




Conservation Easements in Virginia

**A PRESENTATION TO:
GENERAL ASSEMBLY OF VIRGINIA
JOINT LEGISLATIVE SUBCOMMITTEE
STUDYING LONG-TERM FUNDING SOURCES
FOR THE PURCHASE OF DEVELOPMENT RIGHTS
TO PRESERVE OPEN-SPACE LAND AND FARMLANDS**

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Presentation Overview

- Definition and Context of Conservation Easements
- Virginia Open Space Land Act
- Virginia Conservation Easement Act
- Virginia Land Conservation Programs
- Purchased Development Rights
- Virginia Land Preservation Tax Credit Program
- VOF Easement Template
- Guidelines for Development Permitted Under VOF Easements
- Why Preserve Open-Space Land and Farmlands in Virginia?




Most of Virginia's permanently preserved open-space land and farmland is protected using recorded deeds of conservation easements.

A conservation easement is “a legal agreement between a landowner and an eligible organization that restricts future activities on the land to protect its conservation values.”

– The Conservation Easement Handbook, The Trust for Public Land and The Land Trust Alliance (Revised 2005).



A scenic photograph of a rural property. In the foreground, a calm pond reflects the surrounding greenery. A grassy lawn with several trees and a rustic log cabin with a green roof is visible in the middle ground. A wooden fence runs across the lawn. In the background, a dense forest of tall trees covers a hillside, with a mountain peak visible in the distance under a clear sky.

The value of a conservation easement is the difference between the property's fair market value before and after the imposition of development restrictions on such property.

Virginia Open-Space Land Act

- Enacted in 1966
- Authorizes public bodies to acquire or designate property for use as open space
- Permits acquisition of property by gift, purchase, devise, or bequest

Virginia Conservation Easement Act

- Enacted in 1988
- Modeled after Uniform Conservation Easement Act
- Authorizes certain nonprofit organizations to hold property for use as open space
- Permits acquisition of property by gift, purchase, devise, or bequest

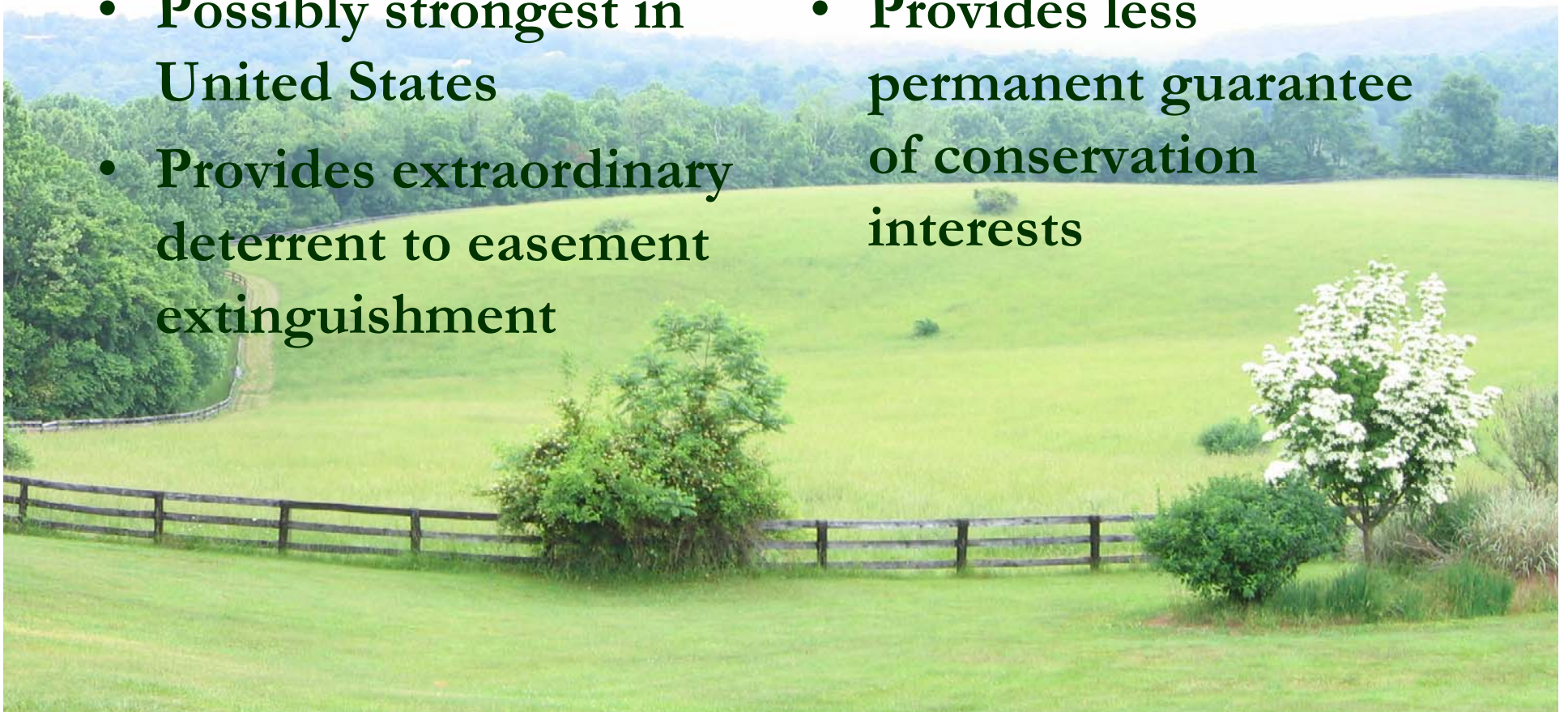
Comparison of Virginia Conservation Easement Authority

