

CHAMBER ACTION

1 The Justice 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 transportation access; amending s.
7 704.01, F.S.; revising criteria for establishing a
8 statutory way of necessity exclusive of common-law right;
9 creating s. 166.0498, F.S.; prohibiting a municipality
10 from closing certain roads unless certain conditions are
11 complied with; specifying requirements; providing an
12 effective date.

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

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

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

20 (2) STATUTORY WAY OF NECESSITY EXCLUSIVE OF COMMON-LAW
21 RIGHT.--Based on public policy, convenience, and necessity, a
22 statutory way of necessity exclusive of any common-law right
23 exists when any land or portion thereof ~~outside any municipality~~

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

45 | Section 2. Section 166.0498, Florida Statutes, is created
 46 | to read:

47 | 166.0498 Closing of a road by a municipality.--A
 48 | municipality may not permanently close a road that crosses into
 49 | or through an adjoining municipality until the following
 50 | conditions have been met:

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51 (1) The municipality closing the road must adopt an
52 ordinance and provide notice to the adjoining municipality of
53 the public hearing for the adoption of the ordinance.

54 (2) The closure may not leave an area within the adjoining
55 municipality with only one means of egress from or ingress into
56 the area.

57 (3) The closure must be reviewed by each municipality's
58 emergency services providers, including, but not limited to,
59 police and fire rescue, who must make a determination that the
60 road closure will not adversely impact the delivery of such
61 emergency services by an entity or adversely impact local or
62 regional emergency preparedness, including, but not limited to,
63 eliminating potential evacuation routes.

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

69 Section 3. This act shall take effect upon becoming a law.