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What is an agricultural conservation easement?

An agricultural conservation easement is a voluntary, legally recorded permanent deed restriction that is placed on a specific property used for agricultural production. The goal of an agricultural conservation easement is to maintain agricultural land in active production by removing the development pressures from the land. Such an easement prohibits practices which would damage or interfere with the agricultural use of the land as well as encouraging implementation of good quality conservation farming practices. Because the easement is a restriction on the deed of the property, the easement remains in effect even when the land changes ownership, in perpetuity.

What land is eligible?

Applicants are being accepted from Carroll County landowners to include all or a portion of their property in consideration of a Easement. The land must be free from any encumbrances. Landowners should consult any mortgagees to discuss their options and any potential penalties. Current and future mortgagees will have to be willing to subordinate their rights to the Easement. Land eligible for agricultural easements includes cropland, rangeland, grassland, pastureland and no more than two thirds (2/3) in nonindustrial private forest land. The property remains eligible for future USDA conservation cost-share programs, Conservation Reserve Program(CRP), Conservation Stewardship Program(CSP), Environmental Quality Incentives Program(EQIP).

What will I receive for my conservation easement?

Approved landowners will be compensated for the value of the easement. That value is determined by the completion of a before easement appraisal and after easement appraisal; the difference between these values is the easement value. The appraisal difference is used to determine the value of the development rights given up through the easement. The landowner will receive 75% of that difference, while “donating” 25% of the easement value.

How are agricultural conservation easements different from other types of conservation easements?

Agricultural conservation easements are created specifically to support agriculture and prevent development on the subject parcels. While other benefits may accrue because the land is not developed (scenic and habitat values, for example), the primary use of the land is agricultural. Easements held by Carroll County must be of a size and nature suitable for viable sustainable agriculture.

Does this easement give public access?

Absolutely not. The property is still private property and no public access is granted through the easement. Landowners will be required to allow access to County and NRCS representatives for monitoring purposes only.



What are the tax implications for a landowner placing an agricultural conservation easement on his or her property?

Depending upon each situation, regarding the landowner's contribution, the placement of an agricultural conservation easement on land may provide income, property, and estate tax benefits. In most cases the degree of benefit is influenced by a landowner's willingness and ability to make charitable donations on all or a portion of an easement's value. Rules related to these donations have changed over time, starting with the Federal Taxpayers Relief Act of 1997. In 2012, Georgia passed H.B. 346 allowing for the transfer of conservation tax credits. View www.transferga.com. For more information, consult a tax advisor.

Must an applicant have a formal appraisal prepared as a component of a proposal for purchase of an agricultural conservation easement?

An appraisal must be completed and submitted to the Department before an approved application can have funds released. Funding decisions may be delayed until such an appraisal has been completed. If the proposal is accepted for funding, the value of the ag easement will be the difference between the value of the land before the easement and the value of the land after the easement.

Where do the funds come from?

The funds come through the US Department of Agriculture, Natural Resources Conservation Service. 50% of easement value is obligated through the 2014 Farm Bill. Carroll County provides 25% matching funds through county approved Special Purpose Local Options Sales Tax funds. The landowner provides the additional 25% of funds, through "donation" by accepting 75% of the easement value in cash at closing. For more information on the USDA program:

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/ga/programs/easements/>

Are these funds taxable?

Yes, all funds will be taxed. Consult a tax advisor. The 25% that the landowner donates in kind may be tax deductible as a charitable donation.

How are applications selected for funding?

All applications will be accepted by Carroll County through March 31, 2015. The applications will be ranked using the USDA ranking questionnaire. The highest ranking applications will be forwarded to the Georgia USDA NRCS office for statewide ranking. The highest applications statewide will be funded based upon allocated funding for each fiscal year. The number of applications forwarded on to the Georgia NRCS for consideration depends on the amount of available funding, both from NRCS and through Carroll County's match.



