private road or driveway shall contribute to the
19 reasonable and necessary costs of maintenance and repair of the private road or
20 driveway as provided in a written agreement entered into by the beneficial users for
21 that purpose. In the absence of such an agreement, the beneficial users shall
22 contribute an equitable share based on the amount and intensity of each beneficial
23 user’s actual use in proportion to the amount and intensity of all beneficial users’
24 actual use. In determining whether costs are reasonable and necessary, the
25 beneficial users may consider any of the following factors:

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

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

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

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

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

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

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

16 1. A railroad corporation.

17 2. A public utility, as defined in s. 196.01 (5).

18 3. A water carrier, as defined in s. 195.02 (5).

19 4. An electric cooperative organized and operating on a nonprofit basis under
20 ch. 185.

21 5. A natural gas company, as defined in 15 USC 717a (6).

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

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

25 **SECTION 2. Initial applicability.**

