

RÉSUMÉ DIGEST

ACT 27 (SB 35)

2025 Regular Session

Price

Existing law (C.C. Art. 689) provided that if an owner of an estate does not have access to a public road or utility, the owner may claim a right of passage over a neighbor's property and compensate and indemnify the neighbor.

New law maintains existing law for enclosed estates and a right of passage, moves indemnification to Civil Code Article 696, and moves the utility servitude provisions to the Revised Statutes.

New law provides that the loss of the right to demand compensation by prescription does not affect the right of passage due to the owner of an enclosed estate.

Existing law (C.C. Art. 690) provides that the right of passage shall be suitable for the type of traffic that is necessary for the use of the estate.

New law maintains existing law and moves the utility servitude provisions to the Revised Statutes.

Existing law (C.C. Art. 691) authorizes the construction of the type of work necessary for the exercise of the right of passage.

New law maintains existing law and moves the utility servitude provisions to the Revised Statutes.

Prior law (C.C. Art. 692) provided that the location of the right of passage shall generally be taken along the shortest route that is the least injurious to the intervening lands.

New law reorganizes prior law to clarify that although there is a presumption that the shortest route is the least injurious, it may not be, in which case the court may select an alternative location.

New law moves the utility servitude provisions to the Revised Statutes.

Prior law (C.C. Art. 693) provided that if an estate becomes enclosed due to a voluntary act of the owner, the neighbors are not required to provide passage.

New law clarifies prior law to provide that if an estate becomes enclosed due to a voluntary act, although the neighbors are not required to provide passage, the owner may acquire a conventional servitude of passage by transacting with the neighbors.

Prior law (C.C. Art. 694) provided for gratuitous passage over the estate on which the passage was previously exercised when alienated or partitioned property becomes enclosed.

New law clarifies prior law to highlight that a gratuitous right of passage is owed where it previously existed when an estate is enclosed due to judicial partition or over the estate that caused the enclosure if an estate is enclosed by voluntary alienation.

Prior law (C.C. Art. 695) provided for the relocation of a right of passage to a more convenient place.

New law clarifies prior law by providing that the relocation of the right of passage by the servient estate must be equally convenient to the enclosed estate.

Existing law (C.C. Art. 696) provides that the right to demand indemnity against the owner of the enclosed estate may become barred by prescription.

New law maintains existing law and relocates existing law contained in C.C. Art. 689 relative to the requirement to indemnify the neighbor for damage caused by the exercise of the right of passage to ensure its application to all rights of passage.

Prior law (C.C. Art. 696.1) provided for the definition of utility.

New law repeals prior law and relocates its substance to the Revised Statutes.

New law (R.S. 9:1281) provides for the definition of utility as a service commonly used in the operation of an ordinary household.

New law (R.S. 9:1282) provides a utility servitude over neighboring property to the owner of an estate that does not have access.

New law further provides that the loss of the right to demand compensation by prescription does not affect the right of passage due to the owner of an enclosed estate.

New law (R.S. 9:1283) provides that the utility servitude is limited to what is reasonably necessary to provide the utility.

New law (R.S. 9:1284) authorizes the construction, and the maintenance thereof, of the type of work necessary for the exercise of the utility servitude.

New law (R.S. 9:1285) provides that the location of the utility servitude shall generally be taken along the shortest route that is the least injurious to the intervening lands.

New law (R.S. 9:1286) provides that if an estate loses access to a utility due to a voluntary act of the owner, the neighbors are not required to provide a servitude.

New law (R.S. 9:1287) provides that a gratuitous utility servitude is owed where it previously existed when an estate is enclosed due to judicial partition or over the estate that caused the enclosure if an estate is enclosed by voluntary alienation.

New law (R.S. 9:1288) provides for the relocation of a utility servitude to a more convenient place at the expense of the owner of the servient estate.

New law (R.S. 9:1289) provides that indemnity is owed to the owner of the servient estate for any damage caused by the exercise of the utility servitude. New law also provides that the right to demand indemnity against the owner of the enclosed estate may become barred by prescription.

Effective August 1, 2025.

(Amends C.C. Arts. 689-696; adds R.S. 9:1281-1289; repeals C.C. Art. 696.1)