

House Bill 499 (COMMITTEE SUBSTITUTE)

By: Representatives Kelley of the 16<sup>th</sup>, England of the 116<sup>th</sup>, Dickey of the 140<sup>th</sup>, Bentley of the 139<sup>th</sup>, Watson of the 172<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to electric membership corporations and foreign electric cooperatives, so as to permit the use of electric easements for broadband services; to provide for a definition; to provide for legislative findings and declarations as to certain utility easements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Article 4 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to electric membership corporations and foreign electric cooperatives, is amended by adding a new paragraph to Code Section 46-3-171, relating to definitions, to read as follows:

"(2.1) 'Electric easement' means a right of way or an easement, whether acquired by eminent domain, prescription, or conveyance, that is used or may be used for transmitting, distributing, or providing electrical energy and services by utilizing aboveground or underground wires, cables, lines, or similar facilities."

**SECTION 2.**

Said article is further amended by adding a new Code section to read as follows:

"46-3-205.

(a) The General Assembly finds that persons providing broadband services should be permitted to use existing electric easements to provide or expand access to broadband services. The General Assembly also finds that utilizing existing electric easements to provide broadband services, without the placement of additional poles or other ground based structures, does not change the physical use of the easement, interfere with or impair any vested rights of the owner or occupier of the real property subject to the electric easement, or place any additional burden on the property interests of such owner or occupier. Consequently, the installation and operation of broadband services within any

electric easement are merely changes in the manner or degree of the granted use as appropriate to accommodate a new technology and, absent any applicable express prohibition contained in the instrument conveying or granting the electric easement, shall be deemed as a matter of law to be a permitted use within the scope of every electric easement.

(b) Subject to compliance with any express prohibitions in an electric easement, a provider of broadband services or the owner of an electric easement may use an electric easement to install, maintain, lease, and operate broadband services without incurring liability to the owner or occupant of the real property subject to the electric easement or paying additional compensation to the owner or occupant of the real property subject to the electric easement, so long as no additional poles or other ground based structures are installed; provided, however, that any electric utility owning an electric easement may assess fees and charges and impose reasonable conditions on the use of its facilities within an electric easement for the purpose of providing or supporting broadband services."

### **SECTION 3.**

All laws and parts of laws in conflict with this Act are repealed.