

Conservation Easements – a one page primer

- **What is a conservation easement?**

A conservation easement is a voluntary agreement between a landowner and a government agency or a qualified land protection organization (often called a "land trust"). It allows a landowner to limit the type or amount of development or other activities on their property while retaining private ownership.

- **A good analogy...**

Think of owning land as holding a bundle of sticks. Each stick represents the landowner's right to do something with their property. The right to build a house, to extract minerals, to lease the property, pass it on to heirs, allow hunting are all rights that the landowner has. A landowner may give up certain development rights, or sticks from the bundle, through a conservation easement.

- **Why do people grant conservation easements?**

Landowners want to protect their property from unwanted development but they also wish to retain ownership of their land. Also, it assures that the property will be protected forever, regardless of who owns the land in the future. Additional benefits may include significant financial advantage to the donor, such as federal income tax deductions or estate and property tax relief.

- **What activities are allowed on land protected by an easement?**

It depends on the landowner's wishes and the property. In some instances, no further development is allowed, but in others, some is permitted. An easement may be designed to cover all or only a portion of a property. Every easement is unique, tailored to a particular landowner's goals and their land.

- **Can the landowner still sell or give the property away?**

The landowner continues to own the property after executing an easement. Therefore, the owner can sell, give or lease the property, as before. However, all future owners assume ownership of the property subject to the conditions of the easement.

- **Does the public have a right of access to easement-protected property?**

Not unless the original landowner allows it.

- **How long does an easement last and who upholds it in the future?**

To be eligible for a federal income tax deduction the easement must be "perpetual," that is, it must last forever.

- **Who owns the conservation easement?**

To qualify for a tax deduction the easement must be donated to the government or a qualifying conservation or historic preservation organization.

- **Who owns and manages easement protected land?**

The landowner retains full rights to manage their property within the limits of the easement.

- **Does the easement have to cover all of the landowner's property?**

No, some easements only cover a portion of the landowner's property. For example, if someone owns 80 acres, of which 35 acres are wetlands, the landowner may decide to restrict development only on these 35 acres. The remaining 45 acres would not be covered or affected by the easement.

- **What kind of land can be protected by conservation easements?**

IRS regulations require that the property have "significant" conservation values. This includes forests, wetlands, endangered species habitat, beaches, scenic areas and more.

- **A good example:**

In 2012, the U.S. Fish and Wildlife Service (USFWS) announced the creation of the Everglades Headwaters National Wildlife Refuge and Conservation Area. It will cover 150,000 acres north of Lake Okeechobee, but two-thirds of the refuge (100,000 acres) will be under private ownership - held under "conservation easements" purchased from willing sellers through the U.S. Department of the Interior and the USFWS.