

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1060

By: Wilk

4

5

6 AS INTRODUCED

7 An Act relating to easements; enacting the Oklahoma
8 Uniform Easement Relocation Act of 2025; defining
9 terms; provides applicability of act to certain
10 easements; excludes certain easements from relation;
11 establishes the right of a property owner to relocate
12 an easement in certain circumstances; provides that a
13 property owner may commence a civil action to
14 relocate an easement; provides the requirements for
15 commencing a civil action to relocate an easement;
16 provides the court guidelines in creating an order
17 for relocation of an easement; requiring the
18 recordation of certain documents prior to relocation
19 of an easement; providing for reasonable expenses
20 related to the relocation of an easement; requires
21 the parties to a civil action for easement relocation
22 to act in good faith in facilitating relocation;
23 provides when a proposed easement relocation is
24 considered to be final and complete; provides and
limits the effect of an easement relocation; provides
that the right of a property to relocate an easement
under this act cannot be waived, excluded, or
restricted by agreement; provides that the law should
be applied and construed to promote uniformity with
other states that enact the act; provides relation to
the Electronic Signatures in Global and National
Commerce Act; provides that the act applies to an
easement created before, on, or after the effective
date of this bill; provides for codification; and
provides an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. NEW LAW A new section of law to be codified
3 in the Oklahoma Statutes as Section 1501 of Title 60, unless there
4 is created a duplication in numbering, reads as follows:

5 This act shall be known and may be cited as the "Oklahoma
6 Uniform Easement Relocation Act of 2025".

7 SECTION 2. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1502 of Title 60, unless there
9 is created a duplication in numbering, reads as follows:

10 As used in this act:

11 1. "Appurtenant easement" means an easement tied to or
12 dependent on ownership or occupancy of a unit or a parcel of real
13 property;

14 2. "Conservation easement" means a nonpossessory property
15 interest created for one or more of the following conservation
16 purposes:

- 17 a. retaining or protecting the natural, scenic, wildlife,
18 wildlife-habitat, biological, ecological, or open-
19 space values of real property,
20 b. ensuring the availability of real property for
21 agricultural, forest, outdoor-recreational, or open-
22 space uses,
23 c. protecting natural resources, including wetlands,
24 grasslands, and riparian areas,

1 d. maintaining or enhancing air or water quality, or
2 e. preserving the historical, architectural,
3 archeological, paleontological, or cultural aspects of
4 real property;

5 3. "Dominant estate" means an estate or interest in real
6 property benefitted by an appurtenant easement;

7 4. "Easement" means a nonpossessory property interest that:

8 a. provides a right to enter, use, or enjoy real property
9 owned by or in the possession of another, and
10 b. imposes on the owner or possessor a duty not to
11 interfere with the entry, use, or enjoyment permitted
12 by the instrument creating the easement or, in the
13 case of an easement not established by express grant
14 or reservation, the entry, use, or enjoyment
15 authorized by law;

16 5. "Easement holder" means:

17 a. in the case of an appurtenant easement, the dominant
18 estate owner, or
19 b. in the case of an easement in gross, public-utility
20 easement, conservation easement, or negative easement,
21 the grantee of the easement or a successor;

22 6. "Easement in gross" means an easement not tied to or

23 dependent on ownership or occupancy of a unit or a parcel of real
24 property;

1 7. "Lessee of record" means a person holding a lessee's
2 interest under a recorded lease or memorandum of lease;

3 8. "Negative easement" means a nonpossessory property interest
4 whose primary purpose is to impose on a servient estate owner a duty
5 not to engage in a specified use of the estate;

6 9. "Person" means an individual, estate, business or nonprofit
7 entity, public corporation, government or governmental subdivision,
8 agency, or instrumentality, or other legal entity;

9 10. "Public-utility easement" means a nonpossessory property
10 interest in which the easement holder is a publicly regulated or
11 publicly owned utility under federal law or law of this state or a
12 municipality. The term includes an easement benefiting an
13 intrastate utility, an interstate utility, or a utility cooperative;

14 11. "Real property" means an estate or interest in, over, or
15 under land, including structures, fixtures, and other things that by
16 custom, usage, or law pass with a conveyance of land whether or not
17 described or mentioned in the contract of sale or instrument of
18 conveyance. The term includes the interest of a lessor and lessee
19 and, unless the interest is personal property under law of this
20 state other than this act, an interest in a common-interest
21 community;

