

Regular Session, 2012

ACT No. 739

HOUSE BILL NO. 468

BY REPRESENTATIVES ABRAMSON AND THOMPSON

1 AN ACT

2 To amend and reenact Civil Code Articles 689, 690, 691, 692, 694, and 705 and to enact
3 Civil Code Article 696.1, relative to rights and servitudes of passage; to provide for
4 the right of passage for utilities; to provide for limitations and locations of a
5 servitude of passage; to provide for definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Articles 689, 690, 691, 692, 694, and 705 are hereby amended
8 and reenacted and Civil Code Article 696.1 is hereby enacted to read as follows:

9 Art. 689. Enclosed estate; right of passage

10 The owner of an estate that has no access to a public road or utility may claim
11 a right of passage over neighboring property to the nearest public road or utility. He
12 is bound to compensate his neighbor for the right of passage acquired and to
13 indemnify his neighbor for the damage he may occasion.

14 New or additional maintenance burdens imposed upon the servient estate or
15 intervening lands resulting from the utility servitude shall be the responsibility of
16 the owner of the dominant estate.

17 Art. 690. Extent of passage

18 The right of passage for the benefit of an enclosed estate shall be suitable for
19 the kind of traffic or utility that is reasonably necessary for the use of that estate.

20 Art. 691. Constructions

21 The owner of the enclosed estate may construct on the ~~right of way~~ right-of-
22 way the type of road, utility, or railroad reasonably necessary for the exercise of the
23 servitude.

The utility crossing shall be constructed in compliance with all appropriate and applicable federal and state standards so as to mitigate all hazards posed by the passage and the particular conditions of the servient estate and intervening lands.

Art. 692. Location of passage

The owner of the enclosed estate may not demand the right of passage or the right-of-way for the utility anywhere he chooses. The passage generally shall be taken along the shortest route from the enclosed estate to the public road or utility at the location least injurious to the intervening lands.

The location of the utility right-of-way shall coincide with the location of the servitude of passage unless an alternate location providing access to the nearest utility is least injurious to the servient estate and intervening lands.

The court shall evaluate and determine that the location of the servitude of passage or utility shall not affect the safety of the operations or significantly interfere with the operations of the owner of the servient estate or intervening lands prior to the granting of the servitude of passage or utility.

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Art. 694. Enclosed estate; voluntary alienation or partition

When in the case of partition, or a voluntary alienation of an estate or of a part thereof, property alienated or partitioned becomes enclosed, passage shall be furnished gratuitously by the owner of the land on which the passage was previously exercised, even if it is not the shortest route to the public road or utility, and even if the act of alienation or partition does not mention a servitude of passage.

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Art. 696.1. Utility

As used in this Section, a utility is 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.

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1 Art. 705. Servitude of passage

2 The servitude of passage is the right for the benefit of the dominant estate
3 whereby persons, animals, utilities, or vehicles are permitted to pass through the
4 servient estate. Unless the title provides otherwise, the extent of the right and the
5 mode of its exercise shall be suitable for the kind of traffic or utility necessary for
6 the reasonable use of the dominant estate.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____