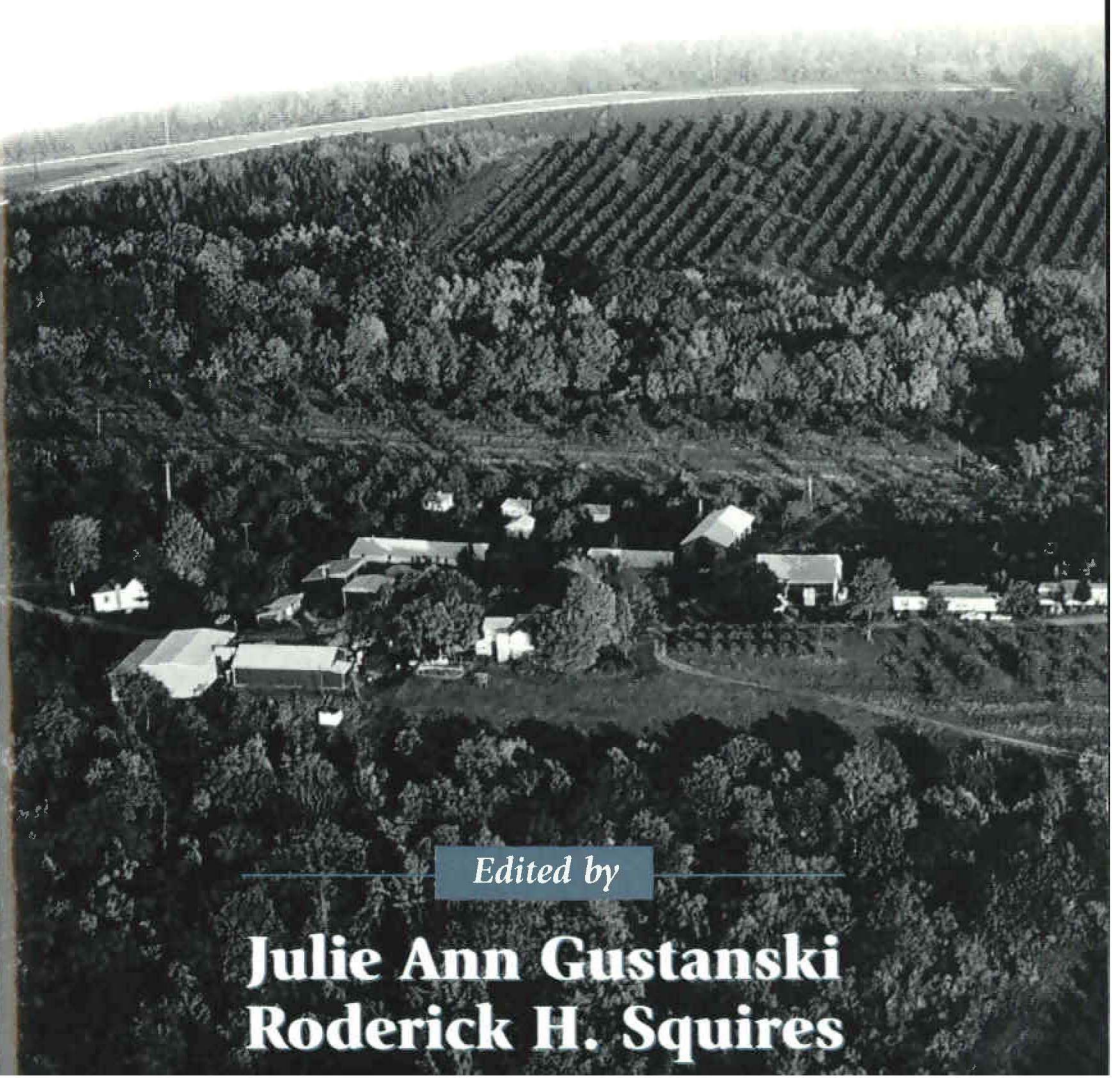


Protecting the Land

Conservation Easements Past, Present, and Future

Foreword by Jean Hocker



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Chapter 11



Conservation Easements in the Fourth Federal Circuit

*T. Heyward Carter Jr., W. Leighton Lord III,
and Chalmers W. Poston Jr.*

The states in the Fourth Federal Circuit are all common-law jurisdictions and thus have a historic similarity in their treatment of real property (Figure 11.1). Despite such similarity, however, they have enacted statutes enabling conservation easements, or similar agreements, that are as varied as the natural landscapes of the region. Table 11.1 reflects the differences in terminology applied to easements and how they protect various lands throughout the circuit. Although South Carolina, Virginia, and West Virginia have enacted versions of the Uniform Conservation Easement Act (UCEA), each state has modified it to some extent and have enacted other conservation-related legislation specific to its needs.

South Carolina has adopted the UCEA with the fewest modifications. To augment this conservation easement legislation, the South Carolina General Assembly has also enacted the Scenic Rivers Program and the Heritage Trust Program. On the other hand, Virginia and West Virginia have made substantial modifications to the version of the UCEA adopted in each state. Virginia and West Virginia have also augmented the conservation easement legislation with additional legislation aimed at preserving the natural environment. Prior to the enactment of the Virginia Conservation Easement Act, the General Assembly of the Commonwealth of Virginia enacted the Open Space Land Act. Following the adoption of the Conservation and Preservation Easement Act in West Virginia, West Virginia enacted the West Virginia Stream Partners Program. Table 11.2 gives a comparison of laws as they pertain to what conservation easements are to protect within respective states.

Although Maryland and North Carolina have not enacted the UCEA; each has enacted legislation that allows for land protection. Maryland has long been an activist state at the forefront of the land protection movement and