

§478. Judicial actions

1. Action or intervention. An action affecting a conservation easement may be brought or intervened in by:

- A. An owner of an interest in the real property burdened by the easement; [PL 1985, c. 395, §3 (NEW).]
- B. A holder of the easement; [PL 2007, c. 412, §5 (AMD).]
- C. A person having a 3rd-party right of enforcement; or [PL 2007, c. 412, §5 (AMD).]
- D. The Attorney General; except that the Attorney General may initiate action seeking enforcement of a conservation easement only when the parties designated as having the right to do so under the terms of the conservation easement:
 - (1) Are no longer in legal existence;
 - (2) Are bankrupt or insolvent;
 - (3) Cannot be contacted after reasonable diligence to do so; or
 - (4) After 90 days' prior written notice by the Attorney General of the nature of the asserted failure, have failed to take reasonable actions to bring about compliance with the conservation easement. [PL 2007, c. 412, §5 (NEW).]

[PL 2007, c. 412, §5 (AMD).]

2. Intervention only. An action affecting a conservation easement may be intervened in by a political subdivision of the State in which the real property burdened by the easement is located, in accordance with court rules for permissive intervention.

[PL 2007, c. 412, §5 (AMD).]

3. Power of court. The court may permit termination of a conservation easement or approve amendment to a conservation easement that materially detracts from the conservation values it serves, as provided in section 477-A, subsection 2, paragraph B, and may enforce a conservation easement by injunction or proceeding at law and in equity. A court may deny equitable enforcement of a conservation easement only when it finds that change of circumstances has rendered that easement no longer in the public interest or no longer serving the publicly beneficial conservation purposes identified in the conservation easement. If the court so finds, the court may allow damages as the only remedy in an action to enforce the easement.

[PL 2007, c. 412, §5 (AMD).]

4. Confidentiality of records. Documents and records obtained by the Attorney General, which would otherwise not legally be subject to public disclosure, may be shared with other public agencies but must be held as legally confidential under Title 1, section 402, unless disclosed in the course of a public proceeding in court.

[PL 2007, c. 412, §5 (NEW).]

No comparative economic test may be used to determine under this subchapter if a conservation easement is in the public interest or serves a publicly beneficial conservation purpose. [PL 2007, c. 412, §5 (NEW).]

SECTION HISTORY

PL 1985, c. 395, §3 (NEW). PL 2007, c. 412, §5 (AMD).

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