

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 116

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO CONSERVATION EASEMENTS AND AGREEMENTS; AMENDING SECTION 55-2104, IDAHO CODE, TO PROVIDE THAT CERTAIN CONSERVATION AGREEMENTS ARE INVALID; AND AMENDING SECTION 63-605, IDAHO CODE, TO REVISE A DEFINITION; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 55-2104, Idaho Code, be, and the same is hereby amended to read as follows:

55-2104. VALIDITY OF CONSERVATION EASEMENTS – INVALIDITY. (1) A conservation easement is valid even though:

- (~~1~~a) It is not appurtenant to an interest in real property;
- (~~2~~b) It can be or has been assigned to another holder;
- (~~3~~c) It is not of a character that has been recognized traditionally at common law;
- (~~4~~d) It imposes a negative burden;
- (~~5~~e) It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
- (~~6~~f) The benefit does not touch or concern real property; or
- (~~7~~g) There is no privity of estate or of contract.

(2) A conservation easement is invalid if a business relationship exists between the owner of an interest in the real property burdened by the easement and the holder or a person having a third party right of enforcement.

SECTION 2. That Section 63-605, Idaho Code, be, and the same is hereby amended to read as follows:

63-605. LAND USED TO PROTECT WILDLIFE AND WILDLIFE HABITAT. (1) For the tax year commencing January 1, 2007, an application for appraisal, assessment and taxation under this section as land actively devoted to agriculture pursuant to section 63-604, Idaho Code, shall be filed in the office of the county assessor on or before the fourth Monday in June 2007. For the tax year commencing January 1, 2008, and for each and every year thereafter, an application for appraisal, assessment and taxation under this section as land actively devoted to agriculture pursuant to section 63-604, Idaho Code, shall be filed in the office of the county assessor between January 1 and April 15 of each year for which the requested tax status is to apply. Land eligible for this tax status is land which is either:

- (a) Owned and used for wildlife habitat by a private, nonprofit corporation which corporation has a recognized tax exempt status under section 501(c)(3) of the Internal Revenue Code, and which corporation qualifies for exemption status under section 63-602C, Idaho Code, and which corporation is dedicated to the conservation of wildlife or wildlife habitat; or

1 (b) Being managed pursuant to a conservation easement or a conservation agreement,  
2 as defined in this section and which easement or agreement has been entered into with  
3 a private, nonprofit corporation which has a tax exempt status under section 501(c)(3)  
4 of the Internal Revenue Code, which corporation qualifies for exemption status under  
5 section 63-602C, Idaho Code, and which land qualified, for three (3) consecutive years  
6 immediately preceding management of the land pursuant to a conservation easement or  
7 a conservation agreement, as land actively devoted to agriculture pursuant to section  
8 63-604, Idaho Code.

9 (2) As used in this section, "conservation agreement" means a written ~~document~~  
10 agreement between a private, nonprofit corporation enumerated in subsection (1) of this section  
11 and the a landowner with whom there is no business relationship, which defines wildlife,  
12 flora or fauna or freshwater biota to be protected and outlines a minimum of a ten (10) year  
13 management plan to protect target species and to control noxious weeds in accordance with  
14 Idaho noxious weed law in chapter 24, title 22, Idaho Code. Progress in managing the target  
15 species and controlling noxious weeds shall be monitored and an annual progress report shall  
16 be submitted each year along with the application filed as required in this section.

17 (3) The conservation agreement or a copy of the document creating the conservation  
18 easement shall be filed with the county assessor by April 15 of the year for which application  
19 for the tax status is made. Following initial approval of an application in any tax year, for each  
20 subsequent, consecutive year in which application is made and the tax status is claimed, it shall  
21 not be necessary to resubmit the conservation agreement or a copy of the document creating  
22 the conservation easement unless the agreement or easement document has been amended. In  
23 the event the document is amended, the amended version shall be submitted with that year's  
24 application.

25 (4) Failure to file an application for each year that tax status under this section  
26 is claimed, or failure to annually document progress in managing the target species and  
27 controlling noxious weeds as required in subsection (2) of this section, shall result in loss of  
28 the tax status provided in this section.

29 SECTION 3. An emergency existing therefor, which emergency is hereby declared to  
30 exist, this act shall be in full force and effect on and after its passage and approval.