

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

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This draft requires the Department of Natural Resources (DNR) to grant an easement over DNR land to a landowner so that the landowner has access to his or her land if that landowner was previously given a way of access over the land by DNR's predecessor in interest in the land. I have made a number of assumptions in this draft. I have assumed the following:

1. That the landowner would be required to request that DNR grant the easement.
2. That the landowner's request must be made in a timely way. For purposes of this version of the draft, I specified that the request must be made within one year of the date on which DNR acquired the land.
3. That the landowner is entitled to easement only if the way of access was regularly used for at least a minimum period of time. For purposes of this version of the draft, I specified that the landowner must have used the way of access for at least five years before DNR acquired the land.
4. That the easement would attach to the land. If you want only the person who owned the land at the time DNR acquired the land to have the benefit of the easement, the draft will need additional language.

I have limited the draft so that the requirement to grant an easement applies only to DNR land that is acquired for "recreational use." If you want to extend the application of the draft to other lands, please let me know. For example, you might want the draft to apply to lands acquired by local units of government with stewardship funds.

The draft does not specify what evidence the landowner must provide to show that he or she was previously given access to the land. Do you want to require that the landowner must submit a written statement from the previous landowner?

Finally, you may wish to define the term "recreational use" in the next version of the draft.

I have prepared this draft in preliminary form to give you an opportunity to review the issues raised in this note and to give you the opportunity to make changes to the draft before preparing it in its final form. Please feel free to contact me if you have any questions with regard to this draft.

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