

FIRST REGULAR SESSION

HOUSE BILL NO. 1108

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SANDER.

2453L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 442, RSMo, by adding thereto one new section relating to conservation easements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 442, RSMo, is amended by adding thereto one new section, to be known as section 442.014, to read as follows:

442.014. 1. This act shall be known and may be cited as the "Missouri Conservation Easement Act".

2. As used in this section, unless the context otherwise requires, the following terms mean:

(1) "Conservation easement", a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

(2) "Holder", a governmental body empowered to hold an interest in real property under the laws of this state or the United States; or a charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, assuring the availability of real property for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (3) "Third-party right of enforcement", a right provided in a conservation
19 easement to enforce any of its items granted to a governmental body, charitable
20 corporation, charitable association, or charitable trust, which, although eligible to be a
21 holder, is not a holder.

22 3. (1) Except as otherwise provided in this section, a conservation easement may
23 be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise
24 altered or affected in the same manner as other easements. No right or duty in favor of or
25 against a holder and no right in favor of a person having a third-party right of
26 enforcement arises under a conservation easement before its acceptance by the holder and
27 a recordation of the acceptance. Except as provided in subdivision (2) of this subsection,
28 a conservation easement is unlimited in duration unless the instrument creating it provides
29 otherwise.

30 (2) An interest in real property in existence at the time a conservation easement is
31 created is not impaired by it unless the owner of the interest is a party to the conservation
32 easement or consents to it.

33 4. (1) An action affecting a conservation easement may be brought by an owner of
34 an interest in real property burdened by the easement; a holder of the easement, a person
35 having a third-party right of enforcement; or a person authorized by other law.

36 (2) This section does not affect the power of a court to modify or terminate a
37 conservation easement in accordance with the principles of law and equity.

38 5. A conservation easement is valid even though:

39 (1) It is not appurtenant to an interest in real property;

40 (2) It can be or has been assigned to another holder;

41 (3) It is not of a character that has been recognized traditionally at common law;

42 (4) It imposes a negative burden;

43 (5) It imposes affirmative obligations upon the owner of an interest in the burdened
44 property or upon the holder;

45 (6) The benefit does not touch or concern real property; or

46 (7) There is no privity of estate or of contract.

47 6. This section applies to any interest created after its effective date which complies
48 with this section, whether designated as a conservation easement or as a covenant,
49 equitable servitude, restriction, easement, or otherwise. This section applies to any interest
50 created before its effective date if it would have been enforceable had it been created after
51 its effective date unless retroactive application contravenes the constitution or laws of this
52 state or the United States. This section does not invalidate any interest, whether designated

53 as a conservation or preservation easement or as a covenant, equitable servitude,
54 restriction, easement, or otherwise, that is enforceable under other laws of this state.

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