

CONSERVATION EASEMENTS: IN PERPETUITY...UNTIL THEY'RE NOT

March 2026

CONSERVATION
EASEMENT
BOUNDARY

LANDOWNER &
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PARTNERSHIP



Florida
TaxWatch



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DEAR FELLOW TAXPAYER,

Conservation easements across Florida are a significant state investment aimed at protecting the state's critical wildlife and natural ecosystems. Florida has a longstanding history of preserving its natural resources through various programs, principal among them are the Florida Forever program and the Rural and Family Land Protection program.

Florida's population growth puts more stress and demand on the environment to sustain the increasing number of residents. The recent reinvestment in the Florida Wildlife Corridor Act and other environmental priorities have brought these environmental and financial pressures to the forefront of many taxpayers' minds. Over the last six years, \$2.4 billion has been invested in the Florida Forever and the Rural and Family Land Protection programs. Part of these programs' goals include establishing conservation easements throughout the state with a special focus in and around the Florida Wildlife Corridor.

Conservation easements are defined in Florida Statute and have existed in statute since 1976. As defined in subsection 704.06(2), Florida Statutes, conservation easements are permanent or "perpetual," protected from development, and promised to remain in its natural condition. Subsection 704.06(4), Florida Statutes, contradicts the perpetual nature of a conservation easement by providing an "escape clause" that allows the release of the conservation easement status on the property.

Let's be clear—Florida TaxWatch believes "perpetual" should mean "continuing forever." Florida TaxWatch undertakes this independent research project to review subsection 704.06(2), Florida Statutes, to understand the implications of the "escape clause" and how it undermines the program goals and messaging surrounding the Florida Forever and Rural and Family Lands Protection programs.

Respectfully,

Jeff Kottkamp
President & CEO

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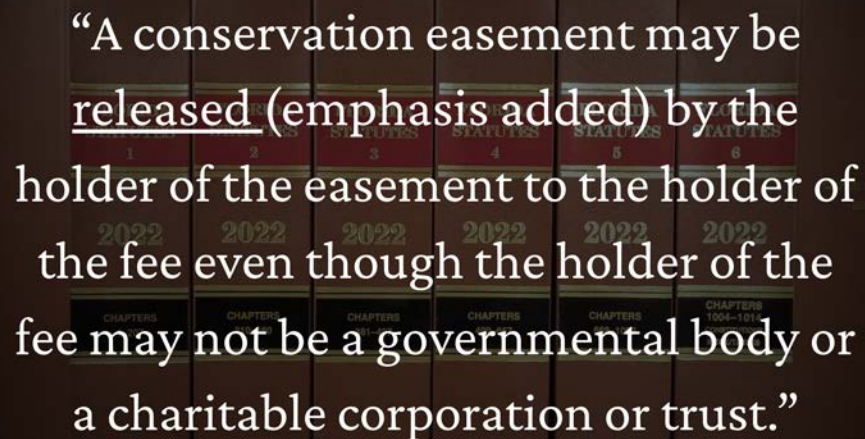
EXECUTIVE SUMMARY

The continued growth and urbanization of Florida have sparked renewed interest in preserving and protecting natural areas, especially in areas designated in and around the Florida Wildlife Corridor. Conservation easements are commonly used to protect natural, scenic, and open spaces by binding the current and future owners in perpetuity to the restrictions specified in the easement.

Subsection 704.06(2), Florida Statutes, defines “conservation easements” as:

“...perpetual (emphasis added), undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking.”

Despite the perpetual nature of conservation easements, there is still a possibility that “perpetual” conservation easements may not be “perpetual” after all. This risk exists because subsection 704.06(4), Florida Statutes, includes the following “escape clause:”



“A conservation easement may be released (emphasis added) by the holder of the easement to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.”

Landowners enter into conservation easement agreements for different reasons, often combined with personal, financial, or environmental motivations. These agreements, where landowners grant certain rights to a conservation organization or governmental entity to protect the land’s natural, agricultural, or cultural resources, offer a way to preserve the land’s character while the owner potentially benefits financially through tax incentives. Federal and state programs offer different funding options for purchasing conservation easements and have defined limits on how they can be released.

