CHAPTER 30

TRAIL EASEMENTS

§1581. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 371, §1 (NEW).]

1. Holder. "Holder" means:

A. A governmental body authorized to hold an interest in real property under the laws of this State or the United States, including a quasi-governmental entity such as a conservation commission, a regional planning commission or a water or sewer district; or [PL 1999, c. 371, §1 (NEW).]

B. A nonprofit corporation including a land trust, the purposes or powers of which include the creation and maintenance of trails for use by the general public, for the conservation or preservation of open space, or both. [PL 1999, c. 371, §1 (NEW).]

[PL 1999, c. 371, §1 (NEW).]

2. Trail easement. "Trail easement" means a nonpossessory interest of a holder in real property for the purposes of creating and maintaining a trail for use by the general public:

A. For pedestrian use; [PL 1999, c. 371, §1 (NEW).]

B. For snowmobile use, if the instrument creating the easement provides for snowmobile use; [PL 1999, c. 371, §1 (NEW).]

C. For use by all-terrain vehicles as defined in Title 12, section 13001 if the instrument creating the easement provides for the use of all-terrain vehicles; or [PL 2003, c. 414, Pt. B, §48 (AMD); PL 2003, c. 614, §9 (AFF).]

D. For any combination of the uses described in paragraphs A to C, as specified in the instrument creating the easement. [PL 1999, c. 371, §1 (NEW).]

[PL 2003, c. 414, Pt. B, §48 (AMD); PL 2003, c. 614, §9 (AFF).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW). PL 2003, c. 414, §B48 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

§1582. Creation, conveyance, acceptance and duration

1. Trail easement. Except as otherwise provided in this chapter, a trail easement may be created, conveyed, recorded, assigned, released, modified, terminated or otherwise altered or affected in the same manner as other easements created by written instrument.
[PL 1999, c. 371, §1 (NEW).]

2. Right or duty. No right or duty in favor of or against a holder arises under a trail easement unless the right or duty is accepted by the holder.
[PL 1999, c. 371, §1 (NEW).]

3. Limitation. Except as provided in this chapter, a trail easement is unlimited in duration unless the instrument creating it provides otherwise.
[PL 1999, c. 371, §1 (NEW).]

4. Interest. An interest in real property in existence at the time a trail easement is created is not impaired by the trail easement unless the owner of the interest is a party to the trail easement or consents to it.

[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1583. Judicial actions

1. Action or intervention. An owner of an interest in the real property burdened by a trail easement or a holder of the trail easement may bring or intervene in an action affecting the easement.
[PL 1999, c. 371, §1 (NEW).]

2. Intervention only. The State or a political subdivision of the State in which the real property burdened by a trail easement is located may intervene in an action affecting the easement.
[PL 1999, c. 371, §1 (NEW).]

3. Power of court. This chapter does not affect the power of a court to enforce a trail easement by injunction or proceeding in equity or to modify a trail easement in accordance with principles of law and equity.
[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1584. Validity

A trail easement is valid and enforceable even if: [PL 1999, c. 371, §1 (NEW).]

1. Not appurtenant to interest in real property. It is not appurtenant to or does not run with an interest in real property;
[PL 1999, c. 371, §1 (NEW).]

2. Assigned to another holder. It can be or has been assigned to another holder;
[PL 1999, c. 371, §1 (NEW).]

3. Not recognized at common law. It is not of a character that has been recognized traditionally at common law;
[PL 1999, c. 371, §1 (NEW).]

4. Negative burden. It imposes a negative burden;
[PL 1999, c. 371, §1 (NEW).]

5. Affirmative obligations. It imposes affirmative obligations upon the owner of an interest in the burdened property or upon the holder;
[PL 1999, c. 371, §1 (NEW).]

6. Benefit does not touch or concern real property. The benefit does not touch or concern real property;
[PL 1999, c. 371, §1 (NEW).]

7. No privity of estate or of contract. There is no privity of estate or of contract; or
[PL 1999, c. 371, §1 (NEW).]

8. Does not run to successors or assigns. It does not run to the successors or assigns of the holder.
[PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

§1585. Applicability

1. Trail easement created after effective date. This chapter applies to any interest created after the effective date of this chapter that meets the definition of "trail easement" as set forth in section 1581. [PL 1999, c. 371, §1 (NEW).]

2. Chapter does not invalidate interest. This chapter does not invalidate any interest, whether designated as a trail easement or otherwise, that is enforceable under other laws of this State. [PL 1999, c. 371, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 371, §1 (NEW).

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