



IS A CONSERVATION EASEMENT RIGHT FOR YOU AND YOUR LAND?

A conservation easement, also called a conservation agreement, is a voluntary and legally binding agreement between a landowner and a qualified land trust, such as Big Waters Land Trust, or government agency. When a landowner donates or sells an easement to a land trust or public agency, they are giving up some of the rights associated with the land. Thus, the easement permanently limits uses of the property in order to protect its conservation values, as specified in the Internal Revenue Code (IRC) 170(h) (see page 5).

Conservation easements offer private landowners flexibility in protecting their land. For example, a landowner can retain the right to graze livestock, hunt and fish, live and recreate on the land while, at the same time, relinquishing the right to build additional structures. On large properties, the landowner may even retain the right to build additional agricultural and/or residential structures or exclude some of the land from the conservation easement restrictions.

The land trust or government agency that holds the conservation easement is responsible for making sure that the landowner adheres to the easement terms. An easement may apply to all or a portion of a property and may or may not allow for public access to the property. The landowner of a conservation easement can sell the land or pass it on to heirs, and all future owners of the property are bound by the terms of the easement, in perpetuity.

Easements vary greatly in value. In general, the highest easement values are found on tracts of open space under high development pressure. In some rural areas with limited development potential, placing an easement on one's land may also result in property tax savings for the landowner. The value of the conservation easement is determined through appraisals prepared by qualified appraisers and must meet IRS requirements. The value of the conservation easement is the difference between the current, highest and best use of the land based on current land use regulations (not speculative values based on hypothetical development scenarios) and the value of the land subject to the agreed upon restrictions in the easement. This is the value of the rights being donated or sold that may be eligible for income tax benefits, cash, or a combination of the two.

If a conservation easement is voluntarily donated to a land trust or government agency, or sold at a price below fair market value (called a bargain sale), and if it benefits the public by permanently protecting important conservation resources, it can qualify as a charitable tax deduction on the donor's federal income tax return.

In 2015, Congress made the enhanced income tax incentive for conservation easements a permanent part of the IRS tax code. This law increased the tax benefits to landowners by allowing a donor to take a deduction of up to 50% of their annual income beginning in the year of the gift with *15 years of carry-forward* until it is fully used.

WHICH CONSERVATION EASEMENT PROGRAM MIGHT WORK FOR YOU AND YOUR LAND?

In addition to significant tax benefits associated with the donation of a qualified conservation easement to qualified non-profit land conservancies, such as Big Waters Land Trust, there are Conservation Easement Purchase Programs at the local, state and federal government agencies.

A. STATE OF FLORIDA

1. Florida Forever

Florida Forever is Florida's premier conservation and recreation lands acquisition program administered by the Department of Environmental Protection (DEP). Florida Forever supports a wide range of goals: increasing and protecting Florida's biodiversity; connecting and buffering existing state lands; restoring environments; protecting water supplies and resources; Increasing public access; sustainably managing forests; and protecting cultural and historic resources. The program acquires land as well as conservation easements that protect regional and state-wide resources of significance. Projects are approved and ranked by the Acquisition and Restoration Council (ARC) with final approval by the Governor and Cabinet. Conservation Easements are held and monitored by DEP.

2. Rural & Family Land Protection Program (RFLPP)

RFLPP is an agricultural land preservation program and is administered by the Florida Department of Agriculture and Consumer Affairs (FDACS). It is designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements. RFLPP coordinates with farmers and ranchers to ensure sustainable production practices while reasonably protecting natural resources without interfering with agricultural operations and their continued economic viability. Projects are reviewed and ranked through a formal process by the Rural and Family Lands Protection Program Selection Committee and approved by the Governor and Cabinet.

B. FEDERAL: U.S. DEPARTMENT OF AGRICULTURE (USDA), NATURAL RESOURCE CONSERVATION SERVICE (NRCS)

1. Agricultural Land Easements (ALE)

Protect agricultural viability by helping partners (private and tribal landowners, land trusts, and other entities such as state and local governments) protect croplands and grasslands on working farms and ranches by limiting non-agricultural uses of the land through permanent conservation easements. The conservation easements prevent conversion of productive working lands to non-agricultural uses. Land protected by agricultural land easements may have additional public benefits, including environmental quality, historic preservation, wildlife habitat and protection of open space. NRCS may contribute up to 50% of the fair market value of the agricultural land easement. The remaining 50% maybe be a bargain sale donation or funded by a different yet compatible funding program (such as Florida's RFLPP). The program also protects grazing uses and related conservation values by conserving grassland, including rangeland, pastureland and shrubland. The easement is held, monitored and enforced by a qualified public agency (state or county) or qualified land trust.

2. Wetland Reserve Easements (WRE)

Help private and tribal landowners **protect, restore and enhance wetlands** which have been previously degraded due to agricultural uses and provide habitat for migratory waterfowl and other wetland dependent wildlife and provide water quality benefits. All landowners (including all members of landowner-legal entities) must meet the adjusted gross income (AGI) limitations. Land eligible for wetland reserve easements includes privately held farmed or converted wetlands that were previously degraded due to agricultural uses and can be successfully and cost-effectively restored. NRCS holds and monitors the

conservation easements and undertakes wetlands enhancements and restoration. Cattle grazing is only permitted as a management tool and may result in a reduction in easement funding.

C. SARASOTA COUNTY

Environmentally Sensitive Lands Protection Program (ESLPP) and Neighborhood Parkland Acquisition Program (NPP)

These voter-approved and taxpayer-funded programs acquire and protect **natural lands and parklands**. The criteria considered for environmental acquisitions are: Rarity, Quality, Connectivity, Manageability, and Water quality benefits. Conservation easements may be purchased on natural and agricultural lands provided the purpose is to protect and enhance the natural resources on the property (versus protecting agricultural viability). Sarasota County holds, monitors, and enforces the conservation easements.

***Other Counties in our region have funding for land conservation. However, most of the funds are being used for the purchase of land for public recreation and protection of important natural resources rather than purchasing conservation easements on agricultural land.*