If a landowner wants to place a conservation easement on their property they can do so and add restrictions, including development, mineral extraction, or timber harvesting activities, on the property that remain with the property in “perpetuity.” These restrictions “run with the land” and do not change even if the land is granted or donated to a third party (such as a public agency or non-profit). Landowners who grant or sell a conservation easement still maintain the title of the property and rights based upon the negotiation process of the transaction between the landowner and the organization acquiring the property.

As of January 2025, approximately 1.15 million acres of Florida’s land are protected through established conservation easements. The state manages almost eight times as many acres as federally managed lands, more than nine times as many acres as private agencies, and almost 43 times as many acres as locally managed lands. Florida continues to make significant investments in conservation easements and continues to protect these areas through recurring investments.

More than \$2.4 billion in taxpayer money has been invested in land acquisition, conservation easements, agricultural activity land protection, and wildlife habitat conservation efforts. As of January 2025, the state manages more than 866,000 acres of conservation easement land alone. Although most of the conservation easements are protected today, there is no guarantee that they will remain protected. The escape clause provisions in Chapter 704 allow a landowner to protect land under a conservation easement; continue limited use of the land; enjoy property tax and other tax exemptions; and when conditions dictate, sell or develop the land that was subject to the easement. Florida TaxWatch believes strongly that “perpetual” means just that—perpetual.

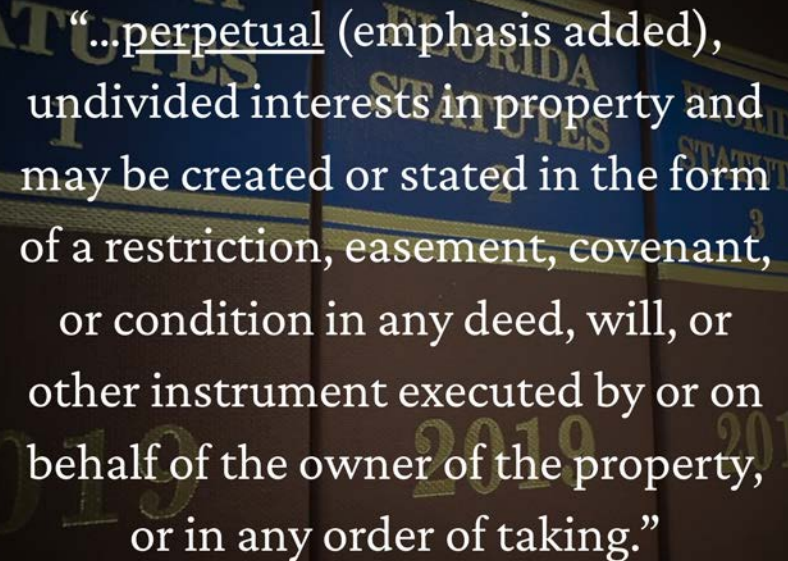
To ensure that conservation easements remain permanent and “perpetual” and “bind the current and future owners in perpetuity to the restrictions,” as intended in section 704.06, Florida Statutes, Florida TaxWatch recommends : (1) amending subsection 704.06(4), Florida Statutes, to remove the escape clause provisions; and (2) amending subsection 704.06(4), Florida Statutes, to establish an “extinguishment clause;” and (3) amending subsection 704.06(4), Florida Statutes, to establish an “amendment clause.”

Removing the escape clause and adding the extinguishment and amendment clauses will help ensure that the state’s investments in conservation easements are permanently protected. This proposed amendment to current law would effectively render the ability to release a conservation easement as an extraordinary circumstance instead of when the right opportunity to sell the property to the highest bidder arises. Development pressures will continue to push landowners to consider selling their property and Florida can ensure that its \$2.4 billion investments in conservation easements are protected from these pressures by amending this state statute now.

INTRODUCTION

Florida has a long and well-established history of protecting and preserving the state’s many natural resources. As a result, Florida has become a leader in conservation. The continued growth and urbanization of Florida have sparked renewed interest in preserving and protecting natural areas, especially in areas designated in and around the Florida Wildlife Corridor. Conservation easements are commonly created using regulatory mechanisms and managed by water management districts and local government as a resource to replenish destroyed or removed habitat areas from development activities.

