

HB 351

2005
CS

CHAMBER ACTION

1 The Local Government Council recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to statutory ways of necessity; amending
7 s. 704.01, F.S.; revising criteria for establishing a
8 statutory way of necessity exclusive of common-law right;
9 providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Subsection (2) of section 704.01, Florida
14 Statutes, is amended to read:

15 704.01 Common-law and statutory easements defined and
16 determined.--

17 (2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW
18 RIGHT.--Based on public policy, convenience, and necessity, a
19 statutory way of necessity exclusive of any common-law right
20 exists when any land or portion thereof ~~outside any municipality~~
21 which is being used or desired to be used for a dwelling or
22 dwellings or for agricultural or for timber raising or cutting
23 or stockraising purposes shall be shut off or hemmed in by

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24 | lands, fencing, or other improvements of other persons so that
25 | no practicable route of egress or ingress shall be available
26 | therefrom to the nearest practicable public road or private road
27 | in which the landlocked owner has vested easement rights. The
28 | owner or tenant thereof, or anyone in their behalf, lawfully may
29 | use and maintain an easement for persons, vehicles, stock,
30 | franchised cable television service, and any utility service,
31 | including, but not limited to, water, wastewater, reclaimed
32 | water, natural gas, electricity, and telephone service, over,
33 | under, through, and upon the lands which lie between the said
34 | shut-off or hemmed-in lands and such public road or private road
35 | in which the landlocked owner has vested easement rights by
36 | means of the nearest practical route, considering the use to
37 | which said lands are being put; and the use thereof, as
38 | aforesaid, shall not constitute a trespass; nor shall the party
39 | thus using the same be liable in damages for the use thereof, +
40 | provided that such easement shall be used only in an orderly and
41 | proper manner.

42 | Section 2. This act shall take effect July 1, 2005.