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HOUSE BILL NO. 2573

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend and reenact § 55-50.2 of the Code of Virginia, relating to utility easements.

Patron—LaRock

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:**1. That § 55-50.2 of the Code of Virginia is amended and reenacted as follows:****§ 55-50.2. Utility easements.**

A. 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 to provide an easement in the future for the benefit of utility services, to relocate, construct, or maintain facilities owned by a an entity that provides utility services, or 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.

B. 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, and without the approval of the owner of the servient track of land, if the public service company exercises such right in compliance with the following conditions:

1. The public service company shall not require or collect from the provider of the telecommunications service any pole attachment fees or other consideration for the attachment of the telecommunications service provider's wires and appurtenant facilities to the public service company's poles for a period of five years following the attachment; and

2. If modifications to the public service company's poles are necessary to make ready for the attachment of the telecommunications service provider's wires and appurtenant facilities to such poles, the costs of such modifications shall be shared equally by the public service company and the provider of the telecommunications service.

Upon compliance with the foregoing conditions, 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.

C. "Utility services," for the purposes of this section, means any products, services, and equipment related to energy; broadband and other telecommunications; services; water; and sewerage.

INTRODUCED

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