

STATE OF NEW YORK

11418

IN ASSEMBLY

May 15, 2026

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Levenberg)
-- read once and referred to the Committee on Judiciary

AN ACT to amend the real property actions and proceedings law, in relation to lands owned in fee by not-for-profit conservation organizations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature finds that non-for-profit
2 land conservation organizations spend a substantial amount of time
3 and resources defending against encroachments on conserved land. Existing
4 mechanisms for addressing encroachments under New York law are not
5 sufficient to cover the costs of restoration, let alone the time and
6 expense of monitoring for encroachments and pursuing legal action to
7 compel restoration and recover damages. Conservation organizations face
8 additional burdens in ensuring that encroachments do not mature into
9 adverse possession claims, which may compromise the protected status of
10 lands acquired and managed as open space.

11 By streamlining the process of enforcing encroachments, better align-
12 ing the remedies available to conservation organizations and state
13 government entities with the associated costs, and providing for
14 enhanced penalties to dissuade especially malicious and damaging tres-
15 passes, conservation organizations would be better positioned to steward
16 their protected lands and advance the state's land conservation goals.
17 Moreover, conservation organizations would be shielded from future
18 adverse possession claims and similar attempts to acquire property
19 interests by hostile occupancy, significantly reducing the threat posed
20 by such claims to the continued integrity of conserved lands.

21 § 2. The real property actions and proceedings law is amended by
22 adding a new section 513 to read as follows:

23 § 513. Adverse possession; not-for-profit conservation organizations.
24 No length of possession, prescription, use or occupancy of land belong-
25 ing to a not-for-profit conservation organization or of land subject to
26 a conservation easement, as defined under section 49-0303 of the envi-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD15702-02-6

1 ronmental conservation law, shall create or continue any right in or to
2 such land.

3 § 3. The real property actions and proceedings law is amended by
4 adding a new section 872 to read as follows:

5 § 872. Action for the removal of encroaching not-for-profit conserva-
6 tion organizations. 1. As used in this section, the following words and
7 terms shall have the following meanings, unless the context indicates
8 another or different meaning or intent:

9 (a) "Open space land" means and includes, but is not limited to, any
10 park, forest, wildlife management area, refuge, preserve, sanctuary,
11 wildlife area or other conservation land owned by a not-for-profit
12 conservation organization or a public body as defined in section 49-0303
13 of the environmental conservation law.

14 (b) "Encroach" means to conduct an activity that causes damage or
15 alteration to the land or vegetation or other features thereon, includ-
16 ing, but not limited to, erecting buildings or other structures,
17 constructing roads, driveways or trails, destroying or moving stone
18 walls, cutting trees or other vegetation, removing boundary markers,
19 installing lawns or utilities, or using, storing, or depositing vehi-
20 cles, materials, or debris.

21 2. No person may encroach or cause another person to encroach on open
22 space land or on any land for which a not-for-profit conservation organ-
23 ization or a public body holds a conservation easement, as defined in
24 subdivision one of section 49-0303 of the environmental conservation
25 law, without the written permission of the owner of such open space land
26 or holder of such conservation easement or without other legal authori-
27 zation.

28 3. Any owner of open space land or holder of a conservation easement
29 subject to the provisions of subdivision two of this section or the
30 attorney general may bring an action in a court of competent jurisdic-
31 tion in the county in which the land is located against any person who
32 violates the provisions of such subdivision with respect to such owner's
33 land or land subject to such conservation easement. The court shall
34 order any person who violates the provisions of subdivision two of this
35 section to restore the land to its condition as it existed prior to such
36 violation or shall award the landowner the costs of such restoration,
37 including reasonable management costs necessary to achieve such restora-
38 tion. Such restoration costs shall be determined in accordance with the
39 latest revision of The Guide for Plant Appraisal, as published by the
40 International Society of Arboriculture, Urbana, Illinois, or a succeed-
41 ing publisher. In addition, the court may award reasonable attorney's
42 fees and costs and such injunctive or equitable relief as the court
43 deems appropriate.

44 4. In addition to any damages and relief ordered pursuant to subdivi-
45 sion three of this section, the court may award damages of up to three
46 times the cost of restoration. In determining the amount of the award,
47 the court shall consider the willfulness of the violation, the extent of
48 damage done to natural resources, if any, the appraised value of any
49 trees or shrubs cut, damaged, or carried away as determined in accord-
50 ance with the latest revision of The Guide for Plant Appraisal, as
51 published by the International Society of Arboriculture, Urbana, Illi-
52 nois, or a succeeding publisher, any economic gain realized by the
53 violator, and any other relevant factors.

54 § 4. This act shall take effect immediately.