

Land Conservation in Virginia

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What's the problem?

- Over the past decade, Virginia has lost over 60,000 acres a year to development.
- This is approximately 165 acres per day (188 acres per day in the Chesapeake Bay watershed).
- The USDA estimates that we lose over 20,000 acres of prime farmland each year to development.

What's the problem, cont.

- More than 25% of all the development that has occurred over the last 400 years has taken place in the last 15 years.
- The question is, what will Virginia look like 400 years from now?

Why should we care?

Benefits of land conservation

- Maintaining agricultural and forestal lands, which together form Virginia's largest industry
 - More than 15% of total employment in the state
 - \$47 billion contribution to the state's economy
- Water quality
- Air quality
- Quality of life



Why should we care? ...*continued*

More benefits of land conservation

- Recreation
- Wildlife habitat
- Scenic resources
- Maintaining our historic and cultural history
- Ecotourism and heritage tourism



Governor Kaine's Land Conservation Goal

Governor Kaine's goal is to protect 400,000 acres in the state by 2010, because "with each passing day, land is becoming more expensive and scarcer."

The Governor set that goal, as he said, "not just because it's the right thing to do – I will do it because if I don't, the opportunity to do it will not be there for future governors and future Virginians."

How do we protect land?

Land conservation = acquisition

▣ Acquire what?

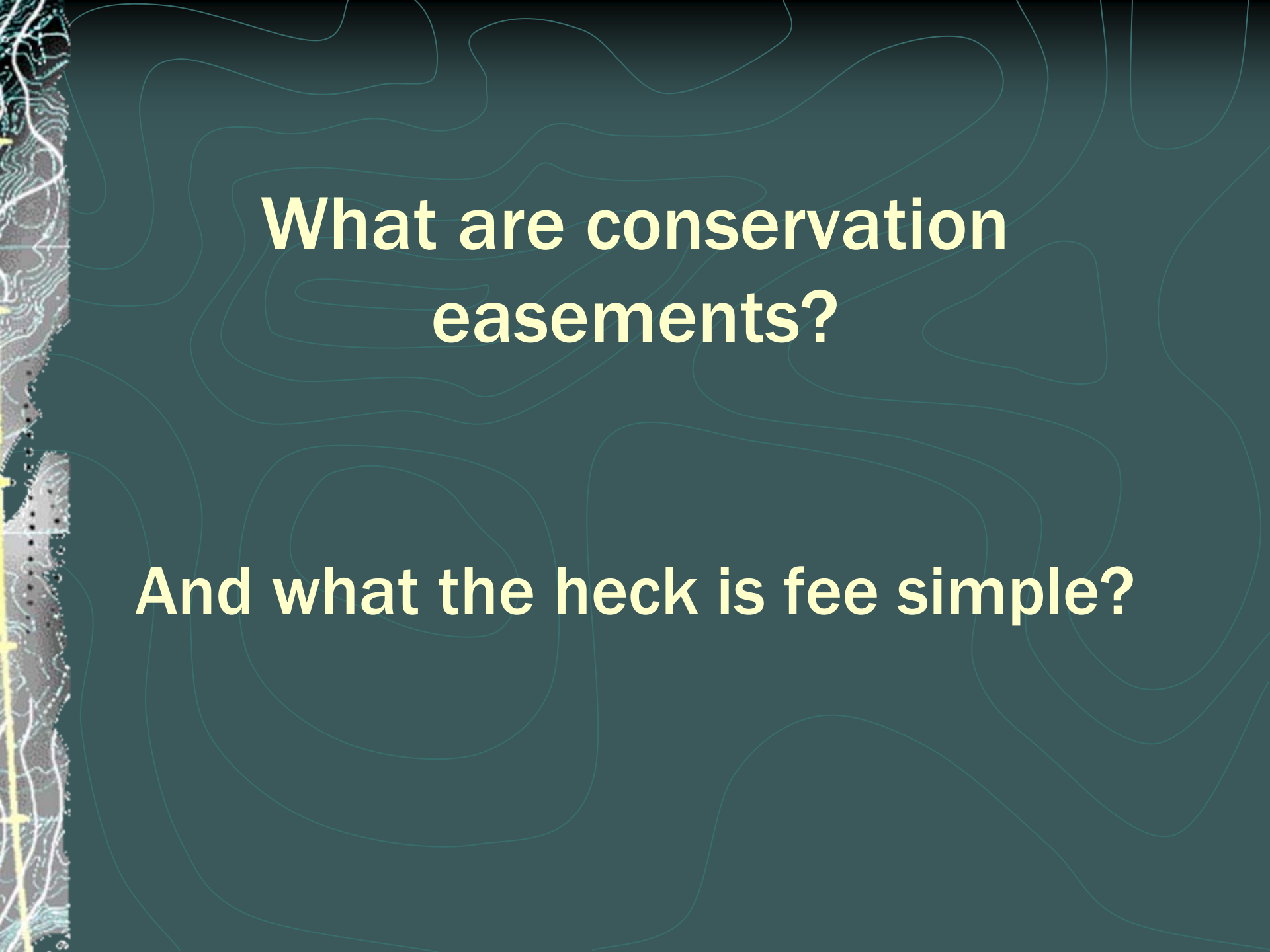
- Fee simple interest
- Conservation easements

▣ Who acquires the land?

