
SENATE BILL 5083

State of Washington

68th Legislature

2023 Regular Session

By Senator Wagoner

Prefiled 12/21/22.

1 AN ACT Relating to protecting third parties from hazardous
2 conditions arising from conservation easements; and adding a new
3 section to chapter 64.04 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.04
6 RCW to read as follows:

7 (1) A nonprofit nature conservancy corporation that holds or
8 acquires a conservation easement shall be subject to strict liability
9 for damages caused to a third party where land management activities
10 undertaken pursuant to the conservation easement created,
11 exacerbated, or contributed to a hazardous condition on the servient
12 estate and the hazardous condition is the proximate cause of harm to
13 the person or property of a third party.

14 (2) Notwithstanding subsection (1) of this section, a nonprofit
15 nature conservancy corporation shall not be subject to strict
16 liability, but may be liable for negligence, if the terms of the
17 conservation easement provide that the nonprofit nature conservancy
18 corporation will bear the costs required to remedy a hazardous
19 condition arising from the conservation easement.

20 (3) For the purposes of this section:

1 (a) "Conservation easement" means a development right, easement,
2 covenant, restriction, or other right, or any interest less than the
3 fee simple, to protect, preserve, maintain, improve, restore, limit
4 the future use of, or conserve for open space purposes, any land or
5 improvement on the land, whether the right or interest be appurtenant
6 or in gross.

7 (b) "Nonprofit nature conservancy corporation" has the same
8 meaning as defined in RCW 64.04.130.

9 (c) "Third party" means a person who is not a party that executed
10 a conservation easement, such as a grantor or grantee, or a successor
11 to such party under the terms of the conservation easement.

12 (4) This section shall not be construed to abrogate any provision
13 of Title 7 RCW.

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