

**H.580 Testimony**  
**House Natural Resources & Energy Committee**  
**Thursday, March 8, 2016**

Vermont Land Trust  
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- A. Thank you for the opportunity to testify on H.580. I am here to offer the Vermont Land Trust's support for this bill which we believe offers important clarifications about conservation easements and strengthens conservation protections of our valuable natural resources. I am here with several other organizations that also support this bill because we share the position that it ensures that conservation easements will remain in place permanently in Vermont.
- B. First, I would like to provide a brief overview of:
1. Vermont Land Trust (VLT)
    - A state-wide member-supported land conservation organization.
    - Since 1977, VLT has worked with families, communities, farmers and forestland owners to conserve more than 550,000 acres of farms, forests and community lands, such as town forests and swimming holes.
    - Today VLT holds over 1,900 conservation easements in Vermont.
  2. A conservation easement
    - A legally binding document, whereby a landowner conveys certain development rights and restrictions on his property to a "qualified holder".
    - A "qualified holder" is often a nonprofit land conservation organization and can also be a governmental entity.
    - Easements can be donated or sold to the land trust.
    - Once conveyed, the land trust records the conservation easement in the town land records.
    - The landowner continues to own, occupy and use the land subject to the restrictions in the easement.
    - The easement permanently protects agricultural, forestry, natural and/or scenic values of the land by limiting future development, subdivision and certain uses (e.g. mining) of the land, while allowing for ongoing ag, forestry and recreational uses.
    - The land trust holds, stewards and enforces the restrictions in the easement.
- C. Why VLT supports H.580
1. Overall, H.580 makes two important changes to the law that strengthen the permanency of conservation easements and that reduce the administrative burden on Vermont's conservation easement holders.

2. First, H.580 provides that tax liens filed after conservation do not eradicate the easement:
  - Clarifies that a conservation easement is not extinguished by tax sale if the easement went into effect before the tax lien is filed. Note that prior tax liens would not be effected and in accordance with land trust best practices must be discharged before conservation.
  - This protects the public's interest and investment in the easement by ensuring that it remains in place even in the event of a tax sale.
  - For example, a farm is conserved in 2000. In 2005 the landowner becomes delinquent in his taxes and the town subsequently takes title to the property in a tax sale. H.580 provides that the property remains subject to the conservation easement following the sale.
  
3. Second, H.580 provides that conservation easements do not have to be re-recorded every 40 years to remain valid property interests:
  - Clarifies that conservation easements, whether held by nonprofits or governmental entities, are exempt from VT's marketable title act's 40 year re-recording requirement.
  - Purpose of the re-recording requirement is to bring encumbrances to the attention of title searchers who only a look back 40 years.
  - However, there is little risk that title searchers will not find conservation easements because the law requires that all conveyances of the property post-conservation reference the easement.
  - Without this change, if an easement is not re-recorded a subsequent purchaser of the property could claim that the easement is unenforceable.
  - Therefore, by exempting conservation easements from the re-recording requirement they are protected from being inadvertently extinguished and thereby saving the public's investment in conservation.
  - Note that in Vermont other easements do not need to be re-recorded and neighboring states do not have such a requirement for conservation easements.
  - Now is the right time to pass this legislation. In a few short years, VLT will begin having to re-record on average dozens of easements annually, a cumulatively heavy administrative and financial burden. By making this change, H.580 allows us to focus our resources on our core conservation work.

D. Thank you for your consideration of H.580.

By enacting H.580, you will have made a significant contribution to the viability and strength of the conservation protections that serve to make Vermont the beautiful, working, diverse, and vibrant landscape that it is today. Thank you again and I would be happy to answer any questions.