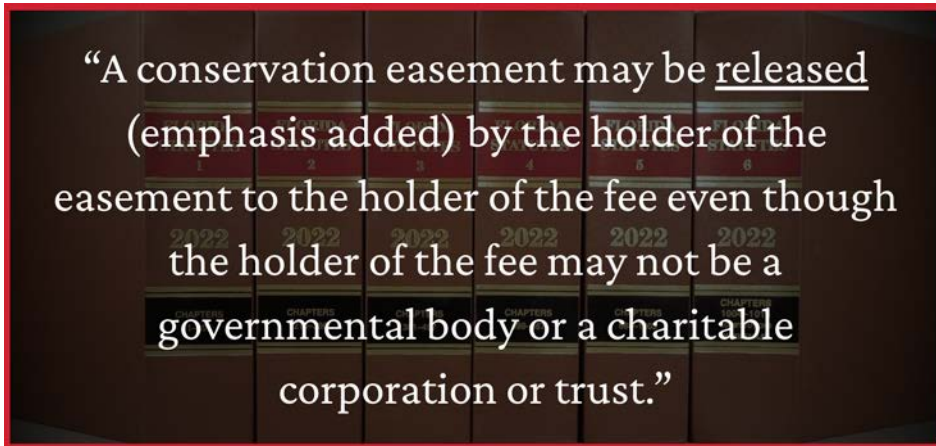
To better protect these lands from development, investments by the state in the Florida Wildlife Corridor Act, Florida Forever program, and Rural and Family Lands Protection program have been prioritized over the last several years. These investments are long-term and are touted as forever (or “in perpetuity”), protected from development, and promised to remain in their natural condition. Subsection 704.06(2), Florida Statutes, defines “conservation easements” as:



“...perpetual (emphasis added), undivided interests in property and may be created or stated in the form of a restriction, easement, covenant, or condition in any deed, will, or other instrument executed by or on behalf of the owner of the property, or in any order of taking.”

The Florida Department of Environmental Protection (FDEP) also recognizes conservation easements as “perpetual, undivided interests in property to protect natural, scenic, or open space values of real property,” and that conservation easements “bind the current and future owners in perpetuity to the restrictions.”¹ Even with this language established in Florida Statutes and FDEP’s policy, there is still a possibility that “perpetual” conservation easements may not be “perpetual” after all. This not only puts existing and longstanding conservation easements at risk for future development, but it also puts the recent and future conservation easements established through the Florida Wildlife Corridor Act, Florida Forever program, and the Rural and Family Lands Protection program at risk as well.

This risk exists because subsection 704.06(4), Florida Statutes, includes the following “escape clause:”



“A conservation easement may be released (emphasis added) by the holder of the easement to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.”

Florida TaxWatch undertakes this independent research project to better understand how the “escape clause” in subsection 704.06(4), Florida Statutes, undermines the letter and spirit of conservation easements and obscures the promises made to Florida taxpayers about the Florida Forever and Rural and Family Lands Protection program goals surrounding permanent conservation efforts.

FLORIDA’S HISTORIC INVESTMENTS IN LAND CONSERVATION EFFORTS

Florida’s history of protecting and preserving natural areas can be traced back to the 1960s when land acquisition became a primary focus for many state leaders. Initial funding came from bonds but were later transferred to trust funds as the programs developed. As population and development expanded, the need for conserving rural lands and protecting wildlife corridors became increasingly important. The summary below reviews the history of land conservation programs in Florida over the last 65 years:

- **1964-1968:** A \$20 million bond program was established so the state could acquire land for outdoor recreation activities. This bond program created the Land Acquisition Trust Fund.²
- **1972:** An additional \$40 million in bonds were issued to encourage further investments in outdoor recreational land acquisition. The Environmentally Endangered Lands program was also created with an additional \$200 million state investment.³
- **1979:** The Conservation and Recreation Lands (CARL) program and trust funds were established to help purchase public lands that ultimately became several different state parks.⁴
- **1989:** The Florida Communities Trust was created and was later funded through the Preservation 2000 bond program until it became part of the Florida Forever program in 2000.
- **1990:** The Florida Preservation 2000 program was created and focused on managing the state’s population growth, saving the state’s wetlands, and preserving other natural habitats. A primary goal of the Florida Preservation 2000 program was to acquire conservation land that serves a public benefit throughout Florida.