- State & federal agencies
- Private land trusts
- Local governments

▣ How is it acquired?

- Purchase
- Donation

The background of the slide is a topographic map with contour lines. The map is oriented vertically, with the top of the map on the left side of the image. The contour lines are light blue and represent elevation. The map shows a mix of terrain, with some areas appearing more densely forested or wooded. The overall color scheme of the map is muted, with greens, browns, and greys.

What are conservation easements?

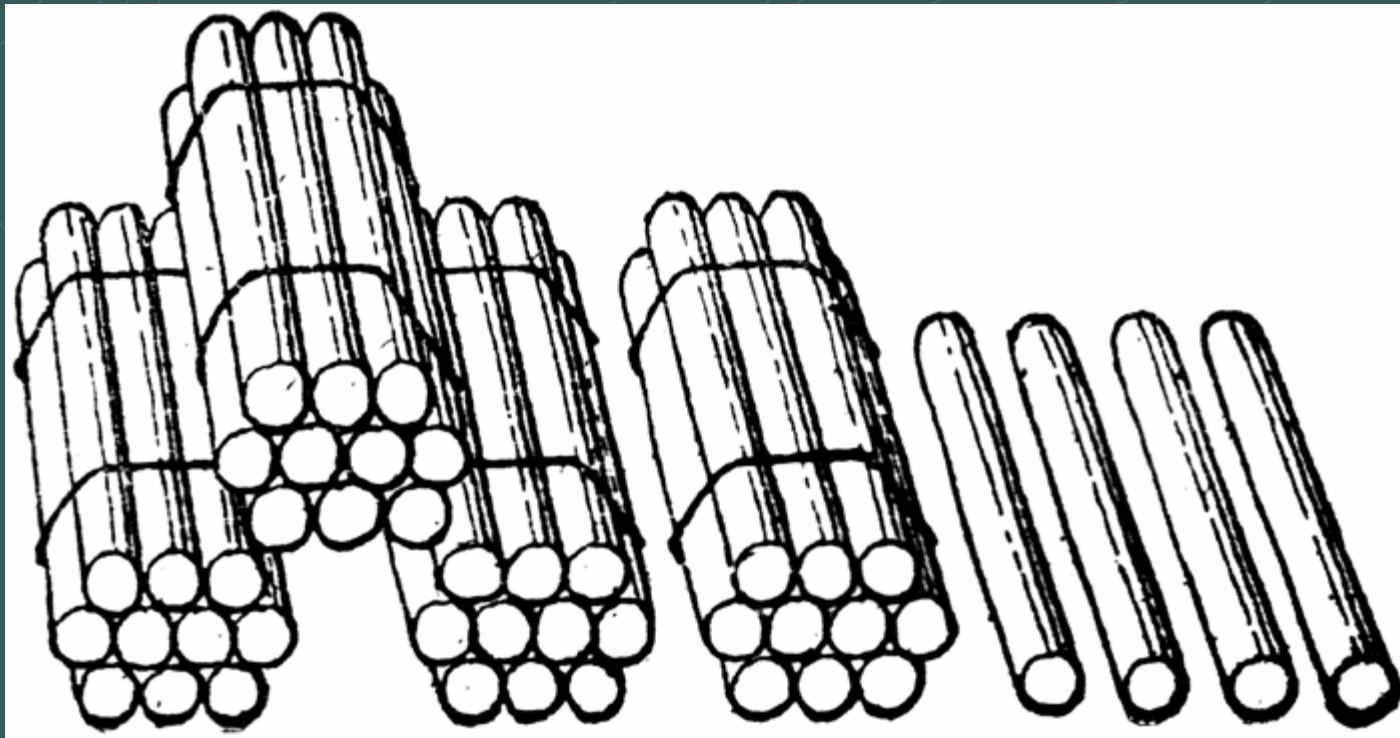
And what the heck is fee simple?

Land ownership is like a bundle of sticks

- Landowners have the right to
 - evict trespassers
 - build structures or driveways on the land
 - farm on it
 - cut timber on it
 - lease it or sell it
 - mortgage it
 - **subdivide and develop it according to local zoning regulations (by right)**



Fee simple = the whole bundle of sticks



Easements in general

- An easement is the legal right of another to take some sticks from your bundle, in order to use some part of your property in a particular way for a particular purpose.
- Examples include utility easements for power lines, phone lines, water/sewer/gas pipes and TV cable lines.
- Other easements include the right of individuals to have access over a neighbor's property, such as for a driveway.

