

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 192

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S.P. 80

In Senate, January 27, 2021

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### **An Act To Define the Responsibilities of Residential Property Owners for the Maintenance and Repair of Private Roads**

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Received by the Secretary of the Senate on January 25, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BAILEY of York.  
Cosponsored by Senators: BRENNER of Cumberland, CURRY of Waldo, RAFFERTY of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 23 MRSA c. 305, sub-c. 2-A** is enacted to read:

3 **SUBCHAPTER 2-A**

4 **MAINTENANCE OF PRIVATE ROADS THAT BENEFIT RESIDENTIAL**  
5 **PROPERTIES**

6 **§3121. Responsibility for cost of repairs to and maintenance of private roads that**  
7 **benefit residential properties**

8 **1. Cost sharing.** If more than one property shares a common benefit from a private  
9 road, each property owner who shares the common benefit is responsible for a share of the  
10 cost of reasonable and necessary repairs to and maintenance of that private road determined  
11 pursuant to the terms of any agreement entered into to determine the share of the cost of  
12 reasonable and necessary repairs to and maintenance of the private road, any deed  
13 restriction, covenant or declaration applicable to the benefited property, any road  
14 association created pursuant to this chapter or otherwise or any method elected under  
15 section 3101, when applicable. In the absence of any such agreement, restriction, covenant,  
16 declaration, road association or method elected under section 3101, each residential  
17 property owner, after reasonable due process and notice, shall share equally in the cost of  
18 reasonable and necessary repairs to and maintenance of the private road when the private  
19 road is the primary means of access to the benefited property. For purposes of this section,  
20 each residential property may be assessed only one share toward the collective cost of  
21 repairs and maintenance regardless of whether there are multiple owners of record for one  
22 property.

23 **2. Repairs and maintenance defined.** For the purposes of this section, "repairs and  
24 maintenance" has the same meaning as set forth in section 3101, subsection 1, paragraph  
25 B.

26 **3. Enforcement.** If a residential property owner fails to pay that owner's share of the  
27 cost of reasonable and necessary repairs to and maintenance of the private road in  
28 accordance with subsection 1, after a demand in writing, a legal claim for payment of the  
29 amount owed may be brought against that owner by a residential property owner or owners  
30 who share a common benefit in the road, either jointly or severally.

31 **4. Conflict.** In the event of any conflict between the provisions of this section and an  
32 agreement, restriction, covenant, declaration, road association or method elected in section  
33 3101 existing on or entered into after the effective date of this section, the terms of the  
34 agreement, restriction, covenant, declaration, road association or method elected in section  
35 3101 control.

36 **5. Exceptions.** This section does not apply to:

37 A. A private road constructed or primarily used for commercial or forest management  
38 purposes; or

39 B. A property owner who issues a ground lease to a 3rd party who maintains a  
40 residence on the subject property. As used in this section, "ground lease" means an

1 arrangement under which a property owner leases only land to a lessee and the lessee  
2 retains the rights to use the land and any improvements the lessee makes for the term of the  
3 lease.

#### 4 **SUMMARY**

5 This bill addresses the responsibility for the repair and maintenance of private roads  
6 that benefit residential properties. It is limited in application to residential properties only.  
7 Unless there is an agreement, deed restriction, covenant or declaration or road association  
8 that specifies the cost to be paid by each owner of a benefited property, the cost is shared  
9 equally by the benefited properties. Each residential property is subject to cost sharing, not  
10 each residential property owner; each residential property is assessed one share of the  
11 collective costs of repairs and maintenance regardless of whether there are multiple owners  
12 of record for that property. An owner who fails to comply may be forced to comply through  
13 an action brought by other owners on the private road.

14 The bill uses the definition of "repairs and maintenance" provided in the law that  
15 applies to road associations.

16 The provisions do not apply to a private road constructed or used primarily for  
17 commercial or forest management purposes or to a property owner who issues a ground  
18 lease to a 3rd party who maintains a residence on the subject property. "Ground lease" is  
19 defined for the purposes of this law as an arrangement under which a property owner leases  
20 only land to the lessee and the lessee retains the rights to use the land and any improvements  
21 the lessee makes for the term of the lease.