



Rep. Bob Morgan

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LRB101 09240 LNS 57483 a

1 AMENDMENT TO HOUSE BILL 2601

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2601 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Real Property Conservation Rights Act is  
5 amended by changing Sections 1, 2, 4, and 6 as follows:

6 (765 ILCS 120/1) (from Ch. 30, par. 401)

7 Sec. 1. (a) A conservation right is a right, whether stated  
8 in the form of a restriction, easement, covenant or condition,  
9 or, without limitation, in any other form in any deed, will,  
10 plat, or without limitation any other instrument executed by or  
11 on behalf of the owner of land or in any condemnation order of  
12 taking, appropriate to preserving: (i) the significant  
13 physical character and visual characteristics of structures  
14 having architectural, historical, or cultural significance,  
15 together with any associated real property, whether or not  
16 improved; or (ii) land or water areas predominantly in their

1 natural, scenic, open or wooded condition, or as suitable  
2 habitat for fish, plants, or wildlife; or (iii) the integrity  
3 of archaeological sites and the artifacts or information which  
4 they may contain pending properly supervised excavation and  
5 investigation. Without limiting the generality of the  
6 foregoing, the instrument conveying or reserving a  
7 conservation right may, with respect to either the grantor or  
8 grantee, require, prohibit, condition, limit or control any or  
9 all of the following:

10 (1) access or public visitation;

11 (2) affirmative acts of alteration, restoration,  
12 rehabilitation, repair, maintenance, investigation,  
13 documentation, payment of taxes, or compliance with public  
14 law and regulations;

15 (3) conditions of operation, use, restoration,  
16 alteration, repair or maintenance;

17 (4) acts detrimental to the preservation of a place;

18 (5) the construction, placement, maintenance in a  
19 particular condition, alteration, or removal of roads,  
20 signs, billboards or other advertising, utilities or other  
21 structures on or above the ground;

22 (6) the dumping or placing of soil or other substance  
23 or material as landfill, or dumping or placing of trash,  
24 waste or other materials;

25 (7) the excavation, dredging or removal of loam, peat,  
26 gravel, soil, rock or other material substance in such

1 manner as to affect the surface or to otherwise alter the  
2 topography of the area;

3 (8) the removal or destruction of trees, shrubs or  
4 other vegetation;

5 (9) surface use inconsistent with preservation of  
6 water or land areas, or the improvement or appurtenance  
7 thereto;

8 (10) activities affecting drainage, flood control,  
9 water conservation, erosion control or soil conservation,  
10 or fish and wildlife habitat preservation; or

11 (11) any other acts or uses having relation to the  
12 preservation of structures, sites and water or land areas  
13 or the improvements or appurtenances thereto.

14 (b) A conservation right shall be taken to include a  
15 preservation restriction as that term is defined in Section  
16 11-48.2-1A of the "Illinois Municipal Code", as now or  
17 hereafter amended, and shall not be unenforceable on account of  
18 lack of privity of estate or contract or lack of benefit to  
19 particular land or on account of the benefit being assigned or  
20 assignable. Conservation rights shall be construed and  
21 enforced in accordance with their terms, and shall be  
22 transferable and transferred, recorded and indexed, in the same  
23 manner as fee simple interests in real property, subject only  
24 to the limitations provided herein.

25 Conservation rights may be released by the holder of such  
26 rights to the holder of the fee even though the holder of the

1 fee may not be an agency of the State, a unit of local  
2 government or a not-for-profit corporation or trust.

3 The holder of a grant pursuant to this Act shall not be  
4 required to record any instrument subsequent to the recording  
5 of the grant in order to maintain or continue the validity of  
6 the grant.

7 The holder of such rights shall also be permitted to  
8 transfer or assign such rights but only to another agency of  
9 the State, a unit of local government or to a not-for-profit  
10 corporation or trust.