¹ Florida Department of Environmental Protection, “Conservation Easements,” retrieved from <https://floridadep.gov/lands/environmental-services/content/conservation-easements>, on September 16, 2025.

² Florida Department of State, “Program History,” retrieved from <https://dos.fl.gov/historical/archaeology/public-lands/program-history/>, October 1, 2025.

³ Florida Department of Environmental Protection, “History of State Lands,” retrieved from <https://floridadep.gov/lands/lands-director/content/history-state-lands>, October 1, 2025.

⁴ Florida Park Service Ranger Association, “Florida State Park History,” retrieved from <https://fpsra.org/Florida-State-Park-History>, October 1, 2025.

CONSERVATION EASEMENTS IN FLORIDA

- **2000:** The Florida Forever program took over the Florida Preservation 2000 program efforts and expanded its scope to cover historical preservation, water resource development, public access, and land acquisition management.⁵
- **2001:** The Rural and Family Lands Protection Act was enacted and focused on land acquisition and preservation of agricultural land. These lands have established conservation easements on their property while still maintaining “economically viable agriculture operations.”⁶
- **2021:** The Florida Wildlife Corridor Act was enacted with an initial \$300 million allocated toward land acquisition and conservation easement establishments in areas along the corridor and areas surrounding the corridor’s boundaries.⁷

Between 2001 and 2021, land protection and acquisition activities were done primarily through the Florida Forever and Rural and Family Lands Protection programs. The Florida Forever program issues grants to local governments and makes significant investments in purchasing and managing public and private lands throughout Florida. These programs heavily rely on public support, and maintaining the integrity of the programs is crucial for ensuring the public continues to support these conservation initiatives.

Landowners enter into conservation easement agreements for different reasons, often combined with personal, financial, or environmental motivations. These agreements, where landowners grant certain rights to a conservation organization or governmental entity to protect the land’s natural, agricultural, or cultural resources, offer a way to preserve the land’s character while the owner potentially benefits financially through tax incentives.⁸ Federal and state programs offer different funding options for purchasing conservation easements and have defined limits on how they can be released.

If a landowner wants to place a conservation easement on their property they can do so and add restrictions, including development, mineral extraction, or timber harvesting activities, on the property that remain with the property in “perpetuity.” These restrictions “run with the land” and do not change even if the land is granted or donated to a third party (such as a public agency or non-profit). Landowners that grant or sell a conservation easement still maintain the title of the property and rights based upon the negotiation process of the transaction between the landowner and the organization acquiring the property.⁹

Upon the release of a conservation easement, the property’s value often increases, requiring an adjustment to the property’s tax basis to reflect its fair market value. Recouping any tax benefits enjoyed by the property owner necessarily involves detailed accounting for the restoration of the property’s value and for repayment of any previous tax deductions. A new appraisal may be required to determine any potential tax liabilities. If release of the amendment allows for the sale of the property or development rights on the property, then the increased value could result in significant capital gains taxes.

⁵ Supra, see footnote 2.

⁶ Florida Department of Agriculture and Consumer Services, “Rural and Family Lands Protection Program,” retrieved from <https://www.fdacs.gov/Consumer-Resources/Protect-Our-Environment/Rural-and-Family-Lands-Protection-Program>, October 1, 2025.

⁷ Florida Department of Environmental Protection, “Florida Wildlife Corridor,” August 1, 2022.

⁸ Supra, see footnote 1.

⁹ Florida Department of Environmental Protection, “Conservation Easements FAQs,” retrieved from <https://floridadep.gov/lands/environmental-services/content/conservation-easements-faqs>, accessed on September 16, 2025.

