



Pacific Law Journal Review of Selected Nevada Legislative

Volume 1983 | Issue 1

Article 85

1-1-1983

Property; Easements for Conservation

University of the Pacific, McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/nlr>



Part of the [Legislation Commons](#)

Recommended Citation

University of the Pacific, McGeorge School of Law, *Property; Easements for Conservation*, 1983 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1983/iss1/85>

This Legislative Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in Pacific Law Journal Review of Selected Nevada Legislative by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Property; easements for conservation

NEV. REV. STAT. §111.— (new).
SB 189 (Wagner); 1983 STAT. Ch 291

Chapter 291 reflects the desire of the legislature to create uniformity in the law by enacting provisions consistent with the Uniform Conservation Easement Act, or provisions substantially similar to that Act.¹ Chapter 291 provides for the creation of easements for conservation² to (1) retain or protect natural, scenic, or open-space values of real property,³ (2) assure the availability of real property for agricultural, forest, recreational, or open-space use,⁴ (3) protect natural resources,⁵ (4) maintain or enhance the quality of air or water,⁶ and (5) preserve the historical, architectural, archeological or cultural aspects of real property.⁷ Moreover, easements for conservation may be created, conveyed, recorded, assigned, released, modified, terminated, altered, or affected in the same manner as other easements.⁸ In addition, Chapter 291 limits the duration of an easement for conservation unless the creating instrument provides otherwise,⁹ or a court orders the easement modified or terminated.¹⁰

Under Chapter 291, the holder of the easement may be (1) a governmental body empowered to hold an interest in real property,¹¹ or (2) a charitable corporation, charitable association, or charitable trust whose powers or purposes include one of the recognized purposes of easements for conservation.¹² In addition to the holder of the easement,¹³ an action affecting the easement may be brought by (1) the owner of an interest in the burdened real property,¹⁴ (2) a third person with a right

1. 1983 Nev. Stat. c. 291, §2, at 687.

2. *Id.* c. 291, §4(1), at 687 (defines easement for conservation as a nonpossessory interest in real property that imposes limitations or affirmative obligations).

3. *Id.* c. 291, §4(1)(a), at 687.

4. *Id.* c. 291, §4(1)(b), at 687.

5. *Id.* c. 291, §4(1)(c), at 687.

6. *Id.* c. 291, §4(1)(d), at 687.

7. *Id.* c. 291, §4(1)(e), at 687.

8. *Id.* c. 291, §5(1)(4), at 688 An interest in real property existing at the time the easement for conservation is created is not impaired by the easement unless the owner of the interest is a party to the easement or consents to it. *Id.*

9. *Id.* c. 291, §5(3)(a), at 688.

10. *Id.* c. 291, §5(3)(b), at 688.

11. *Id.* c. 291, §4(2)(a), at 687.

12. *Id.* c. 291, §4(2)(b), at 687.

13. *Id.* c. 291, §4(2), at 687 (definition of holder of easement).

14. *Id.* c. 291, §6(a), at 688.

of enforcement,¹⁵ or (3) any other person authorized by law.¹⁶ Rights or duties do not arise, however, until the easement is accepted by the holder and recorded.¹⁷ Chapter 291 provides that an easement for conservation is valid even though (1) it is not appurtenant to an interest in real property,¹⁸ (2) it can be or has been assigned to another holder,¹⁹ (3) it is not of a character that traditionally has been recognized at common law,²⁰ (4) it imposes a negative burden,²¹ (5) it imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder,²² (6) the benefit does not touch or concern real property,²³ or (7) there is no privity of estate or of contract.²⁴ Finally, the provisions of Chapter 291 apply to interests in real property²⁵ that are created on or after July 1, 1983. Applicable interests²⁶ created before July 1, 1983, are also subject to these provisions unless the interest is not enforceable against bona fide purchasers for value or holders of encumbrances, and (1) the purchase or encumbrance was made after the creation of the easement for conservation, but before July 1, 1983,²⁷ and (2) the easement for conservation was not otherwise enforceable.²⁸

15. *Id.* c. 291, §6(c), at 688; *see id.* c. 291, §4(3), at 687 A right of enforcement of any of the terms of the easement may be granted to an entity that is not the holder but is qualified to be a holder. *Id.*

16. *Id.* c. 291, §6(d), at 688.

17. *Id.* c. 291, §5(2), at 688.

18. *Id.* c. 291, §7(1), at 689.

19. *Id.* c. 291, §7(2), at 689.

20. *Id.* c. 291, §7(3), at 689.

21. *Id.* c. 291, §7(4), at 689.

22. *Id.* c. 291, §7(5), at 689.

23. *Id.* c. 291, §7(6), at 689.

24. *Id.* c. 291, §7(7), at 689.

25. *See id.* c. 291 §3(1)(a), at 687 The interests may be designated as easements for conservation, covenants, equitable servitudes, restrictions, easements or otherwise. *Id.*

26. *Id.* c. 291, §3(1)(b), at 687 (applies if interest would have been enforceable if created after July 1, 1983).

27. *Id.* c. 291, §3(1)(b)(1), at 687.

28. *Id.* c. 291, §3(1)(b)(2), at 687; *see id.* c. 291, §6(2), at 688. The sections of this chapter, however, do not affect the power of a court to modify or terminate an easement for conservation in accordance with the principles of law and equity. *Id.*

Property; disclosure of adverse conditions

NEV. REV. STAT. §119.140 (amended).
SB 43 (Jacobsen); 1983 STAT. Ch 577

Existing law requires a person¹ or broker² who proposes to offer³ or

1. NEV. REV. STAT. §119.070 (definition of a person).

2. *Id.* §119.030 (definition of a broker).