

## Article 16.

### Conservation Easements Program.

#### **§ 113A-230. Legislative findings; intent.**

The General Assembly finds that a statewide network of protected natural areas, riparian buffers, and greenways can best be accomplished through a conservation easements program. The General Assembly further finds that other public conservation and use programs, such as natural area protection, beach access, trail systems, historic landscape protection, and agricultural preservation, can benefit from increased conservation tools. In this Article, the General Assembly therefore intends to extend the ability of the Department of Environmental Quality to achieve these purposes and to strengthen the capability of private nonprofit land trusts to participate in land and water conservation. (1997-226, s. 6; 1997-443, s. 11A.119(b); 2015-241, s. 14.30(u).)

#### **§ 113A-231. Program to accomplish conservation purposes.**

The Department of Environmental Quality shall develop a nonregulatory program to accomplish conservation purposes, including the maintenance of ecological systems. As a part of this program, the Department shall exercise its powers to protect real property and interests in real property donated for conservation or conserved by other means. The Department shall call upon the Attorney General for legal assistance in developing and implementing the program. (1997-226, s. 6; 1997-443, s. 11A.119(b); 2002-155, s. 1; 2014-3, s. 14.14(c); 2015-241, s. 14.30(u).)

#### **§ 113A-232. Conservation Grant Fund.**

(a) Fund Created. – The Conservation Grant Fund is created within the Department of Environmental Quality. The Fund shall be administered by the Department.

(a1) Fund Purpose. – The purpose of the Conservation Grant Fund is to stimulate the use of conservation easements, to steward properties held by deed or conservation easement by the State, to improve the capacity of private nonprofit land trust organizations to successfully accomplish conservation projects, to better equip real estate related professionals to pursue opportunities for conservation, to increase landowner participation in land and water conservation, and to provide an opportunity to leverage private and other public funds for conservation easements.

(b) Fund Sources. – The Conservation Grant Fund shall consist of any funds appropriated to it by the General Assembly and any funds received from public or private sources. Unexpended funds in the Fund that were appropriated from the General Fund by the General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise provides. Unexpended funds in the Fund from other sources shall not revert and shall remain available for expenditure in accordance with this Article.

(c) Recodified as G.S. 113A-235(a) by Session Laws 2020-78, s. 7.4(a), effective July 1, 2020.

(c1) Grant Eligibility. – Conservation properties, as described in G.S. 113A-235, State conservation land management agencies, local government conservation land management agencies, and private nonprofit land trust organizations are eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust organizations must be certified under Section 501(c)(3) of the Internal Revenue Code to aid in managing the land.

(d) Use of Revenue. – Revenue and investment income generated by the Conservation Grant Fund may be used only for the following purposes:

- (1) The costs of the Department in administering the Fund and stewardship program operations.

- (2) Expenses related to grants, contracts, and agreements made in accordance with this Article, including any of the following:
  - a. Reimbursement for total or partial transaction costs for a donation of real property or an interest in real property from an individual or corporation, when the Department determines either of the following:
    1. The donor has insufficient financial ability to pay all costs or insufficient taxable income to allow these costs to be included in the donated value.
    2. The donor has insufficient tax burdens to allow these costs to be offset by charitable deductions.
  - b. Management support, including initial baseline inventory and planning.
  - c. Monitoring compliance of conservation easements, the related use of riparian buffers, natural areas, and greenways, and the presence of ecological integrity.
  - d. Education and studies on conservation properties, including information materials intended for landowners and education for staff and volunteers.
  - e. Stewardship of conservation properties.
  - f. Transaction costs for recipients, including legal expenses, closing and title costs, and unusual direct costs, such as overnight travel.
  - g. Administrative costs.
  - h. Award of grants under G.S. 113A-234.
  - i. Legal expenses incurred in protecting and seeking remedies for damages to Department-held conservation properties.
  - j. Acquisition of conservation properties and easements.
- (3) To establish an endowment account, the interest from which will be used for a purpose described in this subsection. The principal of this account shall not be used for the purchase of real property or an interest in real property. (1997-226, s. 6; 1997-443, s. 11A.119(b); 2002-155, s. 2; 2003-340, s. 1.4; 2014-3, s. 14.14(d); 2015-241, s. 14.30(u); 2020-78, s. 7.4(a), (b).)