Open-Space Land Act

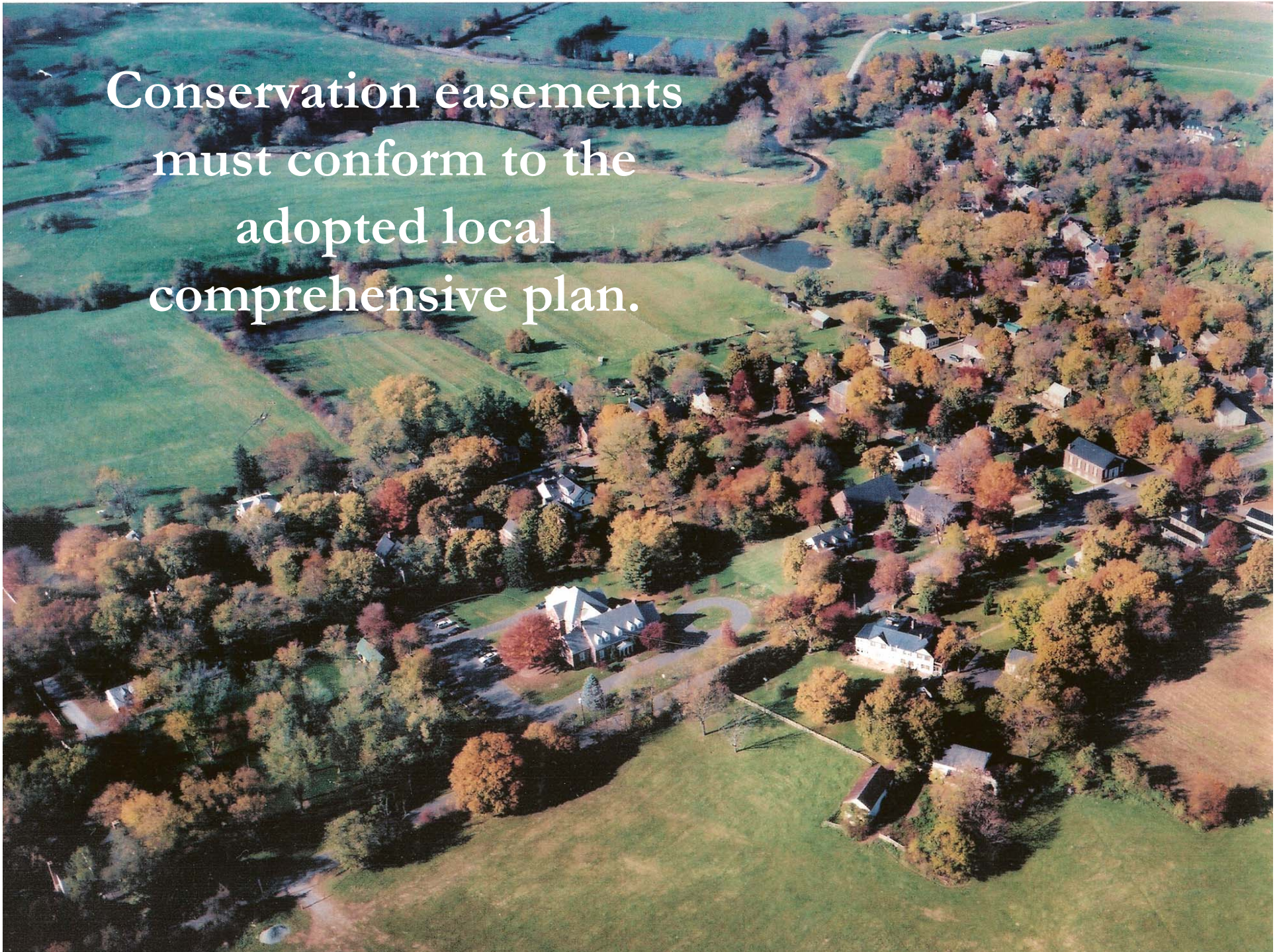
- Possibly strongest in United States
- Provides extraordinary deterrent to easement extinguishment