How would a landowner place an agricultural conservation easement on his or her property?

Agricultural conservation easements are held by Carroll County, who is responsible for ensuring that the terms of the easement are upheld. A Carroll County landowner would seek an application from Community Development. The property proposed for easement must have characteristics (e.g., location, soil quality) that make it a priority for the easement holder organization. If the potential easement holder wishes to pursue an easement on the proposed property, Carroll County and the local Natural Resources Conservation Service (NRCS) would negotiate terms and restrictions with the landowner.

Is there a minimum acreage?

There is not a minimum acreage. Federal ranking criteria, using the recent Agriculture Census, has established the average farm size in Carroll County, Georgia is 95 acres.

What if my children/grandchildren want to build houses later?

Once funded, no future non-agricultural building will be allowed on the property.

What if I want to sell the property later on?

You are always able to sell the property at any time, though you must sell the whole property; it cannot be further subdivided. The conservation easement will always be attached to the property and any future owners will be held to the same deed restrictions as outlined in the Warranty Easement Deed.

Who will ensure that landowners abide by the easements?

Carroll County will be the entity that holds the conservation easements. The USDA Natural Resources Conservation Service has third party enforcement rights. A representative from Carroll County as well as the USDA Natural Resources Conservation Service will annually visit the farms to ensure that no violations to the easement occur.

How long does the process take? What are the due dates?

Carroll County has developed three phases for the ACEP-ALE application process. The landowner submits completes the Application Process during Phase 1. The deadline for submitting applications to Community Development is March 31 to be eligible for the current calendar year submission. Phase 2 of the application process is the Parcel Information Process. The deadline to complete the Parcel Information Process is August 31. Phase 3 of the process is the Ranking Process and County funding approval. The deadline for the Ranking Board is September 30. The County Board of Commissioners must approve prior to submission to the State for fund requests. The State deadline for Carroll County's application is the middle of December.



Agricultural Easements

Ag easements are an estate planning tool where farmers can preserve the family farm for future generations. Land owners who place an ag easement on a parcel can still sell it, will it to children or grandchildren, change the type of farming and encumber it as collateral. They just cannot convert it to a non-agricultural use. Ag easements are somewhat similar to conservation easements which are created to protect wildlife habitat or open space. With ag easements, there usually is no reference to wildlife, wetlands or open “green” space. The focus is on keeping the land in production agriculture food and fiber. The farm continues to be managed as before the easement was placed on the property.

The easement is purchased at an appraised value which is the difference between the value of the land before the easement and the value of the land after the easement. Farmers need to talk to their family and legal advisor before committing because easements are considered permanent and non-revocable. Farmers who sell an ag easement often use the money to retire long-term loans enabling their heirs to inherit the farm debt-free. They may choose to use the proceeds to buy more land or fund farm maintenance. When an ag easement is placed on property it usually generates some property tax and estate tax advantages by freezing the value and the landowner usually can realize income tax deductions. Georgia passed H.B. 346 in 2012 allowing for the transfer of conservation tax credits. The tax benefits of creating easements vary considerably so land owners need to talk to an accountant about their situation. Easements usually will not reduce the value of land when it sold as farmland for farming purposes. Property with easements will not have any additional value for development purposes because it cannot be split up or converted to a non-ag use.

Ag easements are usually funded by the Farm Bill, Carroll County SPLOST, and Landowner. Interested farmers can make an application through Carroll County Community Development and they, along with the Natural Resource Conservation Service (NRCS), will evaluate if the application fits within the Agriculture Conservation Easement Program-Agriculture Land Easement (ACEP-ALE) goals and objectives. Land owners can greatly increase their chances of getting an ag easement funded by getting together with some nearby farmers and submitting a combined application.

Ag easements are entirely voluntary and may be considered the ultimate exercise of private property rights. It is a way that farmers can preserve a family legacy even if is eventually sold outside the family. It is a permanent decision that should be made after much deliberation with family members.