

CONSERVATION EASEMENT FACT SHEET

A conservation easement is a legal agreement between a landowner and a conservation organization or government agency that permanently limits a property's uses in order to protect the property's conservation values. Called a "conservation restriction" in some states; also may be called an agricultural preservation easement, historic preservation easement, scenic easement or forever wild easement, etc., depending on the resources it protects.

- Easements usually restrict development rights on the property in perpetuity for both current and future owners (i.e. dictates what can and cannot be done to the land or how the land may be used).
- The land remains in private ownership, but its use is restricted.
- The limitations set forth in an easement are unique to the property it protects-- characteristics of the land and goals/wishes of the owner.
- The landowner prescribes the covenants (limitations) and allowable uses such as number and location of structures; types of commercial/industrial activity allowed (if any); and what may be done to the surface, subsurface, and existing vegetation. It may remain "wild"—allowed to evolve as nature dictates; or restricted uses may be allowed such as limited habitation, farming, and timber harvesting. The landowner usually does not allow public access but access may also be conveyed. All restrictions must be acceptable and agreed to by the donee organization and fulfill the intended conservation purposes.
- The size of the property under easement is decided by the owner. For example, if the owner wishes to protect 10 acres of a 50 acre tract, he/she may place an easement on that 10 acre parcel, allowing the remainder of the property to be used for anything he/she wishes.
- Protection is usually permanent—all future owners are bound by the terms of the easement. The county register of deeds records the easement and it becomes attached to the title of the property, whether it is conveyed by sale, gift, inheritance, or bequest.
- The easement is usually granted to an organization that will oversee/monitor the uses of the land as set forth in the easement. This ensures future owners adhere to the conditions of the easement as it is conveyed with title to the land. The organization may be a public or private agency. But it is advisable to donate to a conservation non-profit organization solely or in conjunction with a governmental agency.
- A conservation easement may be sold, and this constitutes a taxable event. If it is donated or sold for less than market value, it may constitute a charitable contribution (as confirmed by appraisal).
- The value of the easement may be deducted from adjusted gross income at the rate of 30% per year for up to six years or until the value of the easement gift is deducted (as confirmed by appraisal).
- Generally, a conservation easement diminishes the value of the land (due to the subsequent restrictions of allowable uses), and thereby may reduce property taxes owed, estate, and inheritance taxes.

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