

COUNCIL OF THE DISTRICT OF COLUMBIA

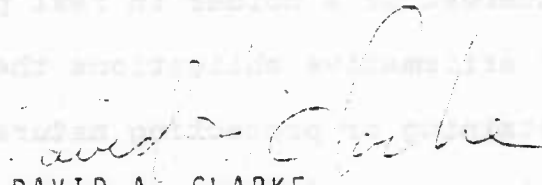
NOTICE

D.C. LAW 6-113

"District of Columbia Uniform Conservation Easement Act of 1986".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 6-55 on first and second readings, February 25, 1986, and March 11, 1986, respectively. Following the signature of the Mayor on March 24, 1986, this legislation was assigned Act No. 6-143, published in the April 4, 1986, edition of the D.C. Register, (Vol. 33 page 1996) and transmitted to Congress on March 26, 1986 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 6-113, effective May 16, 1986.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

March	26,27
April	8,9,10,11,14,15,16,17,18,21,22,23,24,25,28,29,30
May	1,2,5,6,7,8,9,12,13,14,15

EFFECTIVE DATE MAY 16 1986

AN ACT

D.C. ACT 6 - 143

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MAR 24 1986

Codification,
new chapter 24
to title 45,
entitled
"Easements"

To permit the creation of durable restrictions and affirmative obligations to be attached to real property to protect natural and historic resources in the public interest.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "District of Columbia Uniform Conservation Easement Act of 1986".

Sec. 2. Definitions.

For the purposes of this act, the term:

New,
D.C. Code, sec.
45-2401
(1987 supp.)

(1) "Conservation easement" means 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, ensuring 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" means 1 of the following:

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

(B) A charitable corporation, charitable association, or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic, or open-space values of real property, ensuring 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.

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

Sec. 3.(a)(1) Except as otherwise provided in this act, a conservation easement may be created, conveyed, recorded, assigned, released, modified, terminated, or otherwise altered or affected in the same manner as other easements, provided that the recordation of any conservation easement as defined in section 2, or of any assignment, release, modification, termination, or other alteration of a

New,
D.C. Code, sec.
45-2402
Note, D.C. Code,
secs. 5-903,
5-1001,
45-923 &
47-903
(1987 supp.)

conservation easement shall be exempt from the recordation tax imposed by section 303 of the District of Columbia Real Estate Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 12; D.C. Code, sec. 45-923), and from the transfer tax imposed by section 403 of the District of Columbia Revenue Act of 1980, effective September 13, 1980 (D.C. Law 3-92; D.C. Code, sec. 47-903).

(2) The exemption provided for in subsection (2) of this section shall not apply if the consideration for the conservation easement exceeds \$100 in value.

(b) No right or duty in favor of or against 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.

(c) Except as provided in section 4(b), a conservation easement is unlimited in duration unless the instrument creating it otherwise provides.

(d) 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.

(e) A conservation easement is valid even under the following circumstances:

(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;

(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.

Sec. 4.(a) An action affecting a conservation easement may be brought by 1 of the following:

New,
D.C. Code,
sec.
45-2403
(1987 supp.)

(1) An owner of an interest in the real property burdened by the easement;

(2) A holder of the easement;

(3) A person having a third-party right of enforcement; or

(4) A person authorized by other law.

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

Sec. 5.(a) This act applies to any interest created after the effective date of this act which complies with this act, whether designated as a conservation easement or

New,
D.C. Code, sec.
45-2404
(1987 supp.)

as a covenant, equitable servitude, restriction, easement, or otherwise.

(b) This act applies to any interest created before the effective date of this act if it would have been enforceable had it been created after its effective date unless retroactive application contravenes the laws of the District of Columbia or the United States.

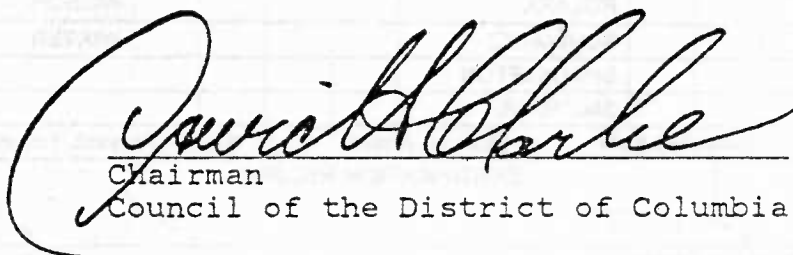
(c) This act does not invalidate any interest, whether designated as a conservation or preservation easement, a covenant, equitable servitude, restriction, easement, or otherwise, that is enforceable under other law of the District of Columbia.

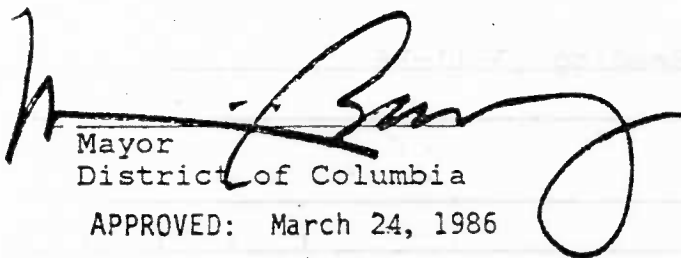
Sec. 6. This act shall be applied and construed to effectuate its general purpose to make uniform the laws with respect to the subject of the act among states enacting it.

New,
D.C. Code, sec.
45-2405
(1987 supp.)

Sec. 7. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-233(c)(1)).


Chairman
Council of the District of Columbia


Mayor
District of Columbia
APPROVED: March 24, 1986



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Six - Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 6-55

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 2-25-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Shackleton

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

3/17/86
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 3-11-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Mason

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell Smith
Secretary to the Council

3/17/86
Date

Item on Consent Calendar

ACTION & DATE: _____

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT _____

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					RAY					SPAULDING				
CRAWFORD					ROLARK					WILSON				
JARVIS					SCHWARTZ					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD