



CARRIED

BILL NO. 52

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act to Amend Chapter 28 of the Acts of 2001, the Conservation Easements Act

REPRINTED WITH CHANGES AS RECOMMENDED BY
THE MINISTER OF NATURAL RESOURCES TO
THE LAW AMENDMENTS COMMITTEE

The Honourable Charlie Parker
Minister of Natural Resources

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

**An Act to Amend Chapter 28
of the Acts of 2001,
the Conservation Easements Act**

Be it enacted by the Governor and Assembly as follows:

1 (1) Subsection 2(1) of Chapter 28 of the Acts of 2001, the *Conservation Easements Act*, is amended by adding immediately after clause (e) the following clause:

(ea) "municipality" means a regional municipality, municipal unit or village as defined by the *Municipal Government Act*;

(2) Subsections 2(2) and (3) of Chapter 28 of the Acts of 2001, the *Conservation Easements Act*, are repealed.

2 Section 3 of Chapter 28 is amended by adding immediately after subsection (5) the following subsections:

(6) An interest in real property in existence at the time a conservation easement is created is not affected by the conservation easement unless the owner of the interest is a party to the conservation easement or consents to it.

(7) 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.

3 Clause 4(c) of Chapter 28 is amended by

(a) adding "primarily dedicated for the protection of biodiversity and natural processes" immediately after "land" in the second line; and

(b) striking out ", morphological or palaeontological" in the second and third lines of subclause (ii) and substituting "or morphological".

4 Section 5 of Chapter 28 is amended by adding immediately after subsection (2) the following subsection:

(3) An owner is not liable for a breach of a conservation easement that occurs after the owner ceases to own the land.

5 Section 7 of Chapter 28 is amended by

(a) striking out clauses (b) and (c) and substituting the following clauses:

(b) the unique parcel identification number that is assigned to a parcel by Service Nova Scotia and Municipal Relations and, for parcels that are not land registered, a metes and bounds description of the land to which the conservation easement applies;

(c) a sketch or plan that depicts the land to which the conservation easement relates and, where the conservation easement applies to only a portion

of the parcel, a drawing showing the location of the conservation easement on the parcel;

- (b) adding "conservation" immediately after "the" in the first line of clause (d);
- (c) adding "specific" immediately before "purpose" in the first line of clause (e); and
- (d) adding "conservation" immediately after "the" in the second line of clause (f).

6 Section 8 of Chapter 28 is amended by adding immediately after clause (c) the following clause:

(ca) any of the thirteen Nova Scotia Mi'kmaw bands or any legal organization representing two or more of the bands;

7 Section 9 of Chapter 28 is amended by adding "if the amendment supports or enhances the stated purpose of the conservation easement" immediately after "holder" in the third line.

8 Section 10 of Chapter 28 is amended by striking out "with the consent of the owner and" in the first and second lines.

79 Section 11 of Chapter 28 is repealed and the following Section substituted:

11 (1) The easement holder shall submit the conservation easement and any amendment or assignment of it for filing with the appropriate registry of deeds and shall, within thirty days after filing, forward a copy of the conservation easement, amendment or assignment to the Minister.

(2) A conservation easement does not create an interest in land until the conservation easement is filed pursuant to the *Registry Act* or the *Land Registration Act*.

810 (1) Subsection 13(2) of Chapter 28 is amended by adding "of deeds and send a copy to the Minister" immediately after "registry" in the last line striking out "in the appropriate registry" in the last line and substituting "with the appropriate registry of deeds and send a copy to the Minister".

(2) Subsection 13(3) of Chapter 28 is repealed.

(3) Subsections 13(5) and (6) of Chapter 28 are repealed and the following subsections substituted:

(5) Within ninety days after the notice from the Minister has been sent to the eligible bodies pursuant to subsection (4), any eligible body may notify the Minister in writing of its intention to elect to assume the obligations of the easement holder referred to in the notice and accept the rights and privileges respecting the conservation easement.

(6) Where more than one eligible body notifies the Minister pursuant to subsection (5), the Minister shall determine which eligible body will be permitted to assume the obligations of the easement holder referred to in the notice and accept the rights and privileges respecting the conservation easement.

(6A) The Minister shall notify the eligible body that is permitted to assume the rights, privileges and obligations of the easement holder pursuant to subsection (5) or (6), and the eligible body shall send the owner a written notice advising the owner of the assumption of obligations, rights and privileges.

(6B) Where no eligible body notifies the Minister of its intention to assume the obligations of an easement holder that has ceased to exist, the Minister may elect to assume the obligations of the easement holder and accept the rights and privileges respecting the conservation easement by giving the owner a written notice advising of the election within one hundred and eighty days after the Minister has sent the notices to the eligible bodies pursuant to subsection (4).

(4) Subsection 13(7) of Chapter 28 is amended by adding “of deeds” immediately after “registry” in the last line.

(5) Subsection 13(8) of Chapter 28 is amended by adding “of deeds” immediately after “registry” in the fourth line.
