

2020 Regular Session

SENATE BILL NO. 110

BY SENATOR ALLAIN

SERVITUDES. Provides relative to servitudes of drainage. (8/1/20)

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AN ACT

To enact R.S. 9:1256 and 1257, relative to servitudes; to provide relative to predial servitudes; to provide relative to servitudes of drain; to provide for alteration and extinction of certain servitudes of drain; to provide for exercise of certain servitudes of drain; to provide for acts by the dominant and servient estate owners; to provide certain terms, procedures, conditions, effects, and requirements; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:1256 and 1257 are hereby enacted to read as follows:

**§1256. Alteration and extinction of natural servitudes of drain**

**A. A natural servitude of drain may be altered or extinguished by agreement between the owners of the dominant and servient estates, by acquisitive prescription or by destination of the owner.**

**B. An alteration or extinguishment by agreement shall not be adverse to the public interest, and is without effect as to a third person unless registered by recording in the conveyance records of the parish in which the estates are located.**

1            **C. An alternation or extinguishment by destination of the owner or by**  
 2            **acquisitive prescription follows when the owner of the servient estate acquires,**  
 3            **through one or the other of these means, a servitude for the discharge of waters**  
 4            **onto the dominant estate.**

5            **§1257. Conventional servitude of drain; right of dominant estate owner to enter**  
 6            **servient estate**

7            **A. The owner of the dominant estate with a conventional servitude of**  
 8            **drain has the right to enter with his workmen and equipment into the part of**  
 9            **the servient estate that is needed for the construction or repair of works**  
 10           **required for the use or the preservation of the servitude. This includes the**  
 11           **removal of obstructions from any waterway on the servient estate through**  
 12           **which the right of drain is exercised, and the dredging of the waterway and**  
 13           **removal of silt from it. The owner of the dominant estate may deposit materials**  
 14           **to be used for the works, and the debris and silt that may result, subject to the**  
 15           **obligation of causing the least possible damage and of removing them as soon**  
 16           **as possible.**

17           **B. The owner of the dominant estate may engage another person to**  
 18           **exercise and perform on his behalf the functions authorized by this Section. The**  
 19           **engagement may be through contract of employment, mandate, or otherwise.**  
 20           **This shall include a drainage district within which his estate is located.**

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Margaret M. Corley.

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DIGEST

SB 110 Engrossed                      2020 Regular Session                      Allain

Proposed law provides that a natural servitude of drain may be altered or extinguished:

- (1) By agreement between the owners of the dominant and servient estates.
- (2) By acquisitive prescription.
- (3) By destination of owner.

Proposed law provides that the alteration or extinguishment by agreement shall not be adverse to the public interest and is without effect as to a third person unless registered by recording in the conveyance records of the parish in which the estates are located.

Proposed law provides that an alternation or extinguishment by destination of the owner or by acquisitive prescription follows when the owner of the servient estate acquires a servitude for the discharge of waters onto the dominant estate.

Proposed law provides the owner of the dominant estate with a conventional servitude of drain has the right to enter with his workmen and equipment into the part of the servient estate that is needed for the construction or repair of works required for the use or the preservation of the servitude, including the removal of obstructions from any waterway on the servient estate through which the right of drain is exercised and the dredging of the waterway and removal of silt from it.

Proposed law provides that the owner of the dominant estate may deposit materials to be used for the works, and the debris and silt that may result, subject to the obligation of causing the least possible damage and of removing them as soon as possible.

Proposed law provides that the owner of the dominant estate may engage another person to exercise and perform on his behalf the functions authorized by proposed law through contract of employment, mandate, or otherwise. Also provides that this shall include a drainage district within which his estate is located.

Effective August 1, 2020.

(Adds R.S. 9:1256 and 1257)