Conservation Easement Act

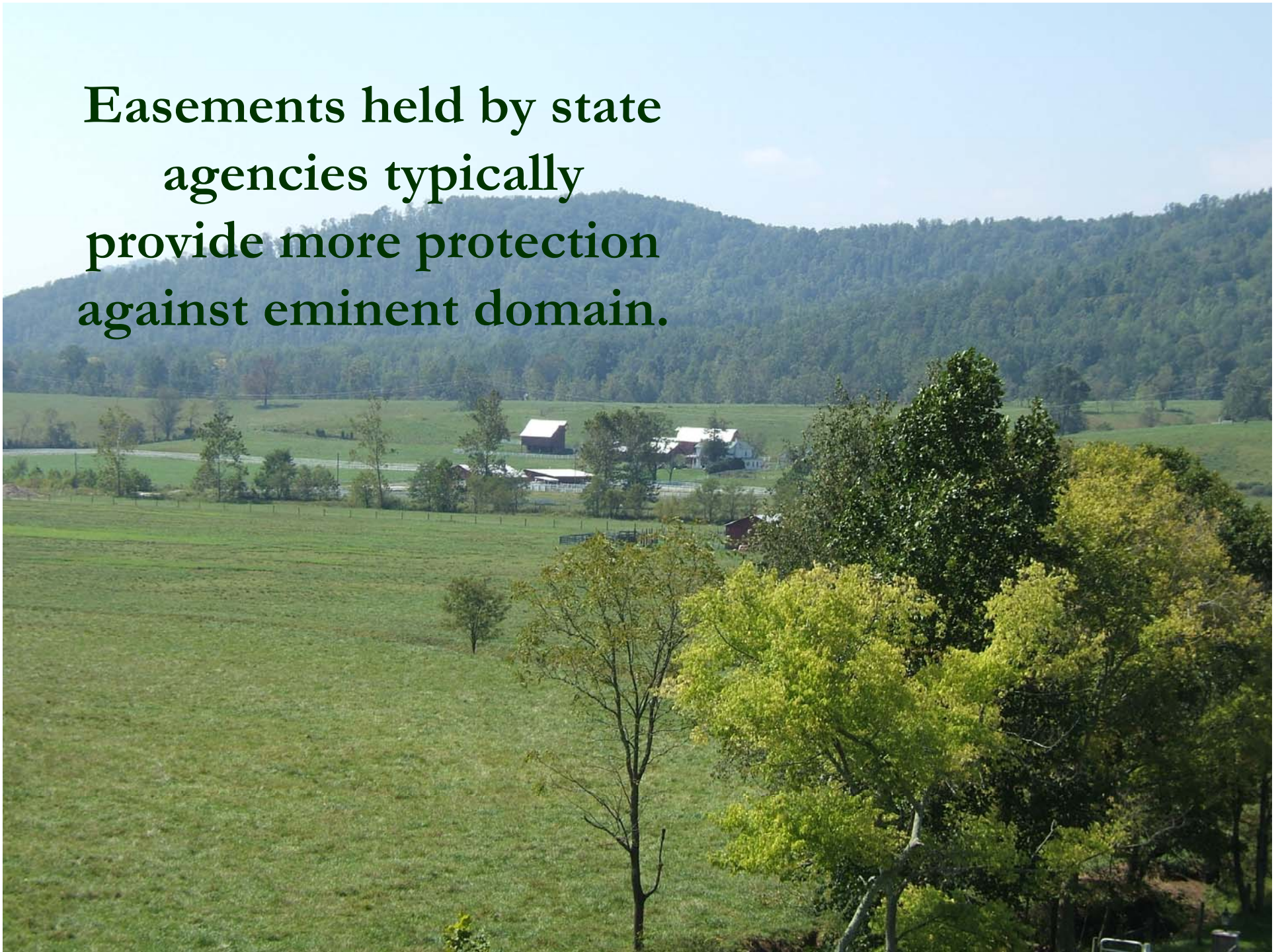
- Provides less permanent guarantee of conservation interests



