

1 AN ACT concerning civil law.

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

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  
17 natural, scenic, open or wooded condition, or as suitable  
18 habitat for fish, plants, or wildlife; or (iii) the integrity  
19 of archaeological sites and the artifacts or information which  
20 they may contain pending properly supervised excavation and  
21 investigation. Without limiting the generality of the  
22 foregoing, the instrument conveying or reserving a  
23 conservation right may, with respect to either the grantor or

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

3 (1) access or public visitation;

4 (2) affirmative acts of alteration, restoration,  
5 rehabilitation, repair, maintenance, investigation,  
6 documentation, payment of taxes, or compliance with public  
7 law and regulations;

8 (3) conditions of operation, use, restoration,  
9 alteration, repair or maintenance;

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

11 (5) the construction, placement, maintenance in a  
12 particular condition, alteration, or removal of roads,  
13 signs, billboards or other advertising, utilities or other  
14 structures on or above the ground;

15 (6) the dumping or placing of soil or other substance  
16 or material as landfill, or dumping or placing of trash,  
17 waste or other materials;

18 (7) the excavation, dredging or removal of loam, peat,  
19 gravel, soil, rock or other material substance in such  
20 manner as to affect the surface or to otherwise alter the  
21 topography of the area;

22 (8) the removal or destruction of trees, shrubs or  
23 other vegetation;

24 (9) surface use inconsistent with preservation of  
25 water or land areas, or the improvement or appurtenance  
26 thereto;

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

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

7           (b) A conservation right shall be taken to include a  
8           preservation restriction as that term is defined in Section  
9           11-48.2-1A of the "Illinois Municipal Code", as now or  
10          hereafter amended, and shall not be unenforceable on account of  
11          lack of privity of estate or contract or lack of benefit to  
12          particular land or on account of the benefit being assigned or  
13          assignable. Conservation rights shall be construed and  
14          enforced in accordance with their terms, and shall be  
15          transferable and transferred, recorded and indexed, in the same  
16          manner as fee simple interests in real property, subject only  
17          to the limitations provided herein.

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

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

26          The holder of such rights shall also be permitted to

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

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

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

20 (765 ILCS 120/2) (from Ch. 30, par. 402)

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

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

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

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

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

20 (765 ILCS 120/4) (from Ch. 30, par. 404)

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

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

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

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

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

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

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

22 (765 ILCS 120/6) (from Ch. 30, par. 406)

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

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

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

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