

House Bill 499

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

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "(2.1) 'Electric easement' means a right of way or an easement, whether acquired by  
12 eminent domain, prescription, or conveyance, that is used or may be used for transmitting,  
13 distributing, or providing electrical energy and services by utilizing aboveground or  
14 underground wires, cables, lines, or similar facilities."

15 **SECTION 2.**

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

17 "46-3-205.

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

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

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

40 **SECTION 3.**

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