



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1605

Introduced 1/28/2025, by Rep. Maurice A. West, II

SYNOPSIS AS INTRODUCED:

765 ILCS 120/1	from Ch. 30, par. 401
765 ILCS 120/2	from Ch. 30, par. 402
765 ILCS 120/4	from Ch. 30, par. 404

Amends the Real Property Conservation Rights Act. Provides that a conservation right includes preserving cultural heritage sites. Provides that any owner of real property in the State may convey a conservation right in such real property to a federally recognized Indian tribe or a State-recognized Indian tribe. Provides definitions for federally recognized Indian tribe and State-recognized Indian tribe. Provides that any holder of a conservation right may transfer or assign a conservation right to an entity eligible to hold such rights as described in the Act. Provides that a conservation right may be enforced in an action seeking injunctive relief, specific performance, or damages by any federally recognized Indian tribe or State-recognized Indian tribe that owns the conservation right.

LRB104 07360 JRC 17400 b

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 Sections 1, 2, and 4 as follows:

6 (765 ILCS 120/1) (from Ch. 30, par. 401)

7 Sec. 1. (a) A conservation right is a right, whether
8 stated in 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 cultural heritage sites or
20 archaeological sites and the artifacts or information which
21 they may contain pending properly supervised excavation and
22 investigation. Without limiting the generality of the
23 foregoing, the instrument conveying or reserving a

1 conservation right may, with respect to either the grantor or
2 grantee, require, prohibit, condition, limit or control any or
3 all of the following:

4 (1) access or public visitation;

5 (2) affirmative acts of alteration, restoration,
6 rehabilitation, repair, maintenance, investigation,
7 documentation, payment of taxes, or compliance with public
8 law and regulations;

9 (3) conditions of operation, use, restoration,
10 alteration, repair or maintenance;

11 (4) acts detrimental to the preservation of a place;

12 (5) the construction, placement, maintenance in a
13 particular condition, alteration, or removal of roads,
14 signs, billboards or other advertising, utilities or other
15 structures on or above the ground;

16 (6) the dumping or placing of soil or other substance
17 or material as landfill, or dumping or placing of trash,
18 waste or other materials;

19 (7) the excavation, dredging or removal of loam, peat,
20 gravel, soil, rock or other material substance in such
21 manner as to affect the surface or to otherwise alter the
22 topography of the area;

23 (8) the removal or destruction of trees, shrubs or
24 other vegetation;

25 (9) surface use inconsistent with preservation of
26 water or land areas, or the improvement or appurtenance

1 thereto;

2 (10) activities affecting drainage, flood control,
3 water conservation, erosion control or soil conservation,
4 or fish and wildlife habitat preservation; or

5 (11) any other acts or uses having relation to the
6 preservation of structures, sites and water or land areas
7 or the improvements or appurtenances thereto.

8 (b) A conservation right shall be taken to include a
9 preservation restriction as that term is defined in Section
10 11-48.2-1A of the "Illinois Municipal Code", as now or
11 hereafter amended, and shall not be unenforceable on account
12 of lack of privity of estate or contract or lack of benefit to
13 particular land or on account of the benefit being assigned or
14 assignable. Conservation rights shall be construed and
15 enforced in accordance with their terms, and shall be
16 transferable and transferred, recorded and indexed, in the
17 same manner as fee simple interests in real property, subject
18 only to the limitations provided herein.

19 Conservation rights may be released by the holder of such
20 rights to the holder of the fee even though the holder of the
21 fee may not be an agency of the State, a unit of local
22 government or a not-for-profit corporation or trust.

23 The holder of a grant pursuant to this Act shall not be
24 required to record any instrument subsequent to the recording
25 of the grant in order to maintain or continue the validity of
26 the grant.

