

SENATE BILL NO. 209

INTRODUCED BY T. TEZAK, S. KLAKKEN, T. MILLETT, J. SCHILLINGER, B. USHER, S. MANESS, B.

PHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TERM LENGTH OF CONSERVATION EASEMENTS; LIMITING CONSERVATION EASEMENTS TO A TERM OF NO MORE THAN 40 YEARS; PROHIBITING A LIMIT ON AGRICULTURAL ACTIVITIES FOR A CONSERVATION EASEMENT; PROHIBITING THE CONVERSION OF LAND UNDER EASEMENT TO FEDERAL CONTROL; REVISING A DEFINITION; AND AMENDING SECTIONS 76-6-103, 76-6-104, 76-6-202, 76-6-203, AND 76-6-208."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Limits of easement.** An easement or restriction under this chapter may not:

(1) prohibit or limit the activities on land currently in use, or used within the past 10 years, for agricultural production by a producer of any agricultural and food product as defined in 81-8-701; or

(2) impose conditions requiring conversion of the land to federal administration and control.

Section 2. Section 76-6-103, MCA, is amended to read:

"76-6-103. Purposes. In accordance with the findings in 76-6-102, the legislature states that the purposes of this chapter are to:

(1) authorize and enable public bodies and certain qualifying private organizations voluntarily to provide for the preservation of native plants or animals, biotic communities, or geological or geographical formations of scientific, aesthetic, or educational interest;

(2) provide for the preservation of other significant open-space land anywhere in the state ~~either in perpetuity or for a term of years; and~~

(3) encourage private participation in such a program by establishing the policy to be utilized in determining the property tax to be levied ~~upon~~ on the real property ~~which~~ that is subject to the provisions of this

1 chapter."

2

3 **Section 3.** Section 76-6-104, MCA, is amended to read:

4 **"76-6-104. Definitions.** The following terms whenever used or referred to in this chapter ~~shall have~~
5 the following meanings unless a different meaning is clearly indicated by the context:

6 (1) "Comprehensive planning" means planning for development and ~~shall include~~ includes:

7 (a) preparation of general physical plans with respect to the pattern and intensity of land use and
8 the provision of public facilities, including transportation facilities, together with long-range fiscal plans for ~~such~~
9 the development as a guide for long-range development;

10 (b) programming and financing plans for capital improvements;

11 (c) coordination of all related plans and planned activities at both the intragovernmental and
12 intergovernmental levels; and

13 (d) preparation of regulatory and administrative measures in support of the foregoing subsections
14 (1)(a) through (1)(c).

15 (2) "Conservation easement" means an easement or restriction for a term of years but not in
16 perpetuity, running with the land and assignable, ~~whereby through which~~ an owner of land voluntarily
17 relinquishes to the holder of ~~such the~~ easement or restriction any or all rights to construct improvements ~~upon~~
18 on the land or to substantially alter the natural character of the land or to permit the construction of
19 improvements ~~upon on~~ the land or the substantial alteration of the natural character of the land, except as this
20 right is expressly reserved in the instruments evidencing the easement or restriction.

21 (3) "Open-space land" means any land ~~which that~~ that is provided or preserved for:

22 (a) park or recreational purposes;

23 (b) conservation of land or other natural resources;

24 (c) historic or scenic purposes; or

25 (d) assisting in the shaping of the character, direction, and timing of community development.

26 (4) "Public body" means the state, counties, cities, towns, and other municipalities.

27 (5) "Qualified private organization" means a private organization:

28 (a) competent to own interests in real property;

1 (b) ~~which~~that qualifies and holds a general tax exemption under the federal Internal Revenue
2 Code, ~~section 26 U.S.C.~~ 501(c); and

3 (c) whose organizational purposes are designed to further the purposes of this chapter.

4 (6) "Urban area" means any area ~~which~~that is urban in character, including surrounding areas
5 ~~which~~that form an economic and socially related region, taking into consideration such factors as present and
6 future population trends and patterns of urban growth, location of transportation facilities and systems, and
7 distribution of industrial, commercial, residential, governmental, institutional, and other activities."
8

9 **Section 4.** Section 76-6-202, MCA, is amended to read:

10 **"76-6-202. Duration of conservation easements.** Conservation easements may be granted either in
11 ~~perpetuity or for a term of not less than 15 years and no more than 40 years. If granted for a term of years, that~~
12 ~~term may not be less than 15 years. An easement granted for a term of years may be renewed for a term of 15~~
13 ~~or more years upon a new term through~~ the execution of a new granting instrument by the parties, except that
14 the easement may not be in effect for more than 40 years."
15

16 **Section 5.** Section 76-6-203, MCA, is amended to read:

17 **"76-6-203. Types of permissible easements.** ~~Easements Except as provided in [section 1],~~
18 easements or restrictions under this chapter may prohibit or limit any or all of the following:

19 (1) structures--construction or placing of buildings, camping trailers, housetrailer, mobile homes,
20 roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

21 (2) landfill--dumping or placing of soil or other substance or material as landfill or dumping or
22 placing of trash, waste, or unsightly or offensive materials;

23 (3) vegetation--removal or destruction of trees, shrubs, or other vegetation;

24 (4) loam, gravel, ~~etc. and similar materials~~--excavation, dredging, or removal of loam, peat, gravel,
25 soil, rock, or other material substance;

26 (5) surface use--surface use except for ~~such~~the purposes of permitting the land or water area to
27 remain predominantly in its existing condition;

28 (6) acts detrimental to conservation--activities detrimental to drainage, flood control, water

1 conservation, erosion control, soil conservation, or fish and wildlife habitat and preservation;
2 (7) subdivision of land--subdivision of land as defined in 76-3-103 and 76-3-104;
3 (8) other acts--other acts or uses detrimental to ~~such~~the retention of land or water areas in their
4 existing conditions."
5

6 **Section 6.** Section 76-6-208, MCA, is amended to read:

7 **"76-6-208. Taxation of property subject to conservation easement.** (1) Assessments made for
8 taxation on property subject to a conservation easement ~~either in perpetuity or for a term of years, where for~~
9 which a public body or a qualifying private organization holds the conservation easement, shall be determined
10 on the basis of the restricted purposes for which the property may be used. The minimum assessed value for
11 land subject to an easement conveyed under this chapter may not be less than the actual assessed value of
12 ~~such that~~ land in calendar year 1973. Any land subject to ~~such the~~ easement may not be classified into a class
13 affording a lesser assessed valuation solely by reason of the creation of the easement. The value of the interest
14 held by a public body or qualifying private organization ~~shall be~~is exempt from property taxation.

15 (2) Expiration of an easement granted for a term of years ~~shall~~may not result in a reassessment of
16 the land for property tax purposes if the easement is renewed and the granting instrument reflecting the
17 renewed easement is executed and properly filed not later than 15 days after the date of expiration."
18

19 NEW SECTION. **Section 7. Notification to tribal governments.** The secretary of state shall send a
20 copy of [this act] to each federally recognized tribal government in Montana.
21

22 NEW SECTION. **Section 8. Codification instruction.** [Section 1] is intended to be codified as an
23 integral part of Title 76, chapter 6, and the provisions of Title 76, chapter 6, apply to [section 1].
24

25 NEW SECTION. **Section 9. Applicability.** [This act] applies to conservation easements entered into
26 on or after October 1, 2025.
27

- END -