

House _____ Amendment NO. _____

Offered By

AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 83, Page 81, Section 184.865, Line 7, by inserting after all of said section and line the following:

"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 benefited by the use of an abutting private road, or homeowners who have an easement to use a private road, collectively owners or benefited 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 benefited by the access, as mutually agreed by the benefited 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.

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

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

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

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

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

Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

Action Taken _____ Date _____