



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2888

Introduced 1/20/2006, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

765 ILCS 120/1
765 ILCS 120/2

from Ch. 30, par. 401
from Ch. 30, par. 402

Amends the Real Property Conservation Rights Act. In provisions defining "conservation right", includes a right that is appropriate to preserving areas in their agricultural condition. Includes, among the purposes for which a conservation right in real property may be conveyed, the protection of agricultural land from conversion to other uses.

LRB094 15654 RSP 50862 b

1 AN ACT concerning property.

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 and 2 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, agricultural, or wooded condition, or as
18 suitable habitat for fish, plants, or wildlife; or (iii) the
19 integrity of archaeological sites and the artifacts or
20 information which they may contain pending properly supervised
21 excavation and investigation. Without limiting the generality
22 of the foregoing, the instrument conveying or reserving a
23 conservation right may, with respect to either the grantor or
24 grantee, require, prohibit, condition, limit or control any or
25 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.)

12 (765 ILCS 120/2) (from Ch. 30, par. 402)

13 Sec. 2. Any owner of real property in this State may convey
14 a conservation right in such real property to the United States
15 or any agency of the federal government an agency of the State,
16 to a unit of local government, or to a not-for-profit
17 corporation or trust whose primary purposes include the
18 conservation of land, natural areas, open space or water areas,
19 or the preservation of native plants or animals, or biotic
20 communities, or geographic formations of scientific,
21 aesthetic, or educational interest, or the preservation of
22 buildings, structures or sites of historical, architectural,
23 archeological or cultural significance, or the protection of
24 agricultural land from conversion to other uses.

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

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