As of January 2025, approximately 1.15 million acres of Florida’s land are protected through established conservation easements.¹⁰ Table 1 shows the breakdown between the federal, state, local, and private agencies that manage these conservation easements.

TABLE 1.
MAJORITY OF THE CONSERVATION EASEMENTS IN FLORIDA ARE MANAGED BY STATE AGENCIES

MANAGING AGENCY TYPE	SUM OF TOTAL ACRES
Federal	165,967.27
Local	20,153.31
Private	95,758.17
State	866,168.39
Total	1,148,047.14

Source: Florida Natural Areas Inventory

The state manages almost eight times as many acres as federally managed lands, more than nine times as many acres as private agencies, and almost 43 times as many acres as locally managed lands. Florida continues to make significant investments in conservation easements and continues to protect these areas through recurring investments. Public sentiment and support vanish if these programs do not continue to provide value to the public.

RECENT FUNDING FOR CONSERVATION

Over the last several years, the state of Florida has made a significant investment in Florida’s Wildlife Corridor, which is part of the Florida Forever program. In 2021, \$300 million was allocated toward land acquisition and conservation easement establishments through the Florida Wildlife Corridor Act.¹¹ This new law encourages further efforts to protect natural areas and wildlife habitats and provides more opportunities for conservation easements within the Florida Wildlife Corridor to improve statewide connectivity.

¹⁰ Florida Natural Areas Inventory, “Florida Conservation Lands,” January 2025. Note: This does not include other land types that are not conservation easements (e.g., preserves, mitigation parcels, natural areas, etc.) that are part of the Florida Forever or the Rural and Family Lands Protection programs. This only include existing conservation easements

¹¹ Supra, see footnote 7.

¹² Note: These investments also include the Florida Wildlife Corridor Act (2021 and beyond) funding which is a program within the Florida Forever Program.

The Florida Forever and Rural and Family Lands Protection programs have a deep history in Florida and focus on funding conservation and recreation lands, wildlife management areas, state parks, rural and family lands, waterfront areas, and more. Funding for the Florida Forever and Rural and Family Lands Protection programs throughout the years (See Table 2) has continued with the fiscal year 2024-25 budget. This fiscal year’s budget allocated \$18 million for the Florida Forever Program and \$250 million for the Rural and Family Lands Protection program, which also includes conservation easement acquisition and management.

TABLE 2.
FLORIDA HAS SPENT MORE THAN \$2.4 BILLION OVER THE LAST SIX BUDGET CYCLES ON CONSERVATION EASEMENTS AND LAND ACQUISITIONS THROUGH THE FLORIDA FOREVER AND RURAL AND FAMILY LANDS PROGRAMS

FISCAL YEAR	FLORIDA FOREVER PROGRAM ¹² (IN MILLIONS)	RURAL AND FAMILY LANDS PROTECTION PROGRAM (IN MILLIONS)
2020-21	\$100.0	\$8.7
2021-22	\$100.0	\$300.0
2022-23	\$100.0	\$300.0
2023-24	\$850.0	\$100.0
2024-25	\$215.0	\$100.0
2025-26	\$18.0	\$250.0
Total	\$1,383.0	\$1,058.7

Source: Florida TaxWatch Budget Guides FY 2020-21, 2021-22, 2022-23, 2023-24, 2024-25, and 2025-26

CONSERVATION EASEMENTS REMAIN AT-RISK

The risk of conservation easements being released and the land sold for development or other purposes is real. To illustrate, consider the following examples where existing conservation easements have been released under the escape clause.

OKLAWAHA VALLEY AUDUBON SOCIETY

In Mount Dora and Northern Orange County, a six-acre conservation easement was donated to a local (Oklawaha Valley) chapter of the National Audubon Society in 2008 and managed by the St. Johns River Water Management District. Along with the land donation, the landowner gave a \$2,000 check to the chapter to have a sign placed on the land displaying landowner's family name. After the land was held as a conservation easement for 11 years, financial strain and pressures forced the Oklawaha Valley Audubon Society to release the easement and put the six acres up for sale in 2019.¹³