11 (c) A conservation right may be amended or modified from  
12 time to time only by a written instrument executed by the  
13 grantor and grantee and recorded with the office of the  
14 recorder of deeds of the county in which the land is located.  
15 Either party may, in the absolute discretion of the party,  
16 withhold consent to any amendment or modification requested by  
17 the other party. An amendment or modification shall not  
18 materially and adversely affect the conservation purposes of  
19 the conservation right or facilitate the extinguishment of the  
20 conservation right. The consent of any party other than the  
21 grantor and grantee is not required for amendment or  
22 modification, even if the other party is entitled to enforce an  
23 easement under this Act or any other law. The conservation  
24 right may contain other requirements for amendment or  
25 modification, and such other requirements shall control.

26 (Source: P.A. 91-497, eff. 1-1-00.)

1 (765 ILCS 120/2) (from Ch. 30, par. 402)

2 Sec. 2. Any owner of real property in this State may convey  
3 a conservation right in such real property to the United States  
4 or any agency of the federal government an agency of the State,  
5 to a unit of local government, or to a not-for-profit  
6 corporation or trust whose primary purposes include the  
7 conservation of land, natural areas, open space or water areas,  
8 or the preservation of native plants or animals, or biotic  
9 communities, or geographic formations of scientific,  
10 aesthetic, or educational interest, or the preservation of  
11 buildings, structures or sites of historical, architectural,  
12 archeological or cultural significance.

13 No conveyance of such conservation rights shall take effect  
14 until such conveyance is accepted by the grantee. Acceptance of  
15 such conservation rights may be conditioned upon any  
16 requirements which are deemed proper by the grantee. Such  
17 requirements may include the payment of funds by the grantor to  
18 provide for the management of such conservation rights.

19 A unit of local government, including, but not limited to,  
20 a county, township, forest preserve district, conservation  
21 district, park district, or municipality, has the authority to  
22 grant a conservation right on property that it owns to another  
23 unit of government or to any not-for-profit corporation or  
24 trust described in this Section.

25 (Source: P.A. 91-497, eff. 1-1-00.)

1 (765 ILCS 120/4) (from Ch. 30, par. 404)

2 Sec. 4. A conservation right created pursuant to this Act  
3 may be enforced in an action seeking injunctive relief,  
4 specific performance, or damages in the circuit court of the  
5 county in which the area, place, building, structure or site is  
6 located by any of the following:

7 (a) the United States or any agency of the federal  
8 government, the State of Illinois, or any unit of local  
9 government;

10 (b) any not-for-profit corporation or trust which owns the  
11 conservation right;

12 (c) the owner of any real property abutting or within 500  
13 feet of the real property subject to the conservation right.  
14 Any owner of property subject to a conservation right who  
15 wilfully violates any term of such conservation right may, in  
16 the court's discretion, be held liable for punitive damages in  
17 an amount equal to the value of the real property subject  
18 thereto.

19 An action to enforce a conservation right may also be  
20 brought by any party entitled to enforce the conservation right  
21 under this Section against a nonowner who is violating the  
22 terms of the conservation right.

23 If the holder of a conservation right reasonably determines  
24 that there is a violation of the right, the holder of the  
25 conservation right may record a notice of violation against the

1 property for which the conservation right applies.

2 (Source: P.A. 91-497, eff. 1-1-00.)

3 (765 ILCS 120/6) (from Ch. 30, par. 406)

4 Sec. 6. This Act shall not be construed to imply that any  
5 restriction, easement, covenant or condition which does not  
6 have the benefit of the Act shall, on account of any provision  
7 herein, be unenforceable. Nothing in this Act shall diminish  
8 the powers granted in any other law to acquire by purchase,  
9 gift, grant, eminent domain or otherwise and to use land for  
10 public purposes. A conservation right shall not be extinguished  
11 by adverse possession, a claim of abandonment, or merger, and  
12 may be extinguished only by such procedure as may be set forth  
13 in the conservation right or by a release of the conservation  
14 right in accordance with the terms of the conservation right.  
15 No prescriptive easement shall be established that adversely  
16 impacts the conservation values protected by the conservation  
17 right.

18 (Source: P.A. 80-584.)

19 Section 99. Effective date. This Act takes effect upon  
20 becoming law."