Conservation easements
must conform to the
adopted local
comprehensive plan.

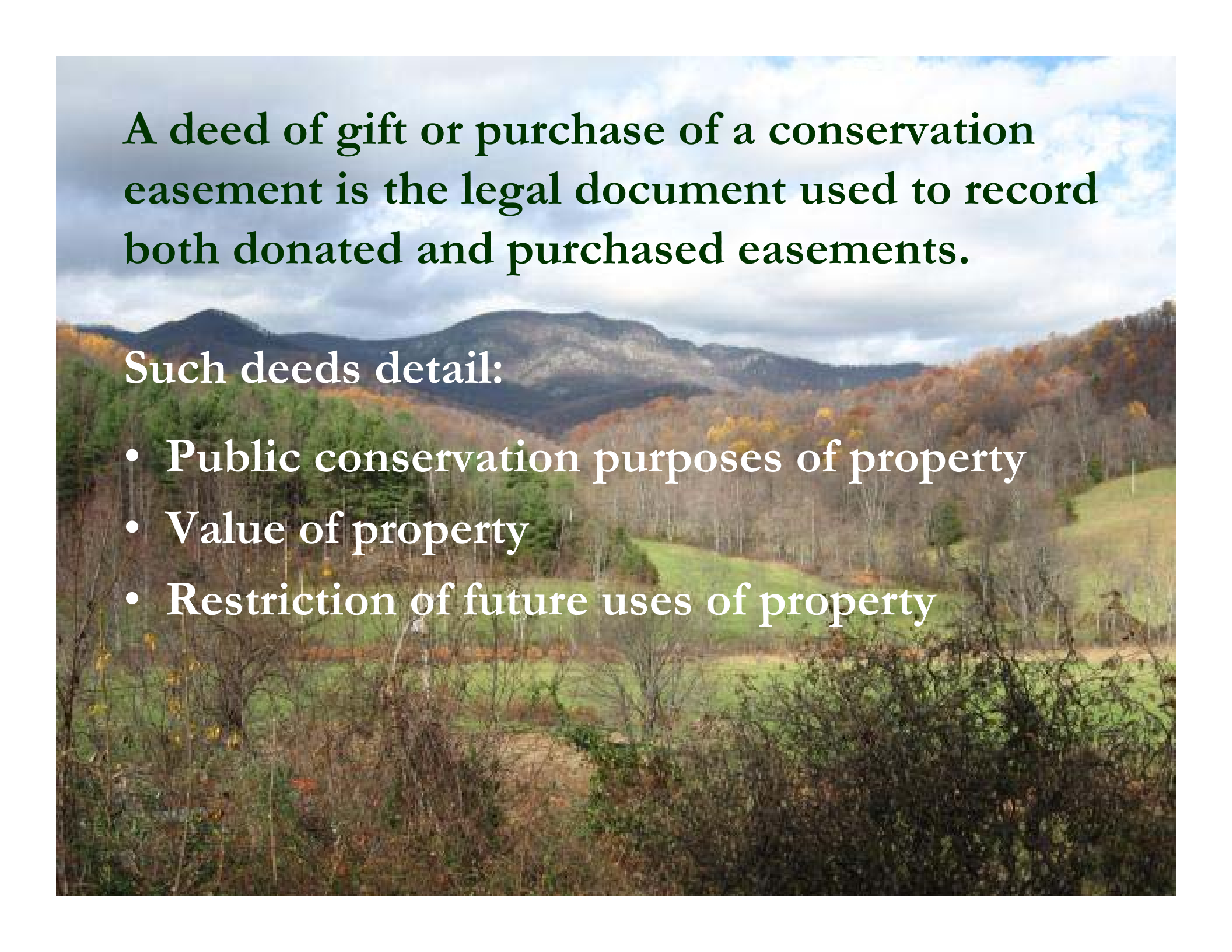


**Easements held by state
agencies typically
provide more protection
against eminent domain.**



**Purchased Development Rights (PDRs) are
purchased conservation easements.**



A scenic landscape photograph of a mountain valley. In the foreground, there are dense, dark green and brown shrubs. The middle ground shows rolling hills covered in trees with autumn foliage in shades of yellow, orange, and brown. In the background, there are dark, forested mountains under a sky with white and grey clouds.

A deed of gift or purchase of a conservation easement is the legal document used to record both donated and purchased easements.

Such deeds detail:

- **Public conservation purposes of property**
- **Value of property**
- **Restriction of future uses of property**





Commonwealth of Virginia agencies that hold the majority of open-space easements:

- Virginia Outdoors Foundation (80%)
- Virginia Department of Historic Resources
- Virginia Department of Conservation and Recreation
- Virginia Department of Forestry

Funding Sources for Purchase of Conservation Easements

- State and local bond authorizations
- Virginia Land Conservation Foundation (state General Funds)
- Virginia Open-Space Lands Preservation Trust Fund (state General Funds)
- Federal, state, and local government grants (new state/local PDR-Match initiative)
- Private sector grants and awards
- Nonprofit sector grants and awards
- Court orders and decrees

Interagency collaboration for land conservation has increased in recent years.



