

BILL ANALYSIS

Senate Research Center

H.B. 2168
By: Uher (Harris)
State Affairs
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Engrossed

DIGEST AND PURPOSE

Under current law, when a piece of property is partitioned, the allotted shares of real property are subject to the same conditions and covenants that applied to the property prior to the partition. Although the retention of prior property rights serves to protect the people subject to a court decree, it sometimes leaves a partitioned piece of property with no reasonable access to a public road. Partitioned pieces of property are often located in an area where the previous property owners would have never foreseen the need for an easement. Problems also arise after the land is partitioned and one of the tract owners decides to sell landlocked property. When these situations arise, the affected parties could find themselves caught in expensive legal proceedings to decide where and on whose property an easement will be located. These situations could be avoided by resolving these issues prior to partitioning the land. H.B. 2168 requires the commissioners appointed to partition property to grant an access easement on a tract of partitioned property for the purpose of providing a reasonable entrance to and exit from an adjoining partitioned tract that does not have an existing means of access.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 23, Property Code, by adding Section 23.006, as follows:

Sec. 23.006. ACCESS EASEMENT FOR PARTITIONED PROPERTY. Requires the commissioners appointed to partition property, unless waived by the parties in an action to partition property under this chapter, to grant a nonexclusive access easement on a tract of partitioned property for the purpose of providing reasonable ingress to and egress from an adjoining partitioned tract that does not have a means of access through a public road or an existing easement appurtenant to the tract. Requires the order granting the access easement to contain a legal description of the easement. Requires the property owner of a partitioned tract that has a means of access through a public road or an existing easement appurtenant to the tract to grant in the private partition agreement a nonexclusive access easement on the owner's partitioned tract for the purpose of providing reasonable ingress to and egress from an adjoining partitioned tract that does not have a means of access through a public road or an existing easement appurtenant to the tract, unless waived by the parties in writing in a private partition agreement. Prohibits the access easement from being a width greater than a width prescribed by a municipality or county for a right-of-way on a street or road. Requires the access easement route to be the shortest route to the adjoining tract that causes the least amount of damage to the tract subject to the easement and is located the greatest reasonable distance from the primary residence and related improvements located on the tract subject to the easement. Requires the adjoining tract owner who is granted an access easement under this section to maintain the easement and keep the easement open for public use.

SECTION 2. Effective date: September 1, 2001.