**§ 113A-233:** Repealed by Session Laws 2020-78, s. 7.4(c), effective July 1, 2020.

**§ 113A-234. Administration of grants.**

(a) Grant Procedures and Criteria. – The Secretary of the Department of Environmental Quality shall establish the procedures and criteria for awarding grants from the Conservation Grant Fund. The criteria shall focus grants on those areas, approaches, and techniques that are likely to provide the optimum positive effect on environmental protection. The Secretary shall make the final decision on the award of grants and shall announce the award publicly in a timely manner.

(b) Grant Administration. – The Secretary may administer the grants under this Article or may contract for selected activities under this Article. If administrative services are contracted, the Department shall establish guidance and criteria for its operation and contract with a statewide nonprofit land trust service organization. (1997-226, s. 6; 1997-443, s. 11A.119(b); 2002-155, s. 4; 2015-241, s. 14.30(v); 2020-78, s. 7.4(d).)

**§ 113A-235. Conservation properties eligible for funding.**

(a) Property Eligibility. – In order for real property or an interest in real property to be eligible for a grant under this Article as a conservation property, the real property or interest in real property must meet all of the following conditions:

- (1) Possess or have a high potential to possess ecological value.
- (2) Be reasonably restorable, previously restored, or a high-quality preservation.
- (3) Be useful for one or more of the following purposes:
  - a. Public beach access or use.
  - b. Public access to public waters or trails.
  - c. Fish and wildlife conservation.
  - d. Forestland or farmland conservation.
  - e. Watershed protection or improvement.
  - f. Conservation of natural areas, as that term is defined in G.S. 143B-135.254(3).
  - g. Conservation of predominantly natural parkland.
- (4) Be purchased on behalf of, donated, or assigned in perpetuity to and accepted by the State, a local government, or a body that is both organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions under G.S. 105-130.9. Land required to be dedicated pursuant to local governmental regulation or ordinance and dedications made to increase building density levels permitted under a regulation or ordinance do not qualify.

(a1) Acquisition and Protection of Conservation Properties. – Ecological systems and appropriate public use of these systems may be protected through conservation easements, including conservation agreements under Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act, and conservation easements under the Conservation Reserve Enhancement Program. The Department may acquire conservation properties and easements by purchase, gift, or assignment, in accordance with G.S. 146-22. The Department of Environmental Quality shall work cooperatively with State and local agencies and qualified nonprofit organizations to monitor compliance with conservation easements and conservation agreements and to ensure the continued viability of the protected ecosystems. Soil and water conservation districts established under Chapter 139 of the General Statutes may acquire easements under the Conservation Reserve Enhancement Program by purchase or gift.

(b) Conveyance of Conservation Lands. – The Department may convey real property or an interest in real property that has been acquired for conservation in perpetuity to a federal agency, State agency, a local government, or a private nonprofit conservation organization in accordance with State law governing the conveyance of real property. The grantee of real property or an interest in real property shall manage and maintain the real property or interest in real property for the purposes set out in subsection (a) of this section. When conveying real property or an interest in real property under this subsection, the Department shall retain a possibility of reverter, a right of entry, or other appropriate property interest to ensure that the real property or interest in real property will continue to be managed and maintained in a manner that protects ecological systems and the appropriate public use of these systems.

(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 October of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection. (1997-226, s. 6; 1997-443, s. 11A.119(b); 1999-329, s. 6.3; 2002-155, s. 5; 2004-195, s. 2.2; 2015-241, s. 14.30(u); 2020-78, s. 7.4(a), (e).)

**§§ 113A-236 through 113A-239. Reserved for future codification purposes.**