

2016 Regular Session

SENATE BILL NO. 26

BY SENATOR ALLAIN

SERVITUDES. Provides relative to servitudes of natural drainage. (gov sig)

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AN ACT

To amend and reenact Civil Code Arts. 655 and 656, relative to servitudes; to provide relative to natural servitudes; to provide relative to natural drainage, obligations of owners, and dominant and servient estates; to provide certain terms and effects; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Civil Code Arts. 655 and 656 are hereby amended and reenacted to read as follows:

Art. 655. Natural drainage

An estate situated below **is the servient estate and** is bound to receive the surface waters that flow naturally from ~~an~~ **a dominant** estate situated above, unless an act of man has created the flow.

Art. 656. Obligations of the owners

The owner of the servient estate **situated below** may not do anything to prevent the flow of the water. The owner of the dominant estate **situated above** may not do anything to render the servitude more burdensome.

Section 2. The provisions of this Act are intended to clarify the meaning of Civil

1 Code Articles 655 and 656 from the time of their initial enactment as reproducing the
2 substance of Article 660 of the Louisiana Civil Code of 1870.

3 Section 3. The provisions of this Act shall be given retroactive application.

4 Section 4. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Ben Huxen.

DIGEST

SB 26 Original

2016 Regular Session

Allain

Present law provides that an estate situated below is bound to receive the surface waters that flow naturally from an estate situated above, unless an act of man has created the flow.

Proposed law provides that an estate situated below is the servient estate and is bound to receive the surface waters that flow naturally from a dominant estate situated above, unless an act of man has created the flow.

Present law provides that the owner of the servient estate may not do anything to prevent the flow of the water. Present law further provides that the owner of the dominant estate may not do anything to render the servitude more burdensome.

Proposed law provides that the owner of the servient estate situated below may not do anything to prevent the flow of the water. Proposed law further provides that the owner of the dominant estate situated above may not do anything to render the servitude more burdensome.

Proposed law provides that proposed law is intended to clarify the meaning of Civil Code Articles 655 and 656 from the time of their initial enactment as reproducing the substance of Article 660 of the Louisiana Civil Code of 1870.

Proposed law provides that proposed law shall be given retroactive application.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends C.C. Arts. 655 and 656)