Conservation Easements

- Conservation easements are voluntary agreements.
- The landowner consents to give up one of her “sticks” – the right to develop the property – in order to protect open space, scenic viewsheds, water quality, farm or forestlands, or historic resources.
- Enforcement of the easement is transferred to a public body or a “holder.”

Conservation Easements *continued*

- PUBLIC BODIES are state agencies, counties or municipalities, park authorities, Soil & Water Conservation Districts, or community development authorities.
- HOLDERS are defined by Va. Code as charitable organizations whose primary purposes include:
 - protecting natural or open-space values of real property
 - assuring availability of property for agricultural, forestal, recreational, or open-space use
 - protecting natural resources
 - maintaining or enhancing air or water quality
 - preserving historic, architectural, or archaeological aspects of land

A vertical strip on the left side of the slide shows a topographic map of a coastline. It features contour lines, a yellow line representing a road or path, and a blue area representing water. The map is partially obscured by the dark blue background of the slide.

Important Points about Conservation Easements

- Each easement is **UNIQUE**, because the easement terms are negotiated between the landowner and a public agency or a qualified conservation organization.

A vertical strip on the left side of the slide shows a topographic map of a coastline. It features contour lines, a yellow line representing a road or path, and a blue line representing the shoreline. The map is partially obscured by the dark blue background of the slide.

Important Points about Conservation Easements

- Except for rights explicitly given up in the easement document, the landowner continues to **OWN, USE, and CONTROL** the land.
- The landowner can still decide who has access to the property and for what purpose, just as before.

A topographic map background with contour lines and a vertical strip on the left side showing a road or path. The map is in shades of green and brown.

Important Points about Conservation Easements

- An easement is “IN PERPETUITY” – it lasts forever.
- It binds not only the current landowner, but also all subsequent owners of the property.

The background of the slide is a topographic map with contour lines. The map is oriented vertically, with the top of the map at the top of the slide. The contour lines are light blue and represent elevation. The map shows a complex terrain with many peaks and valleys. The text is overlaid on the map.

A Very Important Point about Land Conservation

All donations of land – whether in fee simple or conservation easements – are eligible for federal tax deductions or Virginia tax credits.

Virginia Tax Credits

- The value of tax credits granted for a conservation donation is 40 percent of the fair market value of the donation.
- The value of an easement =
 - what the land is worth before the easement, with all of its development rights, minus
 - what the land is worth after the easement removes some or all of those rights.

Virginia Tax Credits

- **Cap**: each year, tax credits granted will be capped statewide at \$100 million. First come, first served – donations that come in after the cap is reached are rolled over to the next year.
- **Carry forward**: Tax credits can be claimed in the year of the gift and the subsequent 10 years or until used up.

Virginia Tax Credits

- **Transfer**: Tax credits may be transferred (given or sold).
- Each time there is a transfer, a fee of 2% of the donated value, or \$10,000 (whichever is smaller) will be charged.
 - This fee goes to Dept. of Tax and DCR for administration of the program.

Virginia Tax Credits

- **Application**: donors must submit a form that tells the Dept. of Tax and DCR:
 - Conservation purpose of the donation
 - Fair market value of the land without the easement
 - Public benefit derived from the donation
 - Extent to which water quality best management practices will be implemented
 - The amount of forest cover and whether a forest management plan will be required

Federal Tax Deductions

- **Generous deduction**: Landowners who donate conservation easements on their land can apply that value as a deduction on up to 50 percent of their adjusted gross income.
- **Farmers**: Qualified farmers and ranchers (50 percent of income from agriculture) can deduct the value of the donation at a rate of 100 percent of their AGI per year.
- **Carry forward**: The donor can carry the deduction forward for 15 years.

Estate Tax Benefits

Land subject to a conservation easement may qualify for two specific estate tax benefits:

1. The land use restriction will reduce the value of the taxable estate.
2. In addition, as much as 40% of the value of the land (up to a \$500,000 cap) may be excluded from the estate.

In addition, the estate may make a post mortem election to donate the easement.

The background of the slide is a topographic map with contour lines. The map is oriented vertically, with the top of the map at the top of the slide. The contour lines are light blue and represent elevation. The map shows a mix of brown and green areas, likely representing different land types or vegetation. The title "Property Tax Benefits" is overlaid on the map in a large, bold, white font.

Property Tax Benefits

- Because land that is subject to a conservation easement has a lower fair market value, property tax assessments will be lower than if the land is not protected by the easement.



For more information call

Office of Land Conservation

Department of Conservation & Recreation

(804) 225-2048

www.dcr.virginia.gov/land_conservation

