

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1850 Session of
2021

INTRODUCED BY HERSHEY, BURGOS, MOUL, ROWE, RYAN, SMITH, WHEELAND
AND ZIMMERMAN, SEPTEMBER 13, 2021

REFERRED TO COMMITTEE ON JUDICIARY, SEPTEMBER 13, 2021

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in general provisions
3 relating to civil actions and proceedings, providing for
4 liability for easements to benefit landlocked properties.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 7104. Liability for easements to benefit landlocked
10 properties.

11 (a) Purpose.--The purpose of this section is to encourage
12 landowners to make easements available to landlocked properties
13 by limiting the liability of landowners to users of easements.

14 (b) Limits.--The following limits shall apply:

15 (1) Except as specifically provided in paragraph (2), a
16 landowner:

17 (i) Owes no duty of care to keep an easement safe
18 for entry or use by a user or to give warning of a
19 dangerous condition, use, structure or activity on an

1 easement to users.

2 (ii) Who either directly or indirectly invites or
3 permits a user to enter or use an easement does not
4 thereby:

5 (A) Extend any assurance that the easement is
6 safe for any purpose.

7 (B) Confer upon a user the legal status of an
8 invitee or licensee to whom a duty of care is owed.

9 (C) Assume responsibility for or incur liability
10 for any injury to an individual or property caused by
11 an act of omission of a user or landowner.

12 (2) Nothing in this section limits any liability which
13 otherwise exists for willful or malicious failure to guard or
14 warn against a dangerous condition, use, structure or
15 activity.

16 (c) Applicability.--This section shall only apply to
17 easements which were granted, sold, conveyed or entered into on
18 or after the effective date of this section.

19 (d) Construction.--Nothing in this section shall be
20 construed to:

21 (1) Create a duty of care or ground of liability for any
22 injury to an individual or property.

23 (2) Relieve a user from any obligation which the user
24 may have in the absence of this section to exercise care in
25 the user's use of an easement or activities on an easement,
26 or from the legal consequences of failure to employ care.

27 (e) Definitions.--As used in this section, the following
28 words and phrases shall have the meanings given to them in this
29 subsection unless the context clearly indicates otherwise:

30 "Easement." An interest in land, less than fee simple, which

1 interest represents the right of a landlocked property to access
2 a public thoroughfare.

3 "Easement holder." The person who holds an easement.

4 "Landlocked property." Real property which does not have
5 access to a public thoroughfare.

6 "Landowner." The possessor of a fee interest, a tenant,
7 lessee, occupant or person in control of the premises subject to
8 an easement.

9 "User." A person who enters or uses an easement, including
10 an easement holder.

11 Section 2. This act shall take effect in 60 days.