

One Hundred Fourth Legislature - Second Session - 2016

Introducer's Statement of Intent

LB725

Chairperson: Senator Mike Gloor

Committee: Revenue

Date of Hearing: January 21, 2016

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

An easement is simply a right granted by a land owner to use real estate for a limited purpose. Usually the purpose is for utilities but can also be for such things as rights of passage across land. An easement does not affect the ownership of the land.

Recent amendments to the definition of “deed” in §76-203, perhaps unintentionally caused easements to fall under the definition of “deed” in §76-203, which now includes “every written instrument by which any real estate or interest therein is created...” Therefore the Department of Revenue instructs county register of deeds to require real estate transfer statements, commonly referred to as Form 521, be filed with easements at the same time they are recorded pursuant to §76-214, even though ownership of property is not transferred. Form 521 identifies the owner and the purchaser, any documentary tax exemptions that might exempt the transaction from the nominal recording tax assessed when a deed is filed, a description of the property, and the price paid. The reported price becomes part of the property tax valuation mechanism.

Power companies file numerous easements and argue that Form 521 filings serve no useful purpose and are over burdensome. LB725 would exempt “utility easements” from the Form 521 filing requirement and would do so by defining “utility agreement” for the purpose of §76-214 and specifically exempting them from the statute. LB725 is limited to utility agreements and a good argument could be made that the need to file Form 521 on any easement is burdensome and confusing. The Committee may want to consider broadening the exemption to include all easements unless a cost effective and reasonable case can be made for requiring a Form 521 for non-utility easements.

Principal Introducer: _____

Senator Paul Schumacher