22 12. "Record", used as a noun, means information that is
23 inscribed on a tangible medium or that is stored in an electronic or
24 other medium and is retrievable in perceivable form;

1 13. "Security instrument" means a mortgage, deed of trust,
2 security deed, contract for deed, lease, or other record that
3 creates or provides for an interest in real property to secure
4 payment or performance of an obligation, whether by acquisition or
5 retention of a lien, a lessor's interest under a lease, or title to
6 the real property. The term includes:

- 7 a. a security instrument that also creates or provides
8 for a security interest in personal property,
- 9 b. a modification or amendment of a security instrument,
10 and
- 11 c. a record creating a lien on real property to secure an
12 obligation under a covenant running with the real
13 property or owed by a unit owner to a common-interest
14 community association;

15 14. "Security-interest holder of record" means a person holding
16 an interest in real property created by a recorded security
17 instrument;

18 15. "Servient estate" means an estate or interest in real
19 property that is burdened by an easement;

20 16. "Title evidence" means a title insurance policy,
21 preliminary title report or binder, title insurance commitment,
22 abstract of title, attorney's opinion of title based on examination
23 of public records or an abstract of title, or any other means of
24

1 reporting the state of title to real property which is customary in
2 the locality;

3 17. "Unit" means a physical portion of a common-interest
4 community designated for separate ownership or occupancy with
5 boundaries described in a declaration establishing the common-
6 interest community; and

7 18. "Utility cooperative" means a non-profit entity whose
8 purpose is to deliver a utility service, such as electricity, oil,
9 natural gas, water, sanitary sewer, storm water, or
10 telecommunications, to its customers or members and includes an
11 electric cooperative, rural electric cooperative, rural water
12 district, and rural water association.

13 SECTION 3. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1503 of Title 60, unless there
15 is created a duplication in numbering, reads as follows:

16 A. Except as otherwise provided in subsection B of this
17 section, this act applies to an easement established by express
18 grant or reservation or by prescription, implication, necessity,
19 estoppel, or other method.

20 B. This act may not be used to relocate:

21 1. A public-utility easement, conservation easement, or
22 negative easement; or

23 2. An easement if the proposed location would encroach on an
24 area of an estate burdened by a conservation easement or would

1 interfere with the use or enjoyment of a public-utility easement or
2 an easement appurtenant to a conservation easement.

3 C. This act does not apply to relocation of an easement by
4 consent.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1504 of Title 60, unless there
7 is created a duplication in numbering, reads as follows:

8 A servient estate owner may relocate an easement under this act
9 only if the relocation does not materially:

10 1. Lessen the utility of the easement;

11 2. After the relocation, increase the burden on the easement
12 holder in its reasonable use and enjoyment of the easement;

13 3. Impair an affirmative, easement-related purpose for which
14 the easement was created;

15 4. During or after the relocation, impair the safety of the
16 easement holder or another entitled to use and enjoy the easement;

17 5. During the relocation, disrupt the use and enjoyment of the
18 easement by the easement holder or another entitled to use and enjoy
19 the easement, unless the servient estate owner substantially
20 mitigates the duration and nature of the disruption;

21 6. Impair the physical condition, use, or value of the dominant
22 estate or improvements on the dominant estate; or

23 7. Impair the value of the collateral of a security-interest
24 holder of record in the servient estate or dominant estate, impair a

1 real-property interest of a lessee of record in the dominant estate,
2 or impair a recorded real-property interest of any other person in
3 the servient estate or dominant estate.

4 SECTION 5. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1505 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 A. To obtain an order to relocate an easement under this act, a
8 servient estate owner must commence a civil action.

9 B. A servient estate owner that commences a civil action under
10 subsection A of this section:

11 1. Shall serve a summons and petition on:

12 a. the easement holder whose easement is the subject of
13 the relocation,

14 b. a security-interest holder of record of an interest in
15 the servient estate or dominant estate,

16 c. a lessee of record of an interest in the dominant
17 estate, and

18 d. except as otherwise provided in paragraph 2 of this
19 subsection, any other owner of a recorded real-
20 property interest if the relocation would encroach on
21 an area of the servient estate or dominant estate
22 burdened by the interest; and

23 2. Is not required to serve a summons and petition on the owner
24 of a recorded real-property interest in oil, gas, or minerals unless

1 the interest includes an easement to facilitate oil, gas, or mineral
2 development.

