

S.119 – Proposed Amendment of Section 6322

Proposed by Vermont Attorney General's Office – February 11, 2014

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Below are the two alternative amendments the AGO would propose for section 6322. We worked from S.119 as passed by the Senate. The red-lined strikes are the language that would be deleted. Added language is underlined.

Alternative 1 – in Section 6322 (d), delete the “unless clause” completely:

(d) The following easement amendments shall be exempt from sections 6324–6333 of this title ~~unless, for a particular easement amendment, the landowner and each holder elect to employ and be bound by those provisions:~~

(1) any amendment of a conservation easement that requires the approval of the General Assembly or is part of a land transaction that requires such approval;

(2) any amendment of a conservation easement ~~that was originally~~ required by a federal, state, or local regulatory body, including a district environmental commission under 10 V.S.A. chapter 151, the Public Service Board, or an appropriate municipal panel under 24 V.S.A. chapter 117, by issuance of a state or municipal land use permit, an environmental permit or other environmental approval, a certificate of public good, or other regulatory approval under the terms of which any amendment of the easement must be approved by the body issuing the permit, certificate, or other approval; and

(3) any amendment that is the result of the exercise of a right of eminent domain granted under the U.S. or Vermont Constitution, ~~Chapter I, Art. 2.~~

Alternative 2 – in Section 6322 (d), delete the “unless” clause just for the exercise of eminent domain and “federal” regulatory agencies in subsection 2, and add a new subsection (e):

(d) The following easement amendments shall be exempt from sections 6324–6333 of this title unless, for a particular easement amendment, the landowner and each holder elect to employ and be bound by those provisions:

(1) any amendment of a conservation easement that requires the approval of the General Assembly or is part of a land transaction that requires such approval; and

(2) any amendment of a conservation easement ~~that was originally~~ required by a federal, state, or local regulatory body, including a district environmental commission under 10 V.S.A. chapter 151, the Public Service Board, or an appropriate municipal panel under 24 V.S.A. chapter 117, by issuance of a state or municipal land use permit, an environmental permit or other environmental approval, a certificate of public good, or other regulatory approval under the terms of which any amendment of the easement must be approved by the body issuing the permit, certificate, or other approval; ~~and~~

~~(3) any amendment that is the result of the exercise of a right of eminent domain granted under the U.S. or Vermont Constitution.~~

(e) The following easement amendments shall be exempt from sections 6324–6333 of this title:

(1) any amendment that is the result of the exercise of a right of eminent domain granted under the U.S. or Vermont Constitution; and

(2) any amendment of a conservation easement required by a federal regulatory body, by issuance of a permit, certificate or regulatory approval under the terms of which any amendment of the easement must be approved by the body issuing the permit, certificate, or regulatory approval.