The Oklawaha Valley Audubon Society was sued by the previous landowner and ultimately the case was settled out of court. During the lawsuit it was discovered that the Oklawaha Valley Audubon Society claimed they removed the conservation easement from that property to “divest itself of the property as a cost saving measure” and cited having to pay liability insurance on the property and could not find another nonprofit to take over the property.¹⁴

SYFRETT RANCH

Located on more than 2,100 acres in Highlands and Glades counties, Syfrett Ranch placed a conservation easement on its property under the Florida Department of Agriculture and Consumer Services' Rural and Family Lands Protection Program. The easement provides 200 acres of natural forest lands and 100 acres of marshland and helps improve flood stabilization. An additional 377 acres are held in a second conservation easement on the land, which is managed by the Northwest Florida Water Management District.¹⁵

Although Syfrett Ranch's “Right Granted Agreement” document states that development rights are permanently “terminated” and “extinguished,” the escape clause provisions in Chapter 704 provide a mechanism to release the conservation easement in the future if the parties agree.¹⁶ The Syfrett Ranch conservation agreement also includes an extinguishment clause emphasizing permanent land conservation; however, the agreement is still subject to the escape clause, which could open the door for future development of the property.



¹³ Nancy A. McLaughlin, Keeping the Perpetual in Florida's Conservation Easements, 18 FIU L. Rev. 347 (2024), <https://doi.org/10.25148/lawrev.18.2.9>.

¹⁴ Ibid.

¹⁵ Supra, see footnote 10.

¹⁶ Florida Department of Agriculture and Consumer Services, “Syfrett Ranch Highlands County and Glades County, Florida 2017 Project Evaluation Update,” retrieved from https://floridadep.gov/sites/default/files/12192023_BOT_Item%20%238_%20Syfrett%20Ranch.pdf, January 8, 2026.

PROTECTING FLORIDA'S INVESTMENTS

More than \$2.4 billion has been invested in land acquisition, conservation easements, agricultural activity land protection, and wildlife habitat conservation efforts. As of January 2025, the state manages more than 866,000 acres of conservation easement land alone.¹⁷ This past June, the state approved a contract to purchase more than 61,000 acres of conservation easement land to be managed by the FDEP for \$93.6 million.¹⁸ The easement property lies within Union and Baker counties and is owned by Weyerhaeuser Forest Holdings, Inc., a real estate investment trust company. The land is covered in woodland landscape and the company continues to grow timber for harvesting on the conservation land.

Another property, held by Blackbottom Holdings, LLC, located in Baker and Bradford counties, borders the Weyerhaeuser Forest Holdings, Inc. property. The new conservation easement is more than 14,000 acres and is also managed by the FDEP.¹⁹ This conservation easement cost the state \$24.3 million and has some additional restrictions for its future land use to further protect against development activities, including prohibiting dairy and poultry operations and non-native plant species planting.

These examples of recent conservation easement establishments emphasize the collaboration efforts between the public and private sectors to protect Florida's natural resources. The investments made over the last several years show the importance and value placed on protecting these areas and ensuring that Florida's population and development activities do not encroach on natural areas.



¹⁷ Supra, see footnote 10.

¹⁸ Florida Department of Environmental Protection, “Agenda Board of Trustees of the Internal Improvement Trust Fund,” June 10, 2025.

¹⁹ Ibid.

²⁰ Florida Department of Agriculture and Consumer Services, “Commissioner Wilton Simpson Announces State Protection of Agricultural Land,” June 10, 2025.

CONCLUSIONS AND RECOMMENDATIONS

Although most of the conservation easements discussed are protected today, there is no guarantee that they will remain protected. The escape clause provisions in Chapter 704 allow a landowner to protect land under a conservation easement; continue limited use of the land; enjoy property tax and other tax exemptions; and when conditions dictate, sell or develop the land that was subject to the easement. As stated earlier, Florida TaxWatch believes “perpetual” means just that—perpetual.

