

2020 SESSION

INTRODUCED

20102331D

SENATE BILL NO. 470

Offered January 8, 2020

Prefiled January 7, 2020

A *BILL to amend and reenact § 55.1-306 of the Code of Virginia, relating to utility easements; damages from encroachments.*

Patron—Reeves

Referred to Committee on Commerce and Labor

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. When the owner of the servient tract constructs improvements upon, occupies, or otherwise encroaches on an easement in which an entity that provides utility services has utility facilities, the owner of the servient tract shall be required to compensate the entity for the actual damages incurred by such entity. The damages shall be determined only on the basis of (i) any reduction in the value of such easement as a result of such construction, occupation, or other encroachment and (ii) the additional costs reasonably anticipated to be incurred by the entity in its provision of utility services. If the owner of the servient tract and the entity that provides utility services are unable to agree upon the appropriate amount of compensation due to such entity, either party may request the State Corporation Commission to determine the amount of damages due as a result of such construction, occupation, or other encroachment. The State Corporation Commission may in its discretion employ appraisers or other experts who shall make a recommendation to the State Corporation Commission. In such a case, the cost of the experts is to be borne equally by the owner of the servient tract and the entity that provides utility services, unless the State Corporation Commission determines that it would be unjust, in which case the cost shall be borne as the State Corporation Commission decides.

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