3 C. A petition under this section must state:

4 1. The intent of the servient estate owner to seek the
5 relocation;

6 2. The nature, extent, and anticipated dates of commencement
7 and completion of the proposed relocation;

8 3. The current and proposed locations of the easement;

9 4. The reason the easement is eligible for relocation under
10 Section 3 of this act;

11 5. The reason the proposed relocation satisfies the conditions
12 for relocation under Section 4 of this act; and

13 6. That the servient estate owner has made a reasonable attempt
14 to notify the holders of any public-utility easement, conservation
15 easement, or negative easement on the servient estate or dominant
16 estate of the proposed relocation.

17 D. At any time before the court renders a final order in an
18 action under subsection A of this section, a person served under
19 subparagraph b, c, or d of subsection B of this section may file a
20 document, in recordable form, that waives its rights to contest or
21 obtain relief in connection with the relocation or subordinates its
22 interests to the relocation. On filing of the document, the court
23 may order that the person is not required to answer or participate
24 further in the action.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1506 of Title 60, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The court may not approve relocation of an easement under
5 this act unless the servient estate owner:

6 1. Establishes that the easement is eligible for relocation
7 under Section 3 of this act; and

8 2. Satisfies the conditions for relocation under Section 4 of
9 this act.

10 B. An order under this act approving relocation of an easement
11 must:

12 1. State that the order is issued in accordance with this act;
13 2. Recite the recording data of the instrument creating the
14 easement, if any, and any amendments, and any notice as described by
15 Section 71 of Title 16 of the Oklahoma Statutes;

16 3. Identify the immediately preceding location of the easement;
17 4. Describe in a legally sufficient manner the new location of
18 the easement;

19 5. Describe mitigation required of the servient estate owner
20 during relocation;

21 6. Refer in detail to the plans and specifications of
22 improvements necessary for the easement holder to enter, use, and
23 enjoy the easement in the new location;

1 7. Specify conditions to be satisfied by the servient estate
2 owner to relocate the easement and construct improvements necessary
3 for the easement holder to enter, use, and enjoy the easement in the
4 new location;

5 8. Include a provision for payment by the servient estate owner
6 of expenses under Section 7 of this act;

7 9. Include a provision for compliance by the parties with the
8 obligation of good faith under Section 8 of this act; and

9 10. Instruct the servient estate owner to record an affidavit,
10 if required under subsection A of Section 9 of this act, when the
11 servient estate owner substantially completes relocation.

12 C. An order under subsection B of this section may include any
13 other provision consistent with this act for the fair and equitable
14 relocation of the easement.

15 D. Before a servient estate owner proceeds with relocation of
16 an easement under this act, the owner must record, in the county
17 records of each jurisdiction where the servient estate is located, a
18 certified copy of the order under subsection B of this section.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1507 of Title 60, unless there
21 is created a duplication in numbering, reads as follows:

22 A servient estate owner is responsible for reasonable expenses
23 of relocation of an easement under this act, including the expense
24 of:

- 1 1. Constructing improvements on the servient estate or dominant
2 estate in accordance with an order under Section 6 of this act;
- 3 2. During the relocation, mitigating disruption in the use and
4 enjoyment of the easement by the easement holder or another person
5 entitled to use and enjoy the easement;
- 6 3. Obtaining a governmental approval or permit to relocate the
7 easement and construct necessary improvements;
- 8 4. Preparing and recording the certified copy required by
9 subsection D of Section 6 of this act and any other document
10 required to be recorded;
- 11 5. Any title work required to complete the relocation or
12 required by a party to the civil action as a result of the
13 relocation;
- 14 6. Applicable premiums for title insurance related to the
15 relocation;
- 16 7. Any expert necessary to review plans and specifications for
17 an improvement to be constructed in the relocated easement or on the
18 dominant estate and to confirm compliance with the plans and
19 specifications referred to in the order under paragraph 6 of
20 subsection B of Section 6 of this act;
- 21 8. Payment of any maintenance cost associated with the
22 relocated easement which is greater than the maintenance cost
23 associated with the easement before relocation; and

1 9. Obtaining any third-party consent required to relocate the
2 easement.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1508 of Title 60, unless there
5 is created a duplication in numbering, reads as follows:

6 After the court, under Section 6 of this act, approves
7 relocation of an easement and the servient estate owner commences
8 the relocation, the servient estate owner, the easement holder, and
9 other parties in the civil action shall act in good faith to
10 facilitate the relocation in compliance with this act.