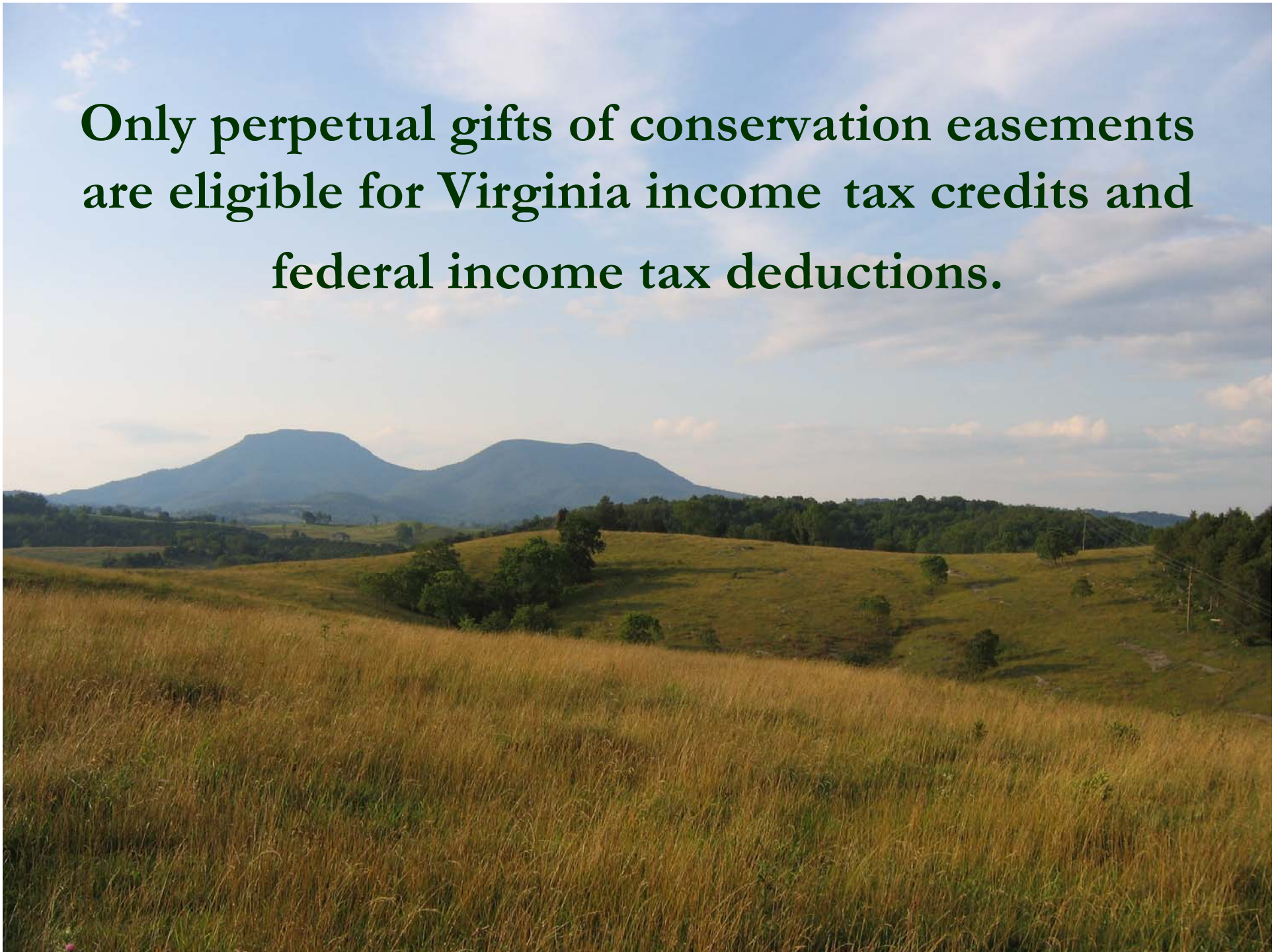
Virginia's Land Preservation Tax Credit Program

- Enacted in 1999
- Encompasses two venerable Virginia traditions: private property rights (voluntary transfer of property) and stewardship of land
- 40% of easement value may be used to reduce or eliminate property owner's owed state income tax
- Credit in excess of owed tax amount may be sold
- More than one-half of all Virginia conservation easements have been recorded since 2000, the effective enactment date of the state's Land Preservation Tax Credit program

The value of a conservation easement may also reduce the property owner's owed federal income tax by up to 50 % for up to 16 years.



