

2024 Regular Session

HOUSE BILL NO. 686

BY REPRESENTATIVE MCFARLAND

PROPERTY/SERVITUDES: Provides relative to pipeline servitudes

1 AN ACT

2 To amend and reenact Civil Code Article 642 and R.S. 9:2726, relative to pipeline
3 servitudes; to provide for rights of predial and personal servitudes; to provide for the
4 extent of pipeline servitude or right of way; to provide for limitations on use of
5 servitudes; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Civil Code Article 642 is hereby amended and reenacted to read as
8 follows:

9 Art. 642. Extent of the Servitude

10 A right of use includes the rights contemplated or necessary to enjoyment at
11 the time of its creation as well as rights that may later become necessary, provided
12 that, for both situations, a greater burden is not imposed on the property. This article
13 applies unless otherwise stipulated in the title and to the extent it is consistent with
14 other law.

15 Section 2. R.S. 9:2726 is hereby amended and reenacted to read as follows:

16 §2726. Attachment and recordation of plats; definitions; penalty

17 A. Each person obtaining a predial servitude or personal servitude of use or
18 right of way across or upon private property where the servitude or right of way is
19 obtained for the installation of a facility, or facilities, shall attach to the servitude or
20 right of way agreement a plat, sketch or aerial photograph showing the approximate

1 location of the servitude or right of way and the instrument and plat, sketch or aerial
2 photograph shall be recorded in the conveyance records of the parish in which the
3 private property is situated.

4 B. Unless otherwise expressly stipulated by title, the extent of a pipeline
5 servitude or right of way shall be limited to the physical space in which the pipeline
6 rests and the surface area and space necessary to undertake the activity expressly
7 contemplated by the pipeline servitude or right of way. Greater limitations on the
8 use of the property shall be reflected by a plat or sketch delineating the physical
9 boundaries of such limitations.

10 ~~B. C.~~ "Person" as used in this ~~section~~ Section shall include natural persons,
11 municipalities and parishes and other political subdivisions and agencies and
12 departments thereof, and persons, companies or corporations operating private or
13 public pipelines or private or public utilities.

14 ~~C. D.~~ "Facilities" as used in this ~~section~~ Section include waterways and
15 drainage canals and underground, surface and overhead pipelines, sewerage lines,
16 utility lines and electric power lines.

17 ~~D. E.~~ This ~~section~~ Section shall not apply to any of the following:

18 (1) ~~public~~ Public utility servitudes established in a subdivision by the
19 subdivider;

20 (2) ~~service~~ Service drop wires.

21 ~~E. F.~~ Failure to record the instrument and plat, sketch or aerial photograph
22 herein required shall render the servitude or right of way agreement ineffective
23 except as between grantor and grantee, their heirs, successors and assigns.

24 ~~F. This section shall apply only to a servitude or right of way obtained after~~
25 ~~August 1, 1970.~~

26 G. Nothing in this Section shall alter or impair the rights of any person under
27 an existing servitude.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 686 Reengrossed

2024 Regular Session

McFarland

Abstract: Provides for rights of owners of pipeline servitudes.

Present law provides that the extent of a servitude includes a right of use to enjoyment at creation and rights that might later become necessary as long as there is no greater burden on the property.

Present law specifies requirements for a servitude or right of way obtained for the installation of facility. Requires the person obtaining the servitude or right of way attach a plat, sketch, or aerial photograph identifying the location.

Proposed law specifies application to predial servitudes and personal servitudes of use.

Proposed law provides that the extent of a pipeline servitude or right of way shall be limited to the physical space in which the pipeline rests and the surface area and space necessary to undertake the activity expressly contemplated by the pipeline servitude or right of way. Provides that proposed law applies to all servitudes or rights of way.

Proposed law provides that limitations on the use of such property must be reflected by a plat or sketch delineating physical boundaries.

(Amends C. C. Art. 642 and R.S. 9:2726)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make a technical change.
2. Remove the requirement that present law only applies to a servitude or right of way obtained after August 1, 1970.
3. Remove the exception that proposed law applies regardless of the date the servitude was obtained.
4. Specify that proposed law shall not affect the existing rights of any person under an existing servitude.

The House Floor Amendments to the engrossed bill:

1. Make technical changes to insert present law.