

2025 South Dakota Legislature

Senate Bill 215**AMENDMENT 215B
FOR THE INTRODUCED BILL**

1 **An Act to remove the prohibition against a landowner having an easement on the**
2 **landowner's property.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 43-13-6 be AMENDED:**

5 ~~43-13-6. Except as provided in section 2 of this Act, a servitude thereon cannot~~
6 ~~on a servient tenement may not~~ be held by the owner of the servient tenement. A
7 servitude is extinguished by the vesting of the right to servitude and the right to the
8 servient tenement in the same person.

9 **Section 2. That a NEW SECTION be added to chapter 43-13:**

10 ~~The common law doctrine of merger does not apply to a servitude held by the~~
11 ~~owner of the servient tenement~~ An easement or servitude created by an owner is valid and
12 effective, notwithstanding the common ownership of the benefited and burdened property,
13 at the time of creation or after reacquisition of the property by the creator of the easement
14 or servitude.

15 ~~Section 2. That § 43-13-6 be REPEALED:~~

16 ~~A servitude thereon cannot be held by the owner of the servient tenement. A servitude is~~
17 ~~extinguished by the vesting of the right to servitude and the right to the servient tenement~~
18 ~~in the same person.~~