

Effective 5/4/2022

57-13c-101 Definitions.

As used in this chapter:

- (1) "Appurtenant easement" means an easement tied to, or dependent on, ownership or occupancy of a unit or a parcel of real property.
- (2) "Common-interest community" means:
 - (a) an association of unit owners, as defined in Section 57-8-3;
 - (b) an association, as defined in Section 57-8a-102; or
 - (c) a cooperative, as defined in Section 57-23-2.
- (3) "Conservation easement" means a nonpossessory property interest created for one or more of the following conservation purposes:
 - (a) retaining or protecting the natural, scenic, wildlife, wildlife-habitat, biological, ecological, or open-space values of real property;
 - (b) ensuring the availability of real property for agricultural, forest, outdoor-recreational, or open-space uses;
 - (c) protecting natural resources, including wetlands, grasslands, and riparian areas;
 - (d) maintaining or enhancing air or water quality;
 - (e) preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property; or
 - (f) any other purpose under Chapter 18, Land Conservation Easement Act.
- (4) "Dominant estate" means an estate or interest in real property benefitted by an appurtenant easement.
- (5) "Easement" means a nonpossessory property interest that:
 - (a) provides a right to enter, use, or enjoy real property owned by or in the possession of another; and
 - (b) imposes on the owner or possessor a duty not to interfere with the entry, use, or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.
- (6) "Easement holder" means:
 - (a) in the case of an appurtenant easement, the dominant estate owner; or
 - (b) in the case of an easement in gross, a public-entity easement, a public-utility easement, a conservation easement, or a negative easement, the grantee of the easement or a successor.
- (7) "Easement in gross" means an easement not tied to, or dependent on, ownership or occupancy of a unit or a parcel of real property.
- (8) "Highway" means the same as that term is defined in Section 72-1-102.
- (9) "Lessee of record" means a person holding a lessee's interest under a recorded lease or memorandum of lease.
- (10) "Negative easement" means a nonpossessory property interest whose primary purpose is to impose on a servient estate owner a duty not to engage in a specified use of the estate.
- (11) "Person" means an individual, an estate, a business or a nonprofit entity, a public corporation, a government or governmental subdivision, an agency, or an instrumentality, or other legal entity.
- (12) "Public entity" means:
 - (a) the United States;
 - (b) an agency of the United States;
 - (c) the state;
 - (d) a political subdivision of the state; or
 - (e) an agency of the state or a political subdivision of the state.

- (13) "Public-entity easement" means a nonpossessory property interest in which the easement holder is a public entity.
- (14) "Public utility" means the same as that term is defined in Section 54-2-1.
- (15)
 - (a) "Public-utility easement" means a nonpossessory property interest, including an easement, a right of way, a grant, a permit, a license, or a similar right, that has been granted to:
 - (i) a public utility;
 - (ii) a publicly regulated utility or a publicly owned utility under federal law or the laws of this state or a municipality;
 - (iii) an interstate utility regulated by the Federal Energy Regulatory Commission; or
 - (iv) a utility cooperative.
 - (b) "Public-utility easement" includes:
 - (i) an easement benefitting an intrastate utility, an interstate utility, or a utility cooperative;
 - (ii) a protected utility easement as defined in Section 54-3-27; and
 - (iii) a public utility easement as defined in Section 54-3-27.
- (16) "Public transit facility" means the same as that term is defined in Section 72-1-102.
- (17)
 - (a) "Real property" means an estate or interest in, over, or under land, including structures, fixtures, and other things that by custom, usage, or law pass with a conveyance of land whether or not described or mentioned in the contract of sale or instrument of conveyance.
 - (b) "Real property" includes:
 - (i) the interest of a lessor and lessee; and
 - (ii) an interest in a common-interest community, unless the interest is personal property under Chapter 23, Real Estate Cooperative Marketing Act.
- (18) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (19)
 - (a) "Security instrument" means a mortgage, a deed of trust, a security deed, a contract for deed, a lease, or other record that creates or provides for an interest in real property to secure payment or performance of an obligation, whether by acquisition or retention of a lien, a lessor's interest under a lease, or title to the real property.
 - (b) "Security instrument" includes:
 - (i) a security instrument that also creates or provides for a security interest in personal property;
 - (ii) a modification or amendment of a security instrument; and
 - (iii) a record creating a lien on real property to secure an obligation under a covenant running with the real property or owed by a unit owner in a common-interest community.
- (20) "Security-interest holder of record" means a person holding an interest in real property created by a recorded security instrument.
- (21) "Servient estate" means an estate or interest in real property that is burdened by an easement.
- (22) "Title evidence" means a title insurance policy, a preliminary title report or binder, a title insurance commitment, an abstract of title, an attorney's opinion of title based on examination of public records or an abstract of title, or any other means of reporting the state of title to real property that is customary in the locality.
- (23) "Unit" means a physical portion of a common-interest community designated for separate ownership or occupancy with boundaries described in a declaration establishing the common-interest community.
- (24)

- (a) "Utility cooperative" means a non-profit entity whose purpose is to deliver a utility service, such as electricity, oil, natural gas, water, sanitary sewer, storm water, or telecommunications, to the non-profit entity's customers or members.
- (b) "Utility cooperative" includes an electric cooperative, a rural electric cooperative, a rural water district, and a rural water association.
- (25) "Water-conveyance easement" means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage, culinary or industrial water, or a federal water project facility.

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