

HOUSE BILL NO. HB0187

Conservation easements.

Sponsored by: Representative(s) Nicholas, Hageman, Prosser and Senator(s) Hanes, Schiffer and Vasey

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 act shall be known and may be cited as the  
3 "Uniform Conservation Easement Act."

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5 (b) As used in this act, unless the context requires  
6 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  
14 open-space use, protecting natural resources, maintaining  
15 or enhancing air or water quality, or preserving the  
16 historical, architectural, archeological or cultural  
17 aspects of real property;

18

19 (ii) "Holder" means:

20

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 act, 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 act.

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.

15

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 it unless the owner of that interest is a party  
20 to the conservation easement or consents to it.

21

22 **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 easement;

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7           (ii) A holder of the easement;

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

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

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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;

3

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

15

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

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

3

4 (b) This act 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 act  
7 unless retroactive application contravenes the constitution  
8 or laws of this state or the United States.

9

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

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

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

21

22 **Section 2.** This act is effective July 1, 2003.

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(END)