
DIGEST

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Abramson

HB No. 468

Abstract: Includes utilities in the right of passage for enclosed estates.

Present law provides that the owner of an estate that has no access to a public road may claim a right of passage over neighboring property to the nearest public road and that he is bound to indemnify his neighbor for the damage he may occasion.

Present law provides for the extent, location, and relocation of passage, and the type of construction reasonably necessary for the exercise of the servitude.

Present law provides that the right for indemnity against the owner of the enclosed estate may be lost by prescription, but that the accrual of this prescription has no effect on the right of passage.

Proposed law retains present law and includes utilities in the right of passage for enclosed estates.

Proposed law provides that new or additional maintenance burdens resulting from a utility servitude shall be the responsibility of the owner of the dominant estate.

Proposed law requires utility crossings to be constructed in compliance with federal and state standards in order to mitigate hazards.

Proposed law requires utility servitudes to coincide with the servitude of passage unless a different location is less injurious to the servient estate and requires the court to evaluate the location of the servitude prior to granting the servitude.

Proposed law defines "utility" as a service such as electricity, water, sewer, gas, telephone, cable television, and other commonly used power and communication networks required for the operation of an ordinary household or business.

Present law defines the "servitude of passage" as the right for the benefit of the dominant estate whereby persons, animals, or vehicles are permitted to pass through the servient estate. Unless the title provides otherwise, the extent of the right and the mode of its exercise shall be suitable for the kind of traffic necessary for the reasonable use of the dominant estate.

Proposed law includes utilities in the definition of "servitude of passage".

(Amends C.C. Arts. 689, 690, 691, 692, 694, and 705; Adds C.C. Art. 696.1)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added provisions placing responsibility of additional maintenance of utility servitudes on the dominant estate.
2. Added requirement that utility crossings be constructed in compliance with state and federal standards.
3. Added provisions relative to the location of utility servitudes.
4. Deleted a utility servitude as an example of an apparent servitude.
5. Added technical amendments.