



2020 South Dakota Legislature

House Bill 1238

HOUSE AGRICULTURE AND NATURAL RESOURCES ENGROSSED

Introduced by: **Representative** McCleerey

1 **An Act to permit modification of the term of a perpetual conservation easement after**
 2 **the death of the grantor.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 1-19B-57 be AMENDED:

5 **1-19B-57. Conservation easements--Creation and alteration--Term--Rights.**

6 A conservation easement may be created, conveyed, recorded, assigned, released,
 7 modified, terminated, or otherwise altered or affected in the same manner as other
 8 easements. The term of the conservation easement shall be established by the parties to
 9 the easement, but if the term is perpetual, a person receiving a fee simple interest in the
 10 real property burdened by the easement may bilaterally modify the term of the easement
 11 after the death of the person who granted the easement. No right or duty in favor of or
 12 against a holder and no right in favor of a person having a third-party right of enforcement
 13 arises under a conservation easement before its acceptance by the holder and recording
 14 the acceptance. An interest in real property in existence at the time a conservation
 15 easement is created is not impaired by it unless the owner of the interest is a party to the
 16 conservation easement or consents to it.