

CONSERVATION EASEMENTS

LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.

Background Materials and Research

Topic Summary: A conservation easement is a voluntary legal agreement that limits the use of land. The landowner maintains ownership and is compensated for limiting the uses as negotiated in the agreement. Conservation easements are used to preserve the ecological, recreational, cultural, agricultural, or historic resource of a property. Typically, this means prohibiting some new uses on tracts of land large enough to protect the specified resource. Conservation easements may limit subdivision, excavation, or acts detrimental to conserving the natural values of the property. The holder of the conservation easement can be any public body, including a federal, state or local government agency; or a nonprofit organization that is competent to own property, holds federal tax-exempt status under the Internal Revenue Code, and conserves open space as part of its mission.

Montana law requires conservation easements, which run with the land if the property is sold, to be for a term of at least 15 years. However, the federal tax break offered to the landowner for conservation easements is only valid for easements that are in perpetuity. A conservation easement does not allow public access to the property unless the parties agree to allow public access as part of the negotiated agreement.

As of December 2016, conservation easements covered about 2.4 million acres of Montana land.

Legislative Services Division Materials:

Conservation Easements: [20 things](#) everyone should know, 2010

Trust Land Management: An [analysis of conservation easements](#) and other uses of state land, 2008

Other Materials:

[List of easement holders by acreage](#), 2016

[List of easement holders by county](#), 2016

[Conservation easements in Montana](#), Legislative Audit Division, 2007

Introduced Legislation

*Chapter number assigned means bill was passed and approved.

2017 – None.

2015 – None.

2013 [HB 246](#) (H) Died in Standing Committee. AN ACT REQUIRING LOCAL GOVERNMENT REVIEW OF CONSERVATION EASEMENTS FOR COMPLIANCE WITH GROWTH POLICIES, CAPITAL IMPROVEMENT PLANS, ZONING REGULATIONS, SUBDIVISION REGULATIONS, AND OTHER REGULATIONS; AMENDING SECTIONS 76-1-605 AND 76-6-206, MCA; AND PROVIDING AN APPLICABILITY DATE.

2011 – None.

2009 [HB 249](#) (H) Died in Standing Committee. AN ACT PROVIDING THAT CONSERVATION EASEMENTS THAT ARE GRANTED IN PERPETUITY ARE TAXABLE CLASS FOUR PROPERTY; PROVIDING THAT CONSERVATION EASEMENTS GRANTED IN PERPETUITY ARE TAXABLE EVEN IF OWNED BY THE STATE, LOCAL GOVERNMENTS, OR OTHER PUBLIC AND PRIVATE ENTITIES, WHETHER OR NOT OPERATED FOR PROFIT; AMENDING SECTIONS 15-6-134, 15-6-201, AND 76-6-208, MCA; AND PROVIDING AN APPLICABILITY DATE.

[HB 606](#) (H) Died in Standing Committee. AN ACT PROVIDING THAT LAND SUBJECT TO A CONSERVATION EASEMENT MAY NOT BE INCLUDED IN A CITIZEN-INITIATED PLANNING AND ZONING DISTRICT; AND AMENDING SECTION 76-2-101, MCA.

[SB 473](#) (S) Died in Standing Committee. AN ACT REVISING LAWS RELATING TO CONSERVATION EASEMENTS; REQUIRING THAT CONSERVATION EASEMENTS PROVIDE FOR THE PURPOSES OF THE EASEMENT; REVISING THE TIME FOR REVIEW OF AND RECORDING OF CONSERVATION EASEMENTS; CLARIFYING QUALIFIED PRIVATE ORGANIZATIONS; PROVIDING FOR DISCLOSURE OF RESPONSIBILITIES IN CONTRACTS CREATING CONSERVATION EASEMENTS; PROVIDING FOR MONITORING OF EASEMENT PROPERTY; REVISING ENFORCEMENT; AUTHORIZING THE ENVIRONMENTAL QUALITY COUNCIL TO REVIEW CONSERVATION EASEMENTS AND TO MAKE RECOMMENDATIONS TO THE LEGISLATURE; AND AMENDING SECTIONS 75-1-324, 76-6-202, 76-6-203, 76-6-204, 76-6-207, 76-6-208, AND 76-6-210, MCA.

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