11 SECTION 9. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 1509 of Title 60, unless there
13 is created a duplication in numbering, reads as follows:

14 A. If an order under Section 6 of this act requires the
15 construction of an improvement as a condition for relocation of an
16 easement, relocation is substantially complete, and the easement
17 holder is able to enter, use, and enjoy the easement in the new
18 location, the servient estate owner shall:

19 1. Record, in the land records of each jurisdiction where the
20 servient estate is located, an affidavit certifying that the
21 easement has been relocated; and

22 2. Send, by certified mail, a copy of the recorded affidavit to
23 the easement holder and parties to the civil action.

1 B. Until an affidavit under subsection A of this section is
2 recorded and sent, the easement holder may enter, use, and enjoy the
3 easement in the current location, subject to the court's order under
4 Section 6 of this act approving relocation.

5 C. If an order under Section 6 of this act does not require an
6 improvement to be constructed as a condition of the relocation,
7 recording the order under subsection D of Section 6 of this act
8 constitutes relocation.

9 SECTION 10. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1510 of Title 60, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Relocation of an easement under this act:

13 1. Is not a new transfer or a new grant of an interest in the
14 servient estate or the dominant estate;

15 2. Is not a breach or default of, and does not trigger, a due-
16 on-sale clause or other transfer-restriction clause under a security
17 instrument, except as otherwise determined by a court under law
18 other than this act;

19 3. Is not a breach or default of a lease, except as otherwise
20 determined by a court under law other than this act;

21 4. Is not a breach or default by the servient estate owner of a
22 recorded document affected by the relocation, except as otherwise
23 determined by a court under law other than this act;

1 5. Does not affect the priority of the easement with respect to
2 other recorded real-property interests burdening the area of the
3 servient estate where the easement was located before the
4 relocation; and

5 6. Is not a fraudulent conveyance or voidable transaction under
6 law.

7 B. This act does not affect any other method of relocating an
8 easement permitted under law of this state other than this act.

9 SECTION 11. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1511 of Title 60, unless there
11 is created a duplication in numbering, reads as follows:

12 The right of a servient estate owner to relocate an easement
13 under this act may not be waived, excluded, or restricted by
14 agreement even if:

15 1. The instrument creating the easement prohibits relocation or
16 contains a waiver, exclusion, or restriction of this act;

17 2. The instrument creating the easement requires consent of the
18 easement holder to amend the terms of the easement; or

19 3. The location of the easement is fixed by the instrument
20 creating the easement, another agreement, previous conduct,
21 acquiescence, estoppel, or implication.

22 SECTION 12. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1512 of Title 60, unless there
24 is created a duplication in numbering, reads as follows:

1 In applying and construing this uniform act, consideration must
2 be given to the need to promote uniformity of the law with respect
3 to its subject matter among the states that enact it.

4 SECTION 13. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1513 of Title 60, unless there
6 is created a duplication in numbering, reads as follows:

7 This act modifies, limits, or supersedes the Electronic
8 Signatures in Global and National Commerce Act, 15 U.S.C., Section
9 7001 et seq., but does not modify, limit, or supersede Section
10 101(c) of that act, 15 U.S.C., Section 7001(c), or authorize
11 electronic delivery of any of the notices described in Section
12 103(b) of that act, 15 U.S.C., Section 7003(b).

13 SECTION 14. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1514 of Title 60, unless there
15 is created a duplication in numbering, reads as follows:

16 This act applies to an easement created before, on, or after the
17 effective date of this act.

18 SECTION 15. This act shall become effective November 1, 2025.

19

20 60-1-10780 JL 12/19/24

21

22

23

24