

By Senator Bronson

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A bill to be entitled
An act relating to common-law and statutory
easements of necessity; amending s. 704.01,
F.S.; providing for an implied grant of way of
necessity and a statutory way of necessity for
cable television and other utility services;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 704.01, Florida Statutes, is
amended to read:

(Substantial rewording of section. See
s. 704.01, F.S., for present text.)

704.01 Common-law and statutory easements of
necessity.--

(1) IMPLIED GRANT OF WAY OF NECESSITY.--The common-law
rule of an implied grant of necessity is recognized, adopted,
and modified as follows. An implied grant exists when a
grantor has conveyed or hereafter conveys lands to which there
is no reasonable legal access except over lands retained by
the grantor, or when the grantor has retained or hereafter
retains lands to which there is no reasonable legal access
except over lands that the grantor has conveyed. An implied
grant arises only when a unity of title exists from a common
source other than the original grant from the state or the
United States. An implied grant is unaffected by subsequent
transfers of either the dominant or servient estate, including
involuntary transfers, such as tax deeds, foreclosures, or
reversions.

1 (2) STATUTORY WAY OF NECESSITY.--Based on public
2 policy, convenience, and necessity, a statutory way of
3 necessity exists when any land does not have reasonable legal
4 access and no common-law implied grant of way of necessity
5 exists.

6 (3) EXTENT OF WAY OF NECESSITY.--

7 (a) The way of necessity under either subsection (1)
8 or subsection (2) may also be used for franchised cable
9 television service and necessary utility services, including,
10 but not limited to, water, wastewater, reclaimed water,
11 natural gas, electricity, or telephone service.

12 (b) The way of necessity under subsection (1) or
13 subsection (2) is by the nearest reasonable route taking into
14 consideration the burden on the servient estate.

15 (c) For the purpose of this section, access over
16 navigable waters is not to be deemed reasonable legal access.

17 Section 2. This act shall take effect upon becoming a
18 law.

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21 SENATE SUMMARY

22 Provides for an implied grant of way of necessity and a
23 statutory way of necessity for cable television and other
24 utility services.