

House Engrossed

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

HOUSE BILL 2154

AN ACT

AMENDING TITLE 33, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5;
RELATING TO EASEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 33, chapter 2, Arizona Revised Statutes, is amended
3 by adding article 5, to read:

4 ARTICLE 5. EASEMENTS

5 33-281. Easements: proportionate liability for maintenance

6 A. THE HOLDER OF ANY ROADWAY EASEMENT THAT IS IN THE NATURE OF A
7 PRIVATE RIGHT-OF-WAY AND THE OWNER OF THE LAND TO WHICH THE EASEMENT IS
8 ATTACHED SHALL MAINTAIN THE EASEMENT.

9 B. AN EASEMENT THAT IS HELD BY MORE THAN ONE PERSON OR THAT IS
10 ATTACHED TO PARCELS OF LAND UNDER DIFFERENT OWNERSHIP SHALL BE MAINTAINED AS
11 PROVIDED IN ANY AGREEMENT AMONG THE PERSONS. IF THERE IS NO AGREEMENT:

12 1. THE REASONABLE COST OF MAINTENANCE, INCLUDING SNOW PLOWING TO
13 MAINTAIN ACCESS, SHALL BE SHARED PROPORTIONATELY AMONG THE HOLDERS OF THE
14 EASEMENT RIGHT ACCORDING TO THE USE MADE OF THE EASEMENT BY EACH HOLDER.

15 2. FOR AN EASEMENT HELD BY THREE OR MORE PERSONS, THE MAINTENANCE
16 SHALL BE APPROVED BY A MAJORITY OF THE EASEMENT HOLDERS WHO USE THE EASEMENT.

17 C. ANY HOLDER OF AN EASEMENT OR ANY OWNER OF LAND TO WHICH THE
18 EASEMENT IS ATTACHED MAY APPLY TO ANY COURT IN THE COUNTY IN WHICH THE
19 EASEMENT IS LOCATED AND THAT HAS JURISDICTION OVER THE AMOUNT IN CONTROVERSY
20 FOR THE APPOINTMENT OF AN IMPARTIAL ARBITRATOR TO APPORTION THE COST. THE
21 APPLICATION MAY BE MADE BEFORE, DURING OR AFTER PERFORMANCE OF THE
22 MAINTENANCE WORK. IF THE ARBITRATION AWARD IS NOT ACCEPTED BY ALL OF THE
23 EASEMENT HOLDERS AND LANDOWNERS, THE COURT MAY ENTER A JUDGMENT DETERMINING
24 THE PROPORTIONATE LIABILITY OF THE PARTIES. THE JUDGMENT MAY BE ENFORCED AS
25 OTHER MONEY JUDGMENTS BY ANY PARTY AGAINST ANY OTHER PARTY TO THE ACTION.

26 D. THIS SECTION DOES NOT APPLY TO ANY EASEMENT HELD BY ANY AGENCY OR
27 DEPARTMENT OF THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE, ANY PUBLIC
28 SERVICE CORPORATION OR ANY PRIVATE UTILITY PROVIDER.