

Sixty-second  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2362**

Introduced by

Senators Triplett, Taylor, Erbele

Representatives Keiser, Schmidt

1 A BILL for an Act to amend and reenact section 47-05-02.1 of the North Dakota Century Code,  
2 relating to requirements for easements, servitudes, and nonappurtenant restrictions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 47-05-02.1 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **47-05-02.1. Requirements of easements, servitudes, or nonappurtenant restrictions**  
7 **on the use of real property.**

8 1. Real property easements, servitudes, or any nonappurtenant restrictions on the use of  
9 real property, which become binding after ~~July 1, 1977~~July 31, 2011, shall ~~bear~~  
10 subject to the requirements of this section. These requirements are deemed a part of  
11 any agreement for ~~such~~these interests in real property whether or not printed in a  
12 document of agreement.

13 ~~4.~~ The area of land covered by the easement, servitude, or nonappurtenant restriction on  
14 the use of real property shall ~~shall~~must be properly described and shall ~~shall~~must set out the  
15 area of land covered by the interest in real property.

16 ~~2.~~ The duration of the easement, servitude, or nonappurtenant restriction on the use of  
17 real property must be specifically set out; and ~~in no case may~~ the duration of any  
18 interest in real property regulated by this section may not exceed ninety-nine years.  
19 The duration of an easement for a waterfowl production area acquired by the federal  
20 government, and consented to by the governor or the appropriate state agency after  
21 July 1, 1985, may not exceed fifty years. The duration of a wetlands reserve program  
22 easement acquired by the federal government pursuant to the Food, Agriculture,  
23 Conservation, and Trade Act of 1990 after July 1, 1991, may not exceed thirty years.

1           The duration of a conservation easement as defined in section 47-05-02.2 may not  
2           exceed forty years.

3       ~~3.2.~~ No~~An~~ increase in the area of real property subject to the easement, servitude, or  
4           nonappurtenant restriction ~~shall~~may not be made except by negotiation between the  
5           owner of the easement, servitude, or nonappurtenant restriction and the owner of the  
6           servient tenement.

7       3. As used in this section, unless the context otherwise requires:

8           a. "Conservation easement" means a nonpossessory interest of a holder in real  
9           property imposing limitations or affirmative obligations the purposes of which  
10           include retaining or protecting natural, scenic, or open-space values of real  
11           property; assuring its availability for agricultural, forest, recreational, or  
12           open-space use; protecting natural resources; maintaining or enhancing air or  
13           water quality; or preserving the historical, architectural, archaeological, or cultural  
14           aspects of real property.

15           b. "Holder" means a governmental body empowered to hold an interest in real  
16           property under the laws of this state or the United States, or a charitable  
17           corporation, charitable association, or charitable trust, the purposes or powers of  
18           which include retaining or protecting the natural, scenic, or open-space values of  
19           real property; assuring the availability of real property for agricultural, forest,  
20           recreational, or open-space use; protecting natural resources; maintaining or  
21           enhancing air or water quality; or preserving the historical, architectural,  
22           archaeological, or cultural aspects of real property.