

Amendment Clauses in Conservation Easements

Key messages from the Land Trust Alliance regarding the amendment clauses in conservation easements:

- The Alliance has long held that amendment clauses in conservation easements serve to strengthen an easement and improve its enforceability.
- In an abrupt and unannounced change, IRS officials recently began to argue in court that general amendment clauses to conservation easements could disqualify a donated easement from a tax deduction.
- The Alliance strongly believes this novel IRS interpretation of a federal law enacted in 1980 is flawed. Furthermore, the Alliance will vigorously oppose IRS attempts to punish landowners simply for signing a conservation easement that includes an amendment clause.
- Rather than failing the requirement that an easement's conservation purposes be "protected in perpetuity," amendment clauses improve the chances that easements will be protected in the long term by allowing conservation organizations the ability to properly address unforeseen circumstances.
- The IRS has previously and rightly recognized the validity of amendments that increase the protections for land under easement, add acreage to the easement or correct errors.
- The Alliance continues to advise its members to retain amendment clauses in easements with an eye toward adding emphasis on the conservation purposes.

For more information about conservation easements, visit www.landtrustalliance.org or contact Director of Communications Elizabeth Ward at eward@lta.org or 202-638-5658.