

1 A bill to be entitled
2 An act relating to transportation access;
3 amending s. 316.006, F.S.; providing that a
4 municipality may, by interlocal agreement with
5 a county, agree to transfer traffic regulatory
6 authority over areas within the municipality to
7 the county; amending s. 704.01, F.S.; revising
8 criteria for establishing a statutory way of
9 necessity exclusive of common-law right;
10 amending s. 704.04, F.S.; removing a limitation
11 on the existence of certain easements;
12 providing for reenactment of certain provisions
13 under certain circumstances; providing for
14 effectiveness; creating s. 166.0498, F.S.;
15 prohibiting a municipality from permanently
16 closing a road unless certain conditions are
17 met; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:
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21 Section 1. Subsection (2) of section 316.006, Florida
22 Statutes, is amended to read:

23 316.006 Jurisdiction.--Jurisdiction to control traffic
24 is vested as follows:

25 (2) MUNICIPALITIES.--

26 (a) Chartered municipalities shall have original
27 jurisdiction over all streets and highways located within
28 their boundaries, except state roads, and may place and
29 maintain such traffic control devices which conform to the
30 manual and specifications of the Department of Transportation
31 upon all streets and highways under their original

1 jurisdiction as they shall deem necessary to indicate and to
2 carry out the provisions of this chapter or to regulate, warn,
3 or guide traffic.

4 (b) A municipality may exercise jurisdiction over any
5 private road or roads, or over any limited access road or
6 roads owned or controlled by a special district, located
7 within its boundaries if the municipality and party or parties
8 owning or controlling such road or roads provide, by written
9 agreement approved by the governing body of the municipality,
10 for municipal traffic control jurisdiction over the road or
11 roads encompassed by such agreement. Pursuant thereto:

12 1. Provision for reimbursement for actual costs of
13 traffic control and enforcement and for liability insurance
14 and indemnification by the party or parties, and such other
15 terms as are mutually agreeable, may be included in such an
16 agreement.

17 2. The exercise of jurisdiction provided for herein
18 shall be in addition to jurisdictional authority presently
19 exercised by municipalities under law, and nothing in this
20 paragraph shall be construed to limit or remove any such
21 jurisdictional authority. Such jurisdiction includes
22 regulation of access to such road or roads by security devices
23 or personnel.

24 3. Any such agreement may provide for the installation
25 of multiparty stop signs by the parties controlling the roads
26 covered by the agreement if a determination is made by such
27 parties that the signage will enhance traffic safety.
28 Multiparty stop signs must conform to the manual and
29 specifications of the Department of Transportation; however,
30 minimum traffic volumes may not be required for the
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1 installation of such signage. Enforcement for the signs shall
2 be as provided in s. 316.123.

3 (c) Notwithstanding any other provision of law to the
4 contrary, a municipality may, by interlocal agreement with a
5 county, agree to transfer traffic regulatory authority over
6 areas within the municipality to the county.

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8 This subsection shall not limit those counties which have the
9 charter powers to provide and regulate arterial, toll, and
10 other roads, bridges, tunnels, and related facilities from the
11 proper exercise of those powers by the placement and
12 maintenance of traffic control devices which conform to the
13 manual and specifications of the Department of Transportation
14 on streets and highways located within municipal boundaries.

15 Section 2. Subsection (2) of section 704.01, Florida
16 Statutes, is amended to read:

17 704.01 Common-law and statutory easements defined and
18 determined.--

19 (2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW
20 RIGHT.--Based on public policy, convenience, and necessity, a
21 statutory way of necessity exclusive of any common-law right
22 exists when any land, including land formed by accretion,
23 reliction, or other naturally occurring processes, or portion
24 thereof, ~~outside any municipality~~ which is being used or is
25 desired to be used for a dwelling or dwellings or for
26 agricultural or for timber raising or cutting or stockraising
27 purposes ~~is shall be~~ shut off or hemmed in by lands, fencing,
28 or other improvements ~~by of~~ other persons so that no
29 practicable route of egress or ingress ~~is shall be~~ available
30 therefrom to the nearest practicable public or private road in
31 which the landlocked owner has vested easement rights. The

1 owner or tenant thereof, or anyone in their behalf, lawfully
2 may use and maintain an easement for persons, vehicles, stock,
3 franchised cable television service, and any utility service,
4 including, but not limited to, water, wastewater, reclaimed
5 water, natural gas, electricity, and telephone service, over,
6 under, through, and upon the lands which lie between the said
7 shut-off or hemmed-in lands and such public or private road by
8 means of the nearest practical route, considering the use to
9 which said lands are being put; and the use thereof, as
10 aforesaid, shall not constitute a trespass; nor shall the
11 party thus using the same be liable in damages for the use
12 thereof, ~~+~~ provided that such easement shall be used only in an
13 orderly and proper manner.

