



## CONSERVATION EASEMENTS – A ONE-PAGE PRIMER

### Leelanau Conservancy

#### Conservation Easements in General

- Promotes private conservation in Leelanau County to permanently protect:
  - Scenic beauty
  - Rural character
  - Ecological protection
  - Economic, cultural & environmental benefits
    - Enhances tourism, agri-tourism, tax base
    - Helps maintains cultural identity and quality of life
    - Provides environmental protection

#### What is a Conservation Easement?

- Existed in various forms in many states since 1800s
- 1976: CEs were codified by Internal Revenue Code to incentivize private land conservation (in contrast to government expenditures)
- Legal agreement—a recorded deed—between a landowner and the Conservancy
  - Requires permanent protection of specific conservation resource(s) of the property (terms are flexible; future owners are bound)
  - Requires the Conservancy to have the resources (human, financial) to enforce the terms in perpetuity

#### What *Aren't* Conservation Easements?

- Do *not* create public parks—land remains private; no public access required
- Do *not* take property off the tax rolls
- Are *not* transfers of property rights to the Conservancy
  - Conservancy does *not* hold development rights
    - Development rights are *extinguished*
    - Development rights *cannot* be sold or transferred later
    - Conservancy has the legal *obligation* to enforce terms in perpetuity

#### How Do Conservation Easements Incentivize Private Conservation?

- Federal tax deduction
  - Donation or part-donation of a conservation easement
    - “Before & After” valuation (by qualified independent appraisal)
    - Prior to 2007:
      - Deduction of up to 30% of AGI
      - 5-year carry forward
    - In 2007:
      - Deduction of the value up to 50% of AGI
      - 15-year carry-forward
    - Enhanced incentives may sunset on Dec. 31, 2015 unless Congress makes them permanent
- Michigan property tax benefit
  - Property taxes remain “capped” (Michigan only)
  - Unanimous vote in 2006; public policy supports private conservation and maintenance of the local tax base