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:

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

By streamlining the process of enforcing encroachments, better aligning the remedies available to conservation organizations and state government entities with the associated costs, and providing for enhanced penalties to dissuade especially malicious and damaging trespasses, conservation organizations would be better positioned to steward their protected lands and advance the state's land conservation goals. Moreover, conservation organizations would be shielded from future adverse possession claims and similar attempts to acquire property interests by hostile occupancy, significantly reducing the threat posed by such claims to the continued integrity of conserved lands.

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

§ 513. Adverse possession; not-for-profit conservation organizations. No length of possession, prescription, use or occupancy of land belonging to a not-for-profit conservation organization or of land subject to 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.

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

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

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

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

(b) "Encroach" means to conduct an activity that causes damage or alteration to the land or vegetation or other features thereon, including, but not limited to, erecting buildings or other structures, constructing roads, driveways or trails, destroying or moving stone walls, cutting trees or other vegetation, removing boundary markers, installing lawns or utilities, or using, storing, or depositing vehicles, materials, or debris.

2. No person may encroach or cause another person to encroach on open space land or on any land for which a not-for-profit conservation organization or a public body holds a conservation easement, as defined in subdivision one of section 49-0303 of the environmental conservation law, without the written permission of the owner of such open space land or holder of such conservation easement or without other legal authorization.

3. Any owner of open space land or holder of a conservation easement subject to the provisions of subdivision two of this section or the attorney general may bring an action in a court of competent jurisdiction in the county in which the land is located against any person who violates the provisions of such subdivision with respect to such owner's land or land subject to such conservation easement. The court shall order any person who violates the provisions of subdivision two of this section to restore the land to its condition as it existed prior to such violation or shall award the landowner the costs of such restoration, including reasonable management costs necessary to achieve such restoration. Such restoration costs shall be determined in accordance with the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher. In addition, the court may award reasonable attorney's fees and costs and such injunctive or equitable relief as the court deems appropriate.

4. In addition to any damages and relief ordered pursuant to subdivision three of this section, the court may award damages of up to three times the cost of restoration. In determining the amount of the award, the court shall consider the willfulness of the violation, the extent of damage done to natural resources, if any, the appraised value of any trees or shrubs cut, damaged, or carried away as determined in accordance with the latest revision of The Guide for Plant Appraisal, as published by the International Society of Arboriculture, Urbana, Illinois, or a succeeding publisher, any economic gain realized by the violator, and any other relevant factors.

§ 4. This act shall take effect immediately.