

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

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

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

Sec. 1. (a) A conservation right is a right, whether stated in the form of a restriction, easement, covenant or condition, or, without limitation, in any other form in any deed, will, plat, or without limitation any other instrument executed by or on behalf of the owner of land or in any condemnation order of taking, appropriate to preserving: (i) the significant physical character and visual characteristics of structures having architectural, historical, or cultural significance, together with any associated real property, whether or not improved; or (ii) land or water areas predominantly in their natural, scenic, open or wooded condition, or as suitable habitat for fish, plants, or wildlife; or (iii) the integrity of archaeological sites and the artifacts or information which they may contain pending properly supervised excavation and investigation. Without limiting the generality of the foregoing, the instrument conveying or reserving a conservation right may, with respect to either the grantor or

grantee, require, prohibit, condition, limit or control any or all of the following:

- (1) access or public visitation;
- (2) affirmative acts of alteration, restoration, rehabilitation, repair, maintenance, investigation, documentation, payment of taxes, or compliance with public law and regulations;
- (3) conditions of operation, use, restoration, alteration, repair or maintenance;
- (4) acts detrimental to the preservation of a place;
- (5) the construction, placement, maintenance in a particular condition, alteration, or removal of roads, signs, billboards or other advertising, utilities or other structures on or above the ground;
- (6) the dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or other materials;
- (7) the excavation, dredging or removal of loam, peat, gravel, soil, rock or other material substance in such manner as to affect the surface or to otherwise alter the topography of the area;
- (8) the removal or destruction of trees, shrubs or other vegetation;
- (9) surface use inconsistent with preservation of water or land areas, or the improvement or appurtenance thereto;

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

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

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

Conservation rights may be released by the holder of such rights to the holder of the fee even though the holder of the fee may not be an agency of the State, a unit of local government or a not-for-profit corporation or trust.

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

The holder of such rights shall also be permitted to

transfer or assign such rights but only to another agency of the State, a unit of local government or to a not-for-profit corporation or trust.

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

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

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

Sec. 2. Any owner of real property in this State may convey a conservation right in such real property to the United States or any agency of the federal government an agency of the State, to a unit of local government, or to a not-for-profit corporation or trust whose primary purposes include the

conservation of land, natural areas, open space or water areas, or the preservation of native plants or animals, or biotic communities, or geographic formations of scientific, aesthetic, or educational interest, or the preservation of buildings, structures or sites of historical, architectural, archeological or cultural significance.

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

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

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

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

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

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

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

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

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

If the holder of a conservation right reasonably determines that there is a violation of the right, the holder of the conservation right may record a notice of violation against the property for which the conservation right applies.

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

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

Sec. 6. This Act shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of the Act shall, on account of any provision

herein, be unenforceable. Nothing in this Act shall diminish the powers granted in any other law to acquire by purchase, gift, grant, eminent domain or otherwise and to use land for public purposes. A conservation right shall not be extinguished by adverse possession, a claim of abandonment, or merger, and may be extinguished only by such procedure as may be set forth in the conservation right or by a release of the conservation right in accordance with the terms of the conservation right. No prescriptive easement shall be established that adversely impacts the conservation values protected by the conservation right.

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

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