

**HB2823**



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB2823**

Introduced 2/22/2005, by Rep. Tom Cross

**SYNOPSIS AS INTRODUCED:**

765 ILCS 120/1

from Ch. 30, par. 401

Amends the Real Property Conservation Rights Act. Makes a technical change in a Section defining a term under the Act.

LRB094 08166 LCB 38352 b

**A BILL FOR**

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 Section 1 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 ~~the~~ form of a restriction, easement, covenant or  
9 condition, or, without limitation, in any other form in any  
10 deed, will, plat, or without limitation any other instrument  
11 executed by or on behalf of the owner of land or in any  
12 condemnation order of taking, appropriate to preserving: (i)  
13 the significant physical character and visual characteristics  
14 of structures having architectural, historical, or cultural  
15 significance, together with any associated real property,  
16 whether or not improved; or (ii) land or water areas  
17 predominantly in their natural, scenic, open or wooded  
18 condition, or as suitable habitat for fish, plants, or  
19 wildlife; or (iii) the integrity of archaeological sites and  
20 the artifacts or information which they may contain pending  
21 properly supervised excavation and investigation. Without  
22 limiting the generality of the foregoing, the instrument  
23 conveying or reserving a conservation right may, with respect  
24 to either the grantor or grantee, require, prohibit, condition,  
25 limit or control any or all of the following:

26 (1) access or public visitation;

27 (2) affirmative acts of alteration, restoration,  
28 rehabilitation, repair, maintenance, investigation,  
29 documentation, payment of taxes, or compliance with public  
30 law and regulations;

31 (3) conditions of operation, use, restoration,  
32 alteration, repair or maintenance;

- 1 (4) acts detrimental to the preservation of a place;
- 2 (5) the construction, placement, maintenance in a  
3 particular condition, alteration, or removal of roads,  
4 signs, billboards or other advertising, utilities or other  
5 structures on or above the ground;
- 6 (6) the dumping or placing of soil or other substance  
7 or material as landfill, or dumping or placing of trash,  
8 waste or other materials;
- 9 (7) the excavation, dredging or removal of loam, peat,  
10 gravel, soil, rock or other material substance in such  
11 manner as to affect the surface or to otherwise alter the  
12 topography of the area;
- 13 (8) the removal or destruction of trees, shrubs or  
14 other vegetation;
- 15 (9) surface use inconsistent with preservation of  
16 water or land areas, or the improvement or appurtenance  
17 thereto;
- 18 (10) activities affecting drainage, flood control,  
19 water conservation, erosion control or soil conservation,  
20 or fish and wildlife habitat preservation; or
- 21 (11) any other acts or uses having relation to the  
22 preservation of structures, sites and water or land areas  
23 or the improvements or appurtenances thereto.

24 (b) A conservation right shall be taken to include a  
25 preservation restriction as that term is defined in Section  
26 11-48.2-1A of the "Illinois Municipal Code", as now or  
27 hereafter amended, and shall not be unenforceable on account of  
28 lack of privity of estate or contract or lack of benefit to  
29 particular land or on account of the benefit being assigned or  
30 assignable. Conservation rights shall be construed and  
31 enforced in accordance with their terms, and shall be  
32 transferable and transferred, recorded and indexed, in the same  
33 manner as fee simple interests in real property, subject only  
34 to the limitations provided herein.

35 Conservation rights may be released by the holder of such  
36 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 (Source: P.A. 91-497, eff. 1-1-00.)