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CIVIL CODE - CIV

DIVISION 2. PROPERTY [654 - 1422] (*Heading of Division 2 amended by Stats. 1988, Ch. 160, Sec. 13.*)

PART 2. REAL OR IMMOVABLE PROPERTY [[755.] - 945.5] (*Part 2 enacted 1872.*)

TITLE 5. MARKETABLE RECORD TITLE [880.020 - 887.090] (*Title 5 added by Stats. 1982, Ch. 1268, Sec. 1.*)

CHAPTER 7. Abandoned Easements [887.010 - 887.090] (*Chapter 7 added by Stats. 1985, Ch. 157, Sec. 2.*)

887.010. As used in this chapter, "easement" means a burden or servitude upon land, whether or not attached to other land as an incident or appurtenance, that allows the holder of the burden or servitude to do acts upon the land.

(*Added by Stats. 1985, Ch. 157, Sec. 2.*)

887.020. This chapter does not apply to an easement that is part of a unified or reciprocal system for the mutual benefit of multiple parties.

(*Added by Stats. 1985, Ch. 157, Sec. 2.*)

887.030. This chapter supplements and does not limit or otherwise affect the common law governing abandonment of an easement or any other procedure provided by statute or otherwise for clearing an abandoned easement from title to real property.

(*Added by Stats. 1985, Ch. 157, Sec. 2.*)

887.040. (a) The owner of real property subject to an easement may bring an action to establish the abandonment of the easement and to clear record title of the easement.

(b) The action shall be brought in the superior court of the county in which the real property subject to the easement is located.

(c) The action shall be brought in the same manner and shall be subject to the same procedure as an action to quiet title pursuant to Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure, to the extent applicable.

(*Added by Stats. 1985, Ch. 157, Sec. 2.*)

887.050. (a) For purposes of this chapter, an easement is abandoned if all of the following conditions are satisfied for a period of 20 years immediately preceding commencement of the action to establish abandonment of the easement:

(1) The easement is not used at any time.

(2) No separate property tax assessment is made of the easement or, if made, no taxes are paid on the assessment.

(3) No instrument creating, reserving, transferring, or otherwise evidencing the easement is recorded.

(b) This section applies notwithstanding any provision to the contrary in the instrument creating, reserving, transferring, or otherwise evidencing the easement or in another recorded document, unless the instrument or other document provides an earlier expiration date.

(*Added by Stats. 1985, Ch. 157, Sec. 2.*)

887.060. (a) The owner of an easement may at any time record a notice of intent to preserve the easement.

(b) In lieu of the statement of the character of the interest claimed and the record location of the documents creating or evidencing the easement claimed, as otherwise required by paragraph (2) of subdivision (b) of Section 880.330, and in lieu of the legal description of the real property in which the interest is claimed, as otherwise required by paragraph (3) of subdivision (b) of Section 880.330, and notwithstanding the provisions of Section 880.340, or any other provision in this title, a notice of intent to preserve an

easement may refer generally and without specificity to any or all easements claimed by the claimant in any real property situated in the county.

(c) An easement is not abandoned for purposes of this chapter if either of the following occurs:

(1) A notice of intent to preserve the easement is recorded within 20 years immediately preceding commencement of the action to establish the abandonment of the easement.

(2) A notice of intent to preserve the easement is recorded pursuant to Section 887.070 after commencement of the action to establish the abandonment of the easement and before judgment is entered in the action.

(Added by Stats. 1985, Ch. 157, Sec. 2.)

887.070. In an action to establish the abandonment of an easement pursuant to this chapter, the court shall permit the owner of the easement to record a late notice of intent to preserve the easement as a condition of dismissal of the action, upon payment into court for the benefit of the owner of the real property the litigation expenses attributable to the easement or portion thereof as to which the notice is recorded. As used in this section, the term "litigation expenses" means recoverable costs and expenses reasonably and necessarily incurred in preparation for the action, including a reasonable attorney's fee.

(Added by Stats. 1985, Ch. 157, Sec. 2.)

887.080. An abandoned easement is unenforceable and is deemed to have expired. A court order establishing abandonment of an easement pursuant to this chapter is equivalent for all purposes to a conveyance of the easement to the owner of the real property.

(Added by Stats. 1985, Ch. 157, Sec. 2.)

887.090. Subject to Sections 880.370 (grace period for recording notice) and 887.020, this chapter applies to all easements, whether executed or recorded before, on, or after January 1, 1986.

(Added by Stats. 1985, Ch. 157, Sec. 2.)