



KEEPING YOUR PROPERTY USING A CONSERVATION EASEMENT

Many landowners wish to retain title to their property yet want to make sure that its natural values are maintained for future generations. A conservation easement is a voluntary agreement between a private landowner and a [qualified organization](#) whereby the landowner donates the ecological and/or natural portions of his/her land while still retaining title to the land. A Conservation Easement is in perpetuity and runs with the land.

*Qualified organizations includes qualified conservation charities and federal, provincial and municipal agencies.

Conservation Easement legislation was introduced in Alberta in 1996 and at that time, fell under the Environmental Protection and Enhancement Act. In 2009 Conservation Easement legislation was moved from the Environmental Protection and Enhancement Act to the [Alberta Land Stewardship Act \(ALSA\)](#); proclaimed in October 2009. Inclusion of agricultural lands as an easement purpose is one major change to the Conservation Easement legislation.

Purpose of conservation easements:

- (a) the protection, conservation and enhancement of the environment;
- (b) the protection, conservation and enhancement of natural scenic or esthetic values;
- (c) the protection, conservation and enhancement of agricultural land or land for agricultural purposes;
- (d) providing for any or all of the following uses of the land that are consistent with the purposes set out in clause (a), (b) or (c):
 - i) recreational use;
 - ii) open space use;
 - iii) environmental education use; and
 - iv) use for research and scientific studies of natural ecosystems

Conservation Easement Legislation can be found under articles [28-35](#) in the [Alberta Land Stewardship Act](#).

There are two types of conservation easements; donated and paid. A donated conservation easement gives the landowner the benefit of a federal income tax receipt that is usable over a 5 year period. Simply put, a tax receipt will be issued by a land trust for the dollar value of the ecological rights that you as a landowner are agreeing to donate. These could include treed areas, wetlands and native grasslands to name a few. For example, if your land is appraised at \$100,000 (fair market value) and the appraiser determines that the ecological rights that you are giving up are approximately \$50,000, you would receive a tax receipt for the difference between the appraisal at fair market value and the value of the ecological rights which in this case is \$50,000. Environment Canada's website gives examples of donation and income tax scenarios as part of the Ecological Gifts Program. Please visit: <http://www.cws-scf.ec.gc.ca/egp-pde/default.asp?lang=en&n=F2563E77-1> for more information.

In some areas of Alberta where the ecological and/or natural value of your land is viewed as a priority by the land trust, they may be willing to pay you for the conservation easement. Typically this involves paying a % of the appraised fair market value of the land. The % paid is specific to your land and is linked to the land's ecological or natural value as well as the fair market value. Please speak to a land trust directly if this is an option you wish to pursue.

A land trust that enters into a conservation easement with a private landowner can incur costs for baseline inventories, appraisals and legal fees. They also take on a perpetual obligation to monitor and enforce the conservation easement. For these reasons, land trusts can require landowners to contribute to an endowment fund that is used to cover the costs of monitoring and enforcing your easement. This cost is site specific and should be discussed directly with the land trust. Also, it is advisable that you as the landowner obtain legal and accounting advice on your conservation easement.

More information on Conservation Easements can be found at:

Corvus Conservation (http://www.corvus.ca/progs_poss.pdf)

Ducks Unlimited Canada (<http://www.ducks.ca/resource/landowner/easement.html>)

Environment Canada (<http://www.cws-scf.ec.gc.ca/egp-pde/default.asp?lang=En&n=8D5251D3-1>); and

Alberta Environmental Law Centre (http://www.landtrusts-alberta.ca/files/CE_information_law_centre.pdf)