

FIRST REGULAR SESSION

HOUSE BILL NO. 868

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PFAUTSCH.

2004H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 228.369, RSMo, and to enact in lieu thereof one new section relating to a plan of maintenance of a private road.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 228.369, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 228.369, to read as follows:

228.369. 1. For any private road subject to the use of more than one homeowner, in the absence of a prior order or written agreement for the maintenance of the private road, including covenants contained in deeds or state or local permits providing for the maintenance of a private road, when adjoining homeowners who are benefitted by the use of an abutting private road, or homeowners who have an easement to use a private road, collectively owners or benefitted owners are unable to agree in writing upon a plan of maintenance for the maintenance, repair, or improvement of the private road and including the assessment and apportionment of costs for the plan of maintenance, one or more of the owners may petition the circuit court for an order establishing a plan of maintenance.

2. The cost of a plan of maintenance for a private road shall be apportioned among the owners of residences abutting the private road and holders of easements to use the private road, with the cost apportioned commensurate with the use and benefit to residences benefitted by the access, as mutually agreed by the benefitted homeowners or as ordered by the court with such method of apportionment as agreed by the homeowners or ordered by the court, including, but not limited to, equal division, or proportionate to the residential assessed value, or to front footage, or to usage or benefit.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 3. The court may implement the same procedures to order and subsequently determine
18 a plan of maintenance for a private road as provided in this chapter for establishing or widening
19 a private road, including the appointment and compensation of disinterested commissioners to
20 determine the plan and the apportionment of costs.

21 4. Where the homeowners who are benefitted by the private road are not able to agree
22 upon the designation of a supervisor to complete the plan of maintenance, the commissioners
23 appointed by the court shall designate a supervisor who shall be compensated for his or her
24 services in the same manner as the commissioners.

25 5. Any agreement executed by all the homeowners, or final order approving, a plan of
26 maintenance for a private road shall be recorded with the county recorder of deeds.

27 6. One or more adjoining homeowners or holders of any easement to use a private road
28 may bring an action to enforce the plan of maintenance for a private road, whether as mutually
29 agreed or as ordered by the court.

30 **7. A plan of maintenance shall be a direct agreement among the homeowners who**
31 **abut or have easement rights over a private road. No homeowner shall be required to join**
32 **a homeowner or subdivision association, or be subject to any use or development**
33 **restrictions on the homeowner's property or the private road, as part of the plan of**
34 **maintenance for the private road.**

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