

1 H.474

2 Introduced by Representative Ancel of Calais

3 Referred to Committee on

4 Date:

5 Subject: Property; Marketable Record Title Act; common law ways of
6 necessity

7 Statement of purpose of bill as introduced: This bill proposes to exempt
8 common law ways of necessity from the recording requirements of the
9 Vermont Marketable Record Title Act. As a result, a common law way of
10 necessity that provides access to otherwise land-locked property will not be
11 extinguished even if it has not been recorded in the municipal land records.

12 An act relating to exempting common law ways of necessity from the
13 Marketable Record Title Act

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 27 V.S.A. § 604 is amended to read:

16 § 604. FAILURE TO FILE NOTICE

17 (a) This subchapter shall not bar or extinguish any of the following
18 interests, by reason of failure to file the notice provided for in section 605 of
19 this title:

1 (1) the interest of any lessor or his or her successor as reversioner of the
2 right to possession on the expiration of any lease or any lessee or the successor
3 to his or her rights in and to any lease;

4 (2) any interest of a mortgagee, or interest in the nature of a mortgage's
5 interest, until after the obligation secured by the mortgage has become due and
6 payable;

7 (3) any interest of a mortgagee, or interest in the nature of a mortgage's
8 interest, when the instrument creating the interest contains no due date for the
9 obligation secured thereby;

10 (4) any interest held by adverse possession or by a common law way of
11 necessity not evidenced by a recorded instrument;

12 (5) any remainder interest, reverter or reversionary interest or interest
13 arising upon a condition, except an interest arising upon a condition as to the
14 distance between a structure on real estate and a public highway or other
15 property of a municipality;

16 (6) any easement or interest in the nature of an easement, the easement,
17 the existence of which is clearly observable by physical evidences of its use;

18 (7) any easement or interest in the nature of an easement, or any rights
19 appurtenant thereto granted, excepted, or reserved by a recorded instrument
20 creating such easement or interest; or

1 (8) any conservation rights or interests or preservation rights or interests
2 created pursuant to 10 V.S.A. chapters 34 and 155.

3 (b) This subchapter shall not affect any right, title, or interest in real estate
4 owned or held by the United States, the State of Vermont, or any political
5 subdivision of the State.

6 Sec. 2. EFFECTIVE DATE

7 This act shall take effect on passage.