
DIGEST

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HB 196 Original

2015 Regular Session

Schexnayder

Abstract: Provides for utility servitudes for enclosed estates.

Present law (C.C. Arts. 689, 690, 691, 692, 694, 696.1, and 705), as amended by Acts 2012, No. 739, apply, in addition to estates that have no access to a public road, to estates that have no access to a public utility. Accordingly, principles relative to utilities and utility servitudes have been combined with Civil Code Articles relative to the right of passage for enclosed estates.

Proposed law removes from the Civil Code the amendments relative to utilities and utility servitudes that were enacted by Acts 2012, No. 739, and places those provisions in proposed law (R.S. 9:1261-1270) to provide for the right to a utility servitude for enclosed estates.

Proposed law retains the relocated provisions of present law except as follows:

Proposed law (R.S. 9:1262(A)) specifies that the burden imposed on the servient estate shall not be substantially different from that required to provide the utility to an ordinary household.

Proposed law (R.S. 9:1263(B)) specifies that the works shall be constructed and maintained in compliance with applicable federal and state standards and in a manner that reasonably lessens hazards posed by the servitude.

Proposed law (R.S. 9:1264(B)) specifies that the location of the utility servitude shall not be fixed at a location that significantly affects the safety of the operations on, or unreasonably interferes with the enjoyment of, the servient estate.

Present law (C.C. Art. 693) provides that if an estate becomes enclosed as a result of a voluntary act or omission of its owner, the neighbors are not bound to furnish a passage to him or his successors.

Proposed law (R.S. 9:1265) provides the same result relative to utility servitudes.

Proposed law (R.S. 9:1266) retains the provisions of present law (C.C. Art. 694) but provides in cases of partition or voluntary alienation that the utility servitude shall be furnished gratuitously even if the route is not the route that otherwise would be selected under proposed law (R.S. 9:1264).

Present law (C.C. Art. 696.1) 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. Proposed law removes present law from the

Civil Code by repealing C.C. Art. 696.1, and provides instead (R.S. 9:1269) that a utility is a service such as electricity, water, sewer, gas, telephone, cable, and power and communication networks of the kind commonly used in the operation of an ordinary household, whether the service is provided to a household or business.

Proposed law (R.S. 9:1270) provides that a utility servitude is regulated by application of the rules governing predial servitudes to the extent that their application is compatible with the rules governing a utility servitude.

(Amends C.C. Arts. 689, 690, 691, 692, 694, and 705; Adds R.S. 9:1261-1270; Repeals C.C. Art. 696.1)