

Chapter 18

Land Conservation Easement Act

57-18-1 Short title.

This chapter is known as the "Land Conservation Easement Act."

Enacted by Chapter 155, 1985 General Session

57-18-2 Definition and characteristics of conservation easement.

- (1) As used in this chapter, "conservation easement" means an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat or other use or condition consistent with the protection of open land.
- (2) A conservation easement is an interest in land and runs with the land benefited or burdened by the easement.
- (3) A conservation easement is valid whether it is appurtenant or in gross.
- (4) A conservation easement is enforceable by the holder to the easement and its successors and assigns. A conservation easement is enforceable against the grantor and its successors and assigns.

Enacted by Chapter 155, 1985 General Session

57-18-3 Acquisition of conservation easement.

A charitable organization which qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code or a governmental entity may acquire a conservation easement by purchase, gift, devise, grant, lease, or bequest.

Enacted by Chapter 155, 1985 General Session

57-18-4 Requirements for creation.

- (1) Any property owner may grant a conservation easement to any other qualified person as defined in Section 57-18-3 in the same manner and with the same effect as any other conveyance of an interest in real property.
- (2)
 - (a) A conservation easement shall be in writing and shall be recorded in the office of the recorder of the county in which the easement is granted.
 - (b) Within 10 days after a conservation easement is recorded, the owner of real property for which the conservation easement is granted shall deliver to the assessor of the county in which the property is located a copy of the conservation easement and proof that the conservation easement has been recorded.
 - (c) Before January 1, 2012, each owner of property subject to a conservation easement recorded before May 10, 2011, shall deliver to the assessor of the county in which the property is located a copy of the conservation easement and proof that the conservation easement has been recorded.
- (3) The instrument that creates a conservation easement shall identify and describe the land subject to the conservation easement by legal description, specify the purpose for which the

easement is created, and include a termination date or a statement that the easement continue in perpetuity.

- (4) Any qualified person, as defined in Section 57-18-3, that receives a conservation easement shall disclose to the easement's grantor, at least three days prior to the granting of the easement, the types of conservation easements available, the legal effect of each easement, and that the grantor should contact an attorney concerning any possible legal and tax implications of granting a conservation easement.

Amended by Chapter 157, 2011 General Session

57-18-5 Termination.

A conservation easement may be terminated, in whole or in part, by release, abandonment, merger, nonrenewal, conditions set forth in the instrument creating the conservation easement, or in any other lawful manner in which easements may be terminated.

Enacted by Chapter 155, 1985 General Session

57-18-6 Enforcement.

- (1) A conservation easement may be enforced or protected by injunctive relief granted by a court in a proceeding initiated by the grantor or holder of the easement.
- (2) In addition to injunctive relief, the holder of a conservation easement is entitled to recover money damages.
- (3) The holder of a conservation easement may enter the real property burdened or benefited by the easement at reasonable times and in a reasonable manner to ensure compliance.

Enacted by Chapter 155, 1985 General Session

57-18-7 Conservation easement not obtained through eminent domain -- Conservation easement may not interfere with eminent domain.

- (1) No conservation easement, or right-of-way or access to a conservation easement may be obtained through the use of eminent domain.
- (2) The existence of a conservation easement may not defeat or interfere with the otherwise proper exercise of eminent domain under Title 78B, Chapter 6, Part 5, Eminent Domain.

Amended by Chapter 3, 2008 General Session