

2017 Regular Session

SENATE BILL NO. 129

BY SENATORS ALLAIN AND APPEL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SERVITUDES. Provides relative to compensation and indemnity for right and servitude of passage on certain waterways. (8/1/17)

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AN ACT

To amend and reenact R.S. 9:1254(A), relative to rights and servitude of passage on certain waterways; to provide for limitations of a servitude of passage; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:1254(A) is hereby amended and reenacted to read as follows:

§1254. Enclosed estate; right and servitude of passage on certain waterways

A. The owner of an enclosed estate who has no access to his estate other than by way of an existing waterway passing through neighboring property shall have a right and servitude of passage on such waterway. **He is bound to indemnify his neighbor for the damage he may occasion, and to reasonably compensate his neighbor for the right and servitude acquired if it is used for commercial or business purposes.** The existing waterway passing through the neighboring property shall be directly accessible from a publicly navigable waterway, and shall have been and shall still be capable of use for navigation by the owner of either the dominant or servient estate at the time of acquisition by act of sale, inheritance, or otherwise, by the owner of the dominant estate.

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Section 2. The provisions of this Act shall have prospective application only.

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The original instrument was prepared by Benjamin A. Huxen, II. The following digest, which does not constitute a part of the legislative instrument, was prepared by Linda Nugent.

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## DIGEST

SB 129 Reengrossed

2017 Regular Session

Allain

Present law provides that the owner of an enclosed estate who has no access to his estate other than by way of an existing waterway passing through neighboring property shall have a right and servitude of passage on such waterway.

Proposed law provides that such owner is bound to indemnify his neighbor for the damage he may occasion, and to reasonably compensate his neighbor for the right and servitude acquired if it is used for commercial or business purposes.

Proposed law further provides that it shall have prospective application only.

Effective August 1, 2017.

(Amends R.S. 9:1254(A))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the original bill

1. Changed "compensate" to "reasonably compensate".
2. Added prospective application only.

Senate Floor Amendments to engrossed bill

1. Restricts reasonable compensation to his neighbor for the right and servitude acquired if it is used for commercial or business purposes.
2. Retains indemnity requirement.