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**SENATE BILL 5083**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senator Wagoner

AN ACT Relating to protecting third parties from hazardous conditions arising from conservation easements; and adding a new section to chapter 64.04 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 64.04 RCW to read as follows:

(1) A nonprofit nature conservancy corporation that holds or acquires a conservation easement shall be subject to strict liability for damages caused to a third party where land management activities undertaken pursuant to the conservation easement created, exacerbated, or contributed to a hazardous condition on the servient estate and the hazardous condition is the proximate cause of harm to the person or property of a third party.

(2) Notwithstanding subsection (1) of this section, a nonprofit nature conservancy corporation shall not be subject to strict liability, but may be liable for negligence, if the terms of the conservation easement provide that the nonprofit nature conservancy corporation will bear the costs required to remedy a hazardous condition arising from the conservation easement.

(3) For the purposes of this section:

(a) "Conservation easement" means a development right, easement, covenant, restriction, or other right, or any interest less than the fee simple, to protect, preserve, maintain, improve, restore, limit the future use of, or conserve for open space purposes, any land or improvement on the land, whether the right or interest be appurtenant or in gross.

(b) "Nonprofit nature conservancy corporation" has the same meaning as defined in RCW 64.04.130.

(c) "Third party" means a person who is not a party that executed a conservation easement, such as a grantor or grantee, or a successor to such party under the terms of the conservation easement.

(4) This section shall not be construed to abrogate any provision of Title 7 RCW.

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