

By Senator Sebesta

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A bill to be entitled
An act relating to roads presumed to be public highways; amending s. 95.361, F.S.; providing that provisions governing the circumstances under which a road is deemed to be dedicated to the public do not apply to a public utility facility located on property otherwise subject to those provisions; providing an effective date.

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

Section 1. Section 95.361, Florida Statutes, is amended to read:

95.361 Roads presumed to be dedicated.--

(1) When a road, constructed by a county, a municipality, or the Department of Transportation, has been maintained or repaired continuously and uninterruptedly for 4 years by the county, municipality, or the Department of Transportation, jointly or severally, the road shall be deemed to be dedicated to the public to the extent in width that has been actually maintained for the prescribed period, whether or not the road has been formally established as a public highway. The dedication shall vest all right, title, easement, and appurtenances in and to the road in:

- (a) The county, if it is a county road;
- (b) The municipality, if it is a municipal street or road; or
- (c) The state, if it is a road in the State Highway System or State Park Road System,

1 whether or not there is a record of a conveyance, dedication,
2 or appropriation to the public use.

3 (2) In those instances where a road has been
4 constructed by a nongovernmental entity, or where the road was
5 not constructed by the entity currently maintaining or
6 repairing it, or where it cannot be determined who constructed
7 the road, and when such road has been regularly maintained or
8 repaired for the immediate past 7 years by a county, a
9 municipality, or the Department of Transportation, whether
10 jointly or severally, such road shall be deemed to be
11 dedicated to the public to the extent of the width that
12 actually has been maintained or repaired for the prescribed
13 period, whether or not the road has been formally established
14 as a public highway. The dedication shall vest all rights,
15 title, easement, and appurtenances in and to the road in:

16 (a) The county, if it is a county road;

17 (b) The municipality, if it is a municipal street or
18 road; or

19 (c) The state, if it is a road in the State Highway
20 System or State Park Road System, whether or not there is a
21 record of conveyance, dedication, or appropriation to the
22 public use.

23 (3) The filing of a map in the office of the clerk of
24 the circuit court of the county where the road is located
25 showing the lands and reciting on it that the road has vested
26 in the state, a county, or a municipality in accordance with
27 subsection (1) or subsection (2) or by any other means of
28 acquisition, duly certified by:

29 (a) The secretary of the Department of Transportation,
30 or the secretary's designee, if the road is a road in the
31 State Highway System or State Park Road System;

1 (b) The chair and clerk of the board of county
2 commissioners of the county, if the road is a county road; or

3 (c) The mayor and clerk of the municipality, if the
4 road is a municipal road or street,

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6 shall be prima facie evidence of ownership of the land by the
7 state, county, or municipality, as the case may be.

8 (4) Any person, firm, corporation, or entity having or
9 claiming any interest in and to any of the property affected
10 by subsection (2) shall have and is hereby allowed a period of
11 1 year after the effective date of this subsection, or a
12 period of 7 years after the initial date of regular
13 maintenance or repair of the road, whichever period is
14 greater, to file a claim in equity or with a court of law
15 against the particular governing authority assuming
16 jurisdiction over such property to cause a cessation of the
17 maintenance and occupation of the property. Such timely filed
18 and adjudicated claim shall prevent the dedication of the road
19 to the public pursuant to subsection (2).

20 (5) This section does not apply to any facility of a
21 public utility which is located on property otherwise subject
22 to this section.

23 Section 2. This act shall take effect upon becoming a
24 law.

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27 SENATE SUMMARY

28 Provides that s. 95.361, F.S., does not apply to a public
29 utility that has a facility located on property deemed to
30 be dedicated to the public.