

SENATE BILL 365

Unofficial Copy
N1
SB 427/96 - JPR

1998 Regular Session
8r1883
CF 8r1897

By: **Senator Baker**

Introduced and read first time: February 6, 1998

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Relocation of Ingress and Egress Easements**

3 FOR the purpose of authorizing the owner of land that is subject to a certain
4 easement to relocate the easement by recording in the land records of the county
5 in which the easement or any part of the easement is located a certain written
6 agreement; requiring that the written agreement be indexed under a certain
7 name; authorizing the owner of land that is subject to a certain easement to
8 petition the circuit court for relocation of the easement under certain
9 circumstances; requiring that the petition be granted if, after notice to all
10 parties in interest and a hearing, the court makes certain findings; requiring the
11 court order to be recorded and indexed; requiring a certain person to pay certain
12 costs associated with relocation of an easement; defining a certain term;
13 providing for the application of this Act; and generally relating to relocation of
14 certain easements.

15 BY adding to
16 Article - Real Property
17 Section 14-126
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article - Real Property**

23 14-126.

24 (A) IN THIS SECTION, "PARTIES IN INTEREST" INCLUDES MORTGAGEES,
25 UTILITY COMPANIES, AND GOVERNMENTAL OR QUASI-GOVERNMENTAL
26 AUTHORITIES THAT MAY HAVE AN INTEREST IN AN EASEMENT.

27 (B) (1) THE OWNER OF LAND THAT IS SUBJECT TO AN EASEMENT FOR THE
28 PURPOSE OF INGRESS AND EGRESS MAY RELOCATE THE EASEMENT BY RECORDING
29 IN THE LAND RECORDS OF THE COUNTY IN WHICH THE EASEMENT OR ANY PART OF

1 THE EASEMENT IS LOCATED A WRITTEN AGREEMENT EVIDENCING THE CONSENT OF
2 ALL PARTIES IN INTEREST AND SETTING FORTH THE NEW LOCATION OF THE
3 EASEMENT.

4 (2) THE WRITTEN AGREEMENT SHALL BE INDEXED UNDER THE NAME
5 OF THE OWNER OF THE LAND THAT IS SUBJECT TO THE EASEMENT.

6 (C) (1) IN THE ABSENCE OF A WRITTEN AGREEMENT, THE OWNER OF LAND
7 THAT IS SUBJECT TO AN EASEMENT FOR THE PURPOSE OF INGRESS AND EGRESS
8 MAY PETITION THE CIRCUIT COURT FOR RELOCATION OF THE EASEMENT ON THE
9 SERVIENT LAND.

10 (2) THE PETITION SHALL BE GRANTED IF, AFTER NOTICE TO ALL
11 PARTIES IN INTEREST AND A HEARING, THE COURT FINDS THAT:

12 (I) 1. THE RELOCATION WILL NOT RESULT IN MATERIAL
13 ECONOMIC DAMAGE TO THE PARTIES IN INTEREST; OR

14 2. THE RELOCATION WILL RESULT IN MATERIAL ECONOMIC
15 DAMAGE AND THE OWNER OF THE LAND SUBJECT TO THE EASEMENT AGREES TO
16 COMPENSATE THE OTHER PARTY FOR THE AMOUNT OF THE DAMAGE DETERMINED
17 BY THE COURT;

18 (II) THERE WILL BE NO UNDUE HARDSHIP CREATED BY THE
19 RELOCATION ON THE PARTIES IN INTEREST; AND

20 (III) THE EASEMENT HAS BEEN IN EXISTENCE FOR NOT LESS THAN
21 10 YEARS.

22 (3) THE COURT ORDER RELOCATING THE EASEMENT SHALL BE
23 RECORDED IN THE LAND RECORDS OF THE COUNTY IN WHICH THE EASEMENT OR
24 ANY PART OF THE EASEMENT IS LOCATED AND INDEXED UNDER THE NAME OF THE
25 OWNER OF THE LAND THAT IS SUBJECT TO THE EASEMENT.

26 (D) THE OWNER OF THE LAND SUBJECT TO THE EASEMENT SHALL PAY ALL
27 REASONABLE COSTS ASSOCIATED WITH THE RELOCATION OF THE EASEMENT.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
29 any easement in effect on or after the effective date of this Act.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 October 1, 1998.