1 The holder of such rights shall also be permitted to
2 transfer or assign such rights but only to entities that are
3 eligible to hold rights under Section 2 ~~another agency of the~~
4 ~~State, a unit of local government or to a not for profit~~
5 ~~corporation or trust.~~

6 (c) A conservation right may be amended or modified from
7 time to time only by a written instrument executed by the
8 grantor and grantee and recorded with the office of the
9 recorder of deeds of the county in which the land is located.
10 Either party may, in the absolute discretion of the party,
11 withhold consent to any amendment or modification requested by
12 the other party. An amendment or modification shall not
13 materially and adversely affect the conservation purposes of
14 the conservation right or facilitate the extinguishment of the
15 conservation right. The consent of any party other than the
16 grantor and grantee is not required for amendment or
17 modification, even if the other party is entitled to enforce
18 an easement under this Act or any other law. The conservation
19 right may contain other requirements for amendment or
20 modification, and such other requirements shall control.

21 (Source: P.A. 101-142, eff. 7-26-19.)

22 (765 ILCS 120/2) (from Ch. 30, par. 402)

23 Sec. 2. Any owner of real property in this State may convey
24 a conservation right in such real property to the United
25 States or any agency of the federal government, to an agency of

1 the State, to a unit of local government, to a federally
2 recognized Indian tribe, to a State-recognized Indian tribe,
3 or to a not-for-profit corporation or trust whose primary
4 purposes include the conservation of land, natural areas, open
5 space or water areas, or the preservation of native plants or
6 animals, or biotic communities, or geographic formations of
7 scientific, aesthetic, or educational interest, or the
8 preservation of buildings, structures or sites of historical,
9 architectural, archeological or cultural significance.

10 No conveyance of such conservation rights shall take
11 effect until such conveyance is accepted by the grantee.
12 Acceptance of such conservation rights may be conditioned upon
13 any requirements which are deemed proper by the grantee. Such
14 requirements may include the payment of funds by the grantor
15 to provide for the management of such conservation rights.

16 A unit of local government, including, but not limited to,
17 a county, township, forest preserve district, conservation
18 district, park district, or municipality, has the authority to
19 grant a conservation right on property that it owns to another
20 unit of government or to any not-for-profit corporation or
21 trust described in this Section.

22 "Federally recognized Indian tribe" means any Indian tribe
23 that is included on the list of federally recognized Indian
24 tribes that is published from time to time by the United States
25 Department of the Interior under the Federally Recognized
26 Indian Tribe List Act of 1994.

1 "State-recognized Indian tribe" means any Indian tribe
2 that has been recognized as such by any legislative or
3 regulatory process that a State may use to establish formal
4 recognition of the sovereignty of Indian tribal nations and
5 related treaties of that recognition.

6 (Source: P.A. 101-142, eff. 7-26-19.)

7 (765 ILCS 120/4) (from Ch. 30, par. 404)

8 Sec. 4. A conservation right created pursuant to this Act
9 may be enforced in an action seeking injunctive relief,
10 specific performance, or damages in the circuit court of the
11 county in which the area, place, building, structure or site
12 is located by any of the following:

13 (a) the United States or any agency of the federal
14 government, the State of Illinois, or any unit of local
15 government;

16 (b) any not-for-profit corporation or trust, federally
17 recognized Indian tribe, or State-recognized Indian tribe
18 that ~~which~~ owns the conservation right;

19 (c) the owner of any real property abutting or within
20 500 feet of the real property subject to the conservation
21 right. Any owner of property subject to a conservation
22 right who wilfully violates any term of such conservation
23 right may, in the court's discretion, be held liable for
24 punitive damages in an amount equal to the value of the
25 real property subject thereto.

1 An action to enforce a conservation right may also be
2 brought by any party entitled to enforce the conservation
3 right under this Section against a nonowner who is violating
4 the terms of the conservation right.

5 If the holder of a conservation right reasonably
6 determines that there is a violation of the right, the holder
7 of the conservation right may record a notice of violation
8 against the property for which the conservation right applies.
9 (Source: P.A. 101-142, eff. 7-26-19.)