To ensure that conservation easements remain permanent and “perpetual” and “bind the current and future owners in perpetuity to the restrictions,” as intended in section 704.06, Florida Statutes:

1. Florida TaxWatch recommends amending subsection 704.06(4), Florida Statutes, as follows, to remove the escape clause:

(4) Conservation easements shall run with the land and be binding on all subsequent owners of the servient estate. Notwithstanding the provisions of s. [197.552](#), all provisions of a conservation easement shall survive and are enforceable after the issuance of a tax deed. No conservation easement shall be unenforceable on account of lack of privity of contract or lack of benefit to particular land or on account of the benefit being assignable. Conservation easements may be enforced by injunction or proceeding in equity or at law, and shall entitle the holder to enter the land in a reasonable manner and at reasonable times to assure compliance. ~~A conservation easement may be released by the holder of the easement to the holder of the fee even though the holder of the fee may not be a governmental body or a charitable corporation or trust.~~

2. Florida TaxWatch recommends amending subsection 704.06(4), Florida Statutes, as follows, or to add language substantially similar, to establish an “extinguishment clause:”

(a) Extinguishment. A conservation easement may be extinguished in whole or in part only in a judicial proceeding upon a finding by

the court that a subsequent unexpected change in the conditions surrounding the property has made impossible or impractical the continued use of the property (or the portion of the property to be removed from the easement) for conservation purposes, and the attorney general shall be notified of such proceeding and given an opportunity to be heard to represent the public interest in the continued protection of conservation values. For purposes of this section, extinguishment refers to the release or other removal of all or any portion of the encumbered land from the conservation easement, whether characterized as a release, termination, extinguishment, swap, substitution, reconfiguration, migration, modification, amendment, or otherwise, and the terms impossible and impractical shall be interpreted as under the common law doctrine of cy pres applicable to charitable assets.²¹

3. Florida TaxWatch recommends amending subsection 704.06(4), Florida Statutes, as follows, or to add language substantially similar, to establish an “amendment clause:”

(b) Amendment. A conservation easement may be amended by agreement of the holder of the easement and the owner of the property encumbered by the easement only if the proposed amendment will not materially detract from any of the conservation values intended for protection. A conservation easement may be amended in such a manner as to materially detract from a conservation value intended for protection only with the prior approval of the court and the attorney general shall be notified of such proceeding and given an opportunity to be heard to represent the public interest in the continued protection of conservation values. An amendment that would materially detract from a conservation value intended for protection may be approved only when it is found by the court that the proposed amendment is consistent with the conservation purposes expressed by the parties in the easement and the public interest in the continued protection of conservation values. For purposes of this section, an amendment refers to a change in the terms of a conservation easement that does not constitute an extinguishment.²²

4. Florida TaxWatch recommends amending section 704.06, Florida Statutes, to include a mechanism to recoup any tax benefits if the conditions of a conservation easement are not maintained.

Removing the escape clause and adding the extinguishment and amendment clauses and recoupment mechanism will help ensure that the state’s investments in conservation easements are permanently protected. This amendment effectively renders the ability to release a conservation easement as an extraordinary circumstance instead of when the right opportunity to sell the property to the highest bidder arises. Development pressures will continue to push landowners to consider selling their property and Florida can ensure that its \$2.4 billion investments in conservation easements are protected from these pressures by amending this state statute now.

²¹ Supra, see footnote 13.

²² Ibid.

ABOUT FLORIDA TAXWATCH

As an independent, nonpartisan, nonprofit taxpayer research institute and government watchdog, it is the mission of Florida TaxWatch to provide the taxpayers of Florida and public officials with high quality, independent research and analysis of issues related to state and local government taxation, expenditures, policies, and programs. Florida TaxWatch works to improve the productivity and accountability of Florida government. Its research recommends productivity enhancements and explains the statewide impact of fiscal and economic policies and practices on citizens and businesses.

Florida TaxWatch is supported by voluntary, tax-deductible donations and private grants. Donations provide a solid, lasting foundation that has enabled Florida TaxWatch to bring about a more effective, responsive government that is accountable to the citizens it serves since 1979.

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The findings in this Report are based on the data and sources referenced. Florida TaxWatch research is conducted with every reasonable attempt to verify the accuracy and reliability of the data, and the calculations and assumptions made herein. Please contact us if you believe that this paper contains any factual inaccuracies.

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