

SENATE FILE NO. SF0149

Conservation easements.

Sponsored by: Senator(s) Nicholas, Job and Johnson and Representative(s) Berger, Brown and Hageman

A BILL

for

1 AN ACT relating to real property; providing for
2 conservation easements as specified; providing for creation
3 and conveyance of the easement as specified; providing
4 definitions; providing for actions and validity; reserving
5 rights of the state regarding eminent domain and taxing
6 interests created; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 34-1-201 through 34-1-206 are created
11 to read:

12

13

ARTICLE 2

14

UNIFORM CONSERVATION EASEMENT ACT

15

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34-1-201. Short title; definitions.

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2 (a) This article shall be known and may be cited as
3 the "Uniform Conservation Easement Act".

4

5 (b) As used in this article, unless the context
6 requires otherwise:

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8 (i) "Conservation easement" means a
9 nonpossessory interest of a holder in real property
10 imposing limitations or affirmative obligations the
11 purposes of which include retaining or protecting natural,
12 scenic, or open space values of real property, assuring its
13 availability for agricultural, forest, recreational or open
14 space use, protecting natural resources, maintaining or
15 enhancing air or water quality, or preserving the
16 historical, architectural, archeological or cultural
17 aspects of real property;

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19 (ii) "Holder" means:

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21 (A) A governmental body empowered to hold
22 an interest in real property under the laws of this state
23 or the United States; or

24

1 (B) A charitable corporation, charitable
2 association or charitable trust, a primary purpose or power
3 of which includes retaining or protecting the natural,
4 scenic or open space values of real property, assuring the
5 availability of real property for agricultural, forest,
6 recreational or open space use, protecting natural
7 resources, maintaining or enhancing air or water quality,
8 or preserving the historical, architectural, archeological
9 or cultural aspects of real property.

10
11 (iii) "Third-party right of enforcement" means a
12 right provided in a conservation easement to enforce any of
13 its terms granted to a governmental body, charitable
14 corporation, charitable association or charitable trust,
15 which, although eligible to be a holder, is not a holder;

16
17 (iv) "This act" means W.S. 34-1-201 through
18 34-1-206.

19
20 **34-1-202. Creation; conveyance; acceptance and**
21 **duration.**

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23 (a) Except as otherwise provided in this article, a
24 conservation easement may be created, conveyed, recorded,

1 assigned, released, modified, terminated or otherwise
2 altered or affected in the same manner as other
3 easements. The provisions of W.S. 34-1-141 shall apply to
4 this article.

5

6 (b) No right or duty in favor of or against a holder
7 and no right in favor of a person having a third-party
8 right of enforcement arises under a conservation easement
9 before its acceptance by the holder and a recordation of
10 the acceptance.

11

12 (c) Except as provided by W.S. 34-1-203(b), a
13 conservation easement is unlimited in duration unless the
14 instrument creating the easement provides otherwise.

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16 (d) An interest in real property and any interest in
17 minerals including a leasehold interest in existence at the
18 time a conservation easement is created is not impaired in
19 any way by the conservation easement unless the owner of
20 that interest is a party to the conservation easement or
21 consents to the conservation easement.

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23 **34-1-203. Judicial action; modification; termination.**

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1 (a) An action affecting a conservation easement may
2 be brought by:

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4 (i) An owner of an interest in the real property
5 burdened by the conservation easement;

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7 (ii) A holder of the conservation easement;

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9 (iii) A person having third-party rights of
10 enforcement, as named in the instrument creating the
11 conservation easement.

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13 (b) This article shall not affect the power of a
14 court to modify or terminate a conservation easement in
15 accordance with the principles of law and equity.

16

17 **34-1-204. Validity.**

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19 (a) A conservation easement is valid even though:

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21 (i) It is not appurtenant to an interest in real
22 property;

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

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4 (iii) It is not of a character that has been
5 recognized traditionally at common law;

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7 (iv) It imposes a negative burden;

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9 (v) It imposes affirmative obligations upon the
10 owner of an interest in the burdened property or upon the
11 holder;

12

13 (vi) The benefit does not touch or concern the
14 real property; or

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16 (vii) There is no privity of estate or of
17 contract.

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19 **34-1-205. Applicability.**

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21 (a) This article shall apply to any interest created
22 after its effective date which complies with the
23 requirements of this article, whether designated as a

1 conservation easement or as a covenant, equitable
2 servitude, restriction, easement or otherwise.

3

4 (b) This article shall apply to any interest created
5 before its effective date if it would have been enforceable
6 had it been created after the effective date of this
7 article unless retroactive application contravenes the
8 constitution or laws of this state or the United States.

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10 (c) This article does not invalidate any interest
11 whether designated as a conservation or preservation
12 easement, a covenant, equitable servitude, restriction,
13 easement or other designation that is enforceable under any
14 other law of this state.

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16 **34-1-206. Uniformity of application and construction.**

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18 This article shall be applied and construed to effectuate
19 its general purpose to make uniform the laws with respect
20 to the subject of the article among the states enacting it.

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22 **Section 2.** This act is effective July 1, 2005.

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24

(END)