**Only perpetual gifts of conservation easements
are eligible for Virginia income tax credits and
federal income tax deductions.**





Virginia Outdoors Foundation Easement Template

- Preamble and Witnesseth clauses
- Recitals of conservation values and purposes of subject property
- Public purposes (clear identification of public benefits justifying tax deductions/credits)
- Restrictions (land use controls, typically severe reduction in otherwise-permitted divisions and buildings, prohibition of mining and topography alterations, and protections for water quality) to protect the conservation values and purposes of subject property)
- Enforcement (specifies grantee rights related to inspection and enforcement)
- Documentation (references detailed Baseline Documentation Report, including conditions and character of property at time of gift or purchase of easement)

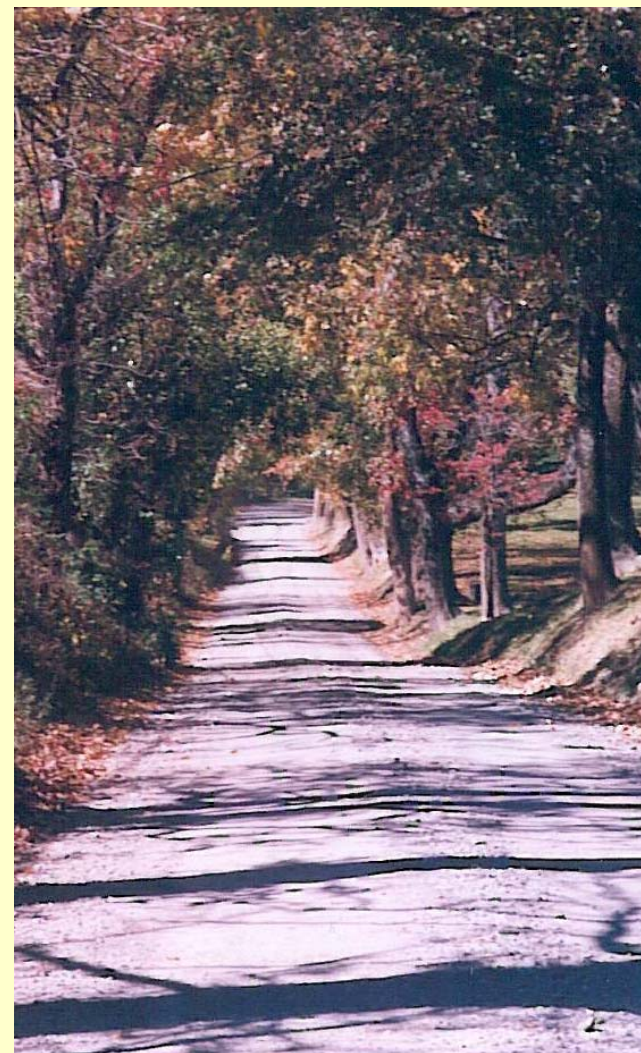
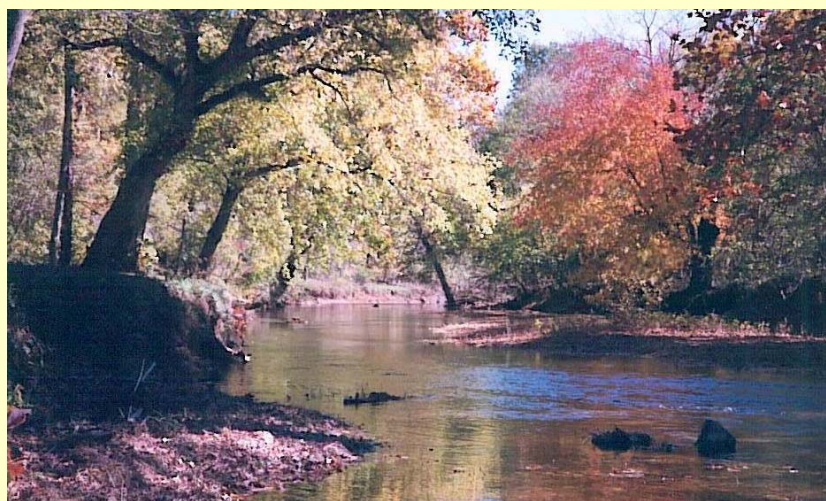
**Why preserve open-space land
and farmlands in Virginia?**



