




VIRGINIA OUTDOORS
 FOUNDATION

**PRESERVING VIRGINIA'S
 OPEN SPACES**

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Genesis of Virginia Outdoors Foundation

1964

Virginia Outdoor Recreation Study
 Commission created ("Bemiss"
 Commission)

1965

Commission recommends in its report
 "Virginia's Common Wealth", along with
 the creation of our system of scenic rivers
 and scenic roads, creation of the Board of
 Historic Resources, adoption of the
 Open-Space Land Act, and creation of
 Virginia Outdoors Foundation (VOF)

1966

General Assembly enacts
 Open-Space Land Act
 and creates VOF

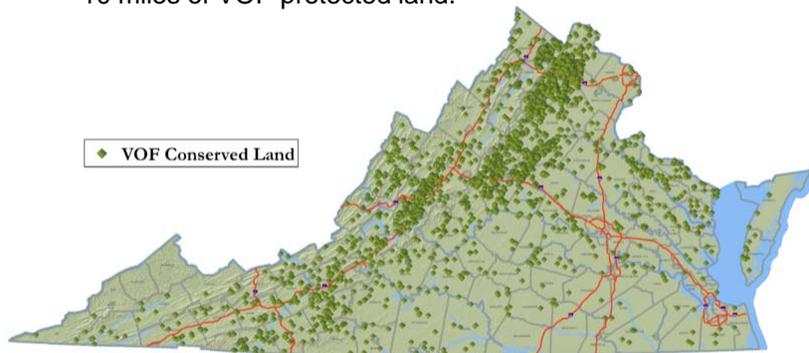


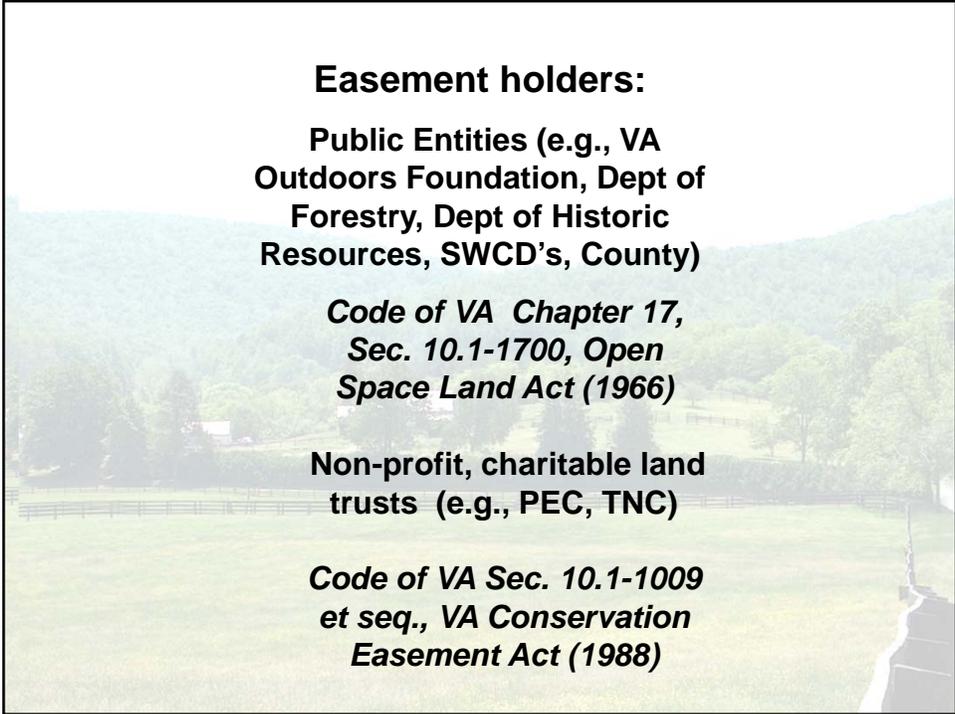
EASEMENTS

To be eligible for federal tax deductions and Virginia tax credits, the easement must qualify as a charitable deduction under the IRS Code and meet additional requirements under the Virginia Land Conservation Incentives Act.

Where do we protect land?

- 95% of all Virginians live within 10 miles of VOF-protected land.





