

2024 Regular Session

SENATE BILL NO. 238

BY SENATOR SEABAUGH

SERVITUDES. Provides relative to pipeline crossings. (8/1/24)

1 AN ACT

2 To amend and reenact Civil Code Art. 642 and R.S. 9:2726, and to enact R.S. 9:1114,
3 relative to rights of use of immovable property; to provide for summary procedure
4 for pipeline crossing disputes; to provide for notice; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

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

8 Art. 642. Extent of the servitude

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

14 Section 2. R.S. 9:2726 is hereby amended and reenacted and R.S. 9:1114 is enacted
15 to read as follows:

16 **§1114. Pipeline crossings; voluntary notice; summary procedure**

17 **A. Any person seeking to construct a pipeline for the purpose of**

1 gathering or transmitting natural gas, oil, or carbon dioxide that will cross an
2 existing pipeline may institute a summary procedure as provided herein by
3 providing notice to the owner of the existing pipeline of a planned crossing. The
4 written notification shall be sent to the email address publicly designated by the
5 existing pipeline owner for such requests, or, if no such email address has been
6 publicly designated, by traceable overnight courier or certified mail, to the
7 registered agent for the existing pipeline owner, and shall include the following
8 information:

9 (1) The identity of the company proposing the crossing and the name,
10 telephone number, email address, and mailing address of its designated
11 representative.

12 (2) A drawing providing the approximate latitude and longitude
13 coordinates of the planned crossing location and a plan and profile depiction of
14 the planned crossing.

15 (3) The diameter, wall thickness, and material of the planned pipeline at
16 the crossing location.

17 (4) The minimum vertical separation between the existing pipeline and
18 the planned pipeline.

19 (5) The approximate angle measured between the existing pipeline and
20 the planned pipeline at the crossing location.

21 (6) The method of installing the planned pipeline at the crossing location.

22 B. After thirty days have elapsed following receipt by the owner of the
23 existing pipeline of the notification contemplated in Part A of this Section, the
24 notifying party may commence an action to determine or enforce its rights with
25 respect to the planned crossing by summary proceeding in accordance with
26 Code of Civil Procedure Art. 2592(13).

27 C. Nothing in this Section shall preclude a notifying party from pursuing
28 judicial relief by any other process provided by law, and nothing in this Section
29 is intended to affect rights or obligations under the Louisiana Underground

1 Utilities and Facilities Damage Prevention Law, R.S. 40:1749.11 et seq.

2 D. This Section shall be effective as to all pipeline crossings, including
 3 those presently the subject of pending judicial demand.

4 * * *

5 §2726. Attachment and recordation of plats; definitions; penalty

6 A. Each person obtaining a **predial servitude or personal** servitude **of use**
 7 or right of way across **or upon** private property where the servitude or right of way
 8 is obtained for the installation of a facility, or facilities, shall attach to the servitude
 9 or right of way agreement a plat, sketch or aerial photograph showing the
 10 approximate location of the servitude or right of way and the instrument and plat,
 11 sketch or aerial photograph shall be recorded in the conveyance records of the parish
 12 in which the private property is situated.

13 **B. Unless otherwise expressly stipulated by title, the extent of a pipeline**
 14 **servitude or right of way shall be limited to the physical space in which the**
 15 **pipeline rests, and the surface area and space necessary to undertake the**
 16 **activity expressly contemplated by the pipeline servitude or right of way.**
 17 **Greater limitations on the use of the property must be reflected by a plat or**
 18 **sketch, as provided in this Section, delineating the physical boundaries of such**
 19 **limitations.**

20 **C.** "Person" as used in this section shall include natural persons,
 21 municipalities and parishes and other political subdivisions and agencies and
 22 departments thereof, and persons, companies or corporations operating private or
 23 public pipelines or private or public utilities.

24 **D.** "Facilities" as used in this section include waterways and drainage canals
 25 and underground, surface and overhead pipelines, sewerage lines, utility lines and
 26 electric power lines.

27 **E.** This section shall not apply to any of the following:

28 (1) public utility servitudes established in a subdivision by the subdivider;

29 (2) service drop wires.

1 ~~EF.~~ Failure to record the instrument and plat, sketch or aerial photograph
 2 herein required shall render the servitude or right of way agreement ineffective
 3 except as between grantor and grantee, their heirs, successors and assigns.

4 **FG. Nothing in this Section shall alter or impair the rights of any person**
 5 **under an existing servitude.** ~~This section shall apply only to a servitude or right of~~
 6 ~~way obtained after August 1, 1970.~~

The original instrument was prepared by Jacob Wilson. The following digest,
 which does not constitute a part of the legislative instrument, was prepared
 by Hanna Gettys.

DIGEST

SB 238 Engrossed

2024 Regular Session

Seabaugh

Present law provides that a right of use includes both rights contemplated or necessary at the time of creation and rights that may later become necessary, provided that a greater burden is not imposed on the property.

Proposed law specifies that present law applies to both rights necessary at the time of creation and those that later may become necessary, unless otherwise stipulated, and to the extent allowed by law.

Proposed law provides a summary procedure for providing written notice of a planned pipeline crossing. Proposed law provides that a person intending to construct a pipeline for gathering or transmitting natural gas, oil, or carbon dioxide may utilize the procedure to notify the owner of the existing pipeline.

Proposed law provides that the notice shall be sent to the owner's publicly designated email address or by courier or certified mail to the registered agent if no email is designated.

Proposed law provides that the notice shall include contact information for the entity proposing the crossing; a crossing drawing; pipe specifications; the vertical separation and angle between the pipelines; and the method of installation.

Proposed law provides that after 30 days of receipt of the notice by the existing pipeline owner, the notifying party may commence a summary proceeding to determine or enforce his rights in accordance with state law.

Proposed law provides that nothing in proposed law precludes the notifying party from pursuing judicial relief or any remedy provided by law.

Proposed law provides that it shall not affect any rights or obligations under Louisiana Underground Utilities and Facilities Damage Prevention Law, and proposed law shall be effective as to all pipeline crossing, including those subject to pending judicial demand.

Present law requires that a person obtaining a personal servitude or right of way across private property for certain facilities attach to the servitude or right of way instrument a plat, sketch, or aerial photograph of the servitude location, and record the same in parish records.

Proposed law retains present law and adds predial servitudes and rights of way upon private property to the documentation requirements.

Proposed law provides that unless otherwise stipulated, 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 required to perform activities expressly contemplated in the instrument. Further provides limitations must be delineated on a plat or sketch showing the boundaries.

Present law provides that present law shall apply only to a servitude or right of way obtained after August 1, 1970.

Proposed law deletes present law and provides that nothing in proposed law shall alter or impair the rights of any person under an existing servitude.

Effective August 1, 2024.

(Amends C.C. Art 642 and R.S. 9:2726; adds R.S. 9:1114)

Summary of Amendments Adopted by Senate

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

1. Removes present law application date of servitudes.
2. Provides that nothing shall alter or impair the rights of any person under an existing servitude.