Virginia Outdoors Foundation Easement, Greene County



Virginia Outdoors Foundation Easement, Albemarle County



*Department of Historic Resources Easement and Virginia Outdoors Foundation Easement,
“Welbourne Farm”, Loudoun County*

Note: House and curtilage under DHR Easement, surrounding land under VOF Easement



*Virginia Outdoors Foundation and Eastern Shore Soil and Water District Co-held Easement,
Northampton County*



Virginia Outdoors Foundation Easement, Culpeper County



Virginia Outdoors Foundation and James River Association Co-held Easement, Powhatan County



VOF Easement, Lunenburg County



VOF Easement, Arlington County



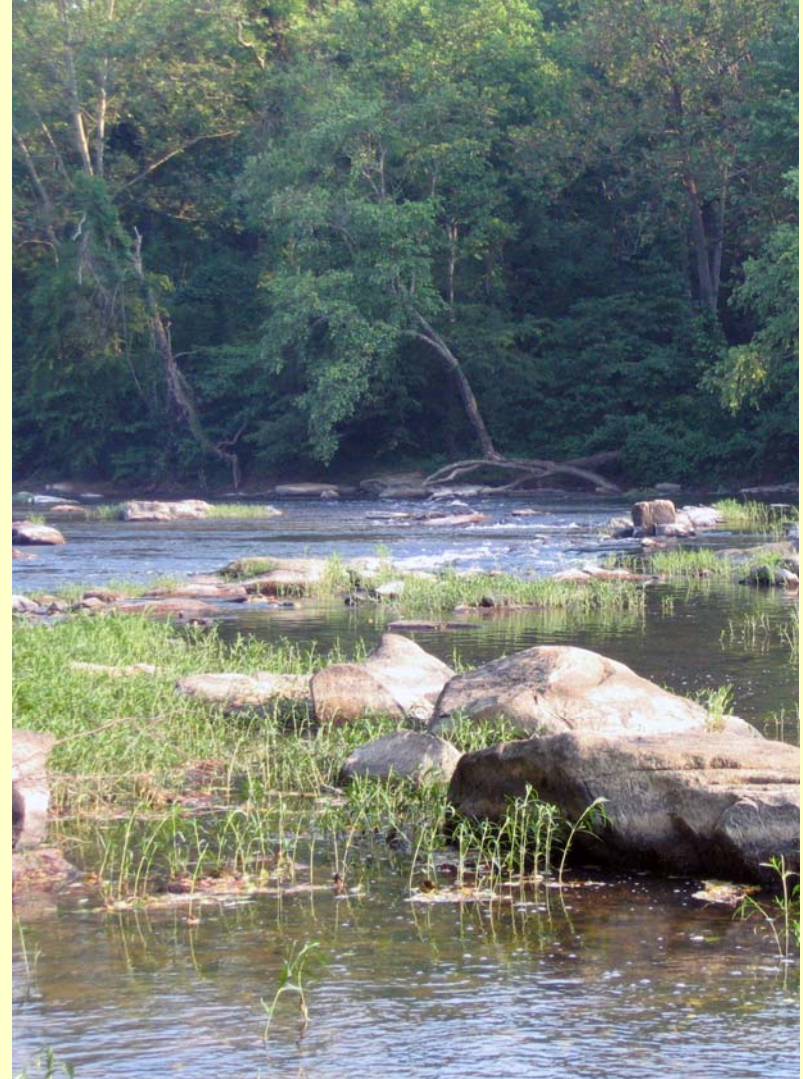
*VOF Easement, Rockbridge County,
VOF-owned House Mountain in background*



*VOF Easement, Rockbridge County,
outside of Lexington City limits*



VOF Easement, Augusta County



*4,232 Acre Easement Co-held by the Virginia Outdoors Foundation, The Nature Conservancy, and the Virginia Department of Game and Inland Fisheries (DGIF);
City of Fredericksburg and the counties of Spotsylvania, Stafford, Culpeper, Orange, and Fauquier*