

House Bill 3463

Sponsored by Representative VIAL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows establishment of way of necessity when property has existing enforceable access to public road in certain circumstances.

A BILL FOR AN ACT

1
2 Relating to ways of necessity; amending ORS 376.180.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 376.180 is amended to read:

5 376.180. (1) A way of necessity established under ORS 376.150 to 376.200 shall:

6 [(1)] (a) Be located to cause the least possible damage to land across which it is located;

7 [(2)] (b) Be fenced or gated if required by the county governing body;

8 [(3)] (c) Not be connected to a public road in a location or manner that creates a traffic hazard
9 or decreases the safety on the public road;

10 [(4)] (d) Be established only for uses in connection with the property for which the way of ne-
11 cessity is sought;

12 [(5)] (e) Not be subject to any use that is not described in the order establishing the way of
13 necessity;

14 [(6)] (f) Not exceed 30 feet in width unless authorized by the county governing body for engi-
15 neering purposes;

16 [(7)] (g) Not be connected to a public road where the rights of access to the road have been
17 acquired by the state or a county unless the state or governing body of the county grants permission
18 for the connection;

19 [(8)] (h) **Except as provided in subsection (2) of this section**, not be established if the prop-
20 erty for which the way of necessity is sought has an existing enforceable access to a public road;

21 [(9)] (i) **Except as provided in subsection (2) of this section**, not be established if the
22 petitioner for the way of necessity could acquire an easement for access to a public road through
23 other legal action;

24 [(10)] (j) Not be established for land that has been subdivided or partitioned in violation of ORS
25 chapter 92;

26 [(11)] (k) Not be established over land owned by the state or a political subdivision of the state
27 unless permission is granted for the way of necessity under ORS 376.185; and

28 [(12)] (L) Not be established for any land if the owner of the land had knowingly eliminated
29 access to all public roads from the land by the sale of other land owned by the landowner.

30 **(2) Notwithstanding the limitations of subsection (1)(h) and (i) of this section, a way of**
31 **necessity may be established when the petitioner's property has an existing enforceable ac-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **cess to a public road if:**

2 **(a) Rights of access from the property to a public road were previously acquired by emi-**
3 **nent domain or threat of eminent domain by a state or local government;**

4 **(b) The property is undeveloped or developed with a single family dwelling and associated**
5 **outbuildings and has the same zoning as when the rights of access were acquired;**

6 **(c) On the public road to which the property has an existing enforceable access, traffic**
7 **operations, traffic speeds or traffic volumes have substantially changed since the rights of**
8 **access were acquired; and**

9 **(d) The public roadway engineer with jurisdiction over the public road to which the**
10 **property has existing enforceable access determines by objective engineering standards that**
11 **development of the property to the uses allowed by the zoning regulations in effect when the**
12 **access rights were acquired will not meet current sight spacing standards or approach road**
13 **spacing standards or may create unsafe roadway conditions.**

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