

1993 BILL 211

First Session, 23rd Legislature, 42 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 211

CONSERVATION EASEMENT ACT

MR. COLLINGWOOD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 211
Mr. Collingwood

BILL 211

1993

CONSERVATION EASEMENT ACT

(Assented to , 1993)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Interpretation

1 In this Act,

- (a) "covenantee" means a person who has entered into an
easement with an owner of land pursuant to section 2;
- (b) "Minister" means the Minister of Environmental Protection.

*Creation of
conservation
easement*

2 An owner of land may enter into a conservation easement
relating to the preservation of any land or water, including open
spaces, with

- (a) the Minister,
- (b) a Government agency which administers a private
conservancy program,
- (c) the Council of the municipality in which the land is located,
- (d) a society registered under the Alberta Society's Act,
organized for private conservancy purposes, or
- (e) any other person or organization which is approved by the
Minister,

either for a stated period, or in perpetuity.

Registration

3 When a conservation easement under subsection (1) is presented for registration, the Registrar of Land Titles of the Land Registration District in which the land is located shall endorse a memorandum of the conservation easement on any certificate of title relating to that land.

Enforcement

4(1) A conservation easement registered under section 3 runs with the land and the covenantee that entered into the conservation easement with the owner may enforce it whether it is positive or negative in nature and notwithstanding that the covenantee does not have an interest in any land that would be benefitted by the conservation easement.

(2) In addition to the covenantee, a conservation easement registered under section 3 may be enforced by

(a) the Minister;

(b) an owner of an interest in the real property burdened by the conservation easement;

(c) a person otherwise entitled at law to enforce the conservation easement.

Assignment

5 A conservation easement registered under section 3 may be assigned by the covenantee, and the assignee may enforce the conservation easement as if it were the person or organization that entered into the conservation easement with the owner.

Modification

6 The conservation easement may be modified or discharged and such modification or discharge shall be in accordance with the Land Titles Act, and the Registrar of Land Titles for the land registration district in which the land is located shall accordingly endorse a memorandum discharging or modifying the conservation easement on the certificate of title to the land.

7 Section 52 of the Land Titles Act does not apply to conditions or covenants made under this Act.

8 No condition or covenant under this Act shall be deemed to be an encumbrance within the meaning of the Land Titles Act of the Tax Recovery Act.

Users of land

9(1) Where the terms of a conservation easement registered pursuant to section 3 allow public access, a person making any lawful use of the land is not a trespasser.

(2) Subject to subsection (3), no duty of care is owed to any person using land which is subject to a conservation easement by the owner of the land or the covenantee with respect to that land.

(3) An owner of land which is subject to a conservation easement owes a duty to users of the land not to create by positive act anything which constitutes a danger to users of the land with the intention of doing harm to the user of the land or damage to the property of the user of the land.