

# SB1044



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**SB1044**

Introduced 2/8/2007, by Sen. John J. Cullerton - Emil Jones, Jr.

#### 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.

LRB095 05937 AJO 26029 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

1 to either the grantor or grantee, require, prohibit, condition,  
2 limit or control any or 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 (Source: P.A. 91-497, eff. 1-1-00.)