14 Section 3. Effective only if a court determines that
15 subsection (2) of section 704.01, Florida Statutes, as amended
16 by section 1 of this act, is unconstitutional and such
17 determination is upheld on appeal, it is the intent of the
18 Legislature that the provisions of such subsection shall be
19 the same as those in existence prior to amendment by this act,
20 and to that end subsection (2) of section 704.01, Florida
21 Statutes, as it existed prior to amendment by section 1 of
22 this act, is reenacted to read:

23 704.01 Common-law and statutory easements defined and
24 determined.--

25 (2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW
26 RIGHT.--Based on public policy, convenience, and necessity, a
27 statutory way of necessity exclusive of any common-law right
28 exists when any land or portion thereof outside any
29 municipality which is being used or desired to be used for a
30 dwelling or dwellings or for agricultural or for timber
31 raising or cutting or stockraising purposes shall be shut off

1 or hemmed in by lands, fencing, or other improvements of other
2 persons so that no practicable route of egress or ingress
3 shall be available therefrom to the nearest practicable public
4 or private road. The owner or tenant thereof, or anyone in
5 their behalf, lawfully may use and maintain an easement for
6 persons, vehicles, stock, franchised cable television service,
7 and any utility service, including, but not limited to, water,
8 wastewater, reclaimed water, natural gas, electricity, and
9 telephone service, over, under, through, and upon the lands
10 which lie between the said shut-off or hemmed-in lands and
11 such public or private road by means of the nearest practical
12 route, considering the use to which said lands are being put;
13 and the use thereof, as aforesaid, shall not constitute a
14 trespass; nor shall the party thus using the same be liable in
15 damages for the use thereof; provided that such easement shall
16 be used only in an orderly and proper manner.

17 Section 4. Section 704.04, Florida Statutes, is
18 amended to read:

19 704.04 Judicial remedy and compensation to servient
20 owner.--When the owner or owners of such lands across which a
21 statutory way of necessity under s. 704.01(2) is claimed,
22 exclusive of the common-law right, objects or refuses to
23 permit the use of such way under the conditions set forth
24 herein or until she or he receives compensation therefor,
25 either party or the board of county commissioners of such
26 county may file suit in the circuit court of the county
27 wherein the land is located in order to determine if the claim
28 for said easement exists, and the amount of compensation to
29 which said party is entitled for use of such easement. When
30 ~~where~~ said easement is awarded to the owner of the dominant
31 tenement, it shall be in compliance with s. 704.01(2) and

1 shall exist so long as such easement is reasonably necessary
 2 ~~for the purposes stated herein~~. The court, in its discretion,
 3 shall determine all questions, including the type, duration,
 4 extent, and location of the easement, the amount of
 5 compensation, and the attorney's fees and costs to be awarded
 6 to either party for unreasonable refusal to comply with the
 7 provisions of s. 704.01(2), provided that if either of said
 8 parties so requests in her or his original pleadings, the
 9 amount of compensation may be determined by a jury trial. The
 10 easement shall date from the time the award is paid.

11 Section 5. Effective only if a court determines that
 12 section 704.04, Florida Statutes, as amended by section 3 of
 13 this act, is unconstitutional and such determination is upheld
 14 on appeal, it is the intent of the Legislature that the
 15 provisions of such section shall be the same as those in
 16 existence prior to amendment by this act, and to that end
 17 section 704.04, Florida Statutes, as it existed prior to
 18 amendment by this act, is reenacted to read:

19 704.04 Judicial remedy and compensation to servient
 20 owner.--When the owner or owners of such lands across which a
 21 statutory way of necessity under s. 704.01(2) is claimed,
 22 exclusive of the common-law right, objects or refuses to
 23 permit the use of such way under the conditions set forth
 24 herein or until she or he receives compensation therefor,
 25 either party or the board of county commissioners of such
 26 county may file suit in the circuit court of the county
 27 wherein the land is located in order to determine if the claim
 28 for said easement exists, and the amount of compensation to
 29 which said party is entitled for use of such easement. Where
 30 said easement is awarded to the owner of the dominant
 31 tenement, it shall be in compliance with s. 704.01(2) and

1 shall exist so long as such easement is reasonably necessary
2 for the purposes stated herein. The court, in its discretion,
3 shall determine all questions, including the type, duration,
4 extent, and location of the easement, the amount of
5 compensation, and the attorney's fees and costs to be awarded
6 to either party for unreasonable refusal to comply with the
7 provisions of s. 704.01(2) provided that if either of said
8 parties so requests in her or his original pleadings, the
9 amount of compensation may be determined by a jury trial. The
10 easement shall date from the time the award is paid.

11 Section 6. Section 166.0498, Florida Statutes, is
12 created to read:

13 166.0498 Closing of a road by a municipality.--A
14 municipality may not permanently close a road that crosses
15 into or through an adjoining municipality until the following
16 conditions have been met:

17 (1) The municipality closing the road must adopt an
18 ordinance and provide notice to the adjoining municipality of
19 the public hearing for the adoption of the ordinance;

20 (2) The closure may not leave an area within the
21 adjoining municipality with only one means of egress or
22 ingress into the area;

23 (3) The closure must be reviewed by each
24 municipality's emergency services providers, including, but
25 not limited to, police and fire rescue, who must make a
26 determination that the road closure will not adversely impact
27 the delivery of such emergency services by an entity or
28 adversely impact local or regional emergency preparedness,
29 including, but not limited to, eliminating potential
30 evacuation routes; and

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1 (4) The municipality that is closing the road must
2 provide signage, lighting, other necessary and appropriate
3 safety signals for traffic, and paved roundabouts or other
4 turn-around capability for all emergency vehicles on both
5 sides of the barrier.

6 Section 7. This act shall take effect upon becoming a
7 law.

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