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HOUSE BILL NO. 1068

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact § 55.1-306 of the Code of Virginia, relating to prescriptive easements for the provision of broadband.

Patrons—Kory and Carroll Foy

Referred to Committee on Communications, Technology and Innovation

Be it enacted by the General Assembly of Virginia:

1. That § 55.1-306 of the Code of Virginia is amended and reenacted as follows:

§ 55.1-306. Utility easements.

A. For the purposes of this section, "utility services" means any products, services, and equipment related to energy, telecommunications, water, and sewerage.

B. Where an easement, whether appurtenant or gross, is expressly granted by an instrument recorded on or after July 1, 2006, that imposes on a servient tract of land a covenant (i) to provide an easement in the future for the benefit of utility services; (ii) to relocate, construct, or maintain facilities owned by an entity that provides utility services; or (iii) to pay the cost of such relocation, construction, or maintenance, such covenant shall be deemed for all purposes to touch and concern the servient tract, to run with the servient tract, its successors, and assigns for the benefit of the entity providing utility services, its successors, and assigns.

C. *Where a public service company has acquired a prescriptive easement pursuant to which it has the right to install, maintain, and use poles and wires in connection with its provision of electrical service, the rights of such public service company pursuant to its prescriptive easement shall be deemed to include the right of the public service company to grant to any provider of broadband or other telecommunications services the right to attach its wires and appurtenant facilities to the public service company's poles, including the right to enter upon the right-of-way for purposes of installing and maintaining its wires and appurtenant facilities, without the approval of the owner of the servient tract of land.*

For so long as its prescriptive easement exists, the public service company shall be deemed to have the right to allow such attachment of wires and appurtenant facilities of a provider of telecommunications services, and the provider of telecommunications services shall have the right to co-locate its wires and appurtenant facilities within such easement, upon such terms as the public service company and the provider of the telecommunications services shall agree, such use of the prescriptive easement being in the public interest and within the scope of the property interests acquired by the public service company when the prescriptive easement was established.

INTRODUCED

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