Easement holders:

**Public Entities (e.g., VA
Outdoors Foundation, Dept of
Forestry, Dept of Historic
Resources, SWCD's, County)**

***Code of VA Chapter 17,
Sec. 10.1-1700, Open
Space Land Act (1966)***

**Non-profit, charitable land
trusts (e.g., PEC, TNC)**

***Code of VA Sec. 10.1-1009
et seq., VA Conservation
Easement Act (1988)***



**What is a conservation
easement?**

**A written legal agreement
between a landowner and an
easement holder to protect a
property from conversion to non-
rural uses such as subdivisions
or shopping centers and to
protect the conservation values
of the land.**

**Each one is different and tailored
to the land and landowner.**



**WHY
WOULD A
LANDOWNER
GIVE AN
EASEMENT?**

The first and most important reason:
Landowners **loves their land** and want it to stay rural.

Farmer wants the **farm to remain a farm** in next generation

Landowners want to keep a **place for wildlife**

Parents want a **family place** to be able to stay in the family

The other reason: significant tax benefits

VOF Easement Characteristics:

- **Voluntary**
- **Focus on protecting open space and keeping land open for agricultural and forestal uses**
- **Flexible** to protect unique land features and allow for individual situations
- **Perpetual** (required for tax benefits)
- **Cost effective**— keeps land on tax roles
- **Significant tax benefits**
- **The community benefits as well**, as easements protect air quality, soil, water quality, rural character and lessen need for services such as schools and infrastructure

What a VOF easement Does and Doesn't Do

- You can still sell your land or pass it on to children
- You can continue to farm, hunt, fish, or harvest timber on your land.
- You can change types of crops and continue rural uses such as home occupations.
- It does NOT give the public access to your land.
- Easements are totally voluntary, but they also are forever.

EASEMENT TERMS

Terms are negotiated with individual landowners, but usually include the following provisions:

- Division of property into specified number of parcels (i.e. extinguishing some or all of the subdivision rights on the property).
- No dumps or trash accumulation permitted.
- No billboards or large signs permitted.
- Management of forest resources (commercial harvest IS allowed).

EASEMENT TERMS (continued)

- **No surface mining or material alteration of the topography.**
- **Limits on number and sizes of buildings and structures.**
 - **Prohibition of industrial and commercial activity except for agriculture, silviculture, horticulture, viticulture, aquaculture, and equine activities; and businesses that can be conducted in permitted buildings (e.g., B&B; home office).**
- **Specific protections for natural or scenic resources such as no-building areas.**
- **Provision for inspection of property (public access is not provided by easement).**

Tax Benefits:

- **Federal Income Tax deduction**
 - **VA Income Tax Credit**
- **Estate and Inheritance Tax Reduction**
 - **Estate Tax Exclusion**
- **Real Estate Property Tax Reduction where no Land Use Tax exists**

First Step for Tax Benefits: Landowner Appraisal

Values of Example Conservation Easement (All Values from Donor's appraiser)

| | |
|-------------------------------|-------------------|
| Value of land before easement | \$1,000,000 |
| Value of land after easement | <u>\$ 700,000</u> |
| Example Easement Value (EV) | \$ 300,000 |

Federal Income Tax Deduction Charitable Donation

Deduction equals the easement
value (in our example,
\$300,000)

deduct up to 30% of AGI per year
Deduction may be carried forward
for 5 years allowing a maximum
of 6 years

Virginia State Tax Credit

Tax Credit for up to 40% of the value of the easement.

Credit amount claimed can be no more than \$20,000 nor can exceed the amount of tax owed in any one year.

Unused portions of the tax credit can be used for up to 13 additional years for a total of 14 years.

Credit can be sold or transferred to another Virginia taxpayer.

\$75M statewide cap on credit per year.

Estate Tax Benefits 2013 (c)

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

1. The easement may reduce the value of the land asset in 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.

Preservation Trust Fund

Background

In 1997, the Virginia General Assembly created the Open-Space Land Preservation Trust Fund (the Fund) (Virginia Code §10.1-1801.1) to help with costs of conveying an open-space or conservation easement, which can be prohibitive for some landowners. Some examples of costs that can be covered are fees charged by lawyers and appraisers. Absent other compelling information, the Open Space Lands Preservation Trust Fund program is limited to landowners with an average income of \$50,000 or less for the most recent two years for which taxes have been filed.

Payments

Priority is given to applicants who demonstrate significant financial need, who seek assistance with costs only and who wish to convey an easement on a family farm. Very limited funds are sometimes available for purchase of easements. There are tax implications associated with the receipt of a payment from the Open Space Lands Preservation Trust Fund. Please discuss with your lawyer and tax advisor prior to recordation of your easement.



Conservation Easements – a flexible, cost effective choice for private landowners to safeguard rural lands and resources.

