
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 99 [2021 Senate Bill 283]

Maintenance and Repair of Private Roads

2021 Wisconsin Act 99 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. The act provides two options to determine the share of costs between beneficial users: (1) by the terms of certain documents detailing the beneficial users’ contributions; or (2) by a statutory formula, to be used in the absence of a document. The documents that satisfy the requirements of the act include a written agreement entered into by the beneficial users, the instrument that created the access easement, or a deed restriction, covenant, or declaration that sets forth the respective maintenance and repair obligations of the beneficial users.

The statutory formula requires each beneficial user to contribute an equitable share based on the amount and intensity of each user’s actual use in proportion to the amount and intensity of all beneficial users’ actual use. The following factors may be considered by the beneficial users when determining whether costs are reasonable and necessary:

- Whether notice of, and an opportunity to participate in, the decision to undertake the maintenance and repair was provided to the beneficial users.
- Whether the costs were incurred for work that constituted improvements rather than maintenance or repair.
- Whether the work was of a reasonable quality and cost.
- The value of monetary or in-kind contributions to maintenance and repair made by beneficial users.

The statutory formula does not apply in the case of damage to the private road or driveway. In that case, the act specifies that a beneficial user is solely responsible for the costs of repairing damage beyond reasonable wear and tear caused by the user or the user’s guest or invitee.

The cost-sharing requirement and the damage responsibility provisions do not apply to access easements where the easement holder or the owner of real estate that is burdened by the access easement is the state, a political subdivision, a railroad corporation, or a qualified utility.

Effective date: December 5, 2021

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