

Process

Executing a conservation easement takes time and variety of resources. Please see the following for a reasonable expectation of the steps required for donating a conservation easement.

Determine what conservation values you want to protect on your land.

- Decide what restrictions you would like to put in place on your land.

Find a qualified organization to be your conservation easement holder (usually a land trust, but could be your local government).

- Invite a land trust to tour your property to determine if an easement is appropriate (the land trust must determine if the property meets its criteria for accepting easements).
- Agree with land trust on final restrictions and get complete understanding of the process and benefits.

Consult your advisors.

- Consult your legal and tax advisors.

Draft conservation easement document

- Review and amend the easement document provided by the land trust with your attorney.

Prepare Baseline Documentation Report (BDR).

- Land trust prepares BDR (an assessment of the condition and features of your property at the time the conservation easement is created). Review and approve.

Hire an Appraiser (certified to do conservation easement appraisal).

- Provide easement contract and BDR to your appraiser.

Obtain qualified appraisal.

- Appraiser certifies the diminution in value, which is your charitable donation.

Obtain title information, and if required, subordinate mortgage(s).

- Subordination requires negotiation with your lender.

Close the Deal.

- Sign documents with the land trust.
- Record the Deed at Superior Court.

Monitor the conservation easement.

- Land trust monitors the easement annually.

Why Conservation Easements?



People execute conservation easements because:

- they want to protect the conservation values of their property, and
- they are interested in the resulting economic value associated with donating or selling conservation easements.

Conservation easements provide permanent protection of some or all their land while allowing landowners continued ownership and use of their land, often for income producing purposes. Easements can be used to protect all types of land, including:

Farmland

Working Forests

Wildlife Habitat

Wetlands, Streams, and Rivers

Historic Structures and Landscapes

Scenic Views

Recreation



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Conservation Easements



A **conservation easement** is a voluntary legal contract between a landowner and a qualified organization (usually a land trust) which determines the use of the land in order to protect its conservation values in perpetuity.

Tailored to each property and to each landowner's needs, conservation easements are flexible tools. Landowners often protect a portion of their property (not all their property) with an easement and retain the rest of their property for unrestricted use, sometimes even for development.

Conservation easements permanently restrict land, and those restrictions stay with the land forever. However, the landowner retains full ownership, is able to use the property (often for income-producing purposes), and can sell it or give it to heirs. The land trust or other qualified organization "holds" the easement in perpetuity and is responsible for monitoring its compliance.

Conservation easements are the most successful of all conservation tools used today and have protected millions of acres of farmland, environmentally sensitive resources, viewsheds, open space, and historic places in the United States. **In Morgan County, as of December 2015, conservation easements protect approximately 2,550 acres.**



Conservation Purpose

Donating a conservation easement can result in significant tax incentives. The IRS has specific criteria for determining if a conservation easement qualifies as a charitable donation. Among those criteria is the requirement that the easement must advance a qualified "**conservation purpose**" which can include:

- the protection of a relatively natural habitat for fish, wildlife or plants;
- the preservation of certain open space including farmland and forestland;
- the preservation of historically important land area or certified historic structure; or
- the preservation of land areas for outdoor recreation by, or the education of, the general public.

For more information, see section 170(h) of the IRS code (www.irs.gov).



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Tax Incentives

Federal Income Tax Deduction

The donation of a conservation easement to a qualified organization creates a charitable donation acceptable by the IRS (provided it meets certain criteria). The value of the charitable donation is equal to the difference between the appraised value of the property without the easement and the appraised value of the property with the easement restrictions. When donating a conservation easement, the landowner receives a federal income tax deduction for that charitable donation. Currently a landowner may use the charitable donation to **deduct up to 50% of his Adjusted Gross Income** (100% for farmers, ranchers, and forest landowners) and can carry forward any remaining deduction for an additional 15 consecutive years (50% of AGI for a total of 16 years).

GA State Tax Credit

Donating a conservation easement meeting state conservation purposes (different but similar to IRS rules) qualifies donors for a state income tax credit of 25% of the fair market value of the easement, up to **\$250,000 for individual donors** and up to **\$500,000 for corporate and partnership donors**. Donors have 10 years to use the credit. The GA State Tax Credit is transferable, so landowners who would rather sell the tax credit than use it themselves have that option.

Estate Tax

Upon a landowner's death, the appraised value of easement property for estate tax purposes would be reduced due to the land use restrictions, enabling heirs to retain more property. There are additional estate tax benefits under the 2031 exclusion.

Property Tax

The market value of a property protected by a conservation easement is reduced due to the restrictions placed on the property. In Morgan County, land protected with conservation easements is valued at roughly 40% of its market value, and then assessed at 40% of that reduced value. In other words, land in Morgan County under conservation easement is assessed at roughly 25% of market value. Every county tax assessor determines value differently.