

Department of Administrative Services Policy

Policy No: 24-01
Application: Real Estate Divestiture
Subject: Conservation Easement Reversion Policy
Effective Date: 09-24-2024

I. Overview

To the fullest extent allowable by law, this Policy memorializes the long-observed practice of State of Nebraska to limit the estate conveyed (a fee simple subject to condition subsequent) to any acquirer of State-owned land to include a reversionary interest if the property is subsequently placed in an environmental trust of any kind. *See* Neb. Rev. St. § 76-107(2).

Considerations upon which this Policy are based include:

- Whereas there is Federal Policy intending to designate 30 percent of U.S. land and freshwater in protected areas and,
- Whereas setting aside substantial land and water into protected areas in Nebraska would be detrimental to agricultural and business use.

II. Prohibition Against State Land Being Sold to Place in Conservation Easement

To effectuate this Policy, the following or similar language will be included in all deeds upon sale of State Land:

TO HOLD ONLY SO LONG AS the land does not obtain a conservation easement or any other restriction imposing a limitation upon the rights of the landowner or an affirmative obligation upon the owner appropriate to the purpose of retaining or protecting the property in its natural scenic, or open condition, assuring its availability for horticultural, forest, recreational, wildlife habitat, or open space use, protecting air quality, water quality or other natural resources. Should any such restriction be imposed on the land, all interest of GRANTEE and its heirs, successors, and assigns shall be forfeited and shall revert automatically to GRANTOR without the necessity of any act on their part. On the occurrence of this forfeiture, the property shall immediately pass to the GRANTOR, as if this transfer had not been made.

NOTICE

This guidance document is advisory in nature but is binding on the Nebraska Department of Administrative Services until amended. A guidance document does not include internal procedural documents that only affect the internal operations of the Department of Administrative Services and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document. See Neb. Rev. Stat. § 84-901.03

III. Legal Basis and References

- A. Neb. Rev. St. § 81-1108.17. Nebraska law makes the Department of Administrative Services the custodian of all lands owned by the State of Nebraska:

81-1108.17. Department of Administrative Services; custodian of state property; director; administrator; powers and duties; Capitol Buildings Parking Revolving Fund; created; purpose; use.

(1) The Department of Administrative Services shall be the custodian of the state laboratory and laboratory grounds, the Governor's Mansion and grounds, and all other buildings and lands owned or leased by the State of Nebraska except as exempted under subsections (5) and (6) of section 81-1108.15 or as provided in the Nebraska State Capitol Preservation and Restoration Act.

- B. Neb. Rev. St. § 72-815. Nebraska law also vests DAS with the responsibility to divest land owned by the State of Nebraska

72-815. Vacant buildings and excess land; state building division; powers and duties; demolition; sale; lease; proceeds; disposition; maintenance; excess land at Hastings Regional Center; sale; distribution of proceeds.

(1) The state building division of the Department of Administrative Services shall be responsible for the sale, lease, or other disposal of a building or land, whichever action is ordered by the committee.

- C. Neb. Rev. St. § 76-107(2). Nebraska law allows the grantor of a property interest to retain a possibility of reverter or right of reentry after a specified event occurs.

The foregoing policy is duly signed and executed on this 24 day of September, 2024.



Director,
State of Nebraska, *Department of Administrative Services*

9/24/24

DATE



Administrator, Building Division
State of Nebraska, *Department of Administrative Services*

24 Sept 24

DATE

