



MISSOURI HOUSE OF REPRESENTATIVES
WITNESS APPEARANCE FORM

BILL NUMBER: HB 2862		DATE: 3/26/2024	
COMMITTEE: Local Government			
TESTIFYING: <input checked="" type="checkbox"/> IN SUPPORT OF <input type="checkbox"/> IN OPPOSITION TO <input type="checkbox"/> FOR INFORMATIONAL PURPOSES			
WITNESS NAME			
INDIVIDUAL:			
WITNESS NAME: ARNIE C AC "HONEST ABE" DIENOFF-STATE PUBLIC ADVOC		PHONE NUMBER:	
BUSINESS/ORGANIZATION NAME:		TITLE:	
ADDRESS:			
CITY:		STATE:	ZIP:
EMAIL:	ATTENDANCE:		SUBMIT DATE: 3/26/2024 12:00 AM
THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.			



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WITNESS NAME			
BUSINESS/ORGANIZATION:			
WITNESS NAME: JANE STERNECKY		PHONE NUMBER: 312-450-6622	
BUSINESS/ORGANIZATION NAME: UNIFORM LAW COMMISSION		TITLE: MS.	
ADDRESS: 111 N. WABASH, SUITE 1010			
CITY: CHICAGO		STATE: IL	ZIP: 60602
EMAIL: jsternecky@uniformlaws.org	ATTENDANCE: In-Person	SUBMIT DATE: 3/22/2024 2:13 PM	
THE INFORMATION ON THIS FORM IS PUBLIC RECORD UNDER CHAPTER 610, RSMo.			

Thank you for considering Representative Falkner’s legislation to enact the Uniform Easement Relocation Act together in Missouri. The Uniform Easement Relocation Act (UERA) is based on a uniform act produced by the Uniform Law Commission (ULC). The Uniform Law Commission is a non-profit organization formed in 1892 to draft non-partisan model legislation in the areas of the law for which uniformity among the states is advisable. It is comprised of Commissioners from all 50 states, Puerto Rico, the District of Columbia, and the U.S. Virgin Islands. Missouri has a long and successful history of enacting uniform acts, including the Uniform Commercial Code, the Uniform Athlete Agents Act, and the Uniform Military and Overseas Voters Act. An easement is a type of property interest that allows one landowner the right to use another landowner’s property for a specific purpose. For example, a landowner could obtain an easement that allows him to access a public road by cutting through his neighbor’s property. That landowner’s property would be benefitted by this easement (the “easement holder”), while his neighbor’s property would be burdened by its presence (the “servient” estate). Because easements run with the land, the neighbor’s property would continue to be burdened by this easement, even if it is later sold to a new owner. A common easement problem presents when the owner of the servient estate plans to develop or improve their property in some way that requires the easement to be relocated. Expanding on the above example, imagine the servient estate owner’s property is undeveloped prairie or a vacant lot near a city, and that because the land was undeveloped, the easement allowing the easement holder to access the public road is a strip of dirt or an old driveway that runs directly through the center of the servient estate. If the servient estate owner is able to move the easement, that person will be able to use the undeveloped prairie or vacant lot to create a renewable energy project or an affordable housing development. Under the traditional rule of “mutual consent,” the servient estate owner could only relocate the easement if the easement holder provided their consent. Consent would be required regardless of the circumstances, even if the proposed relocation caused no material harm to the easement holder. Other states allow some variation of the approach proposed in the Restatement Third of Property: Servitudes, which permits easements to be relocated if there is not any substantial interference with the functional utility of the easement. Missouri law requires the easement holder to consent to the relocation, though some courts have found ways to apply the Restatement approach in limited circumstances. Applying the traditional rule of mutual consent, if our hypothetical easement holder refuses to give his consent to have the easement relocated, then his neighbor could be indefinitely prohibited from developing his land or improving the property in any way that would require the easement to be moved. This could result in the land sitting unused and wasted indefinitely, regardless of the community’s desire or need for development. SB 2862 addresses the current patchwork of caselaw by introducing flexibility and creating a modern approach that outlines when easements can be relocated. Under UERA, a servient estate owner can file a civil

lawsuit that will give them the chance to relocate the easement if they can demonstrate: (1) that the relocation will not lessen the easement's utility or increase the burden on the easement holder to reasonably use and enjoy the easement; (2) that the relocated easement will serve the same "affirmative, easement-related purpose" for which the it was created; and (3) that the relocation will not materially diminish the "physical condition, use, or value of the dominant estate." The servient estate owner must pay all expenses associated with the relocation and must allow the easement holder continued use of the easement during the construction or creation of the new easement. By creating a fair, judicially controlled path for a servient estate owner to request easement relocation, UERA modernizes easement law while upholding the functional interest of an easement holder in the use and enjoyment of an easement. The traditional mutual consent rule can lead to gridlock and permanent land waste, and gives an easement holder an extraordinary amount of power over the servient estate owner's ability to develop and improve his or her land. Enacting SB 2862 will ensure that easements continue to be a useful, but not excessively burdensome, property interest by creating predictability for servient estate owners, easement holders, and people who use easements. Additionally, enacting SB 2862 will bring economic and social benefits to Missourians by freeing up qualifying servient estates for development, without causing harm to easement holders. Thank you for your consideration. I welcome your questions.