

# Missouri Revised Statutes

## Chapter 442 Titles and Conveyance of Real Estate

### Section 442.014.1

August 28, 2014

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#### **Private landowner protection act--definitions--conservation easement permitted, when, validity--applicability.**

442.014. 1. This act\* shall be known and may be cited as the "Private Landowner Protection 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", any of the following:

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

(b) A charitable corporation, charitable association, or charitable trust, the purposes, powers, or intent 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; or

(c) An individual or other private entity;

(3) "Third-party right of enforcement", a right expressly provided in a conservation easement to enforce any of its items granted to a designated governmental body, charitable corporation, charitable association, charitable trust, individual, or any other private entity which, although eligible to be a holder, is not a holder.

3. (1) Except as otherwise provided in this section, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements. No right or duty in favor of or against a holder and no right in favor of a person having a third-party right of enforcement arises under a conservation easement

before its acceptance by the holder and a recordation of the acceptance. Except as provided in subdivision (2) of this subsection, a conservation easement is unlimited in duration unless the instrument creating it provides otherwise.

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

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

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

5. A conservation easement is valid even though:

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

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

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

(4) It imposes a negative burden that would prevent a landowner from performing acts on the land he or she would otherwise be privileged to perform absent the agreed-upon easement;

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

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

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

6. Nothing in this section shall affect the ability of any public utility, municipal utility, joint municipal utility commission, rural electric cooperative, telephone cooperative, or public water supply district to acquire an easement, either through negotiation with an owner of an interest in real property or by condemnation, to lay or construct plants or facilities for the transmission or distribution of electricity, natural gas, telecommunications service, water, or the carriage of sewage along or across a conservation easement.

7. This section applies to any interest created after its effective date which complies with this section, whether designated as a conservation easement or as a covenant, equitable servitude, restriction, easement, or otherwise. This section applies to any interest created before its effective date if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the constitution or laws of this state or the United States. This section does not alter the terms of any interest created before its effective date, or impose any additional burden or obligation on any grantor or grantee of such interest, or on their successors or assigns. This section does not invalidate any interest, whether designated as a conservation or preservation

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

(L. 2011 H.B. 89 merged with H.B. 458)

\*"This act" (H.B. 89 merged with H.B. 458, 2011) contained numerous sections. Consult Disposition of Sections table for a definitive listing.

CROSS REFERENCE:

Nonseverability clause, [640.099](#)