

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
S.P. 80 - L.D. 192

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

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

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

SUBCHAPTER 2-A

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

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

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

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

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

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

5. Exceptions. This section does not apply to:

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

B. A property owner who issues a ground lease to a 3rd party who maintains a residence on the subject property. As used in this section, "ground lease" means an arrangement under which a property owner leases only land to a lessee and the lessee retains the rights to use the land and any improvements the lessee makes for the term of the lease.