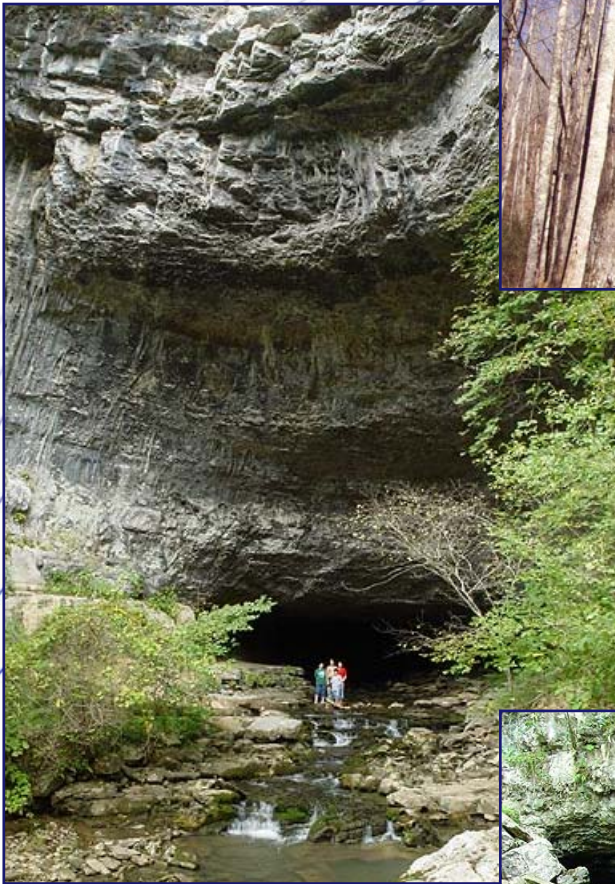


# Fact Sheet

3

Conservation Easements



**The Karst Conservancy**  
<http://www.karstconservancy.org>

# Conservation Easements

## Fact Sheet 3

*The content of this fact sheet was adapted from the Land Trust Alliance's brochure Protecting Your Land with a Conservation Easement. The Karst Conservancy is a member of the Land Trust Alliance.*

### What's a Conservation Easement?

Conservation easements have helped thousands of families protect millions of acres of open space. With a conservation easement, you permanently protect your land without giving up ownership. You can continue to live on it and use it, and can sell it or pass it on to heirs.

What's more, you can reduce future estate taxes - taxes that otherwise could rob your children of their legacy and result in the destruction of one more beautiful piece of land.

### How Does a Conservation Easement Work?

A conservation easement is a legal agreement between a landowner and a land trust (a private, nonprofit conservation organization) or government agency that permanently limits a property's uses in order to protect its conservation values. When you own land, you also "own" many rights associated with it. When you donate or sell a conservation easement to a land trust, you permanently give up some of those rights. For example, you might give up the right to build additional residences, while retaining the right to grow crops. Future owners also will be bound by the easement's terms.

The conservation easement (called a "conservation restriction" in some states) is written up in a legal agreement that is tailored to protect the land's conservation values and meet the financial and personal needs of the landowner. An easement designed to protect rare wildlife habitat might prohibit development of any kind, for example, while one on a farm might allow continued farming and the building of additional agricultural structures, but prohibit subdivision.

In some cases, a conservation easement may apply to just a portion of the property, leaving the option of development open for the remaining part. It may allow limited building within the area under the easement.

The land trust takes on the responsibility and legal right to enforce the easement. If a future owner or someone else violates the easement, perhaps by erecting a building the easement doesn't allow, the land trust will work to have the violation correct-

ed (The land trust usually asks for a donation from the easement donor to help offset the cost of future stewardship expenses.)

### Qualifying for a Federal Income Tax Deduction

If you donate a conservation easement that meets federal tax code requirements, the value of the easement can be treated as a Charitable gift and deducted from income tax (to the extent your particular tax situation allows.) For income tax purposes, the value of the easement is the difference between the land's value with the easement and its value without the easement. If a property is worth \$500,000 unrestricted, for example, and an easement that precludes further development is placed on it that drops its value to \$200,000, the value of the donation is \$300,000.

Easement values vary greatly, in general, the highest easement values result from very restrictive conservation easements on tracts of developable open space under intense development pressure. In order to qualify as a charitable donation, an easement must meet federal tax code requirements - in essence, must provide public benefit by permanently protecting important conservation resources. However, an easement does not have to cover all of the property, preclude all use or development, or allow public access. Because a conservation easement lowers a property's fair market value, it can also result in lower property taxes.

### A Conservation Easement Can Significantly Reduce Estate Taxes

If you own land with substantial value, you may not be able to pass it on intact to your heirs. When you die, your children may find that the federal estate tax - which is based on the value of land at its most lucrative potential use and is levied at rates as high as 55 percent - is in the hundreds of thousands or millions of dollars. Selling all or part of the land for development may be the only way to pay the estate tax.

But if you place an easement on the land restricting future development, its fair market value will, in most cases, be reduced. When you die, this reduced value will result in lower estate taxes.

An easement's effect on estate taxes is usually more important to landowners with sizeable estates and substantial real estate holdings, since, depending on the year of death, the first \$625,000 to \$1 million worth of assets is exempt from estate taxes. However, today's real estate market can easily push a property's value well above that without the landowner realizing it.

A conservation easement can also be donated via a will. It has the same effect on estate taxes as a life time donation. Be sure to negotiate the easement with a land trust before including it in your will to ensure that the organization is willing and able to receive it and that the easement achieves what you desire. In some circumstances, heirs may be able to reduce estate taxes by increasing an easement's restrictions on the use of the land or by placing a new easement on land passed down in an estate.

### Your Next Step

If you own land you would like to protect for future generations, learn more about the options available to you. Contact a land trust - a private, nonprofit conservation organization. If you don't know one in your area, the Land Trust Alliance may be able to put you in touch with one. A land trust can help you design a conservation plan that makes the most sense for you, and can put you in touch with attorneys, appraisers, accountants, and land planners familiar with conservation easements.

Talk with your own legal and financial advisors. You should make decisions affecting the ownership and use and value of your property only after careful consideration and professional consultation.

### Read Further

The Land Trust Alliance sells several publications discussing easements and other conservation techniques. They include Conservation Options a Landowner's Guide, Preserving Family Lands, and The Conservation Easement Handbook.

**The Land Trust Alliance**  
